



Diocese of Parramatta



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Submission to the Senate Inquiry into the provisions of the Australian Human Rights Commission Legislation Bill 2003

Let me state the conviction, which I very much want to share with you: when the promotion of the dignity of the person is the guiding principle, and when the search for the common good is the overriding commitment, then solid and lasting foundations for building peace are laid. But when human rights are ignored or scorned, and when the pursuit of individual interests unjustly prevails over the common good, then the seeds of instability, rebellion and violence are inevitably sown.

[Pope John Paul II World Day of Peace 1999]

Fundamental to the Social Teachings of the Catholic Church are: a belief in the essential dignity of each human person, the recognition of certain inalienable human rights (eg. food, shelter, freedom of speech, the right to practise a religion..) and a particular commitment to the poorest and most vulnerable. The proposed changes to the Human Rights and Equal Opportunities Commission (HREOC) threaten the protection of these fundamentals.

1. The name change from the Human Rights and Equal Opportunities Commission to the Australian Human Rights Commission appears, on the surface, insignificant, but it does in fact signal a quite dramatic shift in focus. A shift away from a focus on equal opportunities for women, the disabled and Aboriginal and Torres Strait Islander people to a broad generalist approach. There is no guarantee, under the proposed legislation, that the human rights of these particularly vulnerable groups will be protected.
2. The proposed changes to the executive structure, namely the weakening of the role of President and the creation of three generalist Human Rights Commissioners instead of the four Commissioners with specific portfolios, significantly diminishes the powers of HREOC. It is no accident that various Acts of Parliament specifically designated Commissioners for Disability Discrimination, Sex Discrimination, Aboriginal and Torres Strait Islanders/Race Discrimination and Human Rights. These Commissioners represent the poorest and most marginalized in our society. *It is, said Pope John Paul II, our duty to renew our commitment to safeguarding the dignity of the poor and marginalized, and to recognize in a practical way the rights of those who have no rights.* The shift to generalist commissioners leaves the way open for people, particularly those voiceless and powerless, to fall through the cracks.

The establishment of general portfolios removes, for example, the present requirement that the person appointed to the position of Aboriginal and Torres Strait Islander Social Justice Commissioner has significant experience in the community life of Aboriginal or Torres Strait Islander persons. Under the proposed legislation indigenous, human rights, disability and gender issues would compete for attention rather than be the concern of a specific Commissioner. Under this structure there is no guarantee that a future Commission will, for example, devote adequate resources and attention to issues of disability or racism.

3. At present HREOC's responsibilities are:
- public awareness and education
 - anti-discrimination and human rights complaints
 - human rights compliance
 - policy and legislative development

The Commission has the power to intervene, with the leave of the Court, in proceedings that involve issues of race, sex and disability discrimination, human rights issues and equal opportunity in employment. The Commission may also seek leave to intervene in Court proceedings where their expertise would not otherwise be available to the court. Decisions to appear in court have not been taken lightly and HREOC has appeared in relatively few cases.

The proposal to reduce these responsibilities to education, the dissemination of information and assistance is to render the Commission virtually powerless to act when faced with cases of human rights abuse and discrimination. The proposed legislation requires the Commission to obtain the Attorney-General's consent before seeking leave to intervene in court proceedings and removes HREOC's power to recommend the payment of damages or compensation following inquiries into certain types of complaints. Of all the proposed changes this is the most dangerous because a formerly independent organisation with the freedom to investigate and take action on complaints becomes, with this piece of legislation, a virtual government department under the control of the Attorney-General. The independent nature of HREOC is destroyed and the protection of human rights is diminished. Where are the checks and balances necessary to ensure that Government, as well as other areas of society, is protecting fundamental human rights? Given that Australia has no Bill of Rights the Government, with this legislation, is left wide open to charges of self-protection, lack of transparency and an unwillingness to commit to the protection of human rights.

Alexander Downer said "*the protection of human rights to promote the dignity of the individual is too important a matter for symbolic gestures alone. It is only through the pursuit of practical and effective efforts to promote human rights that we show our real commitment to the welfare of individuals and society.*" HREOC, while not a perfect institution, provides a practical and effective avenue for the pursuit of human rights and a means to address attacks on human rights. The proposed legislation reduces HREOC to an information agency with little or no power to make significant changes to abuses of human rights. It becomes a mere *symbolic gesture*.

The Diocese of Parramatta views the proposed **Australian Human Rights Commission Legislation Bill 2003** with great concern. In an address to the University of Sydney, Justice Marcus Einfeld described human rights as *the foundation of human existence...universal, indivisible and interdependent.. they are what make us human*. It is hard to understand why, in the C21st, any government should be weakening its protection of human rights rather than strengthening it. We, therefore, ask the Senate Legal and Constitutional Legislation Committee to oppose the Australian Human Rights Commission Bill 2003.

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