

Villamanta Legal Service Incorporated

Submission
to the
Senate Legal and Constitutional Legislation Committee Inquiry
into the
Australian Human Rights Commission Legislation Bill 2003

Monday 28th April 2003

To the Chair
Senate Legal and Constitutional Legislation Committee

Villamanta Legal Service (VLS) is a community legal centre working to promote and protect the rights of people with disabilities, particularly people with intellectual disabilities, throughout Victoria. VLS provides education, casework advice and representation, telephone information and advice, and policy law reform services.

VLS is pleased to provide comment to the Committee regarding the inquiry into the Australian Human Rights Legislation Amendment Bill (No. 2) 2003.

VLS feels that the government's arguments for change and a "new culture for the commission" are ill considered. In our opinion the problems and concerns raised by the government are not sufficiently compelling that they require the passage of legislation to overcome them.

The purpose of this submission is first and foremost to support in full the submission made to the Committee by the Human Rights and Equal Opportunity Commission itself. In particular, as a community legal centre working on many of the same human rights concerns impacting upon people with disabilities as the Commission, we support their right to determine what matters to seek leave to intervene in. This right should be free of the influence of the Executive arm of Government through the vetting of applications for leave by the Attorney General.

We note that a number of cases where the Commission has been granted leave to intervene involve the sterilisation of young women with disabilities. Whilst it is not clear that seeking leave to intervene in such cases would not be supported by any incumbent Attorney General, VLS feels strongly that needing such approval is unnecessary and a waste of time and resources, as well as being a conflict of interest and attack on the independence of both the Commission and the Courts. The Commission is the appropriate body for determining, against its own criteria, those matters requiring their intervention and subsequently the relevant court is the appropriate body for granting leave to intervene.

The removal of specialist Commissioner roles will considerably undermine both the real gains in community awareness of disability discrimination and the increasing workload in administering the *Disability Discrimination Act (Cth*

1992) achieved through the appointment of the Disability Discrimination Commissioner. There is widespread concern amongst people with disabilities and their families and carers that disability related human rights issues will not receive the dedicated attention that they deserve given the historical and continuing legacy of discrimination against people with disabilities. VLS shares this concern.

In addition, VLS is concerned about, and hopes the Committee will consider, a range of other issues including:

- The desire of the office of the Attorney General and therefore the government to create a "new culture for the Commission" without a clear and articulate vision of what this means in practice.
- The lack of transitional arrangements to provide for the continuity of current Commissioners and retention of relevant expertise.
- The adverse impact upon Australia's international Human Rights reputation likely to result from passage of this legislation.
- The message sent to developing nations should the legislation pass, is that if Australia with a good record on human rights issues can curtail the independence of it's human rights institution then why should they not do likewise.
- The increased focus upon education is unlikely to be cost neutral without impacting upon the Commissions capacity to administer complaint processes. Complaint outcomes are a key way in which the community becomes more aware of human rights concerns.

The VLS thanks the Committee for considering it's submission. Should the Committee require further comment or clarification then please do not hesitate to contact the VLS Coordinator, Mr Jonathon Goodfellow on the contact details listed below.

Yours sincerely,

Mr Dan Dwyer
Chairperson
Villamanta Legal Service

For further clarification or comment please contact:

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