

Clifford, Julia (SEN)

From: S L Bond [thewordygecko@bigpond.com]
Sent: Thursday, 17 April 2003 4:08 PM
To: Legal and Constitutional, Committee (SEN)
Subject: Submission: 'Australian Human Rights Commission' Legislation Bill 2003
Importance: High

Thank you for the opportunity to make a submission concerning the Australian Human Rights Commission Legislation Bill 2003.

I have a number of points to make:

1. Renaming the Human Rights and Equal Opportunity Commission to Australian Human Rights Commission

Human rights are universal, so naming our Commission the *Australian* Human Rights Commission suggests there are different human rights for people who live in this country. It suggests that what is universally considered to be a human right may or may not be applicable here. Language is our major means of communication, and when we change the names of important organisations, we don't just change the name alone. It is inappropriate to change the name of the commission in such a way as to narrow the view of human rights.

2. Requirement to obtain approval from the Attorney-General (if the President of the new Commission is not, and was not immediately before appointment as President a federal Judge) before exercising its power to seek leave to intervene in court proceedings.

This is not appropriate for an independent body, and could severely hamper its independence. If the Commonwealth Government is itself under investigation for human rights abuses, then how can the Commission ask permission from the Government to intervene in proceedings? According to the HREOCs website, 'the Commission's intervention powers allow the Commission, with the leave of the court, to present written and oral argument in legal proceedings involving human rights and discrimination issues' (http://www.hreoc.gov.au/media_releases/2003/16_03.html) and it has done so in about 35 cases, without being refused leave to intervene.

In some of these, the Commonwealth has been a party to the litigation (e.g., Tampa and the recent Full Family Court case concerning the rights of transgender people to marry). According to the new bill, the Commission would be required to obtain the Attorney-General's consent for intervention, which would hardly be appropriate in the circumstances.

And in the last few days, the "Al Masri" case has again shown the importance of having a truly independent body such as the HREOC. As noted on the HREOCs website, this is a case where the Commission put a 'different view to the court than the Commonwealth' and it would have been 'inappropriate for the Commission to seek permission from the Attorney-General, the Commonwealth's first law officer, in such important human rights cases' (http://www.hreoc.gov.au/media_releases/2003/18_03.html).

3. Specific Human Rights Commissioners (Human Rights, Race, Sex, Disability, ATSI) replaced by three Human Rights Commissioners.

To me, this means the same workload will be distributed over a smaller number of people. Taking away specialisation seems inefficient, and prone to lead to a decrease in the quality of the work

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completed.

I understand that it is supposed to streamline the Commission and 'promote awareness of discrimination intersections' and allow 'emerging areas (such as age discrimination) to be addressed without the need to appoint new specialist Commissioners' (Item 13, subsection 8(1) 20). This is nonsense. Decreasing the number of specially qualified persons available to take on cases will not streamline the Commission, but hamper its work. It is capable of recognising 'discrimination intersections' without this cut, and I have no idea how emerging areas such as age discrimination could be benefited by cutting staff. This is downsizing gobbledegook.

In summary, I strongly oppose the proposed changes to the Human Rights and Equal Opportunity Commission, as they do nothing to maintain and strengthen its vital independence, nor to assist it in its work.

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