



Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women

- 1.1 Discrimination against women is prohibited by Australian domestic law, which is enforced by Australian courts. The Commonwealth Parliament enacted the *Sex Discrimination Act 1984*. The Act prohibits discrimination on the grounds of sex, marital status, pregnancy, family responsibilities and sexual harassment in the areas of employment, education, the provision of goods and services, accommodation, the disposition of land, admission to membership of clubs, the administration of Commonwealth laws and programs. Commonwealth laws also provide an administrative mechanism for handling sex discrimination complaints via the Sex Discrimination Commissioner as well as the Human Rights and Equal Opportunity Commission (HREOC).
- 1.2 The Sex Discrimination Commissioner's work includes:
- research, policy and educative work designed to promote greater equality between men and women. Recent projects have concentrated on equal pay for male and female workers, the career options for women in the finance industry, and eliminating sexual harassment from the workplace.¹
- 1.3 HREOC is responsible for handling complaints under the Racial Discrimination Act 1975, Sex Discrimination Act 1984, Disability Discrimination Act 1992 and the Human Rights and Equal Opportunity Commission Act 1986.
- 1.4 Similarly the States and Territories have enacted sex discrimination legislation. Evidence to the Committee asserted the Australian Government should sign the optional protocol to the *Convention on the*

1 <http://www.hreoc.gov.au>.

Elimination of All Forms of Discrimination Against Women (CEDAW). The main report refers to the evidence presented by ATSI Commissioner Christine Williams who stated:

The complaint mechanism is very important as indigenous women suffer from both discrimination as women and racism because we are members of indigenous communities.

- 1.5 This evidence is serious but ignores the important role domestic remedies play in pursuing discrimination. The optional protocol will allow individual complaints to be made to the United Nations Human Rights Committee in Geneva once domestic appeals are exhausted.
- 1.6 Dissenting Members and Senators agree with the Minister for Foreign Affairs that 'Australia has a strong history of active support for the UN. We have a strong human rights record and we take our international rights and obligations seriously'.²
- 1.7 However Members are deeply concerned by the political nature of the recent report from the Committee on the Elimination of Racial Discrimination (CERD). Dissenting Members and Senators wish to reaffirm strongly the primary role of democratically elected governments and the subordinate role of non-government organisations or multilateral institutions.
- 1.8 A recent report from Professor Anne Bayefsky titled *The UN Human Rights Treaty System: Universality at the Crossroads* notes that of the 98 states participating in the individual complaints mechanism to the UN Human Rights Committee, 35 per cent of all cases come from just five states – Australia, Canada, Uruguay, the Netherlands and France.³ Uruguay excepted, not countries considered to be offenders of human rights. This has led to the perception that some countries are being unfairly targeted.
- 1.9 Bayefsky notes that 92% of UN Members who have ratified CEDAW have not signed the optional protocol.⁴ We support the reform of the United Nations Human Rights Committee. While the human rights committee system is open to political bias, we should not sign the optional protocol to CEDAW.
- 1.10 If Australia were to sign and ratify the optional protocol it is not unreasonable to imagine Australia generating more individual complaints

2 Joint media release, Australian Minister for Foreign Affairs, Hon Alexander Downer, MP, Attorney General, Hon Daryl Williams AM, QC, MP, Minister for Immigration and Multicultural Affairs, Hon Philip Ruddock MP, 29 August 2000.

3 Bayefsky, A F, 'The UN Human Rights Treaty System: Universality at the Crossroads' at <http://www.hri.ca/uninfo/hrbodies/finalreport.htm>.

4 Bayefsky, p.14.

than a Taliban controlled Afghanistan. This is an unacceptable situation and would lead to loss of confidence in the UN Human Rights System as a whole.

- 1.11 Dissenting Members and Senators support proposals to reform the United Nations Human Rights Committee system. We do not support Recommendation 19, which calls for the ratification of the Optional Protocol to the *Convention on the Elimination of All Forms of Discrimination Against Women*.

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