



Dissenting Report — Senator Julian McGauran (Deputy Chair), The Hon Kevin Andrews MP, Senator Simon Birmingham, Senator Michaelia Cash, Mr John Forrest MP, Mr Luke Simpkins MP

Coalition Senators and Members dissent from the majority recommendation to accede to the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women (Convention).

Background

In 1983, Australia ratified the United Nations Convention.

As a party to the Convention for over twenty five years, successive governments, both Labor and Coalition, have implemented the necessary policy and legislative changes to uphold Australia's commitment to the Convention. Equally, Australia has met its obligation to report, every four years, to the United Nations Committee its progress in fulfilling the Convention's requirements.

In 2003, Australia released the combined Fourth and Fifth Reports on Implementing the United Nations Convention on the Elimination of all Forms of Discrimination Against Women. Australia will submit the combined Sixth and Seventh Report to the Convention committee in 2008.

The 2003 Report clearly highlights not only the Coalition's commitment to the Convention but significant advancement in eliminating discrimination against women since Australia's last periodic Report (1999).

For example, from the report:

“Australia is widely regarded as a world leader in its efforts to tackle domestic violence. The Prime Minister’s *Partnerships Against Domestic Violence* initiative has implemented a wide range of measures aimed at early intervention and prevention, as well as the improvement and expansion of services for victims, including children. This initiative has achieved an effective and committed collaboration of State and Territory Governments through the Commonwealth Government leadership, with consequent significant developments in policy approaches to violence against women. Addressing domestic and family violence in Indigenous communities is a major element of the initiative.”¹

Reasons for Australia not to accede to the Optional Protocol:

The Optional Protocol was adopted by the United Nations on 6th October 1999 and provides for a complaint process for an individual or organisation of a signature country to a United Nations committee specialising in discrimination against women.

As its title suggests, the Optional Protocol should be seen for what it is, that is merely an optional addition to the Convention. It is the Convention that sets out the main responsibilities of the signature countries, not the Optional Protocol. The Optional Protocol should not therefore hold the same weight or status as the Convention and should not be held up as crucial to meeting the aims and obligations of the Convention.

Australia, unlike many other countries, has in place a rigorous legislative and appeals process that can be triggered where an individual or organisation believes discrimination has occurred. Such bodies include the Australian Human Rights and Equal Opportunity Commission, the Sex Discrimination Commissioner, the Federal Court, the Administrative Appeals Tribunal and the Commonwealth and various State Ombudsman.

It is worthy to note Australia’s ratification of the International Covenant on Civil and Political Rights (ICCPR) includes non discrimination between men and women as a protocol right. Further, under the ICCPR there is an appeal process to a specialist United Nations committee which individuals or organisations from

¹ Women in Australia - Australia's Combined Fourth and Fifth Reports on Implementing the United Nation's Convention Against the Elimination of All Forms of Discrimination Against Women, 2003, page 11

Australia may access if they believe the treaty protocols have been breached. The ICCPR, while not gender specific, is never the less a forum available for women to make complaints in regards to inequality and women's rights.

Coalition Senators note that while the CEDAW committee in considering alleged violations against State parties found violations in four cases, none of the recommendations appear to have been fully implemented.²

Therefore, Coalition Senators believe issues of rights for women in Australia will be further advanced through the continued development of our own robust legal frameworks rather than being accountable to a panel whose recommendations have never been fully implemented by any country to which such recommendations have been made.

Conclusion

Coalition Senators and Members have made their conclusion not to accede to the Optional Convention based on:

- Firstly, that Australia has strongly supported the principles of the Convention since 1983.
- Secondly, since ratification, Australia has met its obligations under the Convention and enhanced the standing of women as outlined in each of the four yearly reports up to 2003.
- Thirdly, there is adequate domestic redress for aggrieved parties in regard to discrimination against women, most notably the Sex Discrimination Commission.
- Fourthly, there are concerns regarding the membership of the CEDAW Committee.

² Attorney-General's Department, Submission No. 23.

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