

ADDITIONAL COMMENTS BY SENATOR BRIAN GREIG

The Australian Democrats remain resolutely opposed to any watering down of the Federal *Sex Discrimination Act* (SDA).

It beggars belief that hard fought for rights for women won over 20 years ago, and enshrined in the *Sex Discrimination Act*, are now under threat. As was noted in one submission;

*The amendment reveals the precarious nature of the rights we presently enjoy. Given that so few of our human rights are constitutionally protected, the willingness of the government to repeal human rights legislation, such as the SDA, when a court delivers a decision with which the government does not agree is particularly worrying.*¹

We are pleased that the Committee agreed that the passing of this Bill would erode existing rights and would create a dangerous precedent for future attacks on human rights in Australia.

*By creating exceptions to basic guarantees this Bill would introduce uncertainty into our human rights guarantees and undermine public confidence in the system of human rights protections provided by the Commonwealth.*²

The Australian Democrats are pleased to note that the Committee limited its inquiry and comments to the specific legal issues in the narrow terms of reference, rather than the many ethical and moral debates surrounding sexuality, marital status and ability to parent, which have tended to cloud the issue in national debate.

The SDA and CEDAW:

The *Sex Discrimination Act* gives effect to Australia's obligations under the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) and certain aspects of the *International Labour Organisation* (ILO) Convention 156. Its major objectives are to

- promote equality between men and women
- eliminate discrimination on the basis of sex, marital status or pregnancy and, with respect to dismissals, family responsibilities, and
- eliminate sexual harassment at work, in educational institutions, in the provision of goods and services, in the provision of accommodation and the delivery of Commonwealth programs.

The submission by the Human Rights and Equal Opportunity Commission (HREOC) is just one that outlines in detail how the Bill would contravene the provisions of the *Sex*

¹ Submission 27, Ms Kirsten Walker, p11, quoted in Committee report, section 3.15.

² Committee report, section 5.11

Discrimination Act, and suggests the Bill be completely withdrawn on those grounds. The Australian Democrats concur with these comments and its conclusions, specifically that the Bill:

- *undermines core domestic and international human rights guarantees*
- *introduces uncertainty into the scope of human rights guarantees*
- *introduces inconsistency of operation for women in different States and Territories*
- *has a negative impact on women*
- *intrudes into the decisions of individuals and families about reproduction*
- *fails to reflect the diverse range of family situations in which Australians currently choose to live*

The Australian Democrats also note and concur with the evidence of the Law Council of Australia (LCA) and the NSW Anti-Discrimination Board, who note that:

The SDA was specifically enacted to give effect to our international obligations under the Convention on the Elimination of All Forms of Discrimination Against Women. The bill stands in complete opposition to the purposes of the SDA to prevent discrimination against women.

Lesbian and Gay Parenting:

One of the many side issues of this debate has been the suitability for parenthood of lesbian and gay couples. Whilst the Committee has limited its comments to the legal aspects of the amendment, it would be unjust not to give some statement on the main issue that caused the most national debate.

Much of the debate reflected ignorance of the issues and realities of the gay and lesbian community, and the Australian Democrats would like to take this opportunity to restate the considerable evidence that lesbian and gay parenting is just as successful as that of heterosexual couples, and does not put the child at any disadvantage. Scientific studies have undertaken this kind of research and concluded that children of homosexual parents grow up just as happy as do children of heterosexual parents. Of note are the studies by F. Tasker and S. Golombok³, and also C. Patterson⁴, who analysed the findings of 12 studies that had assessed more than 300 children of gay or lesbian parents, often comparing them with the children of divorced heterosexual women. As noted in the submission by the Australian Institute of Family Studies the children displayed

- no differences in terms of gender role or gender identity

³ Tasker, F. & Golombok, S. "Children raised by Lesbian Mothers: the empirical evidence", 1991,

⁴ Patterson, C. "Children of Lesbian and Gay Parents" 1992

- no difference in psychiatric state;
- no differences in levels of self esteem; and
- no differences in quality of friendships, popularity, sociability or social acceptance.

Indeed what all data points to, whether for gay and lesbian parenting, or heterosexual family structures, is the overriding importance of a loving and supportive base for a child. With escalating divorce rates, domestic violence and child abuse, the Government if anything should be more concerned with the best interests of the child in heterosexual relationships, which by far exceed the numbers of gay relationships with children. In fact some estimates put the number of women and lesbians affected by this legislation at just 150 per annum.

In conclusion, all the evidence brought before the Committee strengthened the resolve of the Australian Democrats to oppose the Bill.

Senator Brian Greig

Australian Democrats: Western Australia

