

Adrian Smyth,

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Ref the Senate inquiry into the Sex Discrimination Act 1984.

I have composed the following letter in response to the Inquiry into the effectiveness of the Commonwealth Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality. In particular, to challenge the “effectiveness in addressing intersecting forms of discrimination;” I would also like to challenge “other matters relating and incidental to the Act.” In particular the legal and social culture which was created as a result of that act.

I would like to start by confirming my commitment to the principle of equality. I believe the Sex Discrimination Act 1984, detracts from that ideology and has done more to promote discrimination than it has to promote the ideology of equality.

The basis for my disagreement is, the act assumes that sex discrimination is something which predominantly has a detrimental affect women and not to men. In taking that view, the resulting solution stifled and excluded men from exposing the acts of sex discrimination which they face. It failed to identify the criteria to determine how sex discrimination could be objectively recognised by both genders, and assumed that the pursuit of women’s interests was a move towards a greater level of equality.

The resulting culture detracted from the true ideology of equality. It is long since time that act was held to account for the sex discrimination for which it is responsible.

The act publishes examples and makes specific reference to the elimination of discrimination against women, but cites no examples and makes no specific reference to the elimination of discrimination against men.

In citing those examples and making that reference, the sex discrimination act gave official government recognition and credibility to the fallacy that sex discrimination was predominantly faced by women and predominantly perpetrated by men. The act empowered and fuelled a generation of women in the false belief, they were the only gender who suffered the injustice of sex discrimination. It galvanised and propelled a generation of women, to believe they had the right not only to pursue equality, but also to place and pursue women’s interests above men’s.

The ensuing culture embarked on a misguided, incestuous and combative path of sex discrimination against men. A path which was falsely justified in the belief that an act of discrimination against men would balance the overwhelming weight of sex discrimination, faced by women.

In the ultimate act of sexist hypocrisy, the sex discrimination act, became *the* act of sex discrimination, on which sex discrimination against men was based, justified,

legalised and pursued with a disregard for objectivity, fairness, or informed democratic debate on the issue of equality.

The publication of the act, provided the basis for a culture of anti male sexist legislation to be drafted, legalised and imposed by the Australian Government on the Australian people and on men in particular.

I have compiled a short list of only some of the examples of sex discrimination which followed and was faced, as a result of that culture and legislation.

In higher education. In 2006, the ABS reported female enrolment represented 55% of students whilst males represented 45% of students. The statistic is one of many which has resulted from the favourable treatment women have received in education when compared to men.

In Health. In 2008 the ABS reports that life expectancy at birth for men is 78.5 years whilst for women it is 83.3 years a difference of 4.8 years. Has anyone even asked the question why we have long since accepted that men do not live as long as women.

The following quote from the ABS 2006 yearbook: “There were 1,799 deaths coded to Intentional self-harm [suicide] (X60-X84, Y87.0) in 2006..... More than three times as many males as females died from Intentional self-harm in 2006, continuing the trend of the 10 years since 1997.” Why is that acceptable to the ideology of equality.

In Employment, men increasingly find themselves excluded from professions now dominated by females, in the face of Government legislation which continues to take affirmative action on behalf of women but was never intended to take the same action for men.

The offensive behaviour legislation was introduced to provide a better working environment predominantly for the well being of women in employment. The basis of the legislation is to provide anyone with the capability of claiming any act of behaviour can be determined to be an act of offensive behaviour, by the person who claims they are offended. Once the perpetrator is accused, there is absolutely no defence. The introduction of that legislation alone, undermined and contradicted the basis of justice itself.

ABS Statistics state in 2006 – 2007, the full time workforce was made up of 7,393,300 people, which comprised of 4,829,100 men and 2,564,200 women or in percentage terms. 65.3% men and 34.7% women

I believe those statistics reflect the greater choice which women have when compared to men, on the issue of career or family. When will women participate in the full time workforce to the same extent as men. In my opinion, that will only be achieved when men are presented with the same choices as women.

ABS 2007, statistics on retirement are quoted as follows: “The average age at retirement for people who were aged 45 years and over who were recent retirees

(those who retired in the last five years) was 60 years. In this group, women retiring were approximately three years younger than men (the average retirement age for men was 61.5 years and 58.3 years for women).”

When will equality determine that men are able to retire at the same age as women.

I have often heard women complain their gender is not represented in highly paid and sought after positions in the workforce, but seldom complain their participation rate in the lower paid positions is equally represented with men. That issue is one of many which exemplifies that we have thus far confused the pursuit of women’s interests with the pursuit of equality. It raises the question of the objective definition of equality. When will equality be objectively defined so that both genders are required to satisfy, known criteria before they can legitimately make the claim that an act of sex discrimination has taken place. When will equality be defined so that we will be able to establish when it has been achieved.

Australian family law courts, which have for so long held a systemic and long standing culture of sex discrimination against men, by placing the interests of *women* and children first.

In divorce. The advice men often receive from their solicitor when contesting the split of assets during the divorce process, is that if children are involved, the asset split could be as much as 85% for the custodial parent, the remaining 15% for the non custodial. Custodial parents are predominantly female, non custodial parents are predominantly male.

In contesting child custody. The established precedent which stood for so long was the precedent of women “*retaining*” child custody. The scenario facing men was to have a 20% chance of success of winning that custody, but only if it could be reasonably proven the child’s mother was unfit to entrust with the well being of the children. The legacy of that culture remains with us today. When will the courts view both parents equally. When will the courts decide, without the pre disposition that custody should be “retained”.

The sentiments of the time were justified by suggesting the interests of the child are paramount. Perhaps someone could advise how the interests of the child are best served, by their imposed removal from men.

I am informed the use of the A.V.O. during divorce and custody has grown in recent years. How can we be sure the issue of these restraints is soundly based, and has not been used as a means of obtaining better terms during these disputes.

In separation, divorce and child custody there is every reason to believe a man could lose the remainder of his assets if he was foolish enough to fight this sexist injustice through the courts.

In taking that view the family law courts of Australia, have once again left the legacy of yet another stolen generation.

In child support. Until recently the custodial parents income was not considered in child support payment calculations, only now is that beginning to change. It begs the

question, when will the child support agency insist and pursue custodial parents to work as long, productively or prosperously as non custodial parents.

I have taken the following quotation from: ABS Statistics 4102.0 - Australian Social Trends, 2002. Previous ISSUE Released at 11:30 AM (CANBERRA TIME) 03/06/2002

“In 1996, 56% of lone parents were in the labour force. The rate of labour force participation for lone mothers (52%) was lower than that for partnered mothers (63%). The rate for lone fathers (77%), while much higher than that for lone mothers, was nevertheless lower than the rate for partnered fathers (94%).”

When will the child support agency require women to contribute to child support payments in equal proportions to men. When will lone mothers participate in the labour force to the same extent as lone fathers. When will the child support agency pursue *both* parents for an equal percentage of child support payments, with the same determination in which they have used to pursue men.

When will the laws on equality determine, that men should expect to retain 50% of their assets during divorce proceedings. When will the law of equality determine that men have a 50% chance of winning child custody, or ensure men will be legally entitled to see their children for 50% of the time. When will the law of equality determine the payment of child support is equally borne by men and women.

The unequal application of Australian family law has been gender biased for so long, the overwhelming burden of inequality has been borne by men. After divorce men have often been left to be emotionally and financially crippled for years to come. Part of the justification for this is to support his former family, so that life can be fair to them.

In the face of this inequality, the prospect of starting a new family and making a sound financial basis for the future is particularly difficult for men. Whilst he is doing this would you ask him to hope his new family doesn't force the same injustice on him again.

The facts and statistics which surround aspects of family law and its affect on both genders is sometimes difficult to obtain. When will these facts be published, particularly by the Australian family law courts and the Child Support Agency, so that the Australian people can reflect on an open and transparent system. When will these facts be published so that the Australian public can see for themselves that the interests of justice, fairness and equality have been served. When will those facts be published, to serve and promote the ideology of equality on behalf of men.

Pregnancy is sometimes considered a biological disadvantage which is the sole domain of women. It has long since been established that employers cannot discriminate against pregnant women. Employers are required to retain employment positions for the purpose of maternity leave. In May 2008 the Sex Discrimination Commissioner pursued this objective with renewed vigour. “ I am deeply disturbed that, in 2008 we still have women who are being forced to go back to paid work just two days after giving birth, because they cannot afford to do otherwise. Paid maternity leave is urgent.”

Men have a biological disadvantage in pregnancy. It is the disadvantage which comes with the uncertainty associated in establishing the true and correct identity of the child's biological father.

In these times we do not accept *any* excuse for a hospital mix up at child birth and the ensuing human tragedy which engulfs all concerned. If that tragic event takes place, the community reaction is a sense of, sympathy, concern and a sense of abhorrent indignation, which quickly turns to the practical application of preventative measures.

The tragedy of the incorrect biological identification of fathers continues to affect thousands of men and when the tragedy is exposed, the apparent community reaction is one of indifference. When will the community react with the same a sense of, sympathy, concern and sense of abhorrent indignation. When do you think the sex discrimination commissioner will urgently pursue that cause.

In government, there is an office for women, which is exclusively entrusted with the issue of equality. One of the outputs from that culture was the campaign against domestic violence. "Australia says no to domestic violence against women", but obviously doesn't give the same consideration for domestic violence if it is committed against men.

In promoting that campaign, the office for women publicised its sexist tendencies and ignored the stark publicised facts which are, that men are also the victims of domestic violence.

The reality of the office for women is to promote and pursue the interests of women. They justify their action by assuming that the pursuit of their own interests is the pursuit of a greater level of equality.

The former sex discrimination commissioner Pru Goward was a celebrated feminist, whom, had the following response for men. In a Speech delivered by Pru Goward, Federal Sex Discrimination Commissioner, as part of the Oz Prospects Lecture Series, State Library of Victoria, 20 April, 2004. She made the following remark "So rather than a men's movement, this could be the Get a Life Movement."

The idea of acts of sexist denigration committed by men and aimed at women is unacceptable to all of us, and particularly abhorrent to the office of sex discrimination commissioner. I wrote to that office to complain of the indiscriminate act of publicly humiliating innocent men, which was being publicised by the RTA. I asked the sex discrimination commissioner:

"The reason for my letter [of complaint regarding the RTA campaign] was to seek your guidance on the issue of sex discrimination, and particularly the use of derogatory gestures. I don't believe you have addressed my concerns. Do you support the use of derogatory gestures in the RTA campaign."

The Office of Sex Discrimination Commissioner, was unwilling to speak out against the use of derogatory sexist gestures used in the RTA campaign, presumably as long as they were only directed against men.

The Sex Discrimination Commissioner, Elizabeth Broderick is quoted in the Daily Telegraph on Tuesday 22 Jul, 2008 as saying: “We do know the Sex Discrimination Act has more limited protection for men than it does for women”.

It has taken 20 years for a sex discrimination commissioner to make the rudimentary observation. The sex discrimination act, is itself sexist. Why did it take so long.

There are the following acts of obvious sex discrimination which have been perpetrated by the Australian Government. In one of the many acts of sexist hypocrisy, the position of Sex Discrimination Commissioner, has never been held by a man. In another the government has created both the minister for women and the office for women, but not one for men.

When can we expect our first male sex discrimination commissioner. The creation of a government office for men, or the appointment of a government minister for men.

The Australian Government whom for so long have made the issue of equality the sole domain of women. Those women have excluded and ignored the complaints of sex discrimination which have been made by men.

These exclusive women’s government agencies have carefully selected facts regarding equality. They have used those selected facts to popularise the belief, the burden of sex discrimination is largely borne by women. In doing so have served to justify their own existence and pursued their own interests.

I would like to ask those women this question: When will you accept you have achieved equality. Will it be when you have reached every conceivable social, legal and economic advantage in comparison to men.

For more than twenty years the issue of equality was the exclusive domain of a culture which excluded enlightened, informed, objective and democratic debate to determine exactly what that is and how it adversely affects both genders.

For more than twenty years there has been a lack of objective criteria, to determine what equality is, when an act of discrimination has taken place, what corrective action is appropriate under the circumstances. When and in what respect has equality been seen to have been achieved.

It is my belief, when the full extent of the culture which has resulted from the introduction of the Sex Discrimination Act, is exposed before the Australian public. Australian men in particular will realise the extent of the sexist hypocrisy which has been enforced upon them by the Australian Government. And on that day I believe the Australian Government will look back upon the legislation they have created and imposed upon Australian men and hang their heads in shame.

I have no complaint or argument with the ideology of equality. My argument is against the enduring *assumption* that life has always been fair to men.

I am simply the author of an overwhelming case to expose the existing laws and culture for the act of sexist hypocrisy which they stand for. My immediate objective is to expose and prevent that culture from continuing to discriminate against men.

The task which I believe is presented to us, is to provide men with equal access, capability and resources to challenge and pursue the basis and of equality they face.

If you believe this letter exposes the acts of sex discrimination which are faced by men, I make no apology for that. Having read this some people will claim I am the sexist or I have some problem with women achieving equality. To those people I say bluntly, you are wrong.

I would like to close with a quotation from the Sex Discrimination Act:

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity.

The paragraph speaks of the equal participation of women in our society. I would like to ask those people, how did the issue of equality become the exclusive domain of women. Is this your idea of equality, would you have us believe your ideology of equality has been fair to men.

I am inspired by great leadership which has preceded me, for I also have a dream. I have a dream the sex discrimination act will deliver on its promise and provide the same basis of justice and equality for men.

Adrian Smyth