

Late submission to the Senate Legal and Constitutional Affairs Committee review of the effectiveness of the Sex Discrimination Act

From 15 – 19 Sept 2008 our organisation, Australian Catholic Religious Against Trafficking in Humans - ACRATH – was in Canberra lobbying MPs on the issue of human trafficking. While we were in Canberra, we were told about this review and were asked by Senator Barnett if we could make a brief submission. We wrote to the Secretary of the Senate Legal and Constitutional Affairs Committee requesting permission to make a late submission. This submission will be very brief.

Terms of reference of the enquiry – relevant clause

The effectiveness of the Commonwealth Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality, with particular reference to:

- b. the extent to which the Act implements the non-discrimination obligations of the Convention of the Elimination of All Forms of Discrimination against Women and the International Labour Organization or under other international instruments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights;

Background

Our organisation, Australian Catholic Religious Against Trafficking in Humans – ACRATH – participated in the shadow report to the CEDAW committee in January 2006. Our submission to the CEDAW committee [Australian NGO Shadow Report on Trafficked Women into Australia](http://www.goodshepherd.com.au/justice/documents/Australian%20NGO%20Shadow%20Report%20on%20Trafficked%20Women%20into%20Australia) can be found at http://www.goodshepherd.com.au/justice/documents/CEDAWEndorsements1March2006_003.pdf We also sent two women, both lawyers, to present our report at CEDAW.

We were very pleased when we read the concluding comments of CEDAW addressed to the Australian government because the committee echoed our concerns for trafficked women's rights in Australia. The full text is available at http://www.goodshepherd.com.au/justice/documents/AustraliaConcludingComments_002.pdf Below I have reproduced the concluding comments paragraphs most relevant to our organisation's concerns for trafficked women into Australia.

Convention on the Elimination of All Forms of Discrimination against Women Distr.: General
3 February 2006

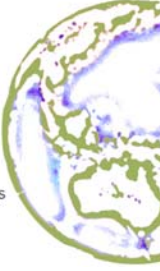
Committee on the Elimination of Discrimination against Women
Thirtyfourth session
16 January-3 February 2006

Concluding comments of the Committee on the Elimination of Discrimination against Women: Australia

20. The Committee is concerned about the lack of a comprehensive approach to combat trafficking and exploitation resulting from prostitution. It is particularly concerned about the absence of effective strategies and programmes to prevent women from entering into prostitution, address the demand for prostitution and support women who wish to discontinue their lives in prostitution. It is further concerned about the low rates of prosecutions and convictions of traffickers and the lack of support and protection offered to victims who do not cooperate in the investigation and prosecution of traffickers.

21. The Committee recommends the formulation of a comprehensive strategy to combat the trafficking of women and exploitation resulting from prostitution, which should include the development of strategies to discourage the demand for prostitution, prevent women from entering prostitution and establish programmes of rehabilitation and support for women and girls who wish to discontinue their lives in prostitution. The State party should pursue the effective prosecution and punishment of traffickers and other offenders who exploit women on prostitution. The Committee encourages the State party to examine and adopt international good practices in combating trafficking. The Committee further urges the State party to consider the extension of temporary protection visas and reintegration and support services to all victims of trafficking, including those who are unable or unwilling to cooperate in the investigation and prosecution of traffickers.

32. The Committee recommends that the State party increase its funding to Nongovernmental organizations involved in the provision of services for the promotion of women's rights, including those working in the area of trafficking.



Proposal

ACRATH asks the Senate Legal and Constitutional Affairs Committee in this enquiry to consider especially the final sentence in paragraph 20 of the CEDAW Concluding Comments in its 34th session of Jan - Feb 2006:

‘...The Committee further urges the State party to consider the extension of temporary protection visas and reintegration and support services to all victims of trafficking, including those who are unable or unwilling to cooperate in the investigation and prosecution of traffickers.’

ACRATH has worked in the area of human trafficking into Australia since 2005. Members are acutely aware of the fact that trafficked women may be unable or unwilling to testify against their traffickers.

Some women are unable to testify because they do not know enough about the people or places surrounding their trafficking. Some women do not have sufficient fluency in English to have learnt details of their trafficking. The mental health of some women is not sufficient for them to be able to assist the federal police.

Some women are unwilling to testify because they, or their families in their country of origin, have been threatened. Many have to balance the huge shame they feel at what has happened to them with the request to testify.

ACRATH therefore asks the Senate Legal and Constitutional Affairs Committee in this review to recommend that all women who have been found to have been trafficked into Australia, regardless of their ability or willingness to testify against their traffickers, be given a visa to stay in Australia for a period of time. We suggest that Australia follow the Canadian model of at least 90 days breathing space. We believe that such a visa would enable women who have been trafficked to begin the healing process after their trafficking experience. It would also enable them to begin to make plans for the next step in their lives, a next step into a strong future that avoids re-trafficking.

ACRATH believes that such a recommendation, in line with the CEDAW Concluding Comments from its 34th session of Jan - Feb 2006, would eliminate discrimination and promote gender equality for one of the most vulnerable groups of women in Australian society, women trafficked into Australia.

ACRATH thanks the Senate committee for its work and for the opportunity to have this issue considered.

Christine Carolan Victorian ACRATH convenor 26 Sept 2008