

National Human Rights Consultation Submission

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Name: Jean-Paul Ameur

Submission Text:

Fairness and equality

If human rights are about equality and fairness for everyone, then equality and fairness must be the rights which are protected in Australia. For example GLBTIQ Australians need to have their right to equality and fairness protected and not to be discriminated against because of their sexuality.

GLBTIQ Australians are still marginalised in many parts of our society and in their lives (the fact that the National Human Rights Consultation Background Paper is silent on sexuality is testimony to that fact). By comparison, it has become an unacceptable part of Australian society to discriminate against a person because of their race (another innate trait). A statement like 'Black people should not be allowed to marry.' is against current community standards. Yet the same statement but for a single word of difference 'Gay people should not be allowed to marry.' is spoken with commonplace even in our Federal Parliament as an acceptable public policy. The equality of GLBTIQ Australians is still not guaranteed by federal laws, despite our knowledge that men and women in many countries overseas today still face imprisonment, torture or death for being GLBTIQ.

In Australia, there have been many examples of common law rights to equality and fairness being either legislated away or interpreted in policy to the point of being ignored by the Federal Parliament. Howard's Native Title Act and so called 'anti-terror' legislation are vivid examples of equality and fairness being legally ignored by the Federal Parliament. Discrimination against GLBTIQ Australians was an arbitrary policy of the Howard Government over the past decade.

There is an urgent need for the rights to equality and fairness to be protected in Australian law. The importance of these human rights should further be protected against political interference by which ever political party is in power. A system which would require the agreement of the majority of Australian States or Territories in order to amend any federally legislated human rights to equality and fairness is highly necessary.

The protection to equality and fairness would also mean that governments have to practice more evidence based law making. Because in the past governments have used ideological or asinine bases for law making. Having the right to equality and fairness protected in federal law, and the scrutiny of federal laws using the benchmark of equality and fairness (by the courts) would prevent ideology being solely the basis for law making. The claims and subsequent actions by both John Howard and Kevin Rudd to prevent equality to same-sex couples to marry under Australian law because of their christian beliefs are vivid examples of arbitrary and ideological law making in Australia. These 'christian beliefs' are arbitrary because they are not published anywhere for transparency and accountability. Consequently and importantly these beliefs cannot be scrutinised by our democratic institutions. In our democracy, Australians should not be subject to laws which cannot be scrutinised. These beliefs are not evidence based, yet are commonly used to legally deny equality and fairness to many Australians.

Health

The right to adequate health care is important to protect under federal law. The responsibilities which accompany this very important right should

not continue to be ignored under federal law. Australians currently expect a right to so-called universal health care. Unfortunately, this system defines health very narrowly and ignores completely the responsibilities that Australians must take for their health.

The World Health Organisation definition is 'Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.' In Australia, the majority of our health care system is focussed on the absence of disease or disease management. The system's necessary focus on disease management is a result of the competing priorities between acute care services and preventative health (not just the absence of illness) strategies, the former being the most politically urgent to address.

Such focus on disease management has resulted in a system that requires no responsibilities for individual Australians in relation to the right to universal health care (albeit disease management care). For example, a person in Australia has a right to full management of their adult onset diabetes, yet has no required responsibilities to manage their lifestyle, incurring an endless cost burden on the national health care system. The lack of responsibilities for Australians who continue to demand a right to adequate health care contributes to the huge economic costs of the Australian health care system. Indeed the same lack of responsibilities are evident across the Australian health care system in its management of the five chronic disease priorities of asthma, cancer, diabetes, heart, stroke and vascular disease and osteoarthritis, rheumatoid arthritis and osteoporosis – all of which are lifestyle related illness in the published literature.

Having responsibilities (there is currently only one – paying the income-tested Medicare levy) for the right to adequate health care would produce huge costs and social benefits for Australia. Promoting such responsibilities could include the importance of eating a balanced diet with plenty of fresh fruit and vegetables and drinking lots of water, a minimum of processed foods and not too mention regular physical exercise. There is an urgent need for promoting health not just as the absence of illness as Australians do not currently think that this is their responsibility. I note that at the human rights public consultations held in Canberra baked goods high in GI index, fat and sugar was offered to attendees. There was water on the tables.

Responsibilities for our health (as defined by the WHO) would have the effect of reducing the cost of the Australian health care system, and be infinitely cheaper for all Australians. A diet high in fruits and vegetables is much cheaper, healthier and tastier than the average Australian diet (just ask the 232 million Indians who are vegetarians). A responsibility for our health would reduce the ever increasing amounts spent on acute and primary care, reduce the costs of the pharmaceutical benefits scheme, reduce the costs of allied health care services. A responsibility for our health would contribute of healthier lifestyles, more productive populations, healthier ageing, reduced the costs of aged care, and possibly even more productive older populations to contribute to endless social benefits. Indeed the current right of adequate health care as categorised by the Australian health care system continues to cost many billions of dollars each year. These massive costs have not had the effect of producing a healthier population.