



Victorian Aboriginal Legal Service Co-operative Ltd.

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10 February 2005

Mr Chris Humphreys
Director, Civil Law Policy
Department of Justice
Level 4, 55 St Andrews Place
MELBOURNE VIC 3002

Dear Mr Humphreys,

**Re: Amendment of the Equal Opportunity Act 1995 (Vic) to Prohibit
Discrimination on the Basis of 'Homelessness' or Employment Status'**

VALS supports the proposal to amend the Equal Opportunity Act 1995 Vic (the Act) to prohibit discrimination on the Basis of 'Homelessness' or Employment Status' and urges the Government to proceed with the proposal.

VALS endorses arguments made by Phillip Lynch supporting the amendment of the Act to prohibit discrimination on the basis of homelessness or employment status (PILCH Homeless Person's Legal Clinic submission dated 23 December 2004). VALS endorsed similar arguments in a submission to the Scrutiny of Acts and Regulations Committee's Inquiry into 'Discrimination in the Law' on 17 June 2004. In this submission VALS relied on Lynch's and Bella Stagoll's argument that: section 6 of the Act 1995 should be amended to include 'social status' as an attribute on the basis of which discrimination is prohibited ('Promoting Equality: Homelessness and Discrimination' and the Australian Council of Social Services 2002 Deakin Law Review 15). Lynch and Stagoll included homelessness, unemployment and being a recipient of social security benefits within the definition of social status.

The arguments for the proposed amendment to the Act from the perspective of Indigenous Australians are as follows:

- Indigenous Australians experience extreme disadvantage and fall victim to the present gaps in the Act. The Act fails to provide any protection from, or redress in relation to discriminatory treatment on the ground of homelessness or employment status.
- The effects of discrimination against the homeless and unemployed warrants legislating that homelessness and employment status are protected attributes. When a homeless or unemployed Indigenous Australian experiences discrimination and the Act provides no assistance the effect is that:
 - A cycle of discrimination and disadvantage is perpetuated resulting in the further marginalization of Indigenous Australians. Discrimination has the effect of

causing or maintaining homelessness and unemployment. The Act should be amended to protect some of the most vulnerable members of the Australian community.

- Discrimination against the homeless or unemployed is perpetuated. Discrimination will be further entrenched if a clear message about the unacceptability of discrimination is not audible or visible. Australian society should uphold principles of equality and social inclusion as found in international covenants.¹ The amendment would have educative and deterrent effects.
- Indigenous Australians will further lose faith in the legal system. Historically, Indigenous Australians have received ill treatment at the hands of the legal system and consequentially distrust the legal system.
- VALS agrees with Lynch's discussion of the effect of legislating that homelessness and employment status are protected attributes on employers, business groups and service providers.
- VALS argues that proposed amendments would be one step towards addressing a theme of the Attorney-General's Justice Statement, being the protection of rights and addressing of disadvantage.

Thank you for the opportunity to comment on the proposal and if you have any queries, please contact Greta Jubb on 9418 5925.

Yours Sincerely,

Victorian Aboriginal Legal Service Co-operative Limited

Frank E. Guivarra
Chief Executive Officer

¹ International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights