



January 14th, 2008

Submission to Equal Opportunity Act Review from VIVAIDS Inc.

VIVAIDS Inc, the Victorian Drug Users Organisation sees a need for some better protections under the Equal Opportunity Act ["the Act"] covering users of illicit drugs. While these drugs are illegal and their use attracts criminal law sanctions, I do not feel that it is consistent with civilized notions of justice to deny people human rights and to allow people to be harassed, vilified or harmed by any Tom, Dick or Harry simply because they use or are assumed to use these drugs. It is not 'just' to deny people's civil and human rights in housing, employment, health, opportunity and their protection against vilification merely on the basis of one aspect of their behaviour that is unlawful. Let the law punish them for their breaches, but surely they still have human rights in every other aspect of their lives. We do not say that people who cheat on taxes do not deserve human rights.

This is why we also feel that any review of the Act should fill the gaps in current antidiscrimination legislation. AD legislation currently simply names some classes of persons or conditions and says that it is unlawful to discriminate against them eg on the basis of gender, religious belief, cultural background, race, age etc. This system creates circumstances whereupon it is not only lawful to discriminate against and vilify people outside these descriptions, but is deemed to be morally acceptable. This diminishes us all. If the mark of a civilized society is how it treats its poor, then how it treats its marginalized and defenceless should be equally important. Any acts or omissions that cause suffering or loss of opportunity to others and which is unwarranted and arbitrary is by definition unfair.

So we would like it stated as a guiding principle of the Equal Opportunity Act that there must be protections for all people against unwarranted and/or arbitrary acts, utterances, portrayals or omissions that result in injury, humiliation or loss of the rights and opportunities open to other members of society – whether the treatment or omissions in question are currently proscribed in antidiscrimination legislation or not.

For instance, denying the opportunity to rent a house to someone because there is good reason to believe that they can't maintain the rental payments may be warranted. Denying housing to someone merely because you believe that they use illicit drugs, however, should not be permissible. If a court of law has not taken someone out of the housing market because of their unlawful drug use, it should not be open to a lessor or agent to make a decision to deny them an equal opportunity to secure housing. This is an arbitrary act that is not justifiable in terms of the rights of the lessor or any other parties.

Publishing descriptions of alleged offenders as "junkies" should likewise be unlawful, especially where the alleged offences in question are not even drug offences (no matter how heinous). This is unwarranted abuse that is currently considered by the public as OK. Ex offenders, asylum seekers and others are currently not protected against unfair hurtful treatment in similar ways, so there is need of a principle requiring justification and lawfully recognised authority of some kind wherever the human and equal rights of individuals, groups and communities are prejudiced.

We can't see that including such a principle would open a Pandora's box of vexatious litigation – it would be up to a complainant to demonstrate that the act, utterance or omission was deliberate (or foreseeable), resulted in harm to the victim, was not warranted (ie. necessary to protect the rights of others) and/or was committed without recognised authority.

VIVAIDS also wishes to endorse the submission from Fitzroy Legal Service discussing "attributes".

Yours sincerely

Damon Brogan
Executive Officer, VIVAIDS Inc.

128 Peel Street North Melbourne PO Box 12720 A'Beckett Street, Melbourne, Victoria 8006

Phone: 03 9329 1500

Fax: 03 9329 1501

Email: [Info @ vivaids.org.au](mailto:Info@vivaids.org.au)