Consolidation of Commonwealth anti-discrimination laws

Submission on Discussion Paper

Any proposed consolidation of the anti-discrimination laws should be confined to public life and should not interfere in the private lives of its citizens. What consenting adults do in private should not be any business of the State.

Reading some of the submissions that have been made in response to the Discussion Paper, I feel part of a threatened and disadvantaged group. Why can't men be allowed to be men? Many of the submissions suggest that groups of men should not be able to meet together (associate) without first getting the approval of a court or tribunal. Such submissions are contrary to the fundamental human right to freedom of association contained in Article 20 (1) of the Universal Declaration of Human Rights.

It is well-established by research that men only groups and the social interaction provided in these groups contribute greatly to men's health and wellbeing. They also permit free discussion of issues of men's health (eg prostate and urology problems) that is not possible in mixed groups. Why should people be bothered by a few gents having lunch?

Many of the submissions about men's clubs would appear to revolve around the incorrect perception that they are bastions of power, influence and decision making. In the United Kingdom power has "shifted from the hushed rooms of the older clubs to a new, more raucous breed of drinking clubs. The ruling class is now more likely to be found not sipping a claret or scotch at the ultra-private White's club or the Garrick but downing a chic cocktail at Zanzibar Club, Groucho Club, Soho House or any number of new, trendy coed drinking clubs." (Time World Magazine 18 November 2010). The same thing has occurred in Australia with Gen X and Gen Y preferring to drink in the fashionable bars and pubs, rather than in the clubs. The evidence given by Melbourne clubs to the 2009 review by the Victorian Parliamentary Scrutiny of Acts and Regulations Committee of the Exceptions and Exemptions in the Equal Opportunity Act 1995 gives a more accurate picture of what occurs inside these private clubs.

The Equality Act 2010 (UK):

"allows private clubs and other associations (except political parties) to restrict membership to people who share protected characteristics. This means it is lawful to have a private club, for example, for women, for people from Australia, for transsexual people or for people who are HIV positive.

A private club that restricts membership to people with a particular protected characteristic may also place similar restrictions on access by associates and guests.

However it is still unlawful for a private club that restricts its membership to people who share a particular protected characteristic to discriminate against members, associates, or guests because of other protected characteristics." (Government Equalities Office FAQs on the Equality Act 2010)

The UK experience has been that there are very few clubs whose rules restrict membership to people who share protected characteristics. In Australia there is only a very small number of clubs of this kind. In the UK before the legislation was introduced, there were many clubs which had full members of one sex and associate members of the other sex with lesser benefits. Clubs of this latter kind do not fall within the protected characteristic exemption.

In my submission, the existing exemption for single sex clubs under s.25(3) of the Sex Discrimination Act (and similar provisions under State legislation) should be continued under any proposed consolidation of the anti-discrimination laws by way of a protected characteristic exemption of the kind contained in the UK Equality Act 2010. Any proposed consolidation should base the protected characteristic exemption on the UK legislation and the experience of its operation.

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