

02 June 2010

The Hon Cathy Branson QC
President
Human Rights Commissioner
Australian Human Rights Commission
L8 133 Castlereagh St
Sydney NSW 2000

Dear President Branson

Re: Draft Submission to the Universal Periodic Review Process

ACON thanks the Australian Human Rights Commission (the Commission) for preparing a succinct and inclusive draft submission to the United Nations Universal Periodic Review process and welcomes the opportunity to provide comments on this draft.

As a community based health organisation that has been working with groups that have traditionally experienced human rights violations for the past 25 years, ACON recognises the important relationship between human rights and health. Today, ACON (formerly known as the AIDS Council of NSW) is Australia's largest gay, lesbian, bisexual and transgender (GLBT) and HIV community organisation. We are the leading health promotion community organisation in NSW in for the GLBT community and in the area of HIV prevention. ACON's work spans HIV and STI prevention, education and support, anti-violence, mental health and community development.

ACON applauds the discussion of discrimination, violence and a lack of access to civil marriage experienced by the GLBT community in the draft submission, and the specific inclusion of recommendations on the issues of discrimination and violence. ACON also recognises the important work that the Commission has done to address these issues in the past, including the *Same Sex: Same Entitlements* report and the *Sex Files* report.

As your submission states, experiences of discrimination and violence are widespread in the GLBT community. In support of the Commission's statements, ACON refers you to a large study called *Private Lives: a report on the health and wellbeing of GLBTI Australians*. Almost 60% of respondents within this study reported having experienced personal insults or verbal abuse in their life; almost a quarter have faced threats of violence or intimidation and more than 1 in 10 respondents reported discrimination in hiring, employment and promotional opportunities.¹

The experiences of discrimination and violence have a significant impact on the ability of the GLBT community to realise important human rights such as the right to

equality ● empathy ● partnership ● community ● diversity ● courage

the highest attainable standard of physical and mental health, the right to just and favourable conditions of work and the right to education.

The GLBT community currently does not have a voice or representation within governmental structures. Other groups that experiences widespread and systemic discrimination such as women, Aboriginal and Torres Strait Islanders, people from culturally and linguistically diverse backgrounds, young people, people with a disability and older Australians have an identified presence in the form of an office or other representation within government to address discrimination, violence and other human rights issues. This is a situation that serves to perpetuate a lack of action to address GLBT discrimination, violence and other human rights issues.

Given the seriousness and the widespread incidences of discrimination and violence, ACON recommends that in addition to sexual orientation and gender diversity being protected from discrimination, the Commission advocate for a dedicated sexual orientation and gender diversity discrimination Commissioner in their human rights work, including as a part of the Universal Periodic Review report. This would be consistent with the approach of creating the position of dedicated Commissioners in previous anti-discrimination laws such as the *Racial Discrimination Act*, *Sex Discrimination Act* and the *Disability Discrimination Act*.

ACON would also like to bring to the attention of the Commission the ongoing discrimination at the NSW State level against GLBT couples in recognising parental relationships. A 2009 report from the NSW Legislative Council Standing Committee on Law and Justice on *Adoption by same-sex couples* recognised that removing the discriminatory ban was in the best interest of the child and recommended the NSW Government remove the ban on same-sex couples from adopting children.ⁱⁱ The ban in NSW remains in place, as do similar bans in other States and Territories.

Accordingly, given the Universal Periodic Review takes into account the bigger picture of human rights in Australia (not just issues within the Commonwealth jurisdiction) ACON recommends that the Commission includes a discussion and recommendation in their submission to the Universal Periodic Review in relation to the discrimination against GLBT couples in NSW parenting laws.

ACON is happy to provide more information on the issue of discrimination and violence to the Commission. If you wish to discuss these matters further, please contact Karen Price, Director of Policy, Strategy and Research on 02 9206 2048 or email kprice@acon.org.au.

I thank you again for an excellent draft submission to the Universal Periodic Review process, and for the opportunity to provide comments on this draft.

Kind regards



Nicolas Parkhill
Chief Executive Officer

ⁱ M Pitts, A Smith, A Mitchell *et. al.*, *Private Lives: a report on the health and wellbeing of GLBTI Australians*, Australian Research Centre in Sex, Health & Society, La Trobe University, (2006), p. 50.

ⁱⁱ NSW Legislative Council Standing Committee on Law and Justice, *Adoption by same-sex couples*, Report 39, July (2009).