

Rule of Law Toolkit

Chapter 2

Equality Under the Law

Facilitator's Notes

Target Audiences: High School Students; University Students; Law Students

Estimated Time: 3 hours

Participants will be asked to think about the principles of equality and anti-discrimination protections within the rule of law. This will be accomplished through small group exercises and discussion focused on a case study and background materials about international and national mechanisms to protect and promote equality under the law, regardless of health, age, race, religion, gender, profession, or income.

Key Learning Objectives

Participants will:

- Learn how equality under the law and respect for the rule of law are intertwined.
- Identify characteristics of “equality” with respect to the rule of law, and then provide a definition of “equality under the law.”
- Identify characteristics that may prevent individuals from receiving equal treatment under the law.
- Learn how the rule of law provides for equality under the law.
- Learn why achieving equality under the law is vital to ensuring the success of the rule of law, as well protecting citizens’ rights.
- Study the role of the state in promoting equality.
- Analyze case studies, and then apply the concept of “equality under the law” to scenarios.
- Read and analyze provisions for equality and anti-discrimination within international agreements that apply to their home countries.

Glossary of Terms

- **Anti-Discrimination:** Policies and legislative efforts to combat and ensure protection from discrimination based on gender, race or ethnic origin, religion or belief, age, disability, or sexual orientation.
- **Discrimination:** Unfair treatment of one person or group, usually because of prejudice about race, ethnicity, age, religion, disability, or gender.
- **Equality:** The principle under which each individual is subject to the same laws, with no individual or group having special legal privileges.
- **Prejudice:** An unfavorable judgment or opinion about a race, gender, religion, age, disability, or sexual orientation. Prejudice is based on a personal belief that exists separate from knowing factual information about a particular person or subject.

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- **Rule of Law:** A general legal concept according to which all laws and legal decisions are enforced and applied equally to all people, without any discrimination.
- **Under the Law:** A general legal concept meaning that all people are bound by the same legal rules and subject to the same legal procedures.

Handouts

- Handout I: Background Paper on Equality Under the Law
- Handout II: Equality Under the Law Scenarios
- Handout III: Case Study of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Prior to the sessions, participants should be provided with and asked to read the Background and Case Study Handouts (Handouts II and III). The Equality Under the Law Handout (Handout II) will be distributed to participants during Activity III.

Activity 1: Brainstorming Characteristics of Equality

1. In advance of the class, obtain a pile of blank index cards or medium-sized sheets of paper. On each card or piece of paper, write the name of a different social class distinction (king, queen, member of parliament, director of a company, skilled employee, untrained laborer, illegal immigrant, criminal). It is okay to repeat a distinction more than once.
2. Begin the activity in class by passing out one card or piece of paper to each participant, face down. Tell them not to look at their cards. Explain that each card has a different class distinction, such as king or criminal, etc.
3. Without looking at their cards, each participant should ask another to help them tape the card to the back of their shirt, so that nobody knows what type of card is taped to his or her own back. Then the participants should begin interacting with each other, treating one another according to the distinctions on the cards.
4. Allow the activity to continue for five minutes then ask participants to remove their cards and then comment on their experiences by answering the following discussion questions:
 - How did people treat you based on your designated class distinction?
 - Were you treated differently than others? Why or why not? How did that make you feel?

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- Was it fair to treat people differently based on their distinctions? Why or why not?
 - How did the different types of treatment affect the overall experience of the activity? Did the potential for different treatment make it easier or more difficult to participate?
 - How might this activity be different if everyone was treated equally, or the same?
5. Ask participants to think about the definition of “equality.” Read the definition of “equality” aloud from the glossary. Discuss any questions or confusion about the definition with participants as needed.
6. Ask participants to think about how equality is important to the rule of law.
7. Participants should begin brainstorming characteristics of “Equality Under the Law.”

Characteristics include:

- a legal system that is marked by impartiality
- a legal system that is free from self-interest, prejudice, and favoritism
- a legal system whose laws are written in a nondiscriminatory way, so that they treat everyone equally, without regard to characteristics such as race, religion, gender, or income.
- a legal system where the police *enforce* laws equally, without regard to characteristics such as race, religion, gender, or income.
- a legal system where prosecutors and judges *apply* laws equally to everyone, without regard to characteristics such as race, religion, gender, or income.
- a legal system in which everyone conforms with the established rules or laws, and does not allow for the manipulation of laws to accommodate certain individuals
- a legal system free from favor or preferential treatment toward any side or person
- a system which gives everyone equal access to the courts and provides legal representation to those who need it but cannot afford it.
- a system that is fair
- a legal system that uses only the law to make determinations, rather than individual characteristics such as health, age, race, religion, gender, profession, or income

Activity 2: Equality or Inequality?

1. The purpose of this Activity is to apply the characteristics of “equality” that were brainstormed in Activity I to real-life scenarios.

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2. Read each of the following statements aloud to the group, and ask participants to rate each scenario as exhibiting characteristics of “equality” or “inequality.”

Statement	Equality or Inequality	Why?
People with short hair may go outside, but persons with long hair must stay inside.	Inequality	Favoring short-haired people over long-haired people.
While driving, you see a sign along the road that says “Stop.” You must stop.	Equality	Everyone must stop.
Judges tend to favor wealthy people.	Inequality	Favoring wealthy persons over less wealthy persons.
Out of a large mob that gathered outside, only people with brown eyes were arrested.	Inequality	Favoring other eye colors over brown eyes.
Two people, one man and one woman, are arrested for vandalizing a shop in town. The man is immediately released. The woman is put on trial.	Inequality	Favoring men over women.
Everyone is permitted to vote in the next election.	Equality	Everyone permitted vote.

Activity 3: Equality Under the Law

1. Distribute the Equality Under the Law Handout (Handout II) to participants.
2. Ask them to apply characteristics of equality to the legal issues presented in the scenarios, and determine whether or not the individuals described in the scenarios were subject to Equality Under the Law.
3. Debrief the Equality Under the Law Handout activity with participants using the following discussion questions:
 - Based on our ideas here, what is “Equality under the Law?”
 - What characteristics might prevent someone from being treated equally under the law?
 - In each scenario, did the inequality come from the law itself, or from the enforcement or application of the law? It is important to stress that equality under the law requires three things: (1) nondiscriminatory laws; (2) nondiscriminatory

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enforcement of the laws by police; and (3) nondiscriminatory application of the law by prosecutors and judges.

- Why is it important that everyone be treated equally before the law?
- How might you, as an individual or citizen, help ensure that everyone is treated equally under the law?
- Does everyone deserve equality under the law? Why or why not?
- How does equality under the law contribute to the rule of law?

Activity 4: Case Study of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

1. Distribute the Case Study Handout (Handout III) to participants in advance of this activity, and ask them to read and study it for future discussion.
2. Give everyone time at the beginning of the activity to re-read the case study, to refresh their memory.
3. Ask participants to identify the main characters in the case described in Part II of the Handout.
4. Lead a discussion with participants using the Discussion Questions at the end of the Handout.

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Handout I: Background Paper on Equality Under the Law

In order for the rule of law to prosper, national laws need to treat everyone equally and be enforced and applied to everyone equally. Equality is a cornerstone for every society that seeks the rule of law and justice. Equality means that all individuals in a community have the right to live with dignity, without any form or type of discrimination. However, inequality based on sex, race, religion, political opinion, nationality and economic class still widely exists. Such inequality can take many forms, including the denial of a right to participate equally in politics, gender-based violence, or a lack of access to justice.

Many Arab states have adopted and ratified international agreements that prohibit discrimination and protect equality under the law. For examples, read the excerpted passages from some of these agreements below.

The **United Nations Declaration on the Elimination of All Forms of Racial Discrimination**¹ demands equality under the law:

Article 7 --*Everyone has the right to equality before the law and to equal justice under the law. Everyone, without distinction as to race, color or ethnic origin, has the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution.*

At least two articles of the **Universal Declaration of Human Rights**² also call for the protection of equality under the law irrespective of their sex, color or religion:

Article 2 -- *Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent, trust, non-self-governing or under any other limitation of sovereignty.*

Article 7 -- *All are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such*

¹ United Nations' General Assembly, *The United Nations Declaration on the Elimination of All Forms of Racial Discrimination*, entered into force 1965, available at <http://www2.ohchr.org/english/law/cerd.htm>.

² United Nations' General Assembly, *The Universal Declaration of Human Rights*, adopted 1948, available at <http://www.un.org/en/documents/udhr/>.

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discrimination”.

The **International Covenant on Economic, Social, and Cultural Rights**³ contains two articles that strictly prohibit discrimination, thereby protecting the right of all people to live with equality under the law:

Article 2(2) -- *The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

Article 3 -- *The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic social and cultural rights set forth in the present Covenant.*

The **International Covenant on Civil and Political Rights (ICCPR)**⁴ explicitly guarantees every person equal protection under the law:

Article 26 -- *All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

These international agreements serve as a legal basis for protecting equality under the law, and urge state parties, in most cases, to criminalize violations.

While ensuring full respect for human rights, including gender equality, is essential to building the rule of law, many states still lack national implementation of anti-discrimination measures. In some cases, the justice sector may be unwilling to implement international laws, if there is no

³United Nations General Assembly, *International Covenant on Economic, Social, and Cultural Rights*, adopted on 16 December 1966, entered into force 3 January 1976 available at <http://www2.ohchr.org/english/law/cescr.htm>.

⁴United Nations General Assembly, *International Covenant on Civil and Political Rights*, adopted on 16 December 1966, entered into force 23 March 1976 available at <http://www.un.org/millennium/law/iv-4.htm>.

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corresponding national legislation. International agreements and covenants only have enforceable legal value if they are also incorporated into national legislation.

Some Arab states have taken steps to enforce international human rights agreements by introducing anti-discrimination policies into national legislation. For example, a Royal committee met in Jordan in 1990 to establish guidelines for government officials and policy-makers and to set the country's national strategy for protecting human rights. The result was the creation of the **Jordanian National Charter**.⁵ The concepts articulated in the Charter harmonized national laws with the "spirit" of international covenants. As stated below, the Jordanian National Charter asserts the principle of equality under the law:

Chapter 1, Article 8--*Jordanian men and women are equal under the law. There shall be no distinction between them in rights and obligations regardless of difference in race, language or religion. They shall exercise their constitutional rights and uphold the higher interest of the state and the national ethic in such a manner as to ensure that the material and spiritual resources of Jordanian society are freed and directed towards achieving the national objective of unity, progress and building a better future.*

Similarly, the **Jordanian Constitution** states:⁶

Article 6—*(i) Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion. (ii) The Government shall ensure work and education within the limits of its possibilities, and it shall ensure a state of tranquility and equal opportunities to all Jordanians.*

Allowable Preferential Treatment

Some countries have laws and practices that are designed to help women and members of racial or ethnic minority groups obtain education, employment, or social services that were previously unavailable to them due to discrimination. In these instances, making distinctions based on personal characteristics is considered an allowable form of discrimination, sometimes called *positive discrimination*. This is allowable because it helps to amend for previous unequal treatment. For example, legislation mandating that a certain percentage of students admitted to a judicial training institute be women is a form of positive discrimination because women have traditionally been denied equal opportunities to become judges. Other examples are rules that require the representation of certain ethnic groups in parliament or at university.

⁵ The Jordanian National Charter, adopted June 1991, available at <http://www.kinghussein.gov.jo/charter-national.html>.

⁶ The Constitution of the Hashemite Kingdom of Jordan, adopted 1 January 1952, available at <http://www.kinghussein.gov.jo/charter-national.html>.

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Equality and the Rule of Law

Equality under the law is a requirement for ensuring the rule of law for many reasons. Governments must promote and protect equality under the law by enacting laws that grant the same rights and duties to all citizens, and applying laws to all individuals without distinction. The principle of equality requires that all government officials involved in the judicial system – including prosecutors, police officials, and judges – treat all litigants without discrimination or favoritism, regardless of a litigant’s gender, race, ethnicity, religion, political belief, income, or social status.

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Handout II: Equality Under the Law Scenarios

Scenario 1

Haya opens the newspaper to find a job posting for miners with the local mining company. Certified and experienced in the kind of work the job requires, she is confident her skills exceed what is listed as minimum qualifications for the position. Haya applies for the position. The mining company does not call Haya for an interview for the position. Later, she learns that the new miners who were hired do not have the same certification as she does or any prior mining experience. Haya speaks to her lawyer about whether or not she has been a victim of discriminatory hiring. The lawyer advises that her claims would be immediately rejected because there are several laws and regulations that prohibit women from working in risky jobs, such as mining.

Questions:

1. Is Haya treated equally under the law? Why or why not?
2. Are the laws that prohibit Haya from working in the mines fair? Why or why not? Do they ensure that everyone receives equal treatment under the law?
3. How might her case have been different if she were a man?

Scenario 2

Ramzi is a legal resident of Country X, but he is not a citizen. One day, on his way back home, he suffers a sudden stroke, and his colleagues take him to the nearest hospital. To their surprise, the hospital refuses to admit him to the emergency room stating that the hospital is only for citizens. When Ramzi dies, his family sues the hospital for causing his death. The court rules in favor of Ramzi's family.

Questions:

1. Do you think Ramzi was treated equally under the law? Why or why not?
2. Does a country have a right to provide certain services only to its citizens? Why or why not? Should those services include the emergency medical attention that Ramzi needed to live?
3. How might this scenario have been different if Ramzi had been a citizen?

Scenario 3

May's father is a high-ranking elected official. One day, May steals a car and crashes it into a building, injuring several people. An officer arrests May and charges her with a crime. Later that

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night, May's father bails her out of jail, gives the police officers money, and all charges against May are dropped. May goes home.

Questions:

1. Do you think May was treated equally under the law? Why or why not?
2. How might this scenario been different had May's father not been an elected official?
3. How might you ensure that everyone receives equality under the law, and protect the rule of law from corruption?

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Handout III:

Case Study of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Part I: CEDAW

In every region of the world, women are subjected to various forms of discrimination and inequality under the law. This can be ascribed to legal and cultural traditions that have prevailed – and continue to prevail – in most societies regarding the status of women. These traditions have resulted in a denial of women’s rights, most importantly their right to an independent legal and social status equal to that of men. Discrimination against women can prevent them from becoming active participants in society and contributing to social and economic development.

International laws have been enacted to help women achieve equality under the law. The international convention that most comprehensively addresses the rights of women is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The first article of CEDAW defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”⁷ The Committee on the Elimination of Discrimination expanded this concept in 1992 to include violence based on gender.⁸

CEDAW is the main benchmark for women’s rights. It provides a legal basis for protecting women’s equality under the law and preventing the oppression of women throughout the world.

States that ratify CEDAW commit to incorporating the treaty’s principles into their national laws. They also commit themselves to protecting women’s equality under the law and combating discrimination against women in all its forms. To accomplish this, countries must amend or adopt laws in accordance with the “spirit” of the convention, outline government strategies for addressing women’s rights, and establish entities to safeguard their rights. Currently, 185

⁷ *Convention on the Elimination of All Forms of Discrimination Against Women*, available at <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

⁸ Committee on the Elimination of Discrimination Against Women, General Recommendation No. 19 (11th session, 1992), *United Nations Division for the Advancement of Women*, 1992, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>

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countries are party to CEDAW, including Algeria, Bahrain, Egypt, Jordan, Morocco, Oman, Saudi Arabia, United Arab Emirates, and Qatar.⁹

We will use Australia as an example of how countries implement CEDAW through national legislation. Australia ratified CEDAW in 1983. To fulfill its obligations under CEDAW, Australia enacted the Sex Discrimination Act of 1984, which pledged to:

Eliminate, so far as is possible, discrimination against persons on the grounds of sex, marital status, pregnancy or potential pregnancy in the areas of work, accommodations, education, the provision of goods, facilities, and services, the disposal of land, the activities of clubs, and the administration of the Commonwealth [of Australia] laws and programs.

Refer to this provision when reading Part II (below) and answering the Discussion Questions that follow.

Part II: Holly Ferneley v. the Boxing Authority of New South Wales (Australia 2001)

Holly Ferneley is a professional kick boxer who lives near Sydney, Australia. Since 1986, she has trained for and competed in several professional karate, kung fu, and kickboxing competitions. She participated in competitions around Australia and has won a professional world boxing championship. In 2000, Ferneley planned to compete in a professional fight closer to her home, in the Australian state of New South Wales. In order to participate in the fight, she needed to be certified to compete by the Boxing Authority of New South Wales.

On May 4, 2001, Ferneley applied to the Boxing Authority of New South Wales for certification. She paid the required application fee and submitted a complete application form. The application packet included a medical report certifying her fitness to participate in boxing. New South Wales law requires the sports minister to review the application to determine if the applicant is “a fit and proper person to be registered as a boxer of the prescribed class.” If the applicant meets that requirement, the minister must approve the application.

The Boxing Authority rejected Ferneley’s registration application. The Authority mailed it back to her, along with a check refunding her application fee. The Boxing Authority referred Ferneley to the New South Wales Boxing and Wrestling Control Act of 1986, which provides that:

⁹ *Convention on the Elimination of All Forms of Discrimination Against Women – State Parties*, United Nations Division for the Advancement of Women, 8 July 2009, <http://www.un.org/womenwatch/daw/cedaw/states.htm>.

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*A **male** person of or above the age of 18 years may make an application to the Authority to be registered as a boxer of a prescribed class. (Emphasis added)*

The Act made no provisions for female boxers to submit applications. The exclusion of women from registration was deliberate. A lawmaker who helped write the law explained later, in an interview about Ferneley's case, that:

Women have not sought in great numbers to take part in professional or amateur boxing. ... Under this legislation, women will not be allowed to fight as boxers or kick boxers, amateur or professional. Part of the reason is that the spectacle of women attacking each other is simply not acceptable to a majority of people in our community.

The Australian Sports Medicine Federation also advised:

Special risks for women appear to be associated with injury to the reproductive organs and in particular, to a potential risk to an unborn fetus if a woman were pregnant at the time of her involvement in a boxing match.

... There is another risk to which women are particularly vulnerable. That is the risk of becoming freaks in a sort of roman circus disguised as a sporting contest. To sum up, to allow women to compete in these sports would be dangerous to them, would put them at risk of becoming sideshow freaks, and would be unacceptable by current community standards.

After receiving her rejection letter, Fernely filed an official complaint against the Boxing Authority of New South Wales with the President of the Australian Human Rights and Equal Opportunity Commission. Fernely explained that she had been denied acceptance of her application on the basis of her sex and argued that such discrimination was inconsistent with both CEDAW and Australia's Sex Discrimination Act of 1984. Specifically, Section 22 of the Sex Discrimination Act declares:

*It is unlawful for a person who, whether for payment or not, provides **goods or services**, or makes facilities available, to discriminate against another person on the ground of the other person's sex, marital status, pregnancy, or potential pregnancy. (Emphasis added)*

Ferneley's lawyers argued that their client's application to the Boxing Authority constituted access to "goods and services" under the Act. By rejecting the application because Ferneley was a woman, authorities discriminated "against another person on the ground of the other person's

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sex, marital status, pregnancy, or potential pregnancy.” The Boxing Authority, Ferneley’s lawyers argued, therefore violated both CEDAW and the Sex Discrimination Act of 1984. Her lawyers worded their argument as follows:

The Act gives effect to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and prohibits sex discrimination in various fields of public life, including the provision of services. The rights set forth in CEDAW are intended to apply throughout Australia and guarantee that women will be treated on an equal basis with men. Australia is internationally obliged to remove such legislative and other administrative barriers which prevent the equal treatment of men and women in relation to relevant fields of activity.

The lawyers then explained that in light of CEDAW and the Sex Discrimination Act of 1984, the older law prohibiting women from becoming registered boxers was no longer valid or enforceable:

[The New South Wales Boxing and Wrestling Control Act] represents a legislative barrier to a woman’s ability to be registered as a boxer in New South Wales and thereby have the right to participate in certain sporting activities and enjoy the same opportunities as men who have registered as boxers.

Counsel for the Boxing Authority of New South Wales responded to the complaint by acknowledging that the Boxing Authority was a “qualifying body within the scope of the Sex Discrimination Act.” Yet the Boxing Authority argued it had not violated the Act because it does not offer “goods and services.” Lawyers for the Boxing Authority explained their argument as follows:

In her written submissions, [Ferneley] states that the “service” said to be provided by the Boxing Authority is “the provision of information to applicants, the determination of an application, determining a boxer’s classification, and issuing a certificate.”

On any view, there was no discrimination by the Boxing Authority in relation to the provision of information to the applicant. There is no evidence that she was deprived of any information she requested. She plainly was able to obtain the registration papers and other materials attached to her application.

The applicant’s real submission is that in refusing her application for registration, the Boxing Authority was providing a service.

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Lawyers for the Boxing Authority went on to say:

The word “service” is defined inclusively and circularly in the Sex Discrimination Act. ... Nothing in the Sex Discrimination Act renders it unlawful to exclude persons of one sex from participation in any competitive sporting authority in which the strength, stamina, or physique of competitors is relevant. The Act does not apply in relation to the exclusion of persons from participation in: coaching, umpiring, and refereeing.

Thus, the applicant’s complaint is “contrary to the plain meaning of the charges.”

Discussion Questions

Consider the following discussion questions. Be sure to keep in mind (a) the facts of the Ferneley case; (b) the two Australian laws at issue in the case; and (c) Australia’s obligations under CEDAW.

1. What is the issue before the court in this case?
2. How did the lawyers for Ferneley use CEDAW to argue their case?
3. Who presented a better argument, Ferneley or the Boxing Authority?
4. How do you think the judges ruled on this case at the Federal Court of Australia? Why?

The Ruling

The Federal Court of Australia dismissed Ferneley’s case on December 10, 2000. While the court acknowledged:

[I]t is clear that, in refusing to consider whether Ms. Ferneley is a fit and proper person to be registered [as a boxer], the Boxing Authority treated her, because of her sex, less favorably than, in the same circumstances, it would have treated a male applicant. The Boxing Authority would have considered a male applicant’s application for registration on its merits, as required by the Sex Discrimination Act. It did not consider Ms. Ferneley’s application in that way.

The court also acknowledged that the Boxing Authority indeed provided a “service” under the Sex Discrimination Act, as outlined in Ms. Ferneley’s complaint. However, the “service” the Boxing Authority provided was merely to “provide information” to individuals applying for

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registration. Thus, the court concluded that the Boxing Authority's act of rejecting her application did not, by itself, violate CEDAW or Australia's Sex Discrimination Act.

Still, the court congratulated Ms. Ferneley and her lawyers for presenting the case, which served the "public interest in clarifying important issues of discrimination law." Finally, the court offered these closing comments:

This case has attracted some controversy and media attention. The result may disappoint some people, concerned to strike down legally entrenched sex discrimination wherever it appears. They may be unpersuaded by [my justifications of the restrictions imposed by the Sex Discrimination Act]. They may think the applause for Australian Lauren Burns, in winning a gold medal in taekwondo at the Sydney Olympic Games, suggests it is no longer true to say, if it ever was, that "the spectacle of women attacking each other is simply not acceptable to a majority of people in our community." Other people, who may disapprove of all professional boxing contests, or contests between female participants, may be glad to the restrictions survive. I understand both points of view, but I endorse neither of them. My decision does not turn on the desirability or undesirability of permitting female boxing contests. It turns only on the proper interpretation of the [law].¹⁰

Discussion Questions

1. Do you think the court's ruling was fair? Why or why not?
2. Does the rule of law in Australia ensure equal justice under the law for women?
3. Did the ruling in this case advance equal justice under the law for women?

¹⁰ Ferneley v. The Boxing Authority of New South Wales, FCA 1740 (Fed. Ct. Aust. 10 December 2001), available at http://www.austlii.edu.au/au/cases/cth/federal_ct/2001/1740.html