

Submission to the Productivity Commission Review into the Disability Discrimination Act

Personal submission by
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Submitted: 7th July 2003

The word “victim” should be avoided by the Commission’s review panel, as it labels a person according to what another person has done. For this reason, I will use the words “affected person” (or “person affected”)

People with disabilities do not have special needs. If anything is special, it is the solutions they use. As an example, a person who is Deaf or has a hearing impairment does not need a TTY, but may have a need for live, real-time communication over a geographical distance, of which a TTY is only one possible part of the solution.

People *should* be able to do anything they want. (Emphasis is on the word “should”)

People should not be accountable for what they do. I would take this further and say nothing should be made accountable (Consider a possible future scenario of machines gaining power over us after having learnt that accountability is good or appropriate – they might try to make us accountable to them.)

The law is the province of the weak. Instead of being more independent, people who rely on the law to control other peoples’ actions are dependent on and reliant upon people in the legal system having power. This is similar to not accepting responsibility for one’s own actions – it’s the “easy way.” So, the law should not be used to insist that people act, or do not act, a certain way. It should only be a guide to how the self should act.

People therefore should simply cope with what other people do. Needless to say, this is difficult or even presently impossible, in many circumstances (which is why I placed emphasis on the word “should” above), but is still a worthy objective.

If people could cope with any and all the actions of other people, then accountability (and punishment) might well be unnecessary.

The affected person is not really concerned with the reason or rationale of doing the discriminatory action. Rather, they are more concerned with the effect of the action on themselves. Knowing the reason for the action however would assist in controlling the situation and preventing it from recurring. But would that really be necessary if the person were able to cope with that action?

Despite my apparent belief that laws should be unnecessary, I will offer some suggestions that maintain the existence of disability discrimination law.

The laws have various differing definitions of disability and do not use anything like an “absolute truth” or universal definition to unite the assorted items of legislation and cases (“absolute” having the metaphysical sense here not the legal meaning of “immediate” or “final”). The definition of disability in the DDA is renowned – other items of legislation should perhaps be amended to use this definition.

The legislation pertaining to discrimination, of which the DDA is just one, could be repealed and replaced with legislation detailing the rights of all human beings, thus in effect prohibiting discrimination in the many areas presently covered, and then more.

If the point I made about “need” is not presently recognised by the Trades Practices Act or other law, then it might be appropriate to legislate to prohibit describing technology or other solutions as “needs”. A need would be defined as being related directly to the individual person’s sensory perceptions or in maintaining the individual person’s existence. (A certain taste sensation might be a need, but so too could the nutrition provided by the food that offers the taste – the food itself is not the need! Another example is that of a TTY. A TTY would not be a need for a Deaf person, but a non-audiological system, by whatever materialization, would be. Even a system using different frequencies to the audiological norm could be included, if such differentiation could be justified.)

The Act should not refer to punishment of the respondent, should they unsuccessfully argue their case. Rather, as the Act is or should be concerned with the effect on the person with a disability, the person with a disability, should they be successful in their complaint, should be required to initiate change themselves. (This might be as simple as changing their way of thinking, assisted by attendance at an applicable course, or it might be by initiating a competitive process to fulfil their need. I agree this might sound ridiculous – a person who is discriminated against having to attend a self-improvement course!)

Psychiatric illnesses should not be included as disabilities. Are there really psychiatric disabilities and illnesses? I argue there are not. Firstly, a psychiatric illness cannot presently be proven – diagnoses are subjective, not objective. Secondly, psychiatric illnesses are categorised by irrational thought processes. (Note that it is argued in other forums – by other forums – by other authors, but which could easily include this author – that violence is irrational. It is also widely believed that people with psychiatric illnesses tend to be violent.)