

Dear NSW Law Reform Commission,

Thank you for the opportunity to make a submission to the review of the NSW Anti-Discrimination Act 1977.

Below are my thoughts for the Review.

I make this submission as a private citizen with an interest in public ethics and the legal system.

General Remarks

The main concern that I wish to raise for this Review is the issue of legal costs to the “respondent” of a complaint – ie, the person or organisation being complained about.

From various accounts I have read, it is clear that the NSW Anti-Discrimination Act is often used by activists as a weapon to financially destroy people who have a different ideology or opinion on some matter. And it is clear that the NSW Anti-Discrimination Board is waving these vexatious complaints through the legal system because the Board agrees with the complainant’s ideology, or to secure funding from the government (the more complaints processed the more funding for the Board), or simply to justify the Board’s existence, when the Board should be throwing out these spurious complaints.

Under the current system complainants can keep making malicious and spurious complaints about someone – complaints backed by government financial legal aid - forcing the respondent to keep legally defending him/herself in court at the respondent’s own cost, until the respondent eventually runs out of money – all at no cost to the complainant. This is nothing short of government supported ideological persecution, which is abhorrent and should be anathema in a democracy.

Even if the respondent wins each case the respondent is usually burdened with the legal costs (as well as with the time and stress). Hence the well-known saying that has come into being: “The process is the punishment”.

It should not be the role of the Anti-Discrimination Board or the NSW Civil and Administrative Tribunal to police people’s ideology or opinions on behalf of political or ideological activists.

Until this issue is resolved, the NSW anti-Discrimination Act will remain a sham and a fiasco, and a blight on freedom of speech and democracy, doing far more harm than good, and should be abolished. The other questions and issues raised under this Review are superfluous and will remain largely irrelevant and redundant until the legal costs issue is corrected.

It has often been noted that various laws and legislation can have unforeseen and unintended consequences that were not part of the legislation’s intended purpose, particularly down the track timewise from the legislation’s implementation.

However, in the case of the NSW Anti-Discrimination Act, the Act and associated legal system is so biased against the respondent, and it is so obvious that this legislation could and would be used by activists as an ideological weapon against innocent parties, that it is hard to imagine that the designers of this legislation did not act with malice in deliberately

designing this legislation to punish respondents regardless of any guilt, impropriety or wrong action or intention on the respondent's part.

It should be mandatory that if financial legal aid is provided to the complainant, then it must be equally provided to the respondent.

Thank you.

David A W Miller.