

Wednesday, 23 April 2003.

***Attention Peter Hallahan, Secretary,
Senate Legal and Constitutional Committee.***

To Whom It May Concern:

The opportunity to make comment on the proposed amendments to the Australian Human Rights Commission has been gratefully appreciated.

The Human Rights & Equal Opportunity Commission (HREOC) is one of the major players in improving the life status of many people with disabilities in general, but in particular people / persons with a physical disability benefit enormously from an accessible community and from the legislation which is now in place to improve the circumstances of all Australian citizens.

Full participation and equality are not yet the norms of every day life, although we are in the 3rd millennium. There are times when society is definitely back in the reprehensible dark ages. I hope serious consideration is given to the attached submission and that every Australian with or without disability can look forward to a productive and quality lifestyle.

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SUBMISSION FROM
THE PHYSICAL DISABILITY COUNCIL
OF THE
NORTHERN TERRITORY
TO THE
SENATE LEGAL AND CONSTITUTIONAL
LEGISLATION COMMITTEE
ON THE
AUSTRALIAN HUMAN RIGHTS COMMISSION BILL
2003

23 April 2003

Introduction

The Physical Disability Council of the Northern Territory (PDC-NT) while incorporated in its own right in the NT is also part of the Physical Disability Australia (PDCA), which is the National Body for persons with a physical disability Australia wide.

PDC-NT is represented on the Board of the Council, which meets regularly by tele-conference and includes representatives from all States and Territories. The full Council also meets face to face once a year to discuss outstanding matters in relation to physical disability and holds an open consultative forum for feedback from its constituents.

The issue of Representation to the Government at the highest level is a major concern to the Membership in general, particularly in view of the current happenings within HREOC and the proposed amendments to the Commission.

Background

The (PDC-NT) membership is gravely concerned at the proposed changes to the Human Rights and Equal Opportunity Commission (HREOC) which, ultimately has the potential to take us back to the dark ages in relation to accessing community life and living lives of quality as true blue Australian citizens.

Full equality and participation will become mere buzz words on a piece of paper instead of a living reality.

The PDC-NT in its role of watchdog and defender of all things relating to disability are instinctively alarmed by the suggested changes as proposed in the Australian Human Rights Commission Legislation Bill 2003.

However, PDC-NT is generally supportive of one proposal, namely the proposal to rename the Commission, to "The Australian Human Rights Commission".

Comments on the Bill

Since the introduction and enforcement of the Disability Discrimination Act (DDA) 10 Years ago, Australia has taken many positive steps towards preserving the right to equality among all Australians.

The recent introduction of the Human Rights Legislation Bill, with its proposed abolition of the post of Disability Discrimination Commissioner together with the Race Discrimination Commissioner and Aboriginal and Torres Strait Social Justice Commissioner; puts to jeopardy the soul and integrity of HREOC as a Commission.

Thus reducing its existence to one of lip service and tokenism to the people.

The Commission's voice and independence will be severely compromised and have an unbelievable reputation for people with physical disabilities within Australia.

At no time should the Attorney General's permission be sought to intervene in court matters where human rights and principles are at stake. The Commonwealth Government should never be a gatekeeper with the supreme right to reject any complaint of violation of human rights and or disability matters put forward against it.

Would this not be a conflict of interest of a grandiose nature and perceived interference in the legal and political system of Australia?

A system that waxes lyrically on being a god given true and proper democracy that believes in "*A fair go*" for all its citizens.

Perhaps Australia's reputation (now at an all time low) has acquired a poor record of human rights in general.

If the proposed restructuring of HREOC is accepted by Parliament, we will all be the losers.

It will be a sad day indeed with much gnashing of teeth.

We, that is people with a disability are in for an ongoing and more difficult time in the future. A retrograde step indeed.

Under the proposed changes, allocation of responsibilities would / will be at the discretion of the Commission's President under the scrutiny of the Attorney General. *Not good news.*

This tactic is not necessary; it should be noted that this is not the first time Government has attempted to bastardise and water down existing legislation. *Again, most emphatically it must not be permitted to occur on another attempt.*

Australia sets itself up on a pedestal as leader to other countries, so it too needs to play by the rules.

Public awareness, education, policy development, and reporting on disability issues will be reduced to meaningless rhetoric.

Discrimination will proliferate to unknown levels, with Australia a laughing stock to the rest of the world, and with no international reputation. But merely seen as a puppet whose strings are pulled by others.

Why is it that Government appears to be paranoid and threatened by HREOC as it currently stands? Does HREOC really require such drastic alterations or is it an opportunity to benefit Government to the detriment of its entire people. An opportunity to legally silence the Voice and aspirations of its citizens.

The remainder of this submission addresses the issues of:

- a) The abolition of the 3 positions of Disability Discrimination Commissioner, Human Rights and Equal Opportunity Commissioner, Sexual Discrimination Commissioner and Aboriginal and Torres Strait Islander Social Justice Commissioner.

This outcome is not desirable and should be considered highly detrimental to all persons utilising the Commission.

While in principle it may be everyone's responsibility to take on social justice issues in an operational sense this is not a valid statement.

Comment:

HREOC should have 3 dedicated Commissioners with recognised skills and knowledge of each important and essential area with the provision of appropriate administration and due processes to undertake their role and function effectively and efficiently.

- b) Threats to the Commission's Independance:

The threats to the Commission's autonomy and independence is highly significant.

This body requires the ability to remain unbiased and impartial in the decision making processes.

Comment:

The Attorney General does not, should not have a role to play here.

The Commission needs to be separate from Government and other influential bodies as already stated.

- c) Fettering of the Commission's Intervention Powers.

The intervention function is extremely important in the High Court, especially in constitutional cases or where large complex issues are at stake of legal principle and legal policy.

Comment:

The intervention processes and powers of the Commission are crucial functions to ensure that people's rights are legally and constitutionally met. These are social justice issues and should be above contention from Government.

d) Proposed Rationale for Amendments

It was said by the Attorney General in his Second Reading speech that the amendments is to

“Prevent duplication and the waste of resources and to ensure that court submissions accord with the interests of the community as a whole.”

This appears as utter nonsense and a lot of cheap rhetoric once more.

Comment:

Any proposed amendment should not be at the expense of the credibility of the Commission as an entity, but one that seeks to improve current services to the Community and to the individual.

Human Rights, Disability and Justice is still a million miles away from reality. Should not this situation be improved rather than reduce the significance of what the Commission stands for in the public eye.

PDC-NT's viewpoint itself is one that believes the following:

1. The requirements to seek permission undermines, and compromises the real independence of the Commission.
2. The possible effects of the proposed requirement could be to deny the right and opportunity for the Commission to argue Human Rights and Disability aspects before the Court.
3. The Commission should not be a “Toady” to any Government, but stand alone devoid of pressures from any quarter.
4. Conflicts of vested interests cannot and should not be overlooked.
5. The amendments could conceivably pre-empt the authority of the Court.

Comment:

Perhaps the rationale for change is flawed and based on a false premise, and is better left alone.

It can only be hoped that sound common sense will prevail when the decision making processes are undertaken, that will be to the benefit and improvement of Australian Society.

In conclusion:

The recommendation to the Senate Legal and Constitutional Legislation Committee on the Australian Human Rights Commission Bill 2003 is that the proposed amendments do not take place other than the supported name change of the Commission itself.

In defence of its stated position PDC-NT urgently urges all politicians to develop a bi- partisan approach to oppose the proposed changes as unfit for Australian Society.

Comment:

Perhaps the rationale for change is flawed and based on a false premise, and is better a bad decision that will ultimately render HREOC to a powerless and lip serving entity at the Attorney General's mercy.

If the proposed amendments are adopted, there is no doubt people with physical disability will be left with lack of meaningful representation and an effective and independent mechanism to respond to the actual needs of the individual, families and relevant others.

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