



Ethnic Communities Council of Western Australia Inc.

Reforms of the Anti-Discrimination Laws (WA)

Response from the Ethnic Communities Council of WA (ECCWA)

The Ethnic Communities Council of WA has canvassed our member organisations and communities for their responses to the request from the Attorney General for suggestions for amendments to the Anti-Discrimination Act. Our suggestions are written below in bold type and is accompanied by the rationale for each suggestion.

They do not conform specifically to the questions raised by the LRC, nevertheless they range across a number of areas significant for our members.

In WA there are laws and regulations and rules surrounding all of the entitlements of the WA citizens. In our western liberal democracy, we have a nominally equitable society, underpinned by a raft of supporting regulations, practices and literature. In WA (Western Australian Disability Services Act 1993, [amended 2004], Equal Opportunity Act 1984 [WA]) they are designed to ensure that all public authorities make provision for and maintain basic standards for disadvantaged people who experience inequity in WA. These acts make it unlawful for people to discriminate against or provide lesser services for anyone.

Furthermore, every government department has a section devoted to explaining how it meets the prevailing values of the 21st century in the western world. These can be found by people searching through each department's site. On the WA government website, there are links to no less than 24 departments, each of which will take the user to a vast number of links to services provided by each department. This is a practical guide to the supports the government gives to the people. Each of these services has its origin in convenience and custom, arising from regulation and further back, from legislation. Should there be a complaint, it would be dealt with by the established procedures of the work area, with a very infrequent recourse up the line to the head of department or even the minister.

However, if a person, at a disadvantage due to an inequity, were to appeal for a change in the rules, or a redressing of disadvantage, there are too many confusing paths to follow which may lead down the wrong rabbit holes. For example, within the WA government website, under Community Services, there exists a section called Social Justice and Equity which provides an alphabetical list of 15 services for all Western Australians to provide them with the services that will enhance their lives. But this is *not* about discrimination or disadvantage, but relates more to matters like an application for a driver's licence. So where do people go?

Therefore, we would like an authoritative section inserted into a principal piece of legislation (the Anti-Discrimination Act) that defines discrimination, making the definition absolutely clear to be in tandem with the United Nation Convention for the Rights of Persons with Disability (UNCRPWD), The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).



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ECCWA launched a 'Racism matters' website in view of widespread racist vilification following the start of the Covid epidemic. In light of the nature of the complaints we received and our discussions with the complainants, we came to a view that many of our members suffered widespread discrimination in many areas covered by the Act (mainly in employment and in the provision of services) but had little faith in the protections offered by it. Many of our complainants considered the Act a 'toothless tiger' which was of little benefit to them, if indeed they were aware of it.

Discrimination on the basis of race is illegal under the WA Criminal Code (Criminal Code Amendment (Racial Vilification) Act 2004) and penalties apply, however, CaLD people are not using it because:

- They consider the process hard to bring about a criminal charge.
- People do not know if they can get adequate support to undertake the process and don't know where to go for help.
- The system of getting justice is too expensive and this demoralises CaLD people to lodge complaints.
- There is fear and victimisation of community backlash.

Therefore, it is important to provide targeted information on government websites and in significant legislation (Anti-Discrimination Act) that is easily accessible to CaLD communities; to create delegated regulations to advance resource empowerment.

Education should be mandated under the Anti-Discrimination Act to make reasonable accommodation to allow students to carry out their religious practices during school hours.

There must be an updating of the language that refers to people of disadvantage through gender, race, colour, ethnicity, age, marital or parental status, sexual preference, disability or religious belief or *political conviction* (our addition). Old fashioned language is imbued with stigma and disadvantage and carries a set of memories and misunderstandings with it. When the language has evolved to reflect greater awareness and understanding, it is far more acceptable, and it is important that a significant piece of legislation reflect current community values.

The current protections in the Act be amended or clarified based on employment status.

People with disability from non-English speaking population face deeper forms of marginalisation, discrimination and experience multiple barriers to full participations in the society.

The Act must prohibit, and stipulate the consequences in cases where a person or persons are treated less favourably than others on a number of grounds in a number of circumstances. In accordance with its mandate the Equal Opportunity Commission states its mission as:

"To lead in the elimination of discrimination and build a community that reflects and promotes equality of opportunity and human rights" (Annual Report 2018-2019).



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Systemic discrimination is entrenched in institutions, policies and practices which creates and perpetuates disadvantage for whole groups of people and is not effectively addressed through individual complaints. Subsequently, laws alone do not end intolerance, prejudice and discrimination in our community.

The implementation of the Substantive Equality Policy Framework has been a valuable tool to help address these issues in promoting equitable actions that result in equal outcomes for people with disability from CaLD backgrounds.

The strengthening of the principles of Substantive Equality within the Act is significant for supporting, advocating and implementing culturally sensitive programs; it needs a strong legislative framework for its efficient operation.

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29.10.2021