

SIXTEEN YEARS AFTER THE DDA, THE RIGHTS BATTLE IS STILL BEING FOUGHT PART ONE

Sixteen years ago the Disability Discrimination Act became law in Australia and many people with disabilities – including social worker and advocate **Maurice Corcoran** – believed the bitterest battles for basic human rights were over. Wrong.

After the Disability Discrimination Act was introduced in 1992, many disability advocates believed, somewhat naively, that the hardest part was over and the weight of legislation would be enough to remove social, attitudinal and physical barriers. I've been involved in numerous

disability discrimination complaints since the Act came into force and I firmly believe the burden of challenging and eliminating inequalities still remains for people with disabilities, their families and advocates.

Laws and regulations are put in place so that we are safeguarded against being treated unfairly and can seek redress when our rights are infringed. Virtually all our laws are policed and victims of crime do not have to lodge complaints against the perpetrators. Yet this task falls to people with disabilities in a way that suggests: 'you want rights – here's the legislation – you fight for them!'

And fight we have but the emotional costs are steep and many people feel too burnt out to keep pushing, particularly after legislative amendments were made by the previous Howard government which meant that people

with disabilities had to cop all legal costs if they pursued discrimination cases through to the Federal Court and lost.

In June 2006, Virgin Blue introduced an Independent Travel Criteria which stipulated that if you couldn't pull down an oxygen mask and fit it, pull out a life-jacket and fit it, and get yourself off the plane in an emergency, you had to travel with, and pay for, a carer.

It was a clear breach of the disability standards for accessible public transport. I'd been very involved in developing those standards and at the time I was also chair of the Australian Federation of Disability Organisations and I felt a responsibility to make a complaint to the Australian Human Rights Commission (AHRC).

The Public Interest Advocacy Centre in NSW became involved and provided me with legal assistance to draft the complaint as well as unwavering moral and emotional support while we pursued the case.

Any possibility of conciliation through the AHRC disappeared as the airline refused to alter their travel criteria. They claimed they had a duty of care to customers

like me: if I couldn't adhere to their criteria, I needed to travel with a carer at my cost, for my own safety!

Pursuing the case meant taking it to the Federal Magistrates Court where, if I lost, I would have to pay Virgin Blue's legal costs. This was an intimidating prospect but if I didn't proceed, the airline would get away with blatant discrimination. My legal representative argued for costs to be limited as the case was in the public interest; the judge put a ceiling on the amount to be awarded against me – \$50,000 though was still daunting!

A number of influential people assured me that if I lost they would set about raising funds but there was no guarantee. To my mind it is unconscionable that individuals like myself have to risk so much when attempting to get major providers of goods and services (such as this airline) to comply with Australian regulatory legislation.

The case is still proceeding through the Federal Court – it has been extremely stressful to say the least. For people with disability, the rights battle is far from over! 🌀

In the October edition of Link Maurice Corcoran discusses the inadequacy of Australia's public transport, particularly travelling by bus.

Paul Munnari, an air traveller affected by Virgin Blue's policy on passengers in wheel-chairs. SMH Picture by STEVEN SIEWERT

