

SEXISM AND RACISM, WHY NOT ABLEISM?

Calling for a cultural shift in the approach to disability discrimination

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Western society has historically created barriers to creating and accepting diversity.¹ In the past, people with disabilities have been excluded from mainstream education, employment, service provision and full participation in society.² Likewise, historically, women have been restricted in their access to the paid workforce or limited to non-professional roles or unpaid work. In the United States, until recently, African-Americans have been subjected to segregation in education, housing and employment, and in Australia, Indigenous people were not regarded as full citizens until 1967. Consequently, Indigenous Australians were deprived of a significant range of rights until that time and continue to seek recognition in relation to land rights and equality in relation to education, health and housing.³

Over extended periods, women and various racial and ethnic groups have advocated for the acknowledgment of their right to fully participate in society. In recognition of this, the terms sexist and/or racist have been used to convey negative legal and cultural connotations for behaviours which are contrary to a range of legal, moral and ethical principles that have been enshrined over time. These labels have provided a source of power for those advocacy groups as a means of identifying a set of negative behaviours. In contrast to these labels, disability advocates have not been able to coin a similar label to describe disability discrimination.

This article will argue that it is now appropriate to adopt the term 'ableism' as a label, analogous with the concepts of racism and sexism. Embracing the term ableism, it is argued, would facilitate a move away from the limitations of the currently adopted medical model of disability towards a social justice model. The social justice model of disability policy recognises that the burden of reducing barriers to inclusion is the responsibility of everyone within the community rather than being confined to medical care providers. The social justice model also advocates that, wherever possible, society should adopt universal design to reduce the instances of unnecessary barriers for people with disabilities.

Introducing the term 'ableism'

Although racial discrimination is labeled as racism, and sex discrimination as sexism, disability discrimination has not attracted an equivalent label. This article argues that an appropriate label should be adopted to describe the act of disability discrimination. Before analysing why

society should embrace such a term, this article will firstly explore the nomenclature for the behaviours of disability discrimination.

What name, title or descriptor should attach to disability discrimination? The labels disablism and ableism are both emergent labels that seek to describe disability discrimination. Disablism has been adopted by advocacy groups in Britain to explain disability discrimination. Miller, Parker and Gillinson, in particular, argue that people with disabilities are often regarded as objects of pity and, in order to defeat disability discrimination, a strong label is required to overcome negative stereotypes and prejudiced behaviours against people with disabilities. They assert that: '...if you do not name that which has to be defeated, it will not be beaten'.⁴ These authors have adopted the label of disablism. Disablism has, in fact, been adopted by a number of British groups.⁵ There are, however, limitations to this descriptor.

The label disablism focuses upon the issue of disability and, arguably, continues to focus upon the person with a disability as a contributing factor to the discriminatory act. Any new nomenclature or label should concentrate upon the act of the discriminator and not upon the characteristics of the victim or the different abilities of the person with a disability. The focus should not be the person with a disability but the discriminator's prejudice. When a person discriminates against a man or woman based upon their gender this is labeled sexism or in some cases, where relevant, chauvinism. The term sexism focuses upon the discriminator and their discrimination based on gender. Likewise, the term chauvinism clearly focuses the problem of prejudice upon the discriminator. Applying the logic of the label disablism, would the feminist movement accept a label that defined sex discrimination by reference to the male gender, such as 'dismanism'? Such a term would never be accepted as it would focus attention upon gender differences rather than upon the discriminatory conduct. Equally, disability discrimination should not be labeled disablism because that label concentrates on the divergence of those with disabilities from the dominant group of people without disabilities, rather than focusing attention on those who seek to diminish or disadvantage those with disabilities.

In contrast to the term disablism, the term ableism focuses on the conduct of the discriminator without reference to the person with a disability. When a discriminator performs an ableist act or utters an ableist phrase they are discriminating against people based

REFERENCES

1. Gregor Wolbring, 'Politics of Ableism' (2008) 51 *Development* 2, 252.
2. Goggin and Newell explore the contemporary routine oppressive treatment of people with disabilities in Australia: Gerard Goggin and Christopher Newell, *Disability in Australia: Exposing a Social Apartheid* (2005).
3. A referendum on 27 May 1967 approved two amendments to the *Australian Constitution*, one of which permitted Indigenous Australians to have the vote. The amendment permitting Aboriginals to vote became law on 10 August 1967. See Bain Attwood and Andrew Markus, *The 1967 Referendum, or When Aborigines Didn't Get the Vote* (1997).
4. Paul Miller, Sophia Parker and Sarah Gillinson, *Disablism: How to Tackle the Last Prejudice* (2004) 5.
5. Manuel Madriaga, 'Enduring disablism: Students with dyslexia and their pathways into UK higher education and beyond' (2007) 22 *Disability & Society* 4, 399–412.

on their level of ability or disability. To understand the ableist construct of society it is useful to compare ableism with sexism. A sexist perspective of the built environment of a library, for example, might include a five-storey building without any female toilets or infant change rooms. An ableist perspective of the built environment of a library might include a five-storey building without any lifts or ramps that would consequently effectively exclude people who require the use of wheelchairs, or other ambulatory aids. As a further example, an ableist education would require all students (including those with reduced vision) to study textbooks with standard size fonts and would not take into consideration individual student's limitations. Likewise, an ableist approach would result in students with dyslexia being forced to try to learn to spell (despite their physical and mental limitations) rather than using a spell checker or other technology that assists with the preparation of written work.⁶

Construed broadly, the term ableism has potentially far wider application than disablism. Disablism only focuses on those that society has labeled as disabled. Ableism, in contrast, has the potential to focus attention on all groups in society who act in a discriminatory manner to those who do not apparently meet a physical norm. Ableism is not focused on disabilities but on those acts and behaviours which assume a person must meet the physical standards set by a particular group in society. Wolbring asserts that, historically, ableist attitudes may often be acted out in tandem with sexism and racism to suppress women and certain racial groups on the basis that those groups lacked the physical and/or mental capabilities of the controlling group in society; namely, white males.⁷ The use of the label ableism, therefore, has the potential to create a notion that is relevant to a broad section of the community.

The term ableism has increasingly been adopted by Australian advocacy groups, such as Blind Citizens Australia and Women With Disabilities Australia.⁸ Due to the advocacy of these groups, the label ableism has also been noted in Federal Hansard.⁹ However, the term ableism has yet to appear in Australian Government or Parliamentary Committee reports. Unfortunately, the term ableism was not adopted by any submissions, debates or reports in the recent amendments to the *Disability Discrimination Act 1992* (Cth). The Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008 (Cth) passed the House of Representatives and in December 2008 was referred to the Senate Standing Committee on Legal and Constitutional Affairs for inquiry and report. In February 2009, the Senate Standing Committee handed down a report which unanimously supported the Bill.¹⁰ In June 2009, the Senate passed the Bill with minor amendments which the House of Representatives agreed to the same month. In July 2009, the *Disability Discrimination and Other Human Rights Legislation Amendment Act 2009* (Cth) received assent.¹¹

Despite not being used in recent disability discrimination debates in Australia, the label ableism has increasingly appeared in academic literature. For

example, Kumari Campbell in her recent publication, *Contours of Ableism*, examines what the study of disability reveals about the production, operation and maintenance of ableism. Her study explores the ways in which 'ableness' is understood.¹² In the same vein, Smith explains ableism as 'the devaluation and disregard of people with disabilities'.¹³ While there are supporters for the use of the term disablism, it is argued that the concept or label of ableism should be the preferred label to describe disability discrimination because of its focus on the discriminator and its broader perspective and application.

How disability missed out on the 'ism'

Every jurisdiction in Australia has enacted anti-discrimination laws. This article will focus on the operation of the *Racial Discrimination Act 1975* (Cth) ('RDA'), the *Sex Discrimination Act 1984* (Cth) ('SDA') and the *Disability Discrimination Act 1992* (Cth) ('DDA') as a vehicle for discussion of the key principles in relation to the Australian concept of anti-discrimination laws. These three enactments have the objects of eliminating discrimination and ensuring social inclusion. The difference is that section 3 of the DDA and section 3 of the SDA require equality 'so far as is possible' while race discrimination is simply prohibited by the RDA. Section 9(1) the RDA, provides that, 'it is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race'. Even though the term 'as far as possible' does not appear, recent judgments indicate that race discrimination can be permitted in exceptional circumstances.¹⁴

Advocates of the RDA and SDA have successfully labeled breaches of those Acts and framed the debate more successfully than advocates of the DDA by obtaining acceptance in the common vernacular, for a breach of the RDA to be labeled racism and a breach of the SDA as sexism. While breaches of the RDA and SDA attract such powerful labels, a breach of the DDA has no equivalent label. Society has also failed to identify a label for a person who engages in ableist discrimination. In contrast, if a person breaches the RDA or SDA society generally identifies the discriminator as the person at fault and classifies that person with a negative label such as racist, sexist or chauvinist. If a person breaches the DDA there are no equivalent socially charged labels.

One reason why breaches of the DDA are not associated with such powerful labels is because of the way in which disability discrimination is currently articulated. Instead of focusing upon a normative category, the DDA focuses on the individual's attribute. The DDA arguably seeks to protect people from certain types of disadvantage caused by the assumption that everyone in society has the same physical and mental abilities. To ensure society is inclusive of everyone's abilities, the DDA prohibits people being treated less favourably because they have limited abilities. Essentially, the DDA is attempting to prevent ableist discrimination.

6. Thomas Hehir, 'Confronting Ableism' (2007) 64 *Educational Leadership* 5, 8.

7. Wolbring, above n 1.

8. Blind Citizens Australia, Submission to the House Standing Committee on Education and Vocational Training, Inquiry into Teaching Training, November 2005 <aph.gov.au/House/committee/evt/teachereduc/subs/sub161.pdf> at 21 May 2009; Women With Disabilities Australia (WWDA), Submission to the HREOC request for comments on the possible public inquiry on employment and disability issues, September 2004 <hreoc.gov.au/disability_rights/employment/hfc/wwwda.doc> at 21 May 2009.

9. A search of Hansard indicated the only reference is related to the submissions of advocate groups: Commonwealth of Australia Committee Hansard, House of Representatives Standing Committee on Education and Vocational Training, 10 February 2006, 60-62 (Resolved on motion by Mr Sawford).

10. Standing Committee on Legal and Constitutional Affairs, 'Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008' (Final Report, 2009).

11. This article will focus upon the post reform DDA.

12. Fiona Kumari Campbell, *Contours of Ableism* (2009).

13. Greg Smith, 'Backtalk: The brother in the wheelchair' (2001) *Essence*, 162, 162.

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Focusing upon the problem of ability discrimination rather than disability discrimination would better focus the issue upon the ableist act which causes the discrimination. The SDA and RDA arguably better focus attention on the discriminatory act rather than on the complainant. In contrast to the DDA, the SDA and RDA adopt the neutral normative terms of sex or race. If a person is discriminated on the basis that they are an Aboriginal person the reason they are discriminated against is because of their race. This is labeled racism and not 'aborigineism'. If a person is discriminated against because they are female they are discriminated against because of their sex and this is labeled sexism not 'femaleness'. In contrast to race and sex discrimination, if a person is discriminated against according to their ability the label for this discrimination focuses upon the person who is discriminated against by adopting the label of disability discrimination rather than upon the act of ableism.

When a person with a disability is discriminated against they are discriminated against based upon their level of abilities. Through using the term disability discrimination the DDA diverts the focus from the fundamental problem, the ableist discrimination, and focuses the attention upon the person's disability. The term disability discrimination starts by identifying a person's attribute and then focuses on how they have been discriminated against. Rather than focusing upon the person with a disability, the DDA should adopt the notion and label of ableist discrimination. Ableist discrimination would arguably focus more on the discriminator's ableist assumptions and better reflect the expectation under the social justice model that society will remove barriers to inclusion through embracing universal design.

The power of labels: shifting from medical to social justice models

International law and domestic laws continue to utilise the label of disability discrimination. The term ableism does not appear on the International Labor Organisation's website and only appears once on the United Nations' website.¹⁵ Recent legislation in Australia,¹⁶ Canada,¹⁷ Ireland,¹⁸ New Zealand,¹⁹ the United Kingdom²⁰ and the United States²¹ continue to use the term disability. Due to the wide usage of the term disability, it is not surprising that the United Nations retained this term when drafting the *Convention on the Rights of Persons with Disabilities* ('CRPD').²² The CRPD took five years to draft and involved almost

every nation-state in the world.²³ The introduction of new terminology during such a process would probably have extended the negotiations even further. While the CRPD did not include the term ableism, the CRPD did include a dynamic new concept which has the potential of revolutionising the treatment of people with disabilities. This concept expressly rejects the medical model of disability in favour of the social justice model.

Until recently, people with disabilities have not been protected by a specialist international human rights instrument. Consequently, until very recently, many nation-states adopted the medical model of disability policy. The medical model assumes that the person with a disability has a condition which reduces a person's ability to participate in society.²⁴ Accordingly, nation-states applying the medical model had an obligation to support the person with a disability to enable them to function in society. Under the medical model, the focus was upon changing the individual and not upon changing society to become more inclusive. In 2006, the United Nations adopted the CRPD which was ratified by Australia in July 2008. The CRPD has rejected the medical model of disability and has embraced the social justice model.²⁵ The social justice model assumes that society creates barriers which prevent people with disabilities from functioning in society and, therefore, society itself must change and adapt to enable people with disabilities to enjoy their human rights.

To move from the medical model to the social justice model will require a cultural shift in Australia. Goggin and Newell argue that:

Rather than seeing disability as inherently uncivil, uncivilising and deeply distressing, we need to encounter disability as an inevitable, normal and indeed positive part of the diversity of Australian society, to be celebrated. In every aspect of Australian society, the situation of people with disabilities provides us with a significant challenge to understand our lived values and even to dare to ask: how can we embrace people with disabilities as part of the civil society and society in general?²⁶

Hehir has analysed the operation of ableism in education and the negative impact it has upon student educational outcomes.²⁷ Hehir suggests rejecting ableist approaches and embracing universal design.²⁸ Universal design maximises inclusion by removing barriers at the design phase of a building, website and in a curriculum, rather than attempting to address barriers once they exclude a person with a disability.

14. *Exemption application re: Boeing Australia Holdings Pty Ltd & related entities (No 2)* (the Boeing case) [2008] QADT 29; *Exemption application re: Raytheon Australia Pty Ltd Ors* (the Raytheon case) [2008] QADT 1; In the Boeing case, President Savage SC at (31) – (36) explained that employees of certain nationalities were prohibited from working on US Defence contracts in Australia or in the US by US laws. A breach of these laws attracted sanctions against employer and employee. The employee could be expected to fly to the US as part of their employment; as a consequence it was an inherent requirement of the position that an employee not be of a particular nationality and thus it was not discriminatory not to employ such people. In the Raytheon case, Member Boddice SC took a different view and granted the exemption under section 113 of the *Anti-Discrimination Act 1991* (Qld) which permitted the discriminatory conduct.

15. 'Experiences from Nicaragua' Department of Economic and Social Affairs E-forum <<http://esaconf.un.org/WB/default.asp?action=9&boardid=16&read=909&fid=204>> at 18 May 2009.

16. *Disability Discrimination and Other Human Rights Legislation Amendment Act 2009* (Cth).

17. *Act to amend the Canada Evidence Act and the Criminal Code in respect of persons with disabilities, to amend the Canadian Human Rights Act in respect of persons with disabilities and other matters and to make consequential amendments to other Acts* (Chapter 9), Canada Gazette, Part III, 1998-07-31, Vol. 21, No. 2, pp. 2-31.

18. *Disability Act 2005* (Ireland, No. 14 of 2005).

19. *Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008* (New Zealand).

20. *The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006* (UK).

21. *The Individuals with Disabilities Education Improvement Act*, Pub L No 108-446, 118 Stat 2647 (codified in scattered sections of 20 USCA §§ 1400-1482 (West 2005)); *American With Disabilities Amending Act*, 154 Cong Rec S8342 (Sept. 11, 2008).

The concept of universal design provides that society should be structured to enable equal access to as many aspects of life to all people, regardless of their characteristics and abilities. For example, when designing buildings, systems and policies every effort should be made to adopt a design which minimises barriers to universal access. This means people with disabilities should, metaphorically and physically, be able to walk through the front doors of a building and not be forced to use a side entrance with a ramp or elevator.²⁹ The focus of universal design is on finding ways to make inaccessible systems accessible. Universal design focuses upon removing the barriers to maximise inclusion. Pynoos et al explain this contrast: 'In contrast to accessibility, which denotes a "special" approach to accommodate disabilities, universal design promotes a non-stigmatised inclusion of all people.'³⁰

A powerful step to moving to the social justice model and achieving non-stigmatised inclusion would be to reject the use of the term disability discrimination. Arguably, the term disability discrimination unnecessarily focuses upon the person being discriminated against. When a person creates a barrier to inclusion which discriminates against people based upon their physical or mental abilities then that person has excluded people based upon their abilities. Often ableist discrimination occurs simply because a discriminator assumes everyone has certain abilities. For example, a person who designs a house with three steps at the entrance for aesthetic reasons has probably not made this decision to exclude people with disabilities but because they assume most people have the ability to use the stairs. The real issue is the false assumption that everyone has the same abilities. In many cases, this lack of awareness reflects a dominant paradigm which the use of the term ableism would seek to shift. Anti-discrimination labels should reflect the reality of discrimination based upon abilities and label this form of discrimination as ableism.

The shift from the medical model to the social justice model will require a massive cultural shift for society generally and for people with disabilities. Adopting a powerful label for disability discrimination is one component of this cultural change. Labels have the capacity to support or challenge stereotypical expectations.³¹ Altering the labels and terminology used to describe people with disabilities is one component of reducing community prejudices.³² The barriers and attitudes which have led to the subordination of people with disabilities have resulted in some people with disabilities internalising ableist perspectives.³³ As ableism becomes more recognised and the policy responses to ableism reduce the barriers to participation, hopefully success will be determined by merit rather than the ability to surmount unnecessary barriers to inclusion.

Should Australian laws adopt an ableist approach?

Even though the SDA and RDA have successfully applied the powerful labels of sexism and racism this has not always resulted in greater legal protection for

those affected by discriminatory acts. The DDA, SDA and the RDA all divide discrimination into direct and indirect discrimination. Direct discrimination focuses on the situation where a discriminator discriminates based upon the person's attribute, such as sex, race or disability. Indirect discrimination focuses upon preventing a discriminatory result from an apparently neutral policy. A common problem with Australia's anti-discrimination laws is the operation of direct discrimination provisions.

Clause 17 of the *Disability Discrimination and Other Human Rights Legislation Amendment Act 2009* (Cth) replaced the tests for direct and indirect discrimination in the DDA. The amendments significantly improved the operation of the indirect discrimination provisions but entirely failed to address the critical problems with the operation of direct discrimination. According to section 5 of the DDA a discriminator discriminates where, because of a person's disability, they treat or propose to treat a person less favorably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person without the disability. While the protection afforded by section 5 appears to be extensive, the scope of this protection has been considerably narrowed by the application of the comparator test.

To establish direct discrimination under section 5 of the DDA, a person must first prove they were discriminated against based upon their disability and second they must surmount the comparator test. The comparator test was read narrowly by the High Court in *Purvis v New South Wales (Department of Education and Training)* (the *Purvis* case).³⁴ *Purvis* was a student with a mental disability which reduced his ability to control his angry outbursts. His school expelled him because he was unable to control his angry outbursts. When deciding if this constituted direct discrimination, the majority of the High Court held that disability included behavioral manifestations of the disability not just the physical or mental limitations.³⁵ In this case, it meant that the student's disability included his uncontrollable outbursts in class. The majority of the High Court held that the appropriate comparator was 'a person without the disability in the same position in all material respects as the aggrieved person'.³⁶ In effect, this means that if a person with a disability is discriminated against because of a manifestation of their disability (such as lack of control for mental disabilities, inability to walk for paraplegia or inability to see for blindness) they will confront substantial difficulties in prosecuting a direct discrimination claim under the DDA.

The impact of the decision in the *Purvis* case has attracted substantial academic criticism.³⁷ The Commonwealth Parliamentary Standing Committee on Legal and Constitutional Affairs received considerable evidence that the comparator test adopted in the *Purvis* case resulted in people being unable to prosecute genuine direct discrimination claims.³⁸ Despite this evidence, the Standing Committee on Legal and Constitutional Affairs decided not to recommend the removal of the comparator test and proposed the

22. United Nations, 'Convention & Optional Protocol Signatories & Ratification' <un.org/disabilities/countries.asp?navid=12&pid=166> at 20 July 2008.

23. Tara J. Melish, 'Perspectives on the UN Convention On the Rights of Persons with Disabilities: The UN disability convention: Historic process, strong prospects, and why the U.S. should ratify' (2007) 14 *Human Rights Brief*, 37.

24. Lisa Waddington and Matthew Diller, 'Tensions and coherence in disability policy: The uneasy relationship between social welfare and rights models of disability in American, European and international employment law' in Mary Lou Breslin and Silvia Yee (eds), *Disability rights law and policy: international and national perspectives* (2002).

25. Michael L. Perlin, 'International human rights law and comparative mental disability law: the universal factors' (2007) 34 *Syracuse Journal of International Law and Commerce*, 333.

26. Goggin and Newell, above n 2, 48.

27. Thomas Hehir, 'Eliminating Ableism in Education' (2002) 72 *Harvard Educational Review* 1, 1.

28. Thomas Hehir, *New Directions in Special Education: Eliminating Ableism* (2005) ch 4.

29. See for a case example where universal design was upheld in relation to inferior wheelchair access: *Cocks v State of Queensland* [1994] QADT 3.

30. Jon Pynoos et al, 'Aging in Place, Housing, and the Law' (2008) 16 *Elder Law Journal* 77, 88.

31. Olivier Klein et al, 'Hidden profiles and the consensualization of social stereotypes: how information distribution affects stereotype content and sharedness' (2003) 33 *European Journal of Social Psychology* 6, 755-777.

32. Patrick W. Corrigan, 'Mental Health Stigma as Social Attribution: Implications for Research Methods and Attitude Change' (2000) 7 *Clinical Psychology: Science and Practice* 1, 48.

... the CRPD did include a dynamic new concept which has the potential of revolutionising the treatment of people with disabilities. This concept expressly rejects the medical model of disability in favour of the social justice model.

continuation of the status quo. The *Purvis* case has arguably substantially reduced the ability of people with disabilities in Australia to advocate for their rights and fight ableism.

Conclusion

This article has analysed how the acts of sex discrimination and racial discrimination attract the powerful labels of sexism and racism and has suggested that disability discrimination advocates embrace the label of ableism as an equivalent term. When a woman is not given a promotion because of her gender this act is labeled sexism and the discriminator is labeled sexist. If an Indigenous person is not given a promotion because of their race this act is labeled racism and the discriminator is labeled racist. If a person in a wheelchair is not given a promotion because they cannot walk what is this act called? In the common vernacular and consciousness, there is no obvious label. This article argues for the increased adoption of the emerging label of ableism, both as a term of common usage and as a guide to policy making and as a legislative template.

Powerful labels, such as sexism and racism, have the capacity to ameliorate the use of negative stereotypes

and facilitate cultural change. To date, the act of disability discrimination has not attracted a powerful label to assist in facilitating such change. The term ableism reflects the underlying objective of disability discrimination legislation. This form of legislation, as adopted in Australia, focuses on preventing people from excluding others based upon their different abilities. This article has argued that attention should be focused upon the act of ableist discrimination rather than diverting the focus to an individual's disability. If the term ableism became widely embraced then perhaps an act of ableist discrimination may eventually attract the negative social stigma currently associated with a racist or sexist act.

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The author would like to thank Professor Thomas Hehir of Harvard University for meeting with him in November 2008.

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33. Fiona Kumari Campbell, 'Exploring internalized ableism using critical race theory' (2008) 23 *Disability & Society* 2, 151. I have had personal experience of the internalisation of ableist beliefs. At a conference, a senior colleague commented that I had 'achieved a lot for a blind person'. At this point, I had been awarded a Masters of Laws (GPA 6.5), a prize for my PhD candidature, an International Law Association of Australia prize and been successful in practice since 2003. Underlying the comment is a disturbing message that people with disabilities confront substantial barriers imposed by society and that they are unlikely to break the mould and be successful.

34. (2003) 217 CLR 92, 162.

35. *Ibid.*

36. *Ibid.*

37. See Colin Campbell, 'A Hard Case Making Bad Law: *Purvis v New South Wales* and the Role of the Comparator under the Disability Discrimination Act 1992 (Cth)' (2007) 35 *Federal Law Review* 111, 113–115; Elizabeth Dickson, 'Disability Discrimination in Education: *Purvis v New South Wales* (Department of Education and Training), Amendment of the Education Provisions of the Disability Discrimination Act 1992 (Cth) and the Formulation of Disability Standards For Education' (2005) 24 *The University of Queensland Law Journal* 213, 219; Susan Roberts, 'The Inequality of Treating Unequals Equally: The Future of Direct Discrimination Under the Disability Discrimination Act 1992 (Cth)?' (Speech delivered at ANU Public Law Weekend, Canberra, 6 November 2004), 30; Belinda Smith, 'From *Wardley* to *Purvis* – How far has Australian Anti-Discrimination Law come in 30 years?' (2008) 21 *Australian Journal of Labour Law* 12, 1.

38. Standing Committee on Legal and Constitutional Affairs, 'Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008', above n 10, 43.