



Now is not the time to open the door to bigotry

27 March 2014

Statement from the Co-Chairs of Reconciliation Australia, Dr Tom Calma AO and Melinda Cilentio

Today we join our fellow Australians from the Greek, Jewish, Chinese, Arab, Armenian and Korean communities in expressing our strong view that all Australians have the right to be protected against racial discrimination and vilification. For this reason Reconciliation Australia is opposed to any changes to the RDA which weaken protections against racial discrimination.

Reconciliation Australia condemns all forms of racism. Racism is harmful. It destroys the confidence, self-esteem and health of individuals, undermines efforts to create fair and inclusive communities, breaks down relationships and erodes trust.

Racism perpetuates inequalities and can directly or indirectly exclude people from accessing services and opportunities. Racism remains a major barrier to achieving our vision for a just, equitable and reconciled Australia. It remains a barrier to governments seeking to close the gap on health outcomes, and to improve economic participation through employment and education. The fact is that many Aboriginal and Torres Strait Islander people continue to experience racism on a far too regular basis.

The *Racial Discrimination Act 1975* (RDA) currently ensures all Australians are protected from discrimination on the grounds of race, colour, descent or ethnic origin.

Any changes to the RDA that weaken protections from racial vilification would pave the way to a less reconciled, just and equitable Australia. We therefore strongly oppose the current proposed changes to the RDA which repeal Section 18C.

Medical research clearly links experiences of racism with reduced health outcomes. Against this background, how are the proposed amendments to the RDA consistent with the Government's expressed intentions to close the health inequity gap?

Now is not the time to reduce protections from racist abuse nor to signal that such views are less odious in modern Australia.

Like other Australians we strongly value the concept of freedom of speech, but that freedom must always be balanced against the rights of others. The use of defamation laws by politicians from both sides of politics is well known and exemplifies the balance between free speech and the need for citizens to be protected from scurrilous and false verbal attacks.

We note that Section 18D of the current Racial Discrimination Act contains exemptions for "anything said or done reasonably and in good faith" and, in the case of publishing, anything that constitutes "a fair and accurate report of any event or matter of public interest".

We note that in the key case against which the alleged free speech restrictions of the RDA are being measured – the Andrew Bolt case – the judge, J Bromberg, found that Mr. Bolt contravened section 18C

because the articles were not written in good faith and contained factual errors, and therefore not made exempt by Section 18D of the RDA.

In his judgment J Bromberg found the Section 18D exemptions did not apply because of “...*the manner in which the articles were written, including that they contained errors of fact, distortions of the truth and inflammatory and provocative language*”.

Section 18D does provide free speech protection for comments that may be considered offensive to many Australians as long as these comments are delivered in a reasonable and honest way.

In a 2000 complaint under the RDA, *Walsh v Hanson*, politician Pauline Hanson’s published comments that Aboriginal people received preferential treatment from Governments were found not to have contravened the RDA Section 18D.

In the conciliation before the Human Rights and Equal Opportunity Commission, Commissioner Nader found that Ms Hanson would be exempt because the views expressed were genuinely held and formed part of a genuine political debate. The Commissioner found Hanson’s statements were put forward reasonably and in good faith, and there was a public interest at play – namely, political debate concerning the fairness of distribution of social welfare payments in the Australian community.

In recent years we have seen a generally calm and reasoned debate about the terrible impact of racism and its place in Australia’s history and the relationships between First Peoples and other Australians.

Australia’s sporting codes have shown great leadership in banning racism from the sporting field and working hard to better educate sports fan and the general public about the detestable nature of racism and bigotry.

The work of the AFL, the NRL, the A-League, Cricket Australia and other Australian institutions has had a marked impact on reducing racism in the community.

Our own Reconciliation Action Plan program has likewise shown to be [increasing awareness of and reducing racism](#) and ignorance in Australia.

We believe that Australia has made marked progress in the journey of reconciliation and is making inroads into reducing the legacy of historical discriminatory policies that have so devastatingly led to the levels of Aboriginal and Torres Strait Islander disadvantage.

We are deeply concerned that any reduced protection against racism and bigotry may have a seriously detrimental impact on this progress.

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