



“Changes to the Racial Discrimination Act that weaken protections from racial vilification only threaten our progress towards reconciliation.”

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Racial Discrimination Act - Section 18C The facts

- Section 18C of the *Racial Discrimination Act 1975* ensures all Australians are protected from discrimination on the grounds of race, colour, descent or ethnic origin by making it unlawful for someone to publicly “offend, insult, humiliate or intimidate a person or group of people”.
- Section 18D of the *Racial Discrimination Act 1975* contains exemptions which protect the freedom of speech, ensuring that artistic works, scientific debate and fair comment on matters of public interest are exempt from section 18C, providing they are done in good faith.
- The courts have consistently interpreted Sections 18C and 18D as maintaining a balance between freedom of speech and freedom from racial vilification.
- In 2014, the Attorney-General, Senator George Brandis, lodged a draft bill proposing that section 18C be repealed. The Attorney-General then suggested that “people have a right to be bigots”.
- A government review was issued inviting responses from the wider community. More than 3 in 4 of the more than 4,000 submissions received opposed the proposal. Some 1 in 5 were in favor of the proposed changes.¹
- Section 18C and 18D of the Racial Discrimination Act were first introduced as a result of the findings of the Royal Commission into Aboriginal Deaths in Custody. The Commission found that racial vilification can cause emotional and psychological harm, and reinforce other forms of discrimination and exclusion.
- The current Racial Discrimination Act places no more restrictions on free speech than other legislation regularly enforced in Australian society.
- Approximately 15 claims citing S18C of the Racial Discrimination Act have been brought to the courts by Aboriginal and Torres Strait Islander Australians in the last twenty years. Incidents brought to court were commonly described as deeply offensive, humiliating and/or intimidating, while perpetuating prejudice and negative stereotypes.
- Most complaints made to the Australian Human Rights Commission under the *Racial Discrimination Act 1975* are resolved out of court.

What's wrong? Section 18C and Reconciliation

- As the lead body on reconciliation in the nation, Reconciliation Australia promotes and facilitates reconciliation by building relationships, respect and trust between Aboriginal and Torres Strait Islander peoples and the wider Australian community.
- In 2014, Reconciliation Australia responded to the Attorney-General's proposal, advocating that changes to the Act that weaken protections from racial vilification would pave the way to a less reconciled, just and equitable Australia.
- The proposed changes to the act risk making Aboriginal and Torres Strait Islander peoples more vulnerable to racism, as this implies an unacceptable tolerance toward racism under the guise of free speech.
- Aboriginal and Torres Strait Islander people still experience high levels of racial prejudice and discrimination. Reconciliation Australia's recent The State of Reconciliation in Australia report suggests 1 in 3 Aboriginal and Torres Strait Islander people had experienced recent verbal racial abuse.
- Experiences of racism toward Aboriginal and Torres Strait Islander peoples have significant consequences, and are associated with increased anxiety, depression, suicide risk and overall poor mental health.

- Reconciliation is progressed where all Australians understand and value Aboriginal and Torres Strait Islander and non-Indigenous cultures, rights and experiences. Relationships without racism result in greater trust and respect.
- All sectors of the Australian community have a role to play in demonstrating zero tolerance towards all forms of racism, prejudice and discrimination.

Reconciliation in Action: Reconciliation Action Plans (RAPs)

- The Reconciliation Action Plan (RAP) program provides a framework for organisations to realise their vision for reconciliation.
- The most recent RAP Impact Measurement Report shows that trust between Aboriginal and Torres Strait Islander peoples trust is higher in organisations that have a RAP. More than 3 in 4 of RAP employees say that have high trust for their Aboriginal and Torres Strait Islander colleagues, compared with 1 of 4 people in the wider community.
- The proposed changes to Section 18C of the Racial Discrimination Act will only act to undermine this trust – in workplaces, schools, and the wider Australian community – by weakening protections from racial vilification.

¹ According to documents obtained under freedom of information laws by Simon Rice of the Australian National University; <http://bit.ly/1AQnppX>.

