



National Council of Jewish Women of Australia Ltd

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An Affiliate of International Council of Jewish Women

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Committee Secretary
Parliamentary Joint Committee on Human Rights
PO Box 6100
Parliament House
Canberra ACT 2600

By email: 18Cinquiry@aph.gov.au

Dear Committee Secretary,

INQUIRY INTO FREEDOM OF SPEECH IN AUSTRALIA

Following please find my submission on behalf of NCJWA.

Introduction

The National Council of Jewish Women of Australia [NCJWA] is an Australia-wide women's organization concerned with Judaism, social justice and gender equality. We are committed to a strong and vibrant multicultural, multi-faith society in which the rights of all are respected and where vulnerable groups are protected and supported by law.

Position Statement

We believe that the Racial Discrimination Act (RDA) plays a crucial role in ensuring that vulnerable people are protected from hate speech and vilification based on race.

We believe that freedom of speech is a very important right but not an absolute right and is not a human right above all others. Together with rights come responsibilities. Together with the right of freedom of speech comes the responsibility to not incite hatred. Further this inquiry implies that the only limitation on free speech is the regulation of hate speech. This is not the case and there are many other laws that limit speech including defamation, libel, harassment and advertising regulation.

Just as freedom of speech should be valued, so should the right of people to be part of a free and fair society without suffering the emotional and mental harm caused by hate speech, which can often have physical and life threatening implications.

We believe that diversity is valuable and that harmony in a diverse society is fragile and is put at risk by hate speech. As such it is appropriate that the speech of some is curtailed to promote dignity and harmony of all members of the community.

We believe that the current legislation has been working extremely well and has played an important role in maintaining harmony. There is no evidence that the current law has interfered with the free flow of information in Australia. We consider that the exemptions in the law have been effective in providing a balance between free speech and racial harmony.

We believe that the current legislation makes it clear that hatred is un-Australian and that we should have no tolerance for those who engage in abuse of others. We believe that any watering down or perceived dilution of the RDA would send the wrong message to potential offenders that hate speech is becoming more acceptable in our society. We are therefore opposed to any change in s.18C or s.18D of the RDA which weakens the law.

History shows that there is a direct relationship between the tolerance of hate speech and physical attacks on minority groups. As such, 18C provides an important bulwark between hatred and violence.

However, we are in favour of any change to the law that would strengthen it. In particular, we believe the law should be amended to include “religion” such that the list in s.18B(b) and s.18C(1)(b) of the RDA read “race, *religion*, colour or national or ethnic origin”, we believe that many people of various religious affiliations and faiths would feel better protected, accepted and respected as members of society.

Conclusion

In conclusion we would like to thank the Australian Government and the Parliamentary Joint Committee on Human Rights for the opportunity to provide our views and express our concerns regarding changes to the Racial Discrimination Act 1975 (Cth) and the Australian Human Rights Commission Act 1986 (Cth).

In particular, we are concerned that the terms of reference for this inquiry appear to suggest that the right to freedom of speech is superior to the right to freedom from discrimination, in particular in the form of racist vilification. This is inconsistent with our understanding of the principles of international law which clearly establishes human rights as interdependent, interrelated, indivisible and entailing both rights and obligations.

- We believe that freedom of expression is not an absolute right and preventing the serious harm caused by racist speech is of sufficient importance to warrant appropriate restrictions, such as currently provided by sections 18C and 18D of the RDA, on freedom of speech.
- We do not believe that the operation of Part IIA of the RDA imposes unreasonable restrictions upon freedom of speech and we believe that therefore there is no need for an inquiry into its terms or operation.
- However, if it is decided that the *Racial Discrimination Act* [RDA] should be amended, we would recommend strengthening the prohibitions on racial vilification in 18C to include “religion”.

- We do not support the Attorney-General's referral of the above questions to the Joint Committee. Australians made their support for legislation against racial vilification very clear two years ago in response to the proposed *Freedom of Speech (Repeal of s. 18C) Bill 2014* which proposed major changes to section 18C of the RDA.
- We regard this current inquiry as unnecessary. Moreover, we are concerned that even undertaking an inquiry such as this gives the unfortunate messages that this government wishes to protect those who engage in racist hate speech or at the very least to protect speech that amounts to race hate speech; does not support the protection of vulnerable minorities from the effects of hate speech; and does not wish to see the RDA enforced in the same way as other legislation against discriminatory activity. This is unfortunate.

In this context, and in conclusion, NCJWA's position is therefore to answer 'no' to all of the questions in the terms of reference.

Please contact me if there is any area of this submission as to which we can provide further assistance.

Yours faithfully,



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