

**OPEN LETTER:
PROPOSED CHANGES TO RACIAL VILIFICATION LAWS
SHOULD BE REJECTED**

12 June 2014

Senator the Hon George Brandis QC
Attorney-General
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Dear Attorney,

We write to urge you not to proceed with the proposed changes to the *Racial Discrimination Act 1975* (Cth) (RDA) outlined in the recently released Exposure Draft.

Racism is a serious, continuing problem in Australia. Beyond the well-publicised recent examples of racial abuse on the sporting field and public transport, research by VicHealth, the Scanlon Foundation and others has documented widespread racial discrimination. Research also confirms that racial discrimination and vilification can cause serious mental health impacts and other social harm. Racism remains a major barrier to achieving our vision for a just, equitable and reconciled Australia.

Freedom of speech is a fundamental human right but it is not an absolute right and must be balanced against other rights including the right to be free from racial discrimination and vilification. Australian laws limit speech and expression in areas like defamation, false advertising, sexual harassment and threats to kill. Protecting against the serious harm that flows from racial vilification is a legitimate restriction on free speech.

The law has an important role to play in addressing this harm.

The protections against racial vilification in section 18C of the Racial Discrimination Act make it unlawful to offend, insult, humiliate or intimidate on the basis of race. Section 18D contains safeguards that protect freedom of speech and appropriately balance it with freedom from racial vilification. Fair comment on public interest matters is completely protected by these safeguards if it is done reasonably and in good faith.

The law sets standards of conduct that discourage people from racially vilifying others and encourage people to speak out in public against racism. It provides legal remedies for victims of racial vilification through an accessible dispute resolution mechanism. The majority of racial vilification complaints are resolved by the Australian Human Rights Commission through mediation.

The strong community support for maintaining the current law has been confirmed by the Challenging Racism Research Project survey and the recent Fairfax Nielsen poll.

The proposed changes would significantly narrow the current Federal protection against racial vilification. Of greatest concern is the proposed extremely broad “public discussion” exemption. Most public racial vilification is likely to be covered by the exemption – even if it incites racial hatred or racially intimidates. Even if the “public discussion” is completely inaccurate, unreasonable or deliberately provokes racial hatred, it would be protected by the exemption. The proposed exemption is so broad, and the new protection is so narrow, that the combined changes would almost completely remove the existing Federal racial vilification protections.

Strong and effective protections against racial vilification must be maintained.

The proposed changes should be rejected.

We urge you not to proceed with them.

This open letter is supported by the following organisations:

Aboriginal and Torres Strait Islander Legal Service QLD
Aboriginal Legal Service NSW/ACT
Aboriginal Perspectives in Early Childhood
African Think Tank
All Together Now
Amnesty International Australia
Arab Council Australia
Asylum Seeker Resource Centre
Aurora Project
Australian Centre for Disability Law
Australian Council of Social Service Organisations
Australian Council of Trade Unions
Australian Human Rights Centre, UNSW
Australian Lawyers Alliance
Australian Lawyers for Human Rights
Australian Muslim Women's Centre for Human Rights
Australian Women's Health Network
Australian Young Christian Workers
Australians for Native Title and Reconciliation
Bisexual Alliance Victoria
Case for Refugees
Centacare Cairns
Centacare Migrant Services
Central Australian Aboriginal Legal Aid Service
Centre for Comparative Constitutional Studies, University of Melbourne
Centre for Human Rights Education, Curtin University
Centre for Multicultural Youth
Centrecare Incorporated
Challenging Racism Project
Change Angels
Children with Disability Australia
Civil Liberties Australia
Community Legal Centres NSW
Community West
Criminal Lawyers Association of the Northern Territory
Disability Advocacy Victoria

Disability Discrimination Legal Service
Djinda Services
Domestic Violence NSW
Eastern Community Legal Centre
Employment Law Centre of WA Inc.
Environmental Justice Australia
Environs Kimberley
Ethnic Communities' Council of Victoria
Federation of Chinese Associations Inc.
Federation of Community Legal Centres (Victoria)
Federation of Ethnic Communities' Councils of Australia
Fitzroy Legal Service
Flemington & Kensington Community Legal Centre Inc.
Gabriela Australia (Filipino Women's Alliance) NSW
GetUp! Australia
Human Rights Council of Australia
Human Rights Law Centre
Immigrant Women's Speakout Association
IsaiahOne
Islamic Council of Victoria
Illawarra Legal Centre
Justice Connect
Kimberley Aboriginal Law and Culture Centre
Kingsford Legal Centre
Law Institute of Victoria
Lebanese Muslim Association
Lingap Migrante (Migrant's Aid)
Macarthur Legal Centre
Marninwarantikura Fitzroy Women's Resource Centre
MDA
Mental Health Association NSW
Mental Health Law Centre (WA) Inc
Metro Migrant Resource Centre
Migrante Australia
Migrante North NSW
Multicultural Council of Tasmania
National Aboriginal and Torres Strait Islander Legal Services

National Aboriginal Community Controlled Health Organisation
National Association of Community Legal Centres Inc.
National Family Violence Prevention Legal Services Forum
National Welfare Rights Network
New Israel Fund Australia Foundation
New South Wales Reconciliation Council
New South Wales Society of Labor Lawyers
Nindilingarri Cultural Health Services
Northern Rivers Community Legal Centre
NSW Council for Civil Liberties
NSW Women's Alliance
Online Hate Prevention Institute
Oxfam Australia
Peel Community Legal Services
People with Disability Australia
Philippine Caucus for Peace
Philippines Australia Solidarity Association
Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited
Queensland Association of Independent Legal Services Inc.
Refugee Council of Australia
Relationships Australia WA
Right Now, human rights magazine
Save the Children Australia
Secretariat of National Aboriginal and Islander Child Care
Service for the Treatment and Rehabilitation of Torture and Trauma Survivors NSW
Settlement Council of Australia
Settlement Services International
Sisters Inside
Southern Communities Advocacy Legal and Education Service
St Vincent de Paul Society National Council
Tangentyere Council
Tasmanian Aboriginal Centre Inc.
The Bridge of Hope Foundation Inc
Transgender Victoria
United Muslim Women Association Inc.
United Nations Children's Fund Australia (UNICEF)
Uniting Church in Australia

Victorian Aboriginal Child Care Agency
Victorian Foundation for Survivors of Torture Inc.
Victorian Gay and Lesbian Rights Lobby
Villamanta Disability Rights Legal Service Inc.
Welcome to Australia
Western Suburbs Legal Service
Women in Prison Advocacy Network
Women's Health NSW
Women's Law Centre WA
Women's Legal Services Australia
Women's Legal Services NSW
Womens Centre Cairns Inc.
Yoowinna Wurnalung Healing Service
Young Women's Christian Association
Youth Action
Youthlaw