

## **Submission by the Rise Up Australia party on the proposed amendments to the Racial Discrimination Act 1975**

The Rise Up Australia party supports the proposed amendments to the Federal Government's Racial Discrimination Act 1975 because we believe they strike the right balance between freedom of speech and reasonable community protections against racial discrimination.

### **Freedom of Speech**

One of the great freedoms of the Western world is freedom of speech. If issues are not able to be openly discussed, including valid concerns over racial issues, then this conflict will manifest itself in negative ways in our society such as the 2005 Cronulla race riots (1). It's far more productive to allow robust debate to present opposing views without fear of violence, intimidation or prosecution.

As the proposed amendments clarify, debate does not mean threatening or denigrating people but preserving the freedom to disagree with their beliefs and choice of lifestyle. The problem exists in our nation that if someone disagrees with a certain practice that a racial group holds, they are often branded as racist, bigoted or intolerant—and our legislation as it stands can punish them.

For example, the majority of Australians do not agree with child marriage because they believe that sexual relations with a child is paedophilia. However, there are countries such as Afghanistan, Pakistan, India, Ukraine and Niger, which allow child marriage to settle debts or blood feuds, relieve the family of an extra mouth to feed or as part of religious practice (2)(3). However, if someone expresses their disagreement with this practice in Australia, they can be branded as racist.

If we stand up and say we expect racial groups to embrace Australian values, integrate into our way of life and refrain from giving their children in marriage, then we are seen to be intolerant when our goal is to guard against cultural influences that will undermine the well-being of future generations.

We believe that in any racial debate it's important to distinguish between what you embrace and what you reject because a blanket statement of acceptance of all aspects of a racial groups under the guise of tolerance or political correctness is misleading. This is where freedom of speech is important. It allows us to define our stance in specific terms without inciting hatred.

We would like to clarify that freedom of speech is not about excluding a whole racial group from settling in Australia--it's asking each one of them to conform the dominant value system in our nation as the example on child marriage suggests. Just as the proposed amendments specify, this does not give open slather to vilify (incite hatred) or intimidate (cause fear or physical injury) but to express a difference of opinion in a respectful and considerate manner.

One important amendment that has been proposed is the deletion of section 18C of the Racial Discrimination Act which makes it unlawful to offend someone of another race, colour, national or ethnic origin (4). An opposing view by its very nature will offend someone so the legislation in its current form makes it impossible for anyone to practice freedom of speech without creating offence. The Oxford dictionary defines offence as 'annoyance or resentment brought about by a perceived insult' (5). This is difficult to avoid when discussing matters of race or religion so the current legislation needs to be more realistic in its expectations of what constitutes reasonable behaviour.

## Lessons from History

Our Sri-Lankan born party leader, Daniel Nalliah, has experienced first-hand the misuse of vilification legislation when the Victorian State Government introduced the Racial and Religious Tolerance Act 2001. He waged a five-year battle against the Equal Opportunity Commission over his opposing views of Islam and eventually won his case in the Supreme Court in 2007 (6).

A piece of misguided and badly constructed legislation meant that the onus was put on the accused to prove himself innocent rather than the onus on the accuser to prove the allegation—against the principles upon which our system of law is based (7). Daniel Nalliah paid a heavy price to defend freedom of speech. Not only did he have to pay \$600,000 in legal fees to defend himself, but he endured death threats, firebombing threats and threats against his children because of flawed legislation that was introduced into Victoria. The Federal Government's Racial Discrimination Act 1975 runs the same risk of misuse unless it is amended.

We can also learn a lesson from history in which a ban on so-called 'hate speech' was heavily promoted by the Nazi regime in the 1930s. Rather than eliminating racial discrimination, this ban aided the Third Reich in their genocide of the Jews and their supporters by persecuting Nazi agitators and anyone else who they perceived as their opponents (8). They presented themselves as political victims and built a regime which tolerated no scrutiny or criticism from its people under the threat of imprisonment, torture and execution. Misguided legislation is the thin edge of the wedge.

## Summary

The proposed amendments give allowances for robust public discussion and debate, even if it may cause offence. Television programs such as SBS's *Insight*, for example, are a popular forum for debate involving polar opposite views on the same subject (9). Presenting a spectrum of beliefs on racial matters in a public forum allows Australians to consider both sides of the argument rather than giving the platform only to the vocal minority. Free speech is an important part of democracy.

At the core of this discussion is definition of what defines discrimination. To one person, stating their disagreement with a certain cultural practice of a racial group is automatically labelled bigotry while another may define this as vigorous debate. The bottom line is what drives the speaker who holds those views—is it hate, or is it a belief that they don't agree with a cultural practice and are willing to stand up to defend their view. We believe that an opposing view can be expressed without vilification, intimidation or threats of violence against person or property even if this opinion is considered offensive.

The Rise Up Australia party believes that Australians can live in harmony, irrespective of our differences, while still having reasonable protection against vilification in our legislation. In light of this, we support the proposed amendments to the Racial Discrimination Act 1975.

## References

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