

9 December 2016

Committee Secretary  
Parliamentary Joint Committee on Human Rights  
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Dear Committee Secretary

### **Inquiry into freedom of speech in Australia**

The Australian Psychological Society (APS) welcomes the opportunity to make a submission to this Inquiry into freedom of speech in Australia.

The APS supports strong protections against racial vilification and discrimination. For this reason, the APS considers that the existing Racial Discrimination Act 1975 does not impose unreasonable restrictions on freedom of speech, and therefore the APS does not believe that sections 18C and 18D need reforming (ToR 1).

We refer the Committee to our previous submission (see attached) in 2014 which provided support for the retention of the existing Racial Discrimination Act (RDA) 1975. The APS submission emphasised the demonstrable links between racism in all its manifestations and the mental health and wellbeing of individuals and communities, and drew on evidence indicating that weakening race discrimination laws could send the message to the community that racist speech is acceptable, and thus risked increasing racist behaviour and attitudes.

Specifically, the APS submission highlighted:

- While the expression of racism and prejudice may have changed over recent decades from overt to more covert and subtle forms, there is strong evidence to suggest that it is still prevalent in Australia (Dunn, Forrest, Babacan, Paradies & Pedersen, 2011; Paradies, 2006; VicHealth 2012a, 2012b).
- Compelling evidence of a link between experiences of ethnic and race-based discrimination and poor mental health and wellbeing (Paradies, 2006; Paradies et al., 2013).
- Racism not only has harmful effects on individual victims of racism, but for a society as a whole, as it more generally undermines the community's expectations that they can count on having their own human rights respected.

We stand by the recommendations in our submission with regard to the previous proposed amendments, specifically that diluting the definition of racial hatred in the RDA will not only impact upon individuals who may be victims of racism, but on social and community understandings of racism as a concept, thereby shifting the standards of what is considered acceptable. It is recommended that this broader impact be taken into account in the consideration of any amendments.

The 2014 Inquiry gave the Australian public and those most likely to be affected by any changes an important platform to communicate their views. There was overwhelming community support for retaining section 18C of the Racial Discrimination Act in 2014, which consequently remained unchanged.

The APS Position Paper *Psychological perspectives on racism and prejudice* (1997) acknowledged that concerns about political correctness can result in important but difficult questions (such as 'race') being avoided and under-researched. On the other hand, the Position Paper noted that dismissing genuine and effective anti-racism initiatives as 'merely' or 'cynically' politically correct can legitimate racial intolerance by appealing to concerns about 'freedom of speech'. Subsequent research has found a relationship between racist attitudes and opposition to perceived 'political correctness'. Thus if leaders espouse unlimited free speech ahead of restraint and sensitivity to its likely impact on others, racist attitudes are likely to be validated and acted upon (Khan & Pederson, 2010; Pederson et al., 2000).

While the APS appreciates that the current Inquiry is primarily focused on the right to freedom of speech, we are concerned that unconditional affirmation of this right could come at the expense of the equally important right to freedom from discrimination. Freedom of speech is a fundamental right but it is not an absolute right. It must be balanced against other rights including the right to live free from racial discrimination and vilification.

The APS is of the view that the current legislation strikes a reasonable balance between the right to freedom of expression and the right to be free from discrimination and vilification. Protecting against the serious harm that flows from racial vilification is a legitimate restriction on freedom of speech. If the dignity of others is not upheld then this in turn impacts on the realisation of free speech for those who are the victims of racism. It is arguable that the ability to speak freely and safely is more tenuous for minority group members than for majority group members.

Amending the existing legislation on the grounds that it puts unreasonable restrictions on freedom of speech risks entrenching the privilege (and rights) of certain groups over others. For example, mainstream media are privileged at the expense of ethnic minorities whose voices are rarely heard and who are at greater risk of being silenced than those of dominant groups with ready access to public space (e.g., columnists, bloggers, politicians) (APS Media representations and responsibilities, 2013).

The APS acknowledges that laws are only the starting point for the full realisation and protection of human rights such as freedom from racism and discrimination, along with freedom of speech. But by setting standards of

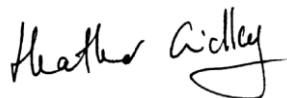
conduct, the existing laws constrain the spread of racism and racial hatred and at the same time encourage people to speak out against racism, complementing broader education strategies. One such community education strategy, which is supported by the APS, is the Australian Human Rights Commission (AHRC) campaign, *Racism: It stops with me*.

While the APS is not in a position to respond in detail to ToR 2-4 (relating to whether the AHRC complaints procedure should be reformed), we endorse what other submitters have stated (including letters co-signed by peak bodies). That is, the AHRC's complaints and conciliation function provides an efficient, low cost alternative to litigation and facilitates access to justice for victims of unlawful discrimination. The vast majority of these complaints relate to employment and access to goods and services. It is critical that the AHRC maintain an accessible, fair and effective complaints resolution process for the thousands who experience discrimination on the basis of sex, gender, disability, race and age.

An alternative consideration for the Committee is to put freedom of speech rights forward as part of a comprehensive bill of rights – a proposal the APS has called for previously (see <http://www.psychology.org.au/community/public-interest/human-rights/>). The proposal to reform 18c reflects concerns for freedom of speech, which we see as an excellent foundation for a national Bill of Rights. This would establish psychological security for all, whereas repealing or amending 18c risks making minority groups psychologically vulnerable to further racism and discrimination.

For further information about our submission please contact me on 03 8662 3327.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Heather Gridley'.

Heather Gridley  
Manager, Public Interest  
Australian Psychological Society

**Attachment:** APS Submission to the Attorney-General's Department on Amendments to the Racial Discrimination Act 1975 (April 2014)

## References

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## About the APS

The Australian Psychological Society (APS) is the national professional organisation for psychologists with over 22,000 members across Australia. Psychologists are experts in human behaviour and bring experience in understanding crucial components necessary to support people to optimise their function in the community.

A key goal of the APS is to actively contribute psychological knowledge for the promotion and enhancement of community wellbeing. Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

Psychologists regard people as intrinsically valuable and respect their rights, including the right to autonomy and justice. Psychologists engage in conduct which promotes equity and the protection of people's human rights, legal rights, and moral rights (APS, 2007). The APS continues to raise concerns and contribute to debates around human rights, including the rights of clients receiving psychological services, and of marginalised groups in society (such as Aboriginal and Torres Strait Islander people, asylum seekers and refugees and LGBTI individuals and groups)

(<http://www.psychology.org.au/community/public-interest/human-rights/>).

Underpinning this contribution is the strong evidence linking human rights, material circumstances and psychological health.

### ***APS activities addressing racism***

The APS unequivocally denounces racism in all its forms for its negative psychological, social, educational and economic effects on human development throughout the life span. The engagement of the APS with issues of race is not merely a political judgement, but a matter which touches on the core of our profession.

The APS is committed to eliminating racism in all its forms, reflecting its core ethical principle of respect for the dignity of all persons.

The APS has been actively working to prevent and address racism for over a decade, through actions including:

- [APS Submission to the Attorney-General's Department on Amendments to the Racial Discrimination Act 1975](#) - April 2014
- A cover feature in the August 2013 edition of *InPsych* (the bulletin of the APS) comprising the following articles:
  - [Psychological perspectives on racism](#) Professor Martha Augoustinos
  - [Effective anti-racism strategies and conversations: Lessons from the literature](#) Associate Professor Winnifred Louis, Dr Fiona Kate Barlow, Dr Katharine Greenaway and Stephen La Macchia
  - [Promoting resiliency to counter racism: The lived wisdom within Aboriginal voices](#) Dr Gawaian Bodkin-Andrews, Katrina Newey, Virginia O'Rourke and Professor Rhonda Craven

- [Creating a new wave of action against racism: VicHealth's work with bystanders](#) Dr Peter Streker
  - [APS contributions to combating racism](#)
- Development of a Position Paper, *Racism and Prejudice - Psychological Perspectives* – <http://www.psychology.org.au/Assets/Files/RP-racism.pdf>
- Development of tip sheets:
  - *Moving Beyond Racism* - [http://www.psychology.org.au/publications/tip\\_sheets/beyond/](http://www.psychology.org.au/publications/tip_sheets/beyond/)
  - *Communicating About Violence, Peace and Justice* - [http://www.psychology.org.au/publications/tip\\_sheets/communicating/](http://www.psychology.org.au/publications/tip_sheets/communicating/)
- Co-host of a Racism Roundtable in 2009, attended by over 40 researchers and public figures from across Australia - [http://www.psychology.org.au/inpsych/roundtable\\_racism/](http://www.psychology.org.au/inpsych/roundtable_racism/)
- Raised concerns about the impact of policies of deterrence (e.g., immigration detention, Temporary Protection Visas) on the mental health and wellbeing of those seeking asylum in Australia - <http://www.psychology.org.au/community/public-interest/refugees/>
- Establishment of an Aboriginal and Torres Strait Islander Peoples and Psychology Interest Group, and supporting the establishment of the Australian Indigenous Psychologists Association - <http://www.Indigenouspsychology.com.au>, and
- Currently reviewing the APS Reconciliation Action Plan - [www.psychology.org.au/reconciliation](http://www.psychology.org.au/reconciliation)
- A formal apology to Aboriginal and Torres Strait Islander People, acknowledging psychology's role in contributing to the erosion of culture and to their mistreatment - [http://www.psychology.org.au/news/media\\_releases/15September2016/](http://www.psychology.org.au/news/media_releases/15September2016/)
- APS [submissions to the Australian Government's Human Rights Consultation](#) (2009), framework and [action plan](#) (2012).