



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

18 November 2016

Dear Secretary,

**Re: Submission to the Inquiry into Freedom of Speech in Australia**

Board and members of Australian Liberty Alliance welcome the opportunity to make the following submission to the Parliamentary Joint Committee on Human Rights.

- 1. Whether the operation of Part IIA of the Racial Discrimination Act 1975 (Cth) imposes unreasonable restrictions upon freedom of speech, and in particular whether, and if so how, ss. 18C and 18D should be reformed.**

We hold that the Racial Discrimination Act 1975 (RDA) and the operation of the Australian Human Rights Commission (AHRC) constitute a violation of common law freedoms as well as Article 19 of the Universal Declaration of Human Rights (UDHR), which declares:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Australia, together with 47 nations, voted in the General Assembly of the United Nations to adopt the UDHR in 1948. The RDA and the AHRC demonstrably interfere with this basic human right as they subject this right to a subjective qualifying test.

As to common law, in *Monis vs The Queen (2013)* the High Court of Australia stated “The common law has always attached a high value to the freedom and particularly in relation to the expression of concerns about government or political matters ... The common law and the freedoms it encompasses have a constitutional dimension. It has been referred to in this Court as ‘the ultimate constitutional foundation in Australia’.”

It is unconceivable that such a basic freedom is now criminalised on the basis of subjective feelings. The Racial Discrimination Act (1975) should be repealed.

- 2. Whether the handling of complaints made to the Australian Human Rights Commission (“the Commission”) under the Australian Human Rights Commission Act 1986 (Cth) should be reformed.**

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Since section 18c of the RDA and the AHRC enable formal complaints to be made on the subjective basis of 'hurt feelings', the processes of the AHRC are by default compromised and skewed against the respondent.

Nothing prevents a claimant, or his or her backers, to issue a press release and post on social media the fact that s/he has lodged a complaint, to name the respondent(s) and detail his or her alleged 'hate speech' crime. In the eyes of the public, this is no different to reporting other, serious crimes to police.

The de-facto punishment commences immediately at the beginning of the AHRC complaints process through public damage to the respondent's reputation, as well as the need to commit time and resources to defending his or her reputation.

Human rights and natural justice in Australia would be best served if the AHRC in its current form be disbanded and the Australian Human Rights Commission Act 1986 repealed.

**3. Whether the practice of soliciting complaints to the Commission (whether by officers of the Commission or by third parties) has had an adverse impact upon freedom of speech or constituted an abuse of the powers and functions of the Commission**

The practice of soliciting complaints to the AHRC, whether by officers of the Commission or by third parties, is reminiscent of practices of totalitarian regimes, where citizens live under constant threat of being reported to authorities for what they have written, drawn or said.

This creates an oppressive sentiment in the community, stifles freedom of expression and suppresses open dialogue.

**4. Whether the operation of the Commission should be otherwise reformed in order better to protect freedom of speech and, if so, what those reforms should be.**

We recommend the Australian Human Rights Commission to be abolished, together with the Racial Discrimination Act.

Racism-related crime can be dealt with under the Crimes Act, as outlined in the Crimes Act Amendment (Incitement to Violence) Bill 2005.

The proposed measure produces annual savings to the Federal budget in excess of \$30 million.

Yours faithfully,

Deborah Robinson  
President

Ralf Schumann  
Secretary