



Ethnic Communities Council of Western Australia

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

Dear Sir/Madam

The Ethnic Communities' Council of Western Australia (ECCWA) is pleased to provide the following response to the Inquiry into Freedom of Speech in Australia

ECCWA is the peak body representing the interests and concerns of the state's culturally and linguistically diverse (CALD) communities and their associations and has since 1980 advocated and lobbied governments' at all three levels, on a range of issues that impact on these communities and organisations.

Like most other organisations in a civil plural democratic society such as ours, ECCWA greatly values Freedom of Speech.

However, in such societies particularly given the diversity of language, religion, culture etc. it is imperative that such freedom not be unfettered for it would threaten social cohesion and indeed the individuals freedom and right to go about one's life without being threatened, insulted, discriminated etc. based on one's ethnicity, religion, language etc.

Our Council is mindful of the fact that, in May 2014, Attorney-General George Brandis defended the *right* of Australians to be "**bigots**" during Senate question time in relation to Section 18C of the Act. That was a deplorable statement for the nation's Premier legal office holder to make.

Fortunately, common sense prevailed in the end with the then Prime Minister Tony Abbott deciding not to proceed with making any changes to Section 18C.

Therefore the Turnbull government's decision to set up this inquiry into free speech in response to Coalition MPs wanting to change Section 18C of the Racial Discrimination Act was unwarranted and accordingly condemned by our Council.

In our media release we reiterated that our Council has always championed Free Speech but we were also cognisant of the limits to Free Speech in civil democratic societies such as Australia (as in the case of Defamation laws and Rules of Engagement in Parliament", etc).

We further argued, "Perhaps the so-called champions of free speech within the Coalition parties can set an example and change the rules of parliamentary engagement which would allow them to call each other's liars when they lie and engage in deceptive conduct and indeed do likewise for all other misconduct that they are engaged in".

Our Council strongly believes that Section 18D of the Racial Discrimination Act provides ample safeguards to protect free speech i.e.

"Section 18C does not render unlawful anything said or done reasonably and in good faith:
(a) in the performance, exhibition or distribution of an artistic work; or

- (b) in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest; or
- (c) in making or publishing:
 - (i) a fair and accurate report of any event or matter of public interest; or
 - (ii) a fair comment on any event or matter of public interest if the comment is an expression of a genuine belief held by the person making the comment

It is also pertinent to consider the recent incident involving Chris Nelson (who was then a member of the Liberal Party) who posted the following to Senator Nova Peris on Facebook “Nova f_ _ _ off. You were only endorsed by Julia because you were a black c_ _ _ . Go back to the bush and suck on Witchity grubs and yams. Stop painting your f _ _ _ _ _ face with white s_ _ _ in parliament. Other than being a runner you are nothing”

So despite the so called harsh provisions of Section 18C of the Racial Discrimination Act Chris Nelson was able to publicly abuse and offend an Australian Senator of indigenous background in such a crude way by making explicit references to her colour, and cultural traditions

This resulted in ALP members of parliament asking the Prime Minister, “what sort of insults does he thinks people should be able to use?” and our Council shares these sentiments.

Our Council has on several occasions, praised Prime Minister Turnbull for his strong support of multiculturalism and his description of the same as the glue that binds our society together. It was regrettable that Mr Turnbull attacked Professor Triggs and her Commission over its involvement in the controversial racial hatred case against the Queensland University of Technology (QUT) students.

Whilst Mr Turnbull claimed the Commission had wasted taxpayers' time and money, and had done a great deal of harm to its credibility, by "bringing" the case; Professor Triggs noted she was “bound to investigate and conciliate every written complaint the Commission receives”. She accordingly called on the Government to “raise that threshold and said she would welcome an attempt to moderate the Statute that would make it a little easier for the Commission to say 'these matters are coming to us and we don't think that they've got any real legs at all'.”

Media and political commentators and indeed politicians themselves having been making, with impunity, highly inflammatory and inaccurate statements based on ethnicity, religion etc. for decades. Senator Pauline Hanson is a case in point when she referred to Australia being swamped by Asians and 20 years later replaced Asians with Muslims.

Given the aforementioned background, our Council strongly believes, if anything the provisions of Section 18C should be strengthened and not diluted. Our Council is accordingly strongly opposed to any proposal to amend Section 18C but supports the aforementioned call by Professor Triggs; with one proviso i.e. a decision not to investigate and conciliate by the Commission should be subject to appeal by an independent authority.

Recommendations:

- Existing Section 18C provisions not be tampered with the exemption of Section 1 (b) which states, “the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group”. We recommend that consideration be given to add religion/faith to this clause.
- The Racial Discrimination Act be amended if necessary to make it easier for the Human Rights Commission to take the most appropriate cost effective action to deal with complaints that it receives under Section 18C.

- The funding for the Human Rights Commission be increased substantially to enable it to address institutional racism in Australia and to implement a comprehensive national Anti-racism Strategy.

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President