

Re: Human Rights and Anti-Discrimination Bill 2012

Firstly a general comment:

People make choices all the time. And why shouldn't they? It seems to me though that the government of Australia is (via this bill) choosing to choose what choices we can make. Is that fair? Don't we all have "human rights"? If I was an employer and I decided that I didn't like someone and so wouldn't hire them why should I be put in a position where I could face potential legal problems should that person have a "protected attribute" and be vindictive?

A comment on Section 51 (page 63)

### **51 Racial vilification is unlawful**

*When racial vilification is unlawful*

(1) It is unlawful for a person (the **first person**) to engage in racial vilification.

(2) Conduct of a person is **racial vilification** if:

(a) the conduct is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and

(b) the first person engages in the conduct:

(i) because the other person, or one or more members of the group, is of a particular race, or because the first person assumes that to be the case; or

(ii) because the other person, or one or more members of the group, has an associate who is of a particular race, or because the first person assumes that to be the case

from <http://www.naa.gov.au/collection/snapshots/internment-camps/index.aspx> we see that

*In the interests of national security the Australian Government interned thousands of men, women and children during World War I and World War II. Most of those interned were classed as 'enemy aliens', that is, nationals of countries at war with Australia. Internees were accommodated in camps around Australia, often in remote locations.*

I'm sure those interned felt humiliated, and it was certainly done based on race. Under the proposed Bill would that action, done to protect the legal and natural citizens of Australia, be considered discriminatory and therefore illegal? I saw no exception to it in the Bill should it be done in a time of war.

A comment on Section 19 When a person discriminates against another person, and related concepts (page 36)

On page 36 lines 11 to 15 say:

(2) To avoid doubt, **unfavourable** treatment of the other person includes (but is not limited to) the following:

(a) harassing the other person;

(b) other conduct that offends, insults or intimidates the other person. (emphasis in document)

Offense, insult and intimidation are all subjective and no way measurable. For instance someone may be offended and insulted by this bill because it demands under penalty that he

make choices (referred to in this bill as not discriminating) that he doesn't want to make. Has he recourse to that? It appears not. But doesn't he too have "human rights"

The above is particularly concerning in light of the following text that seems to imply that if a person (referred to as the *first person*) is guilty unless they can prove themselves innocent, which is total contrary to law as I understand it and possibly un-provable.

Page 120 lines 28 to 31

it is to be presumed in the proceedings that the alleged reason or  
29 purpose is the reason or purpose (or one of the reasons or purposes)  
30 why or for which the other person engaged, or proposed to engage,  
31 in the conduct, unless the contrary is proved.

Page 121 lines 2 to 4

In proceedings against a person under section 120, the burden of proving that conduct is not unlawful conduct because of any of the following provisions lies on that person

Adrian Gallagher  
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