

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group 1

Program 1.1

Question No. 10

Senator Singh asked the following question at the hearing on 18 November 2013:

Senator SINGH: ... I just have a question in relation to an editorial in The Australian newspaper on 9 November this year calling for repeal of parts of the Racial Discrimination Act, entitled 'Repeal of the "Bolt laws" will boost free speech'. It was stated:

“Those who might be concerned about any looming gap in the law— following repeal of section 18C— should take comfort from the fact that the Commonwealth Criminal Code outlaws incitement to racial hatred and the government has no plans to remove those provisions.”

Professor, are there any provisions in the Commonwealth Criminal Code that mirror the provisions of section 18C of the Racial Discrimination Act?

Prof. Triggs: My understanding is that there are not, although that there are provisions in state laws, most particularly in New South Wales. If I may, I would like to take that on notice, to give you as full a description of the laws as I can. Perhaps the point can be made fairly that these criminal laws have either never or rarely been employed, and that was one of the underlying reasons for the introduction of section 18C years ago.

The answer to the honourable senator's question is as follows:

Sections 80.2A(2) and 80.2B(2) of the Criminal Code criminalise incitement to violence against groups or members of groups based on their race, religion, national or ethnic origin or political opinion.