

30 April 2014

Human Rights Policy Branch  
Attorney-General's Department  
3-5 National Circuit  
BARTON ACT 2600

**By email:** [s18cconsultation@ag.gov.au](mailto:s18cconsultation@ag.gov.au)

Dear Sir/Madam,

### **Proposed changes to the Racial Discrimination Act 1975**

Save the Children, Australia (**SCA**) makes this submission in response to the exposure draft of the *Freedom of Speech (Repeal of s. 18C) Bill 2014 (the draft Bill)*.

### ***Save the Children is committed to protecting the right to equality and non-discrimination***

As you may be aware, Save the Children is a leading international emergency relief and development organisation for children. Established in 1919, Save the Children now works in 120 countries around the world and SCA has offices in every Australian state and territory. SCA currently provides education and child protection programs for disadvantaged children at more than 100 sites around the country. In Australia, SCA works with children and families from diverse backgrounds, including asylum seekers, refugees, migrants and Aboriginal and Torres Strait Islander peoples.

Our Founder, Eglantyne Jebb, established Save the Children to assist children impacted by the allied blockade of supplies to Europe. She lobbied for an end to the blockade and drafted the Declaration of the Rights of the Child in 1923, which formed the basis of the United Nations *Convention on the Rights of the Child*. These humanitarian and human rights values underpin the work of SCA, which strives to promote and ensure lasting equality, fairness and enjoyment of rights for all children and young people in Australia and abroad.

SCA also promotes equality through affirmative action, which it implements in its business practices. For example, as an employer organisation and training provider, SCA is committed to facilitating skills development, career opportunities and community capacity building for Aboriginal people. Of SCA's 570 or so Australian staff, around 23 per cent are Aboriginal, making us a significant Aboriginal employer. SCA also employs many bi-cultural workers from the local communities in which our programs operate.

### ***The importance of ensuring strong protections against racial vilification***

Given our focus on promoting and protecting children's rights, as well as our work with diverse communities throughout Australia, SCA strongly supports laws that effectively protect people from racial vilification in Australia. Importantly, these laws set community standards of behaviour and help to combat racism in Australian society.

Children and young people in Australia experience racism, which negatively impacts on their health and wellbeing. The 2009 report by the Foundation for Young Australians – *The Impact of Racism upon the Health and Wellbeing of Young Australians* – interviewed young people from diverse backgrounds and found that 70 per cent of participants had experienced racism. For students in senior years of school there

was a correlation between their experience of racism and lower health scores. These findings are consistent with VicHealth research that indicates ‘children and young people are particularly vulnerable to the harmful effects of racism’ and that there is strong and constant ‘relationship between race-based discrimination and negative child health and wellbeing outcomes such as anxieties, depression and psychological distress.’ Given the harmful impact of racism on children and young people, SCA is of the view that the law has an important role to play in ensuring effective protections against racial vilification.

### ***Current laws are working well***

It is timely and appropriate to review the vilification laws after twenty years of operation, and SCA welcomes this process. However, it is our view that the current racial vilification laws are operating reasonably effectively and generally strike an appropriate balance between the right to freedom of expression and the right to be free from racial discrimination and vilification. As a result, SCA supports the current racial vilification provisions in the *Racial Discrimination Act 1975 (the RDA)*, which provide important protections against racist hate speech.

### ***Position on the draft Bill***

SCA is concerned that the proposed changes will substantially weaken existing racial vilification protections. Accordingly, SCA strongly opposes the proposed changes in the draft Bill.

SCA’s key concerns in respect of the draft Bill, include:

- **The extremely broad ‘public discussion’ exemption**, which removes the important qualification that the public discussion must be conducted reasonably and in good faith. The effect of this change is that most cases of *public* racial vilification could be covered by the exemption, including incitement of racial hatred.
- **The new narrow definitions of the terms ‘vilify’ and ‘intimidate’** do not give normal meaning to the words, significantly limiting their scope and application.
- **The new community standards test** does not require that consideration be given to the impact of racial vilification from the perspective of the group that is the target of that vilification. This change may further limit the protection offered by s 18C.
- **Removal of sections 18B and 18E** will, respectively, make it harder to prove some instances of racial vilification and will reduce the legal obligation on employers to take steps to prevent racial vilification and promote equality in the workplace.

These combined changes, which include an extremely broad exemption and narrow protections, could have the effect of almost completely removing the existing Federal racial vilification protections. SCA recommends that the proposed changes in the draft Bill be rejected.

If the Government proceeds with the changes in the draft Bill, SCA recommends that a number of revisions should be made to address our abovementioned concerns.

I would welcome the opportunity to discuss these issues with you, if required.

Yours sincerely,



Paul Ronalds  
CEO

**SAVE THE CHILDREN**