Freedom of speech and the debate over Australia's Racial Discrimination Act

The Socialist Equality Party
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The Australian government's proposal to amend the Racial Discrimination Act, by modifying its racial vilification clauses, has provoked a public debate that raises critical political issues for the working class.

While in opposition, Prime Minister Tony Abbott pledged to change the Act after the high-profile conviction in 2011 of Murdoch columnist Andrew Bolt, a notorious right-wing propagandist.

Bolt was prosecuted and found guilty of racial vilification for two inflammatory articles he wrote in 2009—one of which was entitled "It's so hip to be black"—accusing 15 prominent "fair skinned" Aborigines of identifying as Aboriginal to promote their careers. He was found to have breached the racial vilification clauses that had been inserted into the Racial Discrimination Act by the Keating Labor government in 1994.

In its judgement, the Federal Court ruled that Bolt had contravened the objectives of the Act because he had disparaged—in a "derisive tone" and with "gratuitous asides"—"the legitimacy of the racial identification of a group of people" which was "likely to be destructive of racial tolerance."

Against all those who hailed the judgement as a major blow to racism and racists, the *World Socialist Web Site* and the Socialist Equality Party insisted that Bolt's conviction for expressing an opinion—however reactionary—constituted a direct attack on freedom of speech and established a dangerous precedent, particularly against socialist opponents of identity-based politics. The SEP warned that any group constituted on the basis of nationality, race or identity could use the judgement in Bolt's case to suppress ideas and opinions it found offensive.

In other words, defence of the fundamental democratic right to free speech could not be carried out selectively, according to whether or not one agreed or disagreed with the views being propagated. Such opportunism invariably strengthened the hand of political reaction.

Now in government, the Coalition proposes to amend the Act. It wants to raise the bar for a conviction, by restricting the definition of racial vilification and broadening the basis for seeking an exemption. Before preparing the legislation, the Coalition invited public submissions on its proposed amendments. The overwhelming majority of these have opposed the changes on the grounds that they will open the way for hate speech and attacks on ethnic minorities.

Section 18C currently outlaws any public act that "is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people" on the basis of their race, colour or national or ethnic origin. The proposed amendments would remove the terms "offend," "insult" and "humiliate" and narrowly define "intimidate" to mean "cause fear of physical harm" to people or property. It also adds "vilify," but limits it to mean to "incite hatred."

The amended version also raises the bar on what constitutes a breach of the Act. The basis for any judgment would be "determined by the standards of an ordinary reasonable member of the Australian community, not by the standards of any particular group within the Australian community."

At present, the current section 18D provides exemptions, on the grounds of public debate and free expression, for "anything said or done reasonably and in good faith." The government's amendments allow for broader exemptions by removing the requirement that any such discussion or communication be reasonable and in good faith. The changes would likely exclude convictions such as that of Bolt—the

government's chief goal.

The claim made by Attorney-General George Brandis and other government spokesmen that they have been driven by concerns to defend "freedom of speech" is a lie.

As is widely recognised, their real motivation is to provide a green light for the inflammatory rantings of various Abbott backers in the media—Andrew Bolt in Victoria and NSW radio "shock jock" Alan Jones in particular—who continually seek to stoke prejudice against ethnic minorities. Among other provocations, Jones is notorious for his role in creating the conditions for the Cronulla riots against Lebanese youth in 2005.

But that does not mean that those hostile to the government's agenda should support the campaign organised by the Labor Party, the Greens, ethnic and legal organisations, together with the various pseudo-left groups, demanding the retention of the present Act.

The major objective of their campaign is to sow the illusion that the capitalist state—its courts, laws and repressive apparatus—is the guardian of democratic rights.

Principled socialist politics insists that the defence of democratic rights, including the fight against all forms of racism, is inseparably bound up with the independent political mobilisation of the working class in the struggle for socialism. It can never be ceded to the capitalist state, which is the very body responsible for promoting racial politics in the first place. Every attempt to subordinate the working class to the state is aimed at politically weakening it by undermining the development of class consciousness.

The lessons of historical experience underscore that this is not a matter of conjecture, but of the historical record.

In Germany, in the dying days of the Weimar Republic in the 1930s, the German Social Democratic Party, which enjoyed the support of powerful sections of the working class, insisted that the ever-growing Nazi threat had to be countered by appeals to the state, its laws, police and judiciary.

The terrible price for this program was paid by the German and international working class when the Nazis were handed the reins of power in January 1933 by the very "democratic" state to which the SPD leadership had appealed.

Based on the lessons of this bitter experience, Leon Trotsky later explained that it was necessary to oppose all measures that strengthened the capitalist state "even those measures that for the moment cause temporary unpleasantness for the fascists."

The promotion of the "democratic" state of the Weimar Republic ended in tragedy. Likewise, claims made by Labor, the Greens and various indigenous and ethnic-based organisations that the present legislation will defend Aboriginal and other communities are a cruel hoax.

The Australian capitalist state, founded on the extermination of the indigenous population and the promulgation of White Australia, is not a bulwark against racism, vilification and hate speech. Rather, throughout its history it has been the chief source of racial oppression and violence, as the desperate poverty that continues to afflict wide sections of the Aboriginal population and the ongoing brutal treatment of refugees testifies.

In defence of its democratic rights, the working class must prosecute a struggle against all forms of xenophobia, nationalism, racism and communalism. But it must do so independently of and in opposition to the capitalist state.

It is on this basis that the SEP opposes both the Abbott government's proposed changes to the Racial Discrimination Act and the Labor-Green-led campaign to retain the existing legislation.