



# Andrew Bolt and Freedom of Speech

Institute of Public Affairs  
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 **Institute of  
Public Affairs**  
*Free people, free society*

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**James Allan gave this speech at the Institute of Public Affairs in Melbourne as part of a panel discussion on Freedom of Speech in Australia and the controversial Melbourne columnist Andrew Bolt.**

The gist of my remarks were that the fight for free speech and the liberty to speak up on public issues - issues not excluding who we want to receive affirmative action or group rights-type benefits that attach only to a special few in society - is a fight that will never go away. As former US president Andrew Jackson put it, "eternal vigilance is the price of liberty".

And those who attended were not just supporting Bolt but freedom of speech and of liberty more generally. Because let me blunt. In my view this Racial Discrimination Act, the part amended by the Racial Vilification Act that gives us section 18C and in some circumstances makes hurting someone else's feelings, is awful.

Think about it. Someone's subjective sense of being offended or humiliated has been made determinative of whether an unlawful act has been committed, subject to a few exemptions in section 18D.

That's a terrible statutory provision. It ought to be repealed. Now. Yes, a judge may, perhaps, find the exemptions apply. Yes, there is some wiggle room. But even forcing someone to have to litigate constitutes a massive chilling effect on free speech. Let's face it. Not everyone has Bolt's cojones (and I know that may not have been the most felicitous way of putting the point). And not everyone has the resources of a big employer to back this sort of egregious litigation. These provisions create a sort of half-baked right not to be offended, a big mistake in my view.

So the fault lies with the legislature for passing these statutory provisions, not with the judges who have to interpret them. This is politically correct, pandering, group rights-inspired legislation.

The only sort of free speech that matters is the sort that offends some people somewhere. In a situation where all is agreement and harmony and people sitting in circles, holding hands, and singing Kumbaya, the concept of liberty and free speech does nothing. You will never have to fight for it meaning a freedom only to act or speak within the bounds of agreed opinion, good taste and proper decorum just isn't valuable. It doesn't carry with it any obvious good consequences.

The threat to our freedom of speech in the West today does not come from some Soviet-style secret police. No, it comes from turf-protecting bureaucrats who find themselves all of a sudden in the human rights game; it comes from people who want to create a right not to be offended.

Or at least not to be offended about the things that matter to them, because almost all the sorts of people who like the legislation being deployed against Bolt would be horrified to think that those in the US who are offended by the burning of the American flag ought to be able to prosecute the burners for their offended sensibilities. So what they really want is a

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right not to be offended, as long as it's the sort of things a good chardonnay-sipping member of the progressive elite ought to be offended about, nothing else.

But plain and simple that's a mistake. The only kind of free speech worth anything is the kind that leads to speech that offends people. And I say that knowing full well that none of us can be absolutists and there will always have to be some limits on speech, against counselling murder, say, or detailing how to make biological weapons.

But we ought to want as much scope as possible for people in a democracy to speak their minds. And precluding people from having and expressing an opinion on the problems with self-identifying as an indigenous person, or on who ought to be able to benefit from positive discrimination laws, well that's ridiculously inhibiting of free speech in my view.

I think that in any well-functioning democracy it is incumbent on all citizens to grow a thick skin. If you're offended, tell us why the speaker is wrong. Tell us why he or she is misguided or has defective moral antennae. Don't go to court and seek a court-ordered apology, or orders prohibiting publication of views you find offensive, or some two-bit judicial declaration.

And as a legislator under no circumstances pass statutes that allow for the creation of this mutant, half-baked right not to be offended. The very fact that people can be dragged through the courts - whatever the ultimate outcome - has a massive chilling effect on free speech. I know it. You know it. And our legislators ought to know it too, and do something about repealing this terrible piece of legislation.

At the end of the day those of us who want a considerable amount of scope for people to speak their minds are the optimists. We're the ones who are in the tradition of John Stuart Mill.

Recall the main ground that Mill gave for preferring very few limits indeed on what people can say. It was a consequentialist ground or justification. Leave people almost always free to speak as they like and in the ensuing battle of ideas truth will out, or in less hopeful terms, it is more likely to emerge than if people are silenced and issues are resolved by self-styled human rights experts or government appointees.

So for the benefit of getting at truth and true assertions we override hurt feelings, we ignore offended sensibilities, we discount the possibility of outright lies being spread, and we choose not to have our legislation accord with the world view of grievance industry mongers. Short of obvious, concrete, unavoidable harm to others, we let speech alone.

And underlying that rationale for lots of scope to speak our minds is a clear optimism about truth emerging in the tussle of ideas and ultimately an optimism about the views of the ordinary voter in a democracy.

In my opinion too many of the people who push these speech-limiting laws have simply lost faith in the views and beliefs of their fellow citizens. They have even lost a bit of faith in democracy itself.

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Theirs is not the optimistic position. Ours is.

We are the citizens of one of the world's oldest and greatest democracies; we are not a collection of victims too offended to muster up the resources to reply on our own behalf when we disagree with others.

It is a badge of honour to live in a society that protects differences of opinion, including ones with which we vehemently disagree.

Which was why I was so delighted to have been asked to speak last night in Melbourne.