

INQUIRY INTO RACIAL VILIFICATION LAW IN NSW

Name: Mr Anthony Pang CPA, JP, MHA

Date received: 20/03/2013

Anthony Pang CPA, JP, MIIA

The Hon. David Clarke MLC

Chair, NSW Legislative Council of NSW Standing Committee on Law and Justice
Inquiry into the current Racial Vilification Law in NSW

Dear Sir,

Inquiry into the current Racial Vilification Law in NSW

I would like congratulate the Government for taking the courage and initiative of reviewing the current Racial and Vilification Law. Having arrived here a young student since the 1960s, I have experienced and witnessed many incidents of racial abuse in various guises. In short the current NSW Anti Discrimination Act is incapable of protecting the citizens of NSW against Racial Harassment and physical/mental abuse.

In a modern Multicultural society there is a need for legislation to be effective and efficient in dealing with people who harbour racial hatred. As a basic human right, citizens of NSW should be able to expect the Government to protect its citizens from undesirable elements within the State. Far too often these harmful and hurtful behaviours to people in our society have been ignored and overlooked due to deficiencies of the current Vilification Laws. I firmly believe the current NSW vilification laws are ineffective in dealing with a modern multiracial society. Media/political personalities like Alan Jones, John Laws, Pauline Hanson and the late Ron Casey have been getting away with overt or cover racial slurs, on the pretext of "freedom of speech" in written or oral forms. These people who commands and influence the public, can incite hatred against ordinary law abiding citizens. The manipulation of racial suspicions and fear within our society should be checked. The question arises: What is wrong with the existing NSW Vilification Laws? The obvious rationale is that the current provisions of the NSW law are inadequate of dealing with racialism because the onus of proof is too difficult and the inaction of the Government' representatives in prosecuting offenders. As a result citizens continued to be discriminated.

As a community leader I have a vested interest in ensuring NSW citizens are protected for the following reasons.

1) John Laws Remarks on 1 March 2011 on 2SM:

*"And I hate to say it, it was a woman driver, and it was **an Asian woman driver** and she was from one lane to the other, I think she was putting on lipply or mascara or something, which is a bit of a waste of time if **you're Asian because you haven't got too many eyebrows to put the mascara on...** I remember **my friend Ron Casey** ... he was **taken off the air from 2KY for a week** because he said the problem with **Asian drivers was they didn't have any peripheral vision**, and of course if you look at the **shape of the eyes of Asian people he may well have a fact**. I don't know that it's ever been proved, maybe we should ring an eye specialist and ask is that true."*

Link to video clip: <http://www.abc.net.au/mediawatch/transcripts/s3157338.htm>)

As the NSW Anti Discrimination Act (ADA) is far from adequate, the Chinese Australian Forum (CAF), took this case up with ACMA and wrote to The Managing Director Mr Bill Carallis of 2 SM on the 4 July 2011 expressing concerns and disapproval of John Laws comments. A formal complaint was also lodged with ACMA but never successfully settled as ACMA's jurisdiction was limited.

The above case against John Laws of 2SM is not the first. In 2004 a complaint was lodged against John Laws and Steve Price by Mr Gary Burns after a discussion about gay couple on the TV program "The Block".

See Document – A 1

2) 2SM Presenter, Mr Grant Goldman

Another case that involves 2SM was that on the 24 March 2010, the morning announcer Mr Grant Goldman, as identified, by the caller, made offensive and blatantly racial remarks against the citizen of Chinese descent. This "dehumanisation" of people of Asian descent is unacceptable in a modern multicultural society.

(See Attachment Document A 2- letter to ACMA)

The above 2 cases certainly seem to demonstrate the followings:

- Weakness at top management of the Radio Station
- Lack of governance training
- Racist announcers
- Weakness of Authority such as ACMA

The reason CAF did not file complaints with ADT is because from past experience, the Authority's power has proven to be inadequate. The ADA test requires the vilification act to be "extremely serious" before it is unlawful.

For your information Transcript of recording (John Laws & Grant Goldman) can be found in the attached USB.

3) CAF's Survey on Impact of Pauline Hanson's speech

During the height of Pauline Hanson's infamous speech about Asian, The Chinese Australian Forum (CAF) conducted a survey through the largest and most popular Chinese Newspapers " Sing Tao" to assess how Chinese Australian citizens were affected before and after Hanson's outcry. CAF received over **1000 responses** from the Chinese Community from all over Australia. The comments were that Australian Chinese were physically assaulted, verbally abused, tomatoes being thrown at them, and many were spat upon, etc. These responses indicated that before Hanson's speech these incidents were not happening but the abuses and negative public behavior towards Asian people came in strong and fast after Hanson's speech. Whilst the method of the survey may not be perfect, it certainly indicated that racialism is "well alive". I strongly believe the Hanson 's racial comments had a grave impact on citizens to the extent that it incited physical and verbal abuses on law abiding Chinese Australians.

Following these outburst, a member of our committee (Dr Choy Wan Yeow) wrote to the then member Mr. Alan Cadman (former Member for Mitchell and Chief Government Whip) who forwarded to our past Prime Minister John Howard. (See documents B to E are attached for your perusal)

Doc B- Article in "Sing Tao" Papers -Racial Abuse Survey (Pauline Hanson)

Doc C –Survey Form

Doc D- Letter to the than MP Alan Cadman from Dr. Wan Yeow

Doc E- Reply from former Prime Minister John Howard

Our then CAF President Dr Thiam Ang appeared on Sydney Radio Station 2UE where " Stan the Man" questioned and ridiculed him. In addition Dr Thiam also appeared on TV Morning Show " To- Day" to address and highlight the incidents and the responses from the Chinese community.

4) Pauline Hanson's Impact on Singapore Military Personnel

During the time when Ms Hanson was a public figure, the Singapore troops stationed in Townsville were physically attacked. This was reported by the papers. Mr. Winston Chew, the then Singapore Ambassador who told me that he had formally lodged a complaint with the Federal Government.

5) Personal experience

I, too, was physically assaulted on a bus, during the height of Pauline Hanson, when an old man sitting next to me on a bus in George St, Chinatown deliberately and viciously elbowed me in my ribs as he was getting up and told me "go back where you come from Chinaman". This was without warning or provocation, as I had not been in any communication with this man. It was such a shock that I practically did not know how to respond.

6) ZG Case Asian school children at Excelsior Public School, Castle Hill

The ZG Case involved 3 school children who were students of Excelsior Primary School. In 1999, an Australian of Chinese descent, (referred in case as ZG) complained of discrimination on behalf of his 3 sons, aged 7, 9 and 10, claiming they were subjected to multiples of direct and indirect discrimination. Despite lodging complaint with the Principal, discrimination continued. The "boys" were called "Ching Chong Chinaman", "I'm going to kill you" "We hate the Chinese and Asians". On the 29 October 1999, during the height of Pauline Hanson, ZG took the case up with Anti Discrimination Tribunal (ADT). On 1 April 2004, the President of ADB referred the ZG case to the Tribunal, naming the Director General of the Education Department as the respondent. The decision was handed down on 12 May 2006 wherein the Department was to compensate the ZG family \$6000 for economic loss, hurt and humiliation. The Tribunal found the remarks offensive and racist. However, the Department appealed and had the decision overturned.

ZG then took the case further to the Supreme Court but lost

Doc F- Letter to the Premier NSW Barry O'Farrell

7) Korean Child at Kahibah Public School

Similarly, the deficiency of the Act was found in a case, in 2003, concerning Ms “FR”, a child of Korean descent adopted as an infant by her parents FP and FQ . Ms FR experienced taunting and spitting at Kahibah Public School and racially based bullying at Charlestown South Public school.

8) Bashing of Indian and Chinese Students

The various highly publicized racial abuses on Indian and Chinese students in NSW which prompted the government to take a series of formal measures. Assurances to their government that actions have been implemented to prevent such occurrences. The recent one that come to my memory was the train assault on Chinese students at Hurstville, which prompted the NSW Government to launched a media release to calm the overseas students. In this case the 4-6 youths who robbed and physically attacked the Chinese students were arrested and charged. Some of these racially inclined attacks resulted in several death and injuries in NSW and Victoria. I understand the overseas student education sector , over all, contributes \$18+ bil to our economy. It creates work for businesses and employment for fellow Australians. Education is Australia third largest exporter. It was most unfortunate that some section of the media used terms such as “curry bashing”, a derogatory term. I recently interviewed several overseas students on my radio program FM993 and was told each student spent \$100K a year in Australia.

9) 2005 Cronulla Riot

The 2005 Cronulla riot against people of Middle Eastern of people through SMS lead to damages to properties and physical harm to NSW citizens. Politicians of major political parties have provided leadership by condemning the Cronulla racial riots violence by local youths stirring racial hatred and violence in the streets. The incidents including inflammatory remarks by radio announcers received world wide coverage and Australia was identified as an intolerant and violent nation. This took years to heal the damages and trust done to various communities and to improve better understanding between the local residents and the Moslem youths from neighboring suburbs.

10) Hammer bashing in Sydney Chinatown

Shortly after Pauline Hanson entry to the Federal Government and following many of her racially inciting speeches, a Chinese Australian elderly lady was physically attacked by a Caucasian woman with a hammer while she was in a ladies toilet in the Burlington Centre Building situated in Sydney Chinatown. Fortunately she yelled and was saved by the owner of the Butcher shop who rushed out to rescue her. The butcher shop owner was honored by the Chinese Australian Forum at one of its events attended by many politicians.

11) Electronic Media & Use of Internet

Lastly, I am concerned about the messages I get from email, internet, SMS, etc. Some of these messages are very offensive in that they could incite violence to a particular group of people belonging to a specific religion or race. The good example is the riot that took place in Cronulla where the instigators from both sides were involved in sending SMS and the other is the Egyptian "Arab Spring" uprising.

One of the most impressive initiatives undertaken by the Western Australian Government is the strengthening of the Vilification Laws. In that, it is the only State in Australia that has a strictly criminal code, following a spate of firebombing of Chinese Restaurants by the racist Neo-Nazi organization. The introduction of a tougher legislation managed to secure criminal conviction of the racially inclined perpetrators. I believe, this new vilification law has a direct correlation with the decrease in racial oriented incidents that contributed to a safer environment for the Western Australian Citizens. This is something the current review committee should consider.

It is my understanding that under the current ADA legislation, the President of ADT has only 28 days upon receipt of a complaint to refer to the Attorney General who, if in agreement, may refer to the Director of Public Prosecutions (DPP) to again determine if legal proceedings should proceed. The procedures seem to involve too many layers of "red tapes". In short if the AG is not in agreement to proceed with a precaution then the case is referred back to the President of ADT. I believe this process should be simplified.

I wonder how many cases have gone through this "maze like" process? I cannot recall having read or heard of any case that has gone through this process. According to Sean Nicholls' editorial (SMH 13 Jan 2013) "there has been no successful criminal prosecution in the history of NSW laws and that the laws have fallen out of step with community expectations." Mr. Nicholls further added "The vilification laws have been in place since 1989. According to figures supplied by the NSW Anti Discrimination Board, 27 complaints have been referred by the Board for

criminal prosecutions since 1998-the period for which records are available. Yet none were prosecuted”

Mr Nicholl’s statement is of concern to me.

Are there any review undertaken with regard to the Vilification Law and what have been done to date? I believe, a review was done in 1999 (see attachment) and 161 recommendations were made to strengthen the legislation, however, to date, I believe, nothing has been done.

In conclusion, I wish the Law and Justice Standing Committee on the Inquiry into the Vilification Law the best of luck and hopefully take this rare opportunity to amend and/ or re drafting the Anti Discrimination Act to protect the NSW citizen and prevent individuals from intentionally or recklessly inciting racial hatred or harass law abiding NSW citizens. This will involve reviewing the provisions of the ADA, in particular Section 4, 19, 20, 88, the lessons from the Western Australian Model which has been very successful and to simplify the Vilification Law making it easier to prosecute offenders and to finally sent a clear signal that there is no place for racialism in a modern Multicultural NSW society . We should be tapping on the benefits from diversity.

I have also included letter of agreement and support from Chinese Australian Services Society (CASS), the largest East Asian Welfare Group in regard to my submission to the Inquiry into the NSW Racial Vilification Law. (see Doc G)

.Anthony Pang CPA, JP, MIIM
7 March 2013

Director, Chinese Australian Services Society (CASS)
Past President, Institute of Internal Audit
Past President, Chinese Australian Forum
Member of the NSW Bar Professional Conduct Committee