

‘Freedom of Expression, Censorship and Race Relations’

An important balance between Rights for writers

Speech by Tom Calma, National Race Discrimination Commissioner and Aboriginal and Torres Strait Islander Social Justice Commissioner

“Denied a Voice”
International Day of the Imprisoned Writer

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Ladies and gentlemen.

I would like to begin by acknowledging and paying my respects to the Kaurna people, the traditional owners of the land on which we stand today.

I would also like to acknowledge Lindy Warrell and Tony Brooks, the Hon John Hill, the Hon John von Doussa QC, President of HREOC, and all the writers who are sharing with us their readings, and to thank Adelaide PEN for inviting me to speak on this very important occasion.

As the national Race Discrimination Commissioner my role is to promote and monitor compliance with the federal Racial Discrimination Act. This includes monitoring racism, conducting research and developing education programs to combat racism in all its forms. The recognition and protection of diversity, and cultural and religious rights is an important part of what we do.

Balancing the right to ***freedom of speech*** against the right to **be free from racial abuse and hatred** is a difficult and complex task. Likewise, finding a legal balance between censorship and the right to freedom of expression and human rights is equally complex, and we often find ourselves walking the thin wire dividing both.

The federal Human Rights and Equal Opportunity Act provides limited recognition of the right to freedom of expression as set out in article 19 of the International Convention on Civil and Political Rights (the ICCPR).

Freedom of expression according to article 19 (2) of the ICCPR includes the “freedom to seek, receive and impart information and ideas of all kinds... either, orally, in writing or in print, in the form of art, or any other media...” freedom of expression therefore can enhance democracy and human rights.

For instance, it enables human rights defenders, including writers, to reveal and critique corruption, injustice, inequality and oppression. Freedom of expression however, may be exercised irresponsibly, and unlawfully.

Under the federal Racial Discrimination Act it is unlawful to offend, insult, humiliate or intimidate people because of their race, colour, national origin, ethnic origin or descent, if that act is done in public. This is just one of many limitations on freedom of expression under human rights law. Indeed, under Australian and international human rights law freedom of expression is not an absolute right.

However, it is important to remember that these two fundamental rights - the right to freedom of

expression and the right to freedom from racial vilification - do not trump each other. The Racial Discrimination Act seeks to balance these two rights by providing a number of exceptions to the prohibition on race hate speech. These include artistic work such as a play, academic work and debates which are in the public interest, permitting a range of public policy issues to be debated (such as multiculturalism), media reports which are fair and accurate and fair comment or opinion on matters of public interest, enabling media to report on public issues provided it is done so without malice.

We know that extreme expressions of racial hatred can generate fear preventing people from living normal lives. As Race Discrimination Commissioner I find such incidents abhorrent and counter-productive to the creation of an inclusive and thriving democracy.

But equally abhorrent are government-imposed prohibitions on freedom of speech. At the more extreme end are regimes which have imposed draconian censorship laws that allow for the imprisonment, detention, torture, death or silencing of individuals for exercising their right to freedom of expression through their writing.

There are many examples throughout history, and throughout the world, where writers have suffered human rights violations simply for exercising their right to freedom of expression.

For example, during WW2, under the Nazi regime, in countries such as Norway, strict censorship was put in place making listening to radio or producing, reading or disseminating newspapers not controlled by the Nazi's, punishable by death.

Numerous other examples exist of imprisoned, banned, detained, censored or murdered people because of their writing, with the most recent notable example being Anna Politkovskaya who was shot dead in Moscow last month because of her writing on the war in Chechnya.

Of course, people do not have to be detained or killed to be silenced. Censorship and banning of publications occurs regularly throughout many countries, including Australia. While for the most part such censorship may be seen to serve a legitimate purpose, even in Australia we must guard against a climate of repression of ideas and genuine public debate.

For some writers, writing is a freedom. For others it's the only freedom. Imposed censorship or self-censorship, I have been told by a writer friend, is like putting a straight jacket on the mind and the heart. You don't have to be in prison to feel imprisoned or isolated.

We must protect our freedom to write, and work to protect the freedoms of writers across the world, whilst at the same time being aware of our other responsibilities to ensure that people are not vilified because of their race, culture or religious belief.

Today we commemorate and remember those imprisoned, detained or isolated women writers, all over the world, including those who have died for their right to freely express their views and feelings. Today we honour their courage in revealing truths and for opposing the suppression of freedom of expression. But while we commemorate, we mourn writers like Anna, we mourn what censorship can kill – the loss of words that may never be expressed, the silenced voices that may never be heard, and the loss of truth that may never be revealed.

In 2004 the Commission awarded Australia PEN centres with the community services award as part of the annual human rights awards. They were awarded in recognition for the particular contribution of the writers in detention committee, the first committee of its kind ever formed. So while we commemorate and we mourn, we congratulate and encourage international and Australia pen for being such powerful tools for positive change and for giving voices to those denied.

'Empty chairs' are being used at PEN centre events to represent imprisoned and detained writers. Let us hope we don't see anymore 'empty chairs' and that both the rights and responsibilities of freedom of expression are upheld by both individuals and states all over the world. Let us also hope that writers all over the world are never denied a voice.

Thank you.