



## Racial vilification laws: the *Bolt* case from a State perspective

by Gareth Griffith

### 1 Introduction

On 28 September 2011 Justice Bromberg handed down his judgment in *Eatock v Bolt* [2011] FCA 1103 (the *Bolt* case). Journalist Andrew Bolt was found to have contravened s 18C of the Commonwealth *Racial Discrimination Act 1975*.

The judgement has given rise to considerable debate. For George Brandis, the federal Shadow Attorney-General, one consequence is that: "it is clear that freedom of political expression in Australia is subject to a significant new constraint".<sup>1</sup> Conversely, David Marr wrote in the immediate aftermath of the judgment; "Freedom of speech is not at stake here. Judge Mordecai Bromberg is not telling the media what we can say or where we can poke our noses. He's attacking lousy journalism".<sup>2</sup>

The broad facts behind the case were set out by Karl Quinn, writing in the *SMH*:

Ms [Pat] Eatock initiated her claim that Bolt had committed a breach of the Racial Discrimination Act last September. She claimed that two articles he wrote for the *Herald Sun* and two blogs published on the paper's website, in 2009, implied

that she was not really Aboriginal, that she had identified as Aboriginal for career, political or financial gain, and that in so doing she had deprived more worthy "genuine" Aborigines access to assistance. In October, Ms Eatock was joined in her action by eight others also named in the articles.<sup>3</sup>

### 2 Vilification laws in Australia

With the exception of the Northern Territory, all Australian jurisdictions have introduced racial vilification laws. In the States and the ACT, this is in addition to a range of other vilification laws, as set out in the table below.<sup>4</sup>

	ACT	NSW	Qld	SA	Tas	Vic	WA
<b>Race</b>	√+	√+	√+	√+	√	√+	√-
<b>Homo-sexuality/ Sexual Orientation/ Sexuality</b>	√+	√+	√+		√		
<b>Trans-sexuality/ Gender Identity</b>	√+	√+	√+				
<b>Religion</b>			√+		√	√+	
<b>HIV/AIDS</b>	√+	√+					
<b>Disability</b>					√		

#### Key

- √+ Unlawful conduct; criminal conduct if serious.
- √ Unlawful conduct only – the subject of complaint.
- √- Criminal conduct only.

### 3 Racial Vilification Laws in Australia

The current racial vilification laws in Australia are set out in the following table:<sup>5</sup>

	Statute	Key sections	In force
<b>NSW</b>	Anti-Discrimination Act 1977	20C-20D	1989
<b>ACT</b>	Discrimination Act 1991	66-67	1991
<b>C'th</b>	Racial Discrimination Act 1975	18C-18D	1995
<b>SA</b>	Racial Vilification Act 1996 Civil Liability Act 1936	3-6 73	1996
<b>Tas</b>	Anti-Discrimination Act 1998	19	1998
<b>Qld</b>	Anti-Discrimination Act 1991	124A 131A	2001
<b>Vic</b>	Racial and Religious Tolerance Act 2001	7-12 24-25	2002
<b>WA</b>	Criminal Code 1913	77-80H	1990 (revised 2004)

### 4 Commonwealth racial vilification law

Twenty years after the Act was first passed, Part 11A headed "Prohibition of offensive behaviour based on racial hatred" was inserted into the *Commonwealth Racial Discrimination Act 1975*.

Section 18C(1) makes it unlawful for a person to do an act "otherwise than in private", if:

- (a) The act is reasonably likely, in all the circumstances, to offend, insult, humiliate, or intimidate another person or a group of people; and
- (b) the act is done because of race, colour or national or ethnic origin of the other person or of some or all of the people in the group.

Section 18B is a deeming provision which provides that if one reason for the doing of an act was "the race, colour or national or ethnic origin of a person", then for the purposes of Part 11A, that will be deemed to be the reason for which the act was done, "whether or not it is the dominant reason or a substantial reason for doing the act".

Guidance as to what is meant by "otherwise than in private" is provided by s 18C(2). Most relevant to the *Bolt* case, an act is taken not to be done in private if it "causes words, sounds, images or writing to be communicated to the public".

According to the [Australian Human Rights Commission](#):

The complainant is responsible for proving that the act was done in public, that it was done because of his or her ethnicity and that it was reasonably likely to offend, insult, humiliate or intimidate a reasonable person of that ethnicity.

Exemptions are provided under s 18D. In particular, s 18D(c) provides that s 18C does not render unlawful anything said or done "reasonably and in good faith" in making or publishing:

- (i) a fair and accurate report of any event or matter of public interest; or
- (ii) a fair comment on any event or matter of public interest if the comment is an expression of a genuine belief held by the person making the comment.

In respect to this exemption, the [Australian Human Rights Commission](#) comments that it gives the media "considerable scope" by permitting "fair and accurate reporting on any matter of public interest". The

exception is said to allow "editorial opinions and the like, providing they are published without malice". It is further [explained](#) that:

The respondent is responsible for establishing that the act is covered by one of the exceptions and that it was done reasonably and in good faith.

Under s 18E employers may be held vicariously liable for acts done by their employees or agents; while s 18F provides for the concurrent operation of State and Territory laws. Part 11A does not therefore purport to "cover the field" in respect to racial vilification law in Australia.

## 5 Racial vilification laws in the States and Territories

**NSW:** In 1989 NSW became the first State to introduce racial vilification laws, by the insertion of Part 2, Division 3A (ss 20B-20D) into the *Racial Discrimination Act 1977*. Section 20C(1) makes it unlawful for a person:

by a public act, to incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race of the person or members of the group.

The word "race" is defined broadly under the Act to include "colour, nationality, descent and ethnic, ethno-religious or national origin".<sup>6</sup>

Various exemptions are created under s 20C(2). In particular, by s 20C(2)(a) and (c) respectively, nothing in s 20C(1) renders unlawful "a fair report of a public act" or:

a public act, done reasonably and in good faith, for academic, artistic, scientific or research purposes or for

other purposes in the public interest, including discussion or debate about and expositions of any act or matter.

By s 20D, the 1989 amendment also created a criminal offence for inciting hatred, contempt or severe ridicule towards a person or group on the grounds of race by threatening physical harm (towards people or their property) or inciting others to threaten such harm.<sup>7</sup> With the impact on freedom of speech in mind, Dan Meagher has observed that:

Criminal liability is attracted only with the presence of an aggravating factor – the threat to do violence to person or property or inciting another to do so.<sup>8</sup>

Prosecution of the offence of serious vilification requires consent from the Attorney-General. An offence has not yet been prosecuted under this law.<sup>9</sup>

This is the "NSW model", as it has been called, which is followed with certain variations in most other States and the ACT.<sup>10</sup>

**Victoria:** In broad terms s 7 ("Racial vilification unlawful") and s 24 ("Offence of serious racial vilification") under Victoria's [Racial and Religious Tolerance Act 2001](#) follow the "NSW model". One difference is that, whereas the NSW legislation requires that the prohibited conduct must involve a "public act", the Victorian approach is to create an exemption for "private conduct". Thus, conduct which would otherwise amount to vilification is exempted from liability only if the defendant can establish, on objective grounds, that it was intended to be private.

By s 7(1), a person is prohibited from engaging in certain conduct – that, on the ground of race, "incites hatred

against, serious contempt for, or revulsion or severe ridicule of" a person or class of persons. The phrase "engage in conduct" is defined to include a single or a series of acts occurring "in or outside Victoria". A note to the legislation adds that the phrase also includes "use of the internet or e-mail to publish or transmit statements or other material".

**Tasmania:** Both racial and religious vilification is covered under s 19 of the *Anti-Discrimination Act 1998*. This is a civil provision only, with no criminal penalties imposed.<sup>11</sup>

**Western Australia:** Conversely, in WA only criminal racial vilification provisions apply, introduced originally in 1990 and amended in 2004. Writing of the original 1990 provisions, the Tasmanian Law Reform Institute commented:

The first set of provisions, introduced in 1990, was specifically drafted to address the activities of the Australian Nationalist Movement (ANM), a neo-Nazi organisation led by Jack Van Tongeren. During the 1980s, the ANM was responsible for a number of fire-bombings of Asian restaurants. They also defaced Jewish Synagogues and businesses owned by Jews and produced posters that racially vilified Jewish and Asian Australians and called for their expulsion from Australia. Because of the typical activities of the ANM, which included the production of anti-Semitic and anti-Asian posters and other forms of graffiti, the legislation only targeted written or pictorial racist communication. Despite being drafted to counter the activities of this particular group, only one member of the ANM was convicted under these provisions.<sup>12</sup>

The current expanded provisions under the 2004 amendments to the [Criminal Code](#) are set out in ss 77-80H.

## 6 The Commonwealth and States/Territories laws compared

As outlined by Neil Rees, Katherine Kindsay and Simon Rice in *Australian anti-discrimination law: text, cases and materials*, at least three issues of difference arise for interpretation between the Commonwealth and State models:

- The impact of the conduct in question;
- The perspective from which that conduct is viewed and the impact assessed; and
- The causal link between the respondent's conduct and the race of the target person or group.<sup>13</sup>

### 6.1 The impact of the conduct in question

Different language is used to describe the requisite impact of the relevant conduct. The Commonwealth Act stipulates that the conduct must generate a response that would "*offend, insult, humiliate or intimidate*" another person or group of persons. Under the NSW Act, the conduct in question must "*incite hatred towards, serious contempt for or severe ridicule*" of another person or group of persons. Rees et al comment that what is called the "harm threshold" is far lower under the Commonwealth Act it is under the "NSW model".

### 6.2 The perspective from which that conduct is viewed and the impact assessed

According to Rees et al, a reason for the difference in the "harm threshold"

may stem from the fact the Commonwealth Act requires the impact of the conduct in question to be gauged from the perspective of a hypothetical reasonable member of the victim group, whereas the NSW model requires that the impact of the conduct in question be measured from the perspective of the ordinary, reasonable member of the community. The federal Act therefore is concerned with the emotional response engendered in a member of the victim group by the act in question, whereas the "NSW model" is:

concerned with the emotional response to members of the victim group by ordinary members of the community as a result of the act in question. It is this ordinary, reasonable member of the community, and not a hypothetical reasonable member of the target group, who must be incited to feel hatred towards, serious contempt for, or severe ridicule of others on the ground of their race because of the respondent's conduct.<sup>14</sup>

The same issue is discussed by Darryn Jensen,<sup>15</sup> in an article which deals with the *Bolt* case and the differences between federal and Victorian vilification laws. Jensen writes:

The Commonwealth Act seems to consider the likely effect of the conduct upon the person or group of people at whom the conduct is directed. In other words, the focus of the "wrong" is upon the victim or victims. The Victorian Act considers the effect that the conduct is likely to have upon other people – that is, whether other people might be led to despise the people referred to by the relevant words or actions....The critical question is whether the conduct would encourage the relevant

emotions on the part of the audience to which it is directed.

In the [summary](#) to the *Bolt* case, Justice Bromberg commented in respect to the Commonwealth legislation:

Whether conduct is reasonably likely to offend, insult, humiliate or intimidate a group of people calls for an objective assessment of the likely reaction of those people. I have concluded that the assessment is to be made by reference to an ordinary and reasonable member of the group of people concerned and the values and circumstances of those people. General community standards are relevant but only to an extent. Tolerance of the views of others may be expected in a multicultural society, including from those persons who are the subject of racially based conduct.<sup>16</sup>

### **6.3 The causal link between the respondent's conduct and the race of the target person or group**

Rees et al explain that, under the "NSW model" it is not necessary to prove a causal link between the respondent's reasons for doing the act in question and the race of the target person or group. Rather, the tribunal which hears the case must determine, objectively, whether the ordinary, reasonable member of the community would have been incited to feel hatred, serious contempt, or severe ridicule of the victim, or his or her racial group, because of that person's or group's race.

Under the federal Act, however, it must be shown, following an objective evaluation, that the race of the target person or group was one of the defendant's reasons for performing the act in question. In the *Bolt* case the

court had to address the question whether Bolt's comments about the persons named in the publications were made *because* of their race or colour.

#### 6.4 In summary

Following Rees et al again, while the causation requirement is easier to meet under the NSW model, the "harm threshold" under the Commonwealth Act is "considerably lower" than under its State counterpart, with the result that "it will usually be easier for an applicant to succeed at least in relation to the issue of impact, in litigation conducted under the Commonwealth Act rather than under the legislation which follows the 'NSW model'". Rees et al go on to conclude that:

when viewed overall the range of conduct which is prohibited by the Commonwealth race hatred legislation appears to be much broader than that which is prohibited by State and Territory racial vilification which follow the "NSW model".<sup>17</sup>

Which begs the question why the Commonwealth racial vilification law opted to ignore the "NSW model", passed six years before the federal *Racial Discrimination Act* was amended? One reason may be that the Commonwealth drafters opted instead for consistency with the 1992 "sexual harassment" amendments to the federal *Sex Discrimination Act*.<sup>18</sup>

### 7 The Bolt case

Justice Bromberg's [summary](#) can be used to set out the basic facts and findings in the Bolt case.

**Facts:** The complaint of Pat Eatock and her fellow applicants related to two newspaper articles written by Andrew Bolt and published by the Herald &

Weekly Times (the second respondent in the case) in the *Herald Sun* newspaper and on that paper's online site. She also complained about two blog articles written by Bolt and published by the Herald & Weekly Times on the *Herald Sun* website.

The applicants complained that the articles conveyed offensive messages about fair-skinned Aboriginal people, by saying that they were not genuinely Aboriginal and were pretending to be Aboriginal so they could access benefits that are available to Aboriginal people. The applicants claimed this contravened s 18C of the *Racial Discrimination Act* (Cth).

***The elements the applicants had to prove?*** To succeed, Ms Eatock had to establish:

- It was reasonably likely that fair-skinned Aboriginal people (or some of them) were offended, insulted, humiliated or intimidated by the conduct; and
- That the conduct was done by Andrew Bolt and the Herald & Weekly Times, including because of the race, colour or ethnic origin of fair-skinned Aboriginal people.

***The respondents' arguments in reply.*** In part, it was argued that, even if those elements were proved, the conduct would find exemption under the "fair comment" limb of s 18D. According to Justice Bromberg, "It is a provision which, broadly speaking, seeks to balance the objectives of s 18C with the need to protect justifiable freedom of expression". He went on to explain that, while Part 11A of the federal Act is designed to protect against racial hatred, it is

also concerned to protect the fundamental right of freedom of expression. Freedom of expression is an essential component of a tolerant and pluralistic democracy. Section 18D of the Racial Discrimination Act exempts from being unlawful, offensive conduct based on race, where that conduct meets the requirements of section 18D and may therefore be regarded as a justifiable exercise of freedom of expression. In that way, Part IIA seeks to find a balance between freedom of expression and freedom from racial prejudice and intolerance based on race.

**Test – perspective from which conduct viewed:** As noted, the question whether the conduct at issue was "reasonably likely to offend..." was to be judged objectively by reference "to an ordinary and reasonable member of the group of people concerned and the values and circumstances of those people".

Applying this test, Bromberg J found that he was "satisfied that fair-skinned Aboriginal people (or some of them) were reasonably likely, in all the circumstances, to have been offended, insulted, humiliated or intimidated by the imputations conveyed by the newspaper articles".<sup>19</sup>

**Test – the causal nexus:** Bromberg J further concluded that a causal nexus was established between the acts in question and the applicants' race. In effect, Bolt's comments about the persons named in the newspaper articles were made *because* of their race or colour.<sup>20</sup> The same causal nexus was established in relation to the publication of the articles by the Herald & Weekly Times.<sup>21</sup>

In reaching this conclusion, Bromberg J observed that "People should be free to fully identify with their race without

fear of public disdain or loss of esteem for so identifying".

**Did the freedom of expression exemption apply?**<sup>22</sup> Justice Bromberg's reference was to the bundle of exemptions under s 18D, which require an inquiry into whether the act was done "reasonably and in good faith" in making or publishing:

- (i) a fair and accurate report of any event or matter of public interest; or
- (ii) a fair comment on any event or matter of public interest if the comment is an expression of a genuine belief held by the person making the comment.

The finding was that the exemption did not apply in this case. Bromberg J commented in part:

The reasons for that conclusion have to do with the manner in which the articles were written, including that they contained errors of fact, distortions of the truth and inflammatory and provocative language.

In coming to that view, I have taken into account the possible degree of harm that I regard the conduct involved may have caused. Beyond the hurt and insult involved, I have also found that the conduct was reasonably likely to have an intimidatory effect on some fair-skinned Aboriginal people and in particular young Aboriginal persons or others with vulnerability in relation to their identity.

**Orders:** After Bromberg J had directed the parties to confer on the remedial action to be taken, the *Herald Sun* was ordered to publish two corrective notices within a fortnight, to be published alongside Bolt's regular column. The notices were to set out, in summary, the reasons for the

judgment, including that the articles: "were reasonably likely to offend, insult, humiliate or intimidate some Aboriginal persons of mixed descent who have a fairer, rather than darker, skin and who by a combination of descent, self-identification and communal recognition are and are recognised as Aboriginal persons".<sup>23</sup>

The Herald & Weekly Times has declared it will not appeal against the decision.<sup>24</sup>

## 8 Reactions to the *Bolt* case

Reactions to the *Bolt* case have been many and varied. For example, for Geoff Clark, the former ATSIIC chairman and one of the applicants in the case, declared it to be a "great day",<sup>25</sup> whereas the man at the centre of the controversy, Andrew Bolt, said that "writing frankly about multiculturalism, and especially Aboriginal identity, yesterday became too dangerous for any conservative".<sup>26</sup>

Of the many comments on the *Bolt* case, only another two are discussed here. First, George Brandis, the federal Shadow Attorney-General, said that s 18C of the *Racial Discrimination Act* "has no place in a society that values freedom of expression". He argued (in part):

By making the reasonable likelihood of causing offence or insult the test of unacceptable behaviour, in any political context, section 18C is a grotesque limitation on ordinary political discourse. While some have pointed out the analogy with the limitations on free speech in the defamation laws, the threshold at which speech may be unlawful because it is defamatory is much higher: the traditional formula is that it must be likely to bring the victim into "hatred, ridicule or contempt". There is all the difference in the

world between that standard and making unlawful speech merely because it causes offence.<sup>27</sup>

In his view, if the *Bolt* decision was not overturned on appeal, "the provision in its present form should be repealed".

Commenting on 20 October 2011 on the first corrective notice published in the *Herald Sun*, David Marr cast a critical eye on Andrew Bolt's "martyrdom". He noted that Bolt had not been fined, required to pay damages or "warned off the delicate subject of whites identifying as blacks".

However, on the broader issue of the interpretation of s 18C, Marr was in general agreement with George Brandis, stating:

The anti-vilification provisions of the Racial Discrimination Act used to attack Bolt are drafted far too broadly. They outlaw speech that is merely offensive or insulting. Vigorous public discussion in a free society is impossible without causing insult and offence.<sup>28</sup>

Marr went on to conclude that "short of abolishing these anti-vilification protections entirely, no amendment of the law would have helped the hapless Bolt". But his analysis does not seem to take account of the way in which vilification provisions are drafted in other jurisdictions, under the "NSW model". It is possible that a different outcome could have been reached in the *Bolt* case under that model.

## 9 Commentary on freedom of speech and racial vilification laws

However and wherever formulated – in the context of international treaties, national constitutional or statutory bills of rights, sub-national charters of rights or under the common law – it is a



truism to say that freedom of speech is not and cannot be absolute. Limits apply in a range of contexts, from war time emergency legislation to a prohibition against shouting "Fire" in a crowded theatre", where the justification is in terms of protection from physical harm. The *sub judice* rule operates to protect the administration of justice, whereas the law of defamation operates to protect reputation. The prohibition against child pornography is another case in point, where the protection of minors is at issue.

Racial vilification laws are a relatively new feature of this legal landscape, a culmination of the evolving post-1945 abhorrence of the casual (and not so casual) racism of the earlier period, on one side, and of the growing complexity of Australia's multi-ethnic society, on the other. Where civil penalties are imposed they can be characterised as limiting freedom of speech to protect against forms of expression which are culturally unacceptable, although the non-physical harm that might be caused by "hate speech" may be another factor in the debate. Where criminal penalties apply, there is also the threat of physical harm to persons or property.

In the *Bolt* case, Justice Bromberg discussed in detail the contrasting objectives of the federal *Racial Discrimination Act*, its balancing of freedom of expression against the promotion and protection of tolerance for racial and ethnic diversity. The rights and wrongs of the *Bolt* case aside, the question is whether the Commonwealth Act, with its conceptual armoury based on offence, insult, humiliation and intimidation, gets that balance right?

The same question might be asked of those racial vilification laws in the States and the ACT based on the "NSW model". In that case, however, the answer would have to take account of the different and more stringent harm test that applies, based on the concepts of incitement to "*hatred, serious contempt for or severe ridicule*" of a person or group of persons.

- <sup>1</sup> G Brandis, "Section 18C has no place in a society that values freedom of expression", [The Australian](#), 30 September 2011, p 12.
- <sup>2</sup> D Marr, "In black and white, Andrew Bolt trifled with the facts", [SMH](#), 29 September 2011, p 11.
- <sup>3</sup> K Quinn, "Bolt unrepentant but slur victims hail victory", [SMH](#), 29 September 2011, p 4.
- <sup>4</sup> This table is based on G Griffith, [Sedition, Incitement and Vilification: Issues in the Current Debate](#), NSW Parliamentary Library Research Service, Briefing Paper 1/2006, p 41.
- <sup>5</sup> This table is updated from L McNamara, *Regulating Racism: Racial Vilification Laws in Australia*, Sydney Institute of Criminology Monograph Series 16, 2002, p 6.
- <sup>6</sup> The meaning of the term "ethno-religious" was discussed in [Briefing Paper 1/2006](#), pp 51-54.
- <sup>7</sup> The maximum penalty is 50 penalty units, 6 months imprisonment or both for individuals, and 100 penalty units for corporations.
- <sup>8</sup> D Meagher, "So far no good: the regulatory failure of criminal racial vilification laws in Australia" (2006) 17 *Public Law Review* 209, p 212.
- <sup>9</sup> Note that a sentence aggravation provision applies in NSW, under s 21A(2)(h) of the *Crimes (Sentencing Procedure) Act 1997*. This would not operate in relation to vilification laws but, rather, in the context of criminal offences relating to assault and the like. It provides: "(2) The aggravating factors to be taken into account in determining the appropriate sentence for an offence are as follows:...(h) the offence was motivated by hatred for or prejudice against a group of people to which the offender believed the victim belonged (such as people of a particular religion, racial or ethnic origin, language, sexual orientation or age, or having a particular disability)...". This provision was applied in [R v Amir El Mostafa](#) [2007] NSWDC 219, a case which

- involved a confrontation between members of the Sunni and Shite Muslim communities in the Sydney suburb of Auburn. Similar provisions apply in the Northern Territory (*Sentencing Act 1995* (NT), s 5(2) read with s 6A(e)) and Victoria (*Sentencing Act 1991*, s 5(2)(daaa)).
- <sup>10</sup> The Queensland, South Australia and the ACT vilification laws essentially mirror the NSW legislation and therefore include both civil and criminal provisions. One difference is that the ACT criminal offence provision (*Discrimination Act 1991*, s 67) expressly requires an element of intentionality and recklessness to be established in the incitement of hatred. The Queensland criminal offence provision (*Anti-Discrimination Act 1991*, s 131A) expressly requires knowledge or recklessness.
- <sup>11</sup> A report in April 2011 by the Tasmanian Law Reform Institute recommended against introducing a criminal offence, but in support of a relevant sentence aggravation provision – *Racial Vilification and Racially Motivated Offences, Final Report No 14*, April 2011.
- <sup>12</sup> *Racial Vilification and Racially Motivated Offences, Final Report No 14*, p 16. In 2007 this remained the only successful criminal prosecution in Australia: K Gelber and A Stone, *Hate Speech and Freedom of Speech in Australia*, The Federation Press 2007, p 8.
- <sup>13</sup> The following commentary is based on Neil Rees, Katherine Kindsay and Simon Rice, *Australian anti-discrimination law: text, cases and materials*, The Federation Press 2008, pp 579-582.
- <sup>14</sup> *Ibid*, p 580.
- <sup>15</sup> D Jensen, "[The battlelines of interpretation in racial vilification laws](#)", *Policy*, Vo 27 No2 Winter 2011.
- <sup>16</sup> Para 15.
- <sup>17</sup> Neil Rees, Katherine Kindsay and Simon Rice, *Australian anti-discrimination law: text, cases and materials*, p 580.
- <sup>18</sup> *Sex Discrimination Act 1984* (Cth), s 28A(1)(b). The key concepts used in this context are "offended, humiliated or intimidated".
- <sup>19</sup> *Eatock v Bolt* [2011] FCA 1103 paras 241-302.
- <sup>20</sup> *Eatock v Bolt* [2011] FCA 1103 paras 303-335.
- <sup>21</sup> No findings were made in relation to the two blog articles [Summary, para 27].
- <sup>22</sup> *Eatock v Bolt* [2011] FCA 1103 paras 336-451.

- <sup>23</sup> N Leys, "HWT order runs with Bolt piece", *The Australian*, 24 October 2011, pp 30-31.
- <sup>24</sup> M Bodey, "Herald Sun will not appeal Bolt case", *The Australian*, 19 October 2011.
- <sup>25</sup> K Quinn, "Bolt unrepentant but slur victims hail victory", *SMH*, 29 September 2011, p 4.
- <sup>26</sup> A Bolt, "Silence now golden on this critical issue", *Daily Telegraph*, 29 September 2011, p 35.
- <sup>27</sup> G Brandis, "Section 18C has no place in a society that values freedom of expression", *The Australian*, 30 September 2011, p 12.
- <sup>28</sup> D Marr, "Bolt's freedom of speech crusade won't right his wrongs", *SMH*, 20 October 2011.

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