Racism: definition, research and laws

What is racism?
In general, racism is a belief that a particular race or ethnicity is inferior or superior to others. Racial discrimination involves any act where a person is treated unfavourably because of their race, nationality, colour, descent or ethnic origin.

Racism may take the form of stereotyping, name calling or insults, negative commentary in the media, speeches at public assemblies, racist graffiti, property damage or abuse on the internet. Racism can also take the form of excluding people from accessing services (directly or indirectly), employment, education or sporting activities.

Racism can occur systemically, as the result of policies, conditions and practices that affect a broad group of people. For example, research shows that systemic racism can result in Aboriginal and Torres Strait Islander students experiencing poorer outcomes in education, or job applicants without Anglo-Saxon names finding it difficult to gain job interviews.

In its most serious form, racism is demonstrated in behaviours and activities that embody race hate, vilification, abuse and violence – particularly experienced by groups who are visibly different because of their cultural or religious dress, their skin colour or their physical appearance.

Ultimately, racism is a tool to gain and maintain power. It is also inextricably linked with socio-economic factors, and frequently reflects underlying inequalities in a society.

Is racism an issue in Australia?
Racism continues to be an issue in Australia.

National data from the 2010 Challenging Racism Project by the University of Western Sydney provided valuable data about the prevalence of racism in Australia today, and attitudes about racism in Australia.

Among other things, this research demonstrated that Aboriginal and Torres Strait Islander peoples continue to experience high levels of racism across a range of areas. In relation to contact with police and housing, their experience of racism was four times that of non-Aboriginal Australians.

The Challenging Racism Project also found that:

- around 85% of respondents believe that racism is a current issue in Australia
- around 20% of respondents have experienced forms of race-hate talk (this includes verbal abuse, name calling, racial slurs and offensive gestures)
- around 11% of respondents identified as having experienced race-based exclusion from workplaces or social activities
- 7% of respondents reported experiencing unfair treatment because of their race
6% of respondents reported that they have experienced physical attacks based on their race.

More recent research indicates a significant increase in racism in the last few years. The Scanlon Foundation’s Mapping Social Cohesion Report (2011) found that in 2010 and 2011 there was a marked increase in reporting racial discrimination. This report also highlighted the lack of community awareness of the issues faced by Aboriginal and Torres Strait Islander peoples in Australia today.

The incidence of racism and racially offensive conduct, and the laws that deal with this behaviour, have been the focus of substantial theoretical research and analysis. See Katherine Gelber, ‘Hate speech in Australia: Emerging questions’ (2005) 28(3) University of New South Wales Law Journal 861.

What is the law in Victoria about racial vilification?

In Australia, there are Commonwealth and state laws that protect people from racial and religious vilification, and other offensive behaviour because of their race.

**Victorian law**

The Racial and Religious Tolerance Act 2001 is a Victorian law that makes it against the law to vilify a person on the grounds of their race or religion. ‘Vilification’ means conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of another person on the ground of their race or religion. Conduct that is likely to vilify a person on the basis of their race or religion includes:

- promoting hatred of a particular race or religious group in newsletter articles or material published on the internet
- publishing baseless allegations that a race or religious group engages in rituals or practices that involve serious criminal activities
- in a public meeting, advocating that the solution to a problem is violence against people of a particular racial group.

In addition to the civil penalties in the Racial and Religious Tolerance Act there are also offence provisions that make it an offence to engage in ‘serious’ vilification of a person or group of people because of their race or religion.

‘Serious vilification’ is conduct that is likely to incite hatred against a person or group of people and is likely to threaten, or incite others to threaten, physical harm towards that other person.

Under the Equal Opportunity Act 2010, it is also against the law to discriminate against a person on the basis of their race, nationality, colour, ethnicity, descent or ancestry.

**Commonwealth law**

The Racial Hatred Act 1995 amended the Racial Discrimination Act 1975 and allows people to complain about publicly offensive or abusive behaviour based on racial hatred.

Section 18C of the Racial Discrimination Act makes it against the law to publicly offend, insult, humiliate or intimidate a person (or group of people) because of their race, colour, or national or ethnic origin.
For the purposes of the Racial Discrimination Act, “in public” is defined as any place to which the public are invited to, or have access to, including shops, streets and workplaces. It also includes words, sounds, images or writing that is communicated to the public, such as through newspapers, brochures, blogs on the internet, TV and radio programs.

Offensive behaviour under the Racial Discrimination Act can be verbal or written. Some examples of unlawful, offensive behaviour include:

- writing racist graffiti in a public place
- making racist speeches at a public rally
- making offensive racist comments in a publication, on TV or on the radio.

The legislation covers all aspects of Australian society and applies to people in many different areas of public life. However, many of the complaints brought under the Racial Hatred Act so far are against the media.

As with other parts of the Racial Discrimination Act civil penalties are available if a complaint is upheld against someone whose behaviour is found to breach the racial hatred provisions.

For further information about the Racial Discrimination Act, including information about how to make a complaint to the Australian Human Rights Commission about racially offensive behaviour or conduct, visit the Australian Human Rights Commission website.