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Australian Human Rights Commission

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Rosalind Croucher (Human Rights President)
Tim Soutphommasane (Race Discrimination Commissioner)
Edward Santow (Human Rights Commissioner)

A Complaint against the Human Rights Commission/Commissioners
(refer Geneva Petition posted on redlegvartists.com)

Contrary to your obligations under the ICERD the HRC has *stood by* while race discrimination protections found in ss 9 & 13 of the **RDA** were dismantled and removed.

Since 6 July 2017, per the decision by Nettle of the HCA, the protections formerly availed by ss 9, 13, & 18 of the **RDA** are no longer of any standing.

The removal of these rights was done with regard to my race discrimination complaint that I originally made to you on 10 June 2014.

EXPLANATION

That complaint was made by myself, Demetrios Vakras, against Robert Cripps/his gallery, Redleg Museum Services P/L (trading under the name "Guildford Lane Gallery").

The respondent, Cripps, categorically denied doing the actions that I complained of to the HRC, notwithstanding that he had testified to the Supreme Court of Victoria

(SCV) to the facts complained of. The HRC then terminated my complaint in August 2014. Termination included.

For your part, the HRC failed your obligations to me under the ICERD, and your obligations arising under s 20 of the **RDA**.

You (the HRC) had an obligation in 2014 to not disregard material I sent you. I supplied you the SCV trial transcripts (pdf sent by email) that showed that the respondent's denial to you was deliberately false and therefore in breach of the AUSTRALIAN HUMAN RIGHTS COMMISSION ACT 1986 - SECT 46PN. In addition I included excerpts from those transcripts in a separate pdf contained in the same email ("full response to cripps racism" pdf included).

The **Evidence Act** is unequivocal: the admissions made in court (to the SCV) by Cripps count against him (s 88), and the submissions made by his counsel (Christopher Dibb) on my use of Greek and that, as others do not share that attribute (the distinction), that Cripps could take adverse action against me (and my co-exhibiter) as a consequence, also count against Cripps (s 87).

Both the respondent, Cripps, and his solicitor "Buddy" Low[1] who was in court when the distinction of me was made, and who made the false submission on behalf of Cripps to the HRC should have been prosecuted by you. The **AHRC Act** demands this.

To remind the HRC, the respondent's 5 August 2014 submission to you was:

> "For the avoidance of any doubt, we state in unequivocal terms that nowhere during the trial of the Proceeding ha[s] this ... issue about the use of the Greek language in Mr Vakras' artwork arise[n]. Our client is dumbfounded as to how such an allegation could now arise."

This false submission was directly contradicted by the transcripts, which I had supplied to you.

Further, that submission was itself contradicted in subsequent submissions (affidavits) made by the respondent to the Federal and Federal Circuit Courts to which I took the matter after you terminated it. (Note, my Application was made specifically to the FCA, but was electronically filed with the FCCA - *at the Registry's over the phone instructions*).

This race discrimination complaint is now progressed. It now lies outside Australia and is before Geneva.

The Geneva Petition can be found on multiple links at www.redlegvartists.com/directory.html

The Geneva Petition arises under the ICCPR, because the full nature of the complaint was never limited to the CERD, nor to me alone with regard to the actions

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[1] Chia Chii Low of Efron Solicitors

of Cripps/Redleg. Further, Geneva does not permit for the "same matter" to be considered by multiple Commissions (ICERD, ICCPR, ICESCR).

RDA INVALIDATED, 6 JULY 2017

On 6 July 2017 Nettle of the High Court delivered a dismissal of my mandamus which I sought against the Federal and Federal Circuit Courts who had failed their jurisdiction per ss 9, 13 and 18 of the **RDA** and in his dismissal Nettle affirmed the abjurement of the **RDA**. This has been met with silence from you.

Nettle's finding is included .

The mandamus (affidavit, summons, submission and application to show cause) is also attached.

Nettle's finding concentrates on "Anshun", disregarding the nature of the mandamus: jurisdictional error. Nettle **deliberately** misaddressed all the matters raised, not just the race discrimination component. Nettle then, on interpolations arising from his misaddressing of the matter, declared the race discrimination complaint an "abuse of process" that had "no prospect of success".

Nettle affirmed the decision made by Burchardt of the FCCA and Davies of the FCA. The judgments by the FCCA of 26/1/2016 and the FCA of 15/8/2016 can be found on Austlii.

Noting that in every submission made to both the FCCA and FCA, that Cripps admitted to the making of the distinction:

Nettle affirmed Burchardt's FCCA 27/1/2016 finding:

(a) That an admission to have made a distinction based on race background "ethnic" origin (etc) does not constitute a breach of ss 9, 13, 18 of the **RDA**;
(b) If a person such as myself, who is of Greek background uses Greek words, a distinction can be made of them because most other Australians do not share this attribute, and on those grounds they can be treated on unequal footing (*s 9 (1) is now invalid*);
(c) If a person such as myself, who is of Greek background uses Greek words written in Greek script, they can be treated on unequal footing if it is deemed they refused to re-write their material in English using Latin characters (*s 9 (1A) is no longer a breach of the* **RDA***, but is now a defence to breaching s 9 (1)*);
(d) Unless a person can prove "actuation" ("anti-Greek bias" in my case, as Burchardt repeatedly stressed), as motivating the distinction, no act of discrimination can be said to have been done, despite prior representations made by Australia to Geneva - ie Barbaro - that acknowledge that the motivation behind the distinction is not required (*motive is now necessary in a race discrimination complaint*);
(e) If a person such as myself, who is of Greek background uses Greek words written in Greek script, then services can be withdrawn or be provided on a lesser standard because of a stated refusal to re-write their material in English using Latin characters (*s 13 is no longer valid*);
(f) That if there are reasons, in addition to the distinction (ie that the essays are written in "convoluted English"), that s 18 no longer applies. The "non-discriminatory" reason subsumes the discrimination.

Further, **Nettle affirmed**:

(a) Davies FCA decision of 15/8/2016 (which denied me leave to appeal the FCCA judgment) and which now permits a judge, without any legal basis, to dismiss a claim of race discrimination arising under ss 9 & 13 because a claimant cannot show that the action complained of would constitute vilification arising under s 18C. Davies' requirement was that **vilification arising under s 18C - which I never claimed -** had to be proven to have occurred in the making of any distinction; and

(b) That unless there is an acknowledgment in a contract to the existence of a protection claimed (race discrimination in this case), there is no moral imperative to do anything not in the contract. This is based on the finding by Emilios Kyrou of the SCV in 20/6/2014 [2] who ruled that because I had used Greek words in Greek script ("foreign words"), Cripps/Redleg had the right to post disclaimers throughout my exhibition as well as a large "WARNING!" as this was not prohibited in the contract and there was no moral imperative for him to do anything beyond what was written into the contract.

Kyrou's 20/6/2014 judgment justifying the ramifications befalling me and my co-exhibitor (Lee-Anne Raymond) because of my use of "foreign words" is now beyond reproach because Nettle affirmed the Federal courts' decisions made with regard to it. And that Keane and Edelman affirmed the Victorian appeal court who had upheld the Kyrou decision that permitted the discrimination of me.

Further, Nettle has ruled to permit an "issue estoppel" to remove:

(a) public rights and duties ***and*** *which can now be applied with regard to*

(b) **facts *which are not issues***.

Nettle affirmed the following:

(a) though the **Evidence Act** at s 91 states that a judgment shall not count as a fact in subsequent cases [3], it now does;

(b) though Common Law has long distinguished "issue" and "fact", and that, per McHugh in "Rogers v R", the same facts that might have been "negatived" in one

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[2] Kyrou's Supreme Court of Victoria (SCV) finding of 20/6/2014 is published on Austlii.

[3] the **Evidence Act** at s 91:
"Evidence of the decision, or of a finding of fact, in an Australian or overseas proceeding is not admissible to prove the existence of a fact that was in issue in that proceeding."

trial can still be used in any subsequent trial with regard to a separate "issue" [4], that this is no longer the case;

(a) though in "Chamberlain" the HCA proclaimed that an issue estoppel cannot be applied against public law that affects rights and responsibilities [5], Nettle has reversed this.

The HRC has *stood by* while Emilios Kyrou's finding was confirmed all the way to the High Court - where now, in place of ss 9, 13 & 18 of the **RDA**, there exists a "right" to make the distinctions based on race etc prohibited by the ICERD.

The HRC had an statutory obligation to uphold the ICERD rather than sit back and watch judges condone racism because these awful people refuse to consider such actions to be racist, no doubt because they themselves are racists.

The fact that I had to pursue the matter in Geneva demonstrates your failure.

You should have had an interest in this matter.
You should have an interest in this matter.
You should have assisted me in this matter. [6]
You still have an obligation to me, whether you act on it or not.

Demetrios Vakras

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[4] Per McHugh J in **Rogers v R [1994] HCA 42** at [7]:
"An issue estoppel can only arise, however, in respect of an ultimate issue in the litigation. No estoppel can arise in
respect of evidentiary issues even when they are the building blocks in the proof of an ultimate issue... In Reg. v. Storey ((124) [1978] HCA 39; (1978) 140 CLR 364 at 424.) Aickin J said: '(I)ssue estoppel applies only to issues. There is no estoppel as to evidentiary facts found in the course of determining an issue. There is nothing to prevent a party, in a later proceeding in relation to a particular issue of fact negatived in the earlier proceeding, tendering evidence of those same facts directed to a different issue.'"

[5] Chamberlain v Deputy Federal Commissioner of Taxation [1988] HCA 21
DEANE, TOOHEY AND GAUDRON (agreed with by BRENNAN)
20. ... Likewise there can be no issue estoppel against the operation of a statute which creates public rights and duties or which enacts imperative provisions: Bradshaw v. M'Mullan (1920) 2 Ir R 412, at pp 425-426; Griffiths v. Davies (1943) KB 618; Kok Hoong v. Leong Cheong Kweng Mines Ltd. (1964) AC 993, at pp 1015-1017.

[6] The judges I have encountered take offence at any suggestion by me, an unrepresented litigant, that the **RDA** does not require motive, that a distinction in breach of the **RDA** is not "undone" by other reasons (s 18), and the judge has made an error because of their failure to understand the statute(s) concerned. The judiciary are venomous in expressing their contempt for "interlopers".