



DISCOVER

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IMPACT



CUTTING THROUGH THE NOISE

In this era of ‘alternative facts’ and ‘fake news’, political scientist Professor Katharine Gelber is working to inform public debate and policymaking with research and evidence that should, importantly, fill in the gaps and gaping voids that sound bites and headlines are unable to fill.

We live in a time when issues are widely and publicly debated. But, often, these public debates are conducted in 140-character messages, 15-second soundbites, or controversial headlines.

Newspapers, television stations and websites are politically aligned with agendas to push, and try to shape public debate to focus the public’s attention on particular topics. Yet despite access to so many sources, we tend to seek out information that aligns with our own views. There is so much noise.

“For democracy to happen, we have to involve ourselves in it,” says Professor Katharine Gelber from UQ’s School of Political Science and International Studies.

Professor Gelber’s area of expertise is freedom of speech and, on the other side of that coin, hate speech. After starting her academic career with an interest in censorship, her work has evolved through human rights to anti-vilification laws. She firmly believes evidence, data and research are integral to public debate. In 2017 she saw firsthand how difficult it can be to cut through the noise.

Weighing in to the debate

At the end of 2016, the federal government instigated a parliamentary inquiry into the operation of the racial anti-vilification sections of the *Racial Discrimination Act 1975* and the operation of the Australian Human Rights Commission in relation to these sections.

One of the questions posed was whether the operation of Part IIA of the *Racial Discrimination Act 1975* (Cth) [(RDA)] imposes unreasonable restrictions upon freedom of speech, and in particular whether, and if so how, ss. 18C and 18D should be reformed.

Since 2009, Professor Gelber had been gathering data both in Australia and internationally about how targeted communities experience racially and religiously motivated abuse. Serendipitously, at the end of 2016, she was publishing the results of a major Australian Research Council-funded study she had completed with Professor Luke McNamara from the University of New South Wales. This study mapped the gaps between the laws and the lived experience of those whom the laws are supposed to protect.

When participating in a public debate about the proposed changes to section 18C, Professor Gelber had a ‘lightbulb moment’. The host of the debate asked the audience who was for changes to 18C, who was against them and who was undecided. About 60 per cent of the audience were undecided. That’s when Professor Gelber realised why she was a participant in that specific debate and, more metaphorically, in the wider public debate.

“My job is to provide evidence. I provide the evidence on which politicians, law-makers and policy writers can build sound policy and robust laws. I have always believed I can make a difference at the policy level. But I also realised that my work provides the evidence for the public to participate in democratic processes in a more informed way.

“But what I noticed was that the level of debate coming from the government demonstrated a real reluctance to engage with the evidence on changes to the wording of section 18C.”

What the evidence shows

The evidence Professor Gelber brought to the table showed the difference between the isolated and discrete incidents of public vilification brought before the courts and the everyday, lived experience of racism in Australia.

The bill the federal government was proposing was to have the words ‘insult’ and ‘offend’ removed from section 18C, citing that including these words in the legislation imposed unreasonable restrictions on freedom of speech.

“Removing these words would send a troubling symbolic message to the communities that section 18C is supposed to protect: that the government feels they should bear the burden of more harm so that others can have free speech.

“Could there be a more wrong message to send at this time in our history?”

The evidence from Professor Gelber’s study of racially and religiously motivated abuse shows:

1. In Australia, experiences of racially and religiously motivated abuse are frequent, and indeed routine, for many Indigenous and ethnic communities.
2. Racially and religiously motivated abuse

takes place in public places, both directly and indirectly.

3. Racially and religiously motivated abuse is not limited to slurs or epithets. The cumulative effects of moderate abuse can be harmful.

4. Racially and religiously motivated abuse covers a wide spectrum of harm.

5. While anti-vilification laws are 'invisible' and inaccessible to most target communities, they are nonetheless symbolically important to these targeted communities.

What the evidence means

In the course of Professor Gelber's research, she has heard numerous accounts of the damage done by racist comments. They can crush people's self-esteem and leave them feeling paralysed, silenced and excluded from the wider community. Racist comments and abuse may also cause people to modify their behaviour, such as avoiding going out in public, being unwilling to identify with their ethnicity in the workplace, or only speaking English in public.

Professor Gelber said plans to amend parts of the Racial Discrimination Act could have had dire consequences.

"If we remove the protections of the anti-vilification law there will be more discrimination every day, on street corners, in public parks, on public transport and in schools.

"It would support those who want a national debate infused with discrimination and those who believe that anything goes in the name of free speech."

Symbolic importance of the law

Professor Gelber's research concludes that although anti-vilification laws may be 'invisible' and largely inaccessible, they are symbolically important to targeted communities.

While most of the people she interviewed from these targeted communities did not even know that anti-vilification laws existed, when the laws were explained to them, they overwhelmingly wanted the existing laws to stand. They said that the laws represent a line in the sand. To them, the laws represent that the government and this country have decided that public debate should be conducted in a way that does not cause harm. So, while no topic is off limits, the government has set a standard about how those topics can be discussed without harming anyone.

"Free speech is really important. However, I also fundamentally believe that some speech is harmful," Professor Gelber said.

Professor Gelber says that, like all rights, the right to freedom of speech carries corresponding responsibilities. One of these is the responsibility to speak 'well', to find a way to express your views without harming others.

"My work tries to reconcile those two views: that free speech must be robustly protected, but that we do need to have limits. At the crux of my work is how do we draw those limits convincingly, logically and clearly."

Professor Gelber believes that the existing Sections 18C and 18D of the Racial Discrimination Act help set those limits.

"Of course, Section 18C alone can't 'fix' the problem of racism that continues to exist in Australia. However, the wording of Section 18C, and the inclusion of exemptions in Section 18D, represent a genuine attempt to set some parameters for civil and respectful communication, and for making a declaration that, as a society, we recognise the human dignity of all, irrespective of colour, ethnicity or country of origin."

In 2017, the Senate rejected the government's proposed changes to Section 18C.

Professor Gelber says that as much as she'd like to, she can't say that the Senate's rejection of changes to 18C was because of her. But she does believe her work is impacting on the broader policy debate about freedom of speech in Australia and internationally.

"Identifying information gaps in this debate has three benefits: firstly, the limits of existing laws can be more precisely assessed; secondly, the data can contribute to broader anti-prejudice strategies in the community; and thirdly, the data helps resources be more appropriately allocated to combat racial, sexual and religiously motivated abuse."

What's next?

Professor Gelber believes that, for now, the government will not seek to further reform federal anti-vilification laws.

"Australians value that we have laws preventing people from being harmed because of their race, religion, ethnicity or sexuality. While people may not be explicitly aware of 18C's existence, they implicitly value its existence."

But the work to inform public policy and debate does not stop here. Professor Gelber is now at the beginning of a new project about free speech online. While seemingly without limits, the topic she has carved out to examine is how to make a distinction between protecting free speech and validly regulating it in the online environment.

Once again, Professor Gelber will attempt to cut through the noise.

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(Image credit: iStock/maniart)

Professor Gelber's story so far:

2011: Is appointed President of the Australian Political Studies Association (currently still a member of the Executive Committee)

2011: Is invited by the United Nations to be the Australian Expert Witness at a regional meeting examining States' compliance with the free speech and racial hatred provisions of international law

2011: Is awarded PEN Keneally Award for community leadership in the promotion of freedom of expression

2011: Is a finalist, Australian Human Rights Awards Literature (Non-fiction) category, for *Speech Matters* (UQ Press, 2011)

2011-2018: Is Chair, Local Organising Committee for the 2018 World Congress of the International Political Science Association, to be held in Brisbane

2012: Presents evidence at a Council of Australian Governments' Review of Counter-Terrorism Laws

2012-2015: Is awarded ARC Future Fellowship, 'Free Speech After 9/11'

2014: Is awarded the Mayer journal article prize, with Professor Luke McNamara, for the best article in the *Australian Journal of Political Science* in 2013

2015: Presents research findings at seminars at the Australian Human Rights Commission and the Queensland Anti-Discrimination Commission

2017: Presents evidence at the Parliamentary Joint Committee on Human Rights' Freedom of Speech Inquiry

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