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AUSTRALIA

Ref: 2030716

Dear Mr Dunkel

Thank you for your letter of 16 April 2012 wherein you present the material facts of my complaint to the commission.

1. However, your narrative of events still keeps me in the dark how you can decide whether a complaint is made by some that activated the RDA while in other instances it is decided it does not.

2. My understanding of your rationale is that if I am aggrieved to hear individuals narrating matters Holocaust, then that narration does not fall under the RDA because it is merely an individual recounting experiences inflicted on them by the 'Nazis'-Germans during World War Two.

3. Surely, when I state that I am aggrieved to hear such stories and counter by saying that after investigating such allegations made by so-called 'survivors' are defamatory of me, my heritage, of the German people generally, then that is also protected speech under the RDA.

4. In both instances the act of narration is done because of a desire to tell a story, and hence in both instances the exemptions of 18C and 18D should then apply as well.

5. Strangely, if a Jew narrates on matters 'Holocaust-Shoah', then that falls under the exemptions but when a non-Jew narrates on the 'Holocaust-Shoah' and contradicts a narrative that contains distortions, omissions, exaggerations and outright lies, then that is labelled 'racist', 'antisemitic', et al. act and gains the protection of the RDA.

6. In this way a certain version of historical narration gains legal protection, much to the detriment of historical truth, and much to the detriment of those who seek such a truth. I am not even going to raise the fact that my human rights have thereby been violated.

7. As you are well aware, in 2002 your president, while she was a judge at the FCA, imposed on me four injunctions:

1. There is serious doubt that the Holocaust occurred;
2. It is unlikely that there were homicidal gas chambers at Auschwitz;
3. Jewish people who are offended by and challenge Holocaust denial are of limited intelligence;
4. Some Jewish people, for improper purposes, including financial gain, have exaggerated the number of Jews killed during World War II and the circumstances in which they were killed.<<

7. 1 By writing **3. Jewish people who are offended by and challenge Holocaust denial are of limited intelligence**, your president has defamed me because I have never stated such a matter, and it would be most unprofessional for me as a teacher to formulate such a sentence. Your president has thus abused my human rights. After all, if you take away my freedom to think and to speak you take away my humanity and you commit a crime against humanity – truth is my defence.

8. I submit from Christine B Miller the following letter for your consideration because it is relevant when you finally decide whether I deserve to have my human right protected under the RDA Section 18C and D when I am aggrieved by hearing Holocaust-Shoah lies, and then not given a right-of-reply but immediately condemned and labelled 'hater', 'Holocaust denier', 'antisemite', 'racist', 'Nazi':

Don't speak ill of your neighbor!
By Christine B. Miller
606 S. Cypress Ave. ● Marshfield, WI 54449, USA
Candidate for the Marshfield, Wisconsin school board

I was born, for better or worse, with a keen sense of justice. In the immaturity of my youth not even Jesus escaped my censoring judicial scrutiny. I thought that Jesus was not always fair, and prone to overstatements. Take the story of Mary and Martha. Jesus entered the house of the two sisters as an honored guest. Martha runs into the kitchen to prepare the food. Mary however just sits at Jesus' feet and listens to what her beloved master has to say. Martha comes complaining to Jesus, asking him to shoo Mary into the kitchen where she, without help is slaving away on his behalf. Martha had my complete sympathy. But what did Jesus reply? "Mary has chosen the better part!"

It took a personal experience which made the scales fall from my eyes. I had come back from a trip to Germany and was eager to share what I had experienced. But nobody was there to listen, everybody being in the kitchen to prepare food for me when I wasn't even hungry. My family tried to satisfy the wants of my body and ignored the wants of my soul. And suddenly I understood. If I felt my real wants ignored how much more should Jesus feel it, he who had a message to impart.

A second saying of Jesus: "Do not speak ill of your neighbor! " I did not misunderstand, but I felt the punishment for ill words was harsh. Then one day, browsing through the stacks of the M. public library I came across George Patton's book War As I Knew It. Here is the momentous passage (p. 266-267), which opened my eyes to the moral weight of Jesus' command:

"It was reported …that a certain number of German troops …had captured a hospital column… The first reports, which came in at night, gave a most horrible account of atrocities, including the murder of all members of the hospital, the raping of all nurses, and the destruction of the ammunition dump.

In this particular case an officer and two enlisted men were killed in the first fighting. Thereafter, the Germans, while helping themselves to trucks and ambulances, which they used for their own transportation in no way molested the doctors, nurses, or enlisted personnel of the hospital… We rounded them up the next day... In all some eight hundred prisoners were taken and probably five hundred killed, as the soldiers were still under the impression that atrocities had been committed."

Jesus in his infinite wisdom knew the power of words. In the beginning were the words, and the words not only caused the death of five hundred German soldiers, but left widows, orphans and young maidens, remaining barren because the young men had been killed. The United States was brought into the First World War against Germany with words -- words of atrocity propaganda. The Unites States again is at war brought about by words directed against another "evil Hitler," namely Saddam Hussein. What do I believe of Saddam Hussein? I believe that Saddam kept a fractious country together with an iron fist (remember Lincoln) and tried to keep within bounds the religious fervor of the Shia sect.

No other people had for so long and so persistently ill words directed against them as the Germans. The predatory pack does not single out the strongest animal of a herd, but the weakest one and that is what Germany has become. What disturbs me most is that the Christian clergy is part of that pack. Is that a sign that the anti-Christ is here, the great deceiver pretending to do good, but bringing death and destruction.

In the book *Im Westen nichts Neues* by Remarque, three German soldiers knowing each other and how honorable they conducted themselves in battle can't understand why the Allies pour buckets of atrocity propaganda over the Germans. In the English translation of Remarque's book,

***All Quiet on the Western Front*, this passage is left out. Is that a hint of a bad conscience, or more lying by omission?**

Accompanying my husband to a meeting in Toronto, Canada years ago, I attended a hearing for Ernst Zündel in front of the Canadian Human Rights Tribunal. The lawyer for the Jewish side, a Mr. Rosen, grilled one of Ernst Zündel's German defense witnesses who was in the Hitler Youth. Mr. Rosen imputed that the witness during these years was indoctrinated with hate for the Jews. The witness replied: "No. we did not talk about Jews." Coming back to his seat Mr. Rosen muttered under his breath: "You are a liar."

My comment: No, the German witness was not a liar. This writer and all the Germans whom I talked to after the war can tell you the same thing. Unlike the Allies we were not inundated with atrocity propaganda against our opponents.

I dare to say it! We Germans who were defeated, raped, plundered, starved and are still relentlessly maligned, especially with a transposed Holocaust, were the better Christians.

9. While I draw on extraneous matters for your consideration here is a 12-year-old Item that came before the predecessor of the Human Rights Commission, the Human Rights and Equal Opportunity Commission – HREOC, the progressed to the FCA. In all instances Mrs Scully did not have legal representation. The Senior Counsel she was up against, Stephen Rothman, is now Justice Rothman. Her human rights were abused but your predecessor, HREOC, and its successor never cared about that – and that speaks for itself:

Holocaust-denier barred from filing court appeal
Henry Benjamin, 22/11/2002

The Australian Federal Court has dismissed Holocaust-denier Olga Scully's application to file an appeal against a September ruling that barred her from distributing racist material.
Justice Kevin Lindgren told the court, in Sydney, that the time-period permitted for Mrs Scully to file her appeal had expired. Saying that, in any event, the appeal would inevitably fail on the substance of its argument, he declined to grant an extension.
The president of the Executive Council of Australian Jewry, Jeremy Jones, commented**:**

"This was her last avenue of appeal and marks the total end of this matter. We will act vigorously on any complaint which we receive should she continue her anti-Semitic activities," he added.

The court was told that Mrs Scully, 59, who lives in Launceston, Tasmania and filed for bankruptcy in July, owed more than 110,000 Australian dollars — £39,000 — in court costs, awarded against her in separate cases which she had lost involving the ECAJ and a Tasmanian newspaper.
In a separate case, an Adelaide-based Holocaust denier, Dr Fredrick Toben, has filed an appeal against a court decision which ordered him to remove revisionist material from his Internet website. The appeal is set to be heard in February of next year.
http://website.thejc.com/home.aspx?AId=14869&ATypeId=1&search=true2&srchstr=Dr%20Fredrick%20Toben&srchtxt=0&srchhead=1&srchauthor=0&srchsandp=0&scsrch=0

10. Finally, Mr Dunkel, permit me to cast a little more light into the 'Dunkel-kammer', as the Germans would say – the dark chamber of human rights by offering you my final submission in form of a long essay that attempts to understand the global political aspect of the human rights ideology – and in support of you further reviewing my 'complaint' against a 'Holocaust-Shoah' survivor. And please note that I emphatically stress that has the person narrating the material been a non-Jew, then I would have also complained; hence the fact that she is a Jew is irrelevant to my quest for truth in history. Unfortunately, such objectivity did not apply to my case when Branson J decided I have to shut up because what I say and write upsets Jews, which is protected speech under the RDA.

I also hereby advise you that I am withdrawing my complaint against our national broadcaster, Australian Broadcasting Corporation – ABC Radio National:

By Dr. Fredrick Töben , **April 15, 2012**

An Australian perspective

1. Human Rights and the Education Crises

During the 1990s it became common in Australia to refer to the phenomenon "Political Correctness" as an opinion-making movement by those who were intolerant of another person's point of view, the self-labeled politically correct being the so-called left-wing, which thus pitted itself against the right-wing in any political debate. That this dialectic divide itself is deceptive is another issue.

Generally it was most marked within the education sector where parents of school-aged children worried what kind of brainwashing their children were receiving in government schools. Likewise, teachers and their radical unions saw their task consisted in de-briefing their students of parental influence. The overarching educational principle under which educators toiled was "excellence and equality." To counteract the contradictions of such a conceptual framework, "diversity" and "choice" were added to the pedagogically mixed brew.

From this flowed two particular educational policies developed during the 1970 that disturbed parents:

1. The teacher unions' claim that it was their task to provide "value-free" and "non-judgmental" education.

2. There is a perceived need for primary school students to be offered sex education. The celebrated term "sexual harassment" began a wave of social unrest, as individuals came to terms that this was the end of "flirting" with the opposite sex. Specifically in sex education it meant that pre-puberty individuals were shown, among other things, how to "put a condom on a model penis" and to regard the term "mother" and "father" as sexist concepts.

As to the first item of providing "value-free" education, I always stress that, as soon as we write and speak, moral judgments are made, and hence the intrinsic importance of open debate on any issue so as to dispel ignorance and to maintain standards.

This, among other factors, such as the Vietnam War and the developing democratisation of drug use, destabilised basic educational outcomes, and at any one time within the various state education departments countless teachers went on stress-related leave; in Victoria it was about 6,000 teachers during 1985.

In so-called western liberal democracies the rhetoric now outstripped physical and perceived reality – as was so common in countries where the Communist/Marxist ideology prevailed. It was during the late 1980 and early 1990s that we witnessed how the Marxist ideology broke down under its own internal contradictions – just as is occurring now in western liberal democracies and their dependent client states elsewhere in the world led by the Anglo-American-Zionist-international debt-finance model of government.

As a reaction to the prevailing closed-minds approach to education a flourishing of private schools began, attempting to retain a framework of instruction that would ensure a basic civilized – moral and enlightened – educational outcome for children.

This educational crisis had become a global affair, and politically it expressed itself in the Soviet Union's demise. Ironically, while the so-called "free and democratic western nations" celebrated this Soviet demise as a victory for its free market/debt finance enslavement model of democracy, the ideological mindset that drove the former Soviet Union began gradually to infected western bureaucracies. Currently this opening up of the minds is most notable in the Peoples Republic of China where the Marxist dogma has all but given way to materialistic self-interest as well as to the embracing of old religious belief systems, such as Buddhism and Christianity.

2. Human Rights and Racial Discrimination

As to the Human Rights movement in Australia, a high point in its legal and political history was the parliamentary adoption of the Racial Discrimination Act (RDA) on 30 October 1975, which was based on the International Convention on the Elimination of all forms of Racial Discrimination.

In January 1969 the International Convention on the Elimination of All Forms of Racial Discrimination had come into force – again – preceded by a European-wide epidemic during the winter of 1968-69 of swastika-painting and other manifestations of anti-Semitic hatred and prejudice. Article 4 stated that all dissemination of ideas based on racial superiority or hatred be punishable by law. The public denial of "crimes against humanity" also became a criminal offence.

Dr. Fredrick Töben

In 1995 the Australian RDA(1975) was augmented in order to, as the then Commonwealth Attorney-General stated, target "behaviour that causes an individual to suffer discrimination," "behaviour which affects not only the individual but the community as a whole" and "conduct that is a pre-condition of racial violence." Interestingly, while the Australian Parliament at Canberra was listening to this speech, there occurred multiple arson attacks on synagogues. With hindsight I can see how such may well have been "insider jobs" to further the political agenda of Jewish interests, which is not at all too far-fetched and fanciful an assertion to make.

A leading social scientist at the time, Dr Max Teichman, commented in a *Herald Sun* article of 7 June 1994:

"…thereby creating an inquisitorial bureaucratic monstrosity. Isi Leibler, president of the Executive Council of Australian Jewry, said on this page last week that he detects the seeds of racist violence in Australia. Most people do not, despite all the hype of sensationalist journalists and a few ethnic spokesmen.

We have 136 ethnic groups here … you would never know this, for most are rarely heard. Perhaps they have been too busy assimilating. … What is to be learned from history is that Australia is one of the most tolerant and peaceful countries in the world, and admired for that. … The lobby pushing the Racial Vilification Bill must know all this. It consists of representatives of the Jews, Greek, Italian and Vietnamese communities.

Whether the last three ethnic groups named are genuinely represented, I cannot say … but this lobby, described as a multicultural mix, is in such fear of racist attacks, slurs or abuse from their fellow Australians as to require the restriction of some of our basic rights, and the deployment of criminal sanctions which we have never had, or envisaged.

Mr Isi Leibler, a leader of the 'multicultural' charge, did say in his keynote address to the recent Yom Hashoa commemoration in Brisbane: 'Intermarriage rates of Jews right across the world are astonishing and communities must take steps to stem the tide (of assimilation) which is fast approaching.'

Really. Obviously if every other group in Australia did the same, we would have a collection of tribes and sects … not assimilation, not multiculturalism, not Australian nationalism.

In my opinion, this is not a voice which should be speaking on behalf of multiculturalism."

3. Human Rights and Legal Persecution

Dr. Fredrick Töben with Director of Adelaide Institute, Mr. Peter Hartung, outside the Federal Court at Adelaide.

The first ethnic group to use the Amended Racial Discrimination Act – RDA – was the Sydney-based "Executive Council of Australian Jewry" under its new leader Jeremy Jones. Through the advent of the Internet, and able overseas assistance in the form of Rabbi Abraham Cooper's Simon Wiesenthal Center, Los Angeles, USA, and a local Queensland paper, in 1995 word soon spread that Adelaide Institute's activities contravened the newly augmented RDA. The especially commissioned Human Rights and Equal Opportunity Commission to circumvent the expensive court system – HREOC, now simply Australian Human Rights Commission – was the ideal vehicle in which to launch the process of legal persecution on Tasmanian Mrs. Olga Scully and Dr. Fredrick Töben of the Adelaide Institute in South Australia.

4. Human Rights and Political Correctness

Jeremy Jones

In the same year as the Australian public had been made aware of the existence of Adelaide Institute, in August 1995 I presented a paper to the Australian College of Educators, a professional teachers' organization, titled "Political Correctness in Our Schools" that I later turned into a book. Therein I trace the madness that is "PC," and the founder of the college, Sir James Darling, wrote this to me at 96 year:

"…all I could say is that it is absurd to think that you can teach people, young or old, good manners by such restrictions. Good manners can come only from the hearts of people who really mind about other people's feelings and adjust what they say in consequence of that … From what I have gathered 'political correctness' sounds to be a childish idiocy and quite wide off the mark of real teaching of good manners."

Dame Leonie Kramer, then Chancellor of *The University of Sydney*, stated:

"Political correctness is intellectual terrorism. The feminists seem to me to be frustrated, perhaps because they have no partners."

To my question about a Western Australian politician who offended a female journalist by threatening to "screw your tits off," Dame Leonie responded that it was not sexist but simply "displays vulgarity and bad manners."

Finally, Professor Emeritus of Psychology, University of London, Dr. H J Eysenck, stated among other things:

"Unfortunately the conditions you describe in your book are very similar to those obtaining in this country, except that now children are appealing to the European Union Court of Justice against their parents and their schools whenever they are subjected to any form of punishment! Soon there will be nothing left to the teacher but to expel the child, and even that is getting very, very difficult. I used to consider myself a liberal, with a small 'l,' but am beginning to wonder!"

When in 2006 I submitted a paper proposal to the ACE National Conference with the title "Political Correctness 1995-2004: A Decade On," it was rejected.

At the 2011 ACE National Conference in Sydney, I specifically attended the session featuring Keynote speaker Catherin Branson, President of Australia's Human Rights Commission. This commission emerged from the Human Rights and Equal Opportunity Commission, before which both Mrs Olga Scully and I appeared from 1996 onwards, charged under the Amended RDA with spreading racial hatred on the grounds that we refuse to believe in the official version of the Holocaust-Shoah narrative.

Branson's talk was feeble and almost infantile in content, focusing on the problem of bullying in schools, and how human rights ought to be taught as a subject in schools. I would have thought a basic course in

Theory of Knowledge, as taught at the International Baccalaureate level, would imbue students with a sound moral/ethical value system, which the human rights ideology does not do, because it premises the victim-perpetrator dialectic – and that is a most damaging thought pattern because it impedes human development and maturity – and it sustains bureaucracies that need a constant flow of victims in order to justify their very existence.

Interestingly, in her talk Branson did not mention anything about a bureaucracy's bullying potential as raised by Dr. Teichman in his above musings.

At question time I was fortunate enough to be handed the microphone. My question, the second and final one of the session, asked Branson where in all such human rights deliberations is the moral virtue of truth and truth-telling to be found.

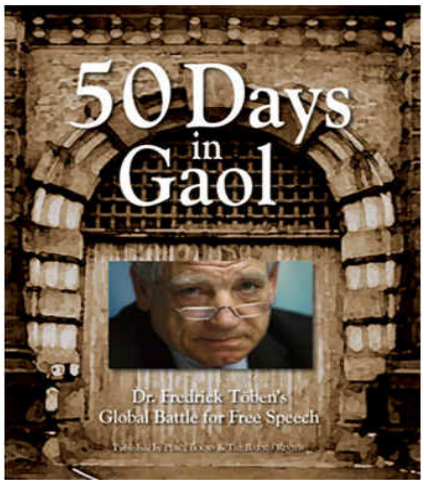
She began with:

"Dr Töben – I assume you are Dr Töben. In your case the Racial Discrimination Act, as enacted by the Parliament of Australia, was implemented ….'

I interrupted her:

"Don't get personal – where is the truth concept at home in your Human Rights deliberations?"

She continued to waffle along and the audience began to feel uncomfortable, not with her response but with my having dared to ask such a fundamental question that she could not answer – or would not answer.



Dr. Töben's book on his experience in a British prison due to a German (at the end unsuccessful) extradition request, *Fifty Days in Gaol*, available from THE BARNES REVIEW for $20.

5. Human Rights and Holocaust Denial

It was also Catherine Branson, the President of Australia's Human Rights Commission, who as a Federal Court of Australia judge on 17 September 2002 gave me the court gag orders that prohibit me from publishing material that conveys the following imputations:

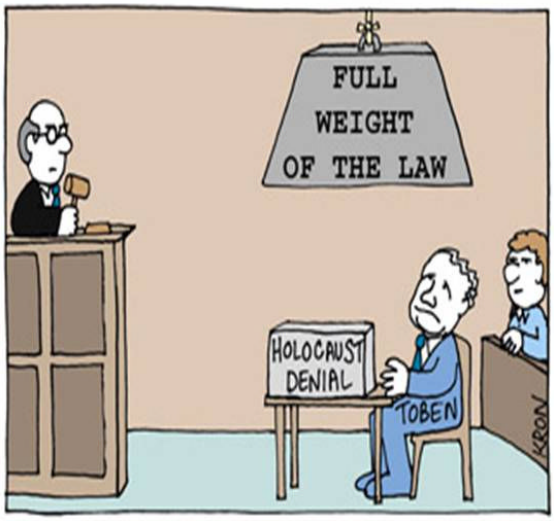
1. There is serious doubt that the Holocaust occurred.
2. It is unlikely that there were homicidal gas chambers in Auschwitz.
3. Jewish people who are offended by and challenge Holocaust denial are of limited intelligence.
4. Some Jewish people for improper purposes, including financial gain, have exaggerated the number of

Jews killed during World War II and the circumstances in which they were killed.

In 1995 the Australian RDA(1975) was augmented in order to, as the then Commonwealth Attorney-General stated, target "behaviour that causes an individual to suffer discrimination," "behaviour which affects not only the individual but the community as a whole" and "conduct that is a pre-condition of racial violence." Interestingly, while the Australian Parliament at Canberra was listening to this speech, there occurred multiple arson attacks on synagogues. With hindsight I can see how such may well have been "insider jobs" to further the political agenda of Jewish interests, which is not at all too far-fetched and fanciful an assertion to make.

Anyone familiar with this Holocaust-Shoah topic knows that, for example, van Pelt and Dwork state clearly in their book *Auschwitz: From 1270 to the present*, that Auschwitz-Stammlager did not contain a homicidal gas chamber that millions of tourists had been shown but was a reconstruction symbolically to represent the homicidal gas chambers that existed at Auschwitz-Birkenau.

Jürgen Graf, Carlo Mattogno and Germar Rudolf proved such matters before van Pelt/Dwork came on to the scene, and were duly punished for it.
Order 3 is a specific Brandon formulation and I, as a teacher, would have resisted making such a comment. My point of view on this matter of intelligence has always been:
"A Holocaust-Shoah believer is either ignorant of the physical facts, a liar or both!"



6. Human Rights, Hurt feelings and Justice
In defamation legislation truth is a defense but in the RDA as propagated by the Human Rights mindset, the fatal legal flaw is that the truth of a matter is irrelevant. I formulated the following: "Do I tell the truth or do I obey the law?" My response is: "I do both!"

What the RDA focuses on is whether a matter before it is likely to offend, insult, etc. Hence, it is justified to regard such human rights legislation as a watered down version of defamation law so as to impose a political ideology that we now refer to as "establishing the New World Order."

In 1996 it was Professor Arthur Butz who in his witness statement on my behalf before the HREOC stated that in all probability I was guilty of an offence because the way the RDA law is framed anything can be considered "offensive."

I recalled a letter Dr. Butz had written decades ago, on 18 November 1979, to the editor of *New Statesman*, London, England, which I reproduce below because its content is still illuminating and highly relevant to any legal persecution of so-called "Holocaust denying" Revisionist historians:
"Dear Sir:
In general Gitta Sereny's few substantive arguments (NS, 2 November) are answered in my book The Hoax of the Twentieth Century. Here I wish to focus on one point that, in view of her remarks, can be profitably developed: supposed 'confessions' of German officials, either at trials or in imprisonment after trials.
The key point is that the objective served by such statements should be presumed to be personal interest rather than historical truth. At a 'trial' some specific thing is to be tried, i.e. the court is supposed to start by treating that thing as an open question.
The 'extermination' allegation has never been at question in any practical sense in any of the relevant trials, and in some it has not been open to question in a formal legal sense. The question was always only personal responsibility in a context in which the extermination allegation was unquestionable. Thus the 'confessions' of Germans, which in all cases sought to deny or mitigate personal responsibility, were merely the only defenses they could present in their circumstances.

This is not exactly 'plea-bargaining,' where there is negotiation between prosecution and defense, but it is related. All it amounts to is presenting a story that was possible for the court to accept. The logical dilemma is inescapable once the defendant resolves to take the 'trial' seriously. To deny the legend was not the way to stay out of jail.

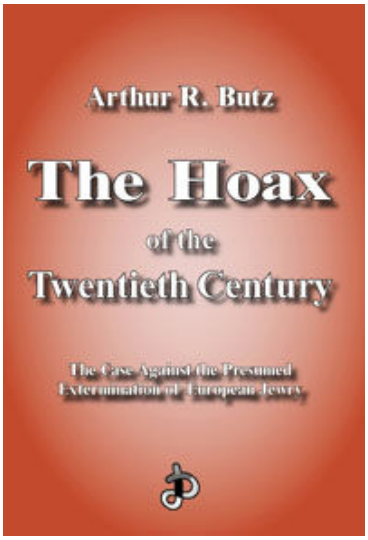
Moreover it is not true, as Sereny implicitly asserts, that this logical dilemma no longer holds when the defendant is serving a life sentence. If he is seeking pardon or parole, he would not try to overturn what has already been decided in court; that is not the way pardon or parole works. For example at the Frankfurt 'Auschwitz trial' of 1963-1965, so monstrous were the supposed deeds of Robert Mulka that many thought his sentence to 14 years at hard labor unduly light. Then, in a denouement that would amaze all who have not studied this subject closely, Mulka was quietly released less than four months later. However, if Mulka had claimed in any plea (as he could have truthfully), either at his trial or afterwards, that there were no exterminations at Auschwitz and that he was in a position to know, then he would have served a full life sentence in the former case and the full fourteen years in the latter, if he lived that long.

It is not widely known, but there have been many such instances – the subject is hard to investigate – Los Angeles Herald Examiner, 2 September 1979, p. E2. In no instance would it have made any sense, in terms of immediate self-interest, to deny the exterminations. That was not the way to get out of jail.

A related point is that it can be quite perilous, to put it mildly, for any German to question the extermination legend. For example Dr Wilhelm Stäglich, who was stationed near Auschwitz in 1944 in an anti-aircraft unit, has published such opinions, and has been subjected to legally formulated persecution ever since. – Die Zeit, 25 May 1979, p. 5. Even I, an American, have been the victim of the official repression in Germany – Frankfurter Allgemeine Zeitung, 16 June 1979, p. 23. There is also the considerable extra-legal repression that e.g. caused Axel Springer, West German 'press czar' and supposedly a powerful man, to withdraw the first edition of Hellmut Diwald's Geschichte der Deutschen, as Sereny mentioned.

We do not need 'confessions' or 'trials' to determine that the bombings of Dresden and Hiroshima, or the reprisal at Lidice following Heydrich's assassination, really took place. Now, the extermination legend does not claim a few instances of homicide, but alleges events continental in geographical scope, of three years in temporal scope, and of several million in scope of victims. How ludicrous, then, is the position of the bearers of the legend, who in the last analysis will attempt to 'prove' such events on the basis of 'confessions' delivered under the fabric of hysteria, censorship, intimidation, persecution and blatant illegality that has been shrouding this subject for 35 years.

I have enclosed photocopies of the referenced documentation for your examination."



Dr. Butz's timeless bestseller, *The Hoax of the Twentieth Century*, available from The Barnes Review for $30

Interestingly, in 1983 the University of Göttingen, Germany, revoked the law doctorate it had conferred on Wilhelm Stäglich during the 1950s, thereby sending out a powerful message to academia not to dabble in matters Holocaust-Shoah. The reason given was that Stäglich's book: *The Auschwitz Myth* discredited academic standards. A year later Butz's book was banned in Canada. Needless to say that Germany has a long list of banned scholarly Holocaust-Shoah books, including Butz's – and that speaks for itself how the inquisitorial witch-hunting mindset is alive and well and how we are again living in a Galileo-recanting period of history.

7. Human Rights and Terrorism

What Arthur Butz stated in the above letter is exemplified by what happened to two Australians caught up in the post 9/11 hysteria – now generally accepted as having been an "insider job" to further the deflection of public attention from the international financial system's massive problems. Even the Weapons of Mass Destruction lie that justified the Anglo-American-Zionist invasion and destruction of the Iraqi infrastructure could not prevent the global financial meltdown by fuelling the war industry with renewed vigour.

When David Hicks was released from Guantanamo Bay he had been the test case the U.S. needed for its military commission that was modelled on the International Military Tribunal's principles. On 26 March 2007, after five and a half years in prison, Hicks pleaded guilty to the charge of "providing material support for terrorism." This guilty plea was also a perceived victory for the Bush administration, and Australia's Prime Minister John Howard, when asked about the Hicks case and his guilty plea, cynically remarked that Hicks had pleaded guilty and that was all there is to it. It was an Australian election year, which also expedited Hicks' return to Australia, but the plea bargain excluded his suing for damages and wrongful imprisonment. Another Australian, Mamdouh Habib, who without charge was suddenly released from Guantanamo and return to Australia, was luckier. In an out-of-court settlement he successfully sued the Australian government for damages. His having also been renditioned in Egypt had made Habib a hardier customer to break down and submit to a plea bargain.

I, too, in my case before the Federal Court of Australia, went for a kind of plea-bargaining that held out that I would not have to pay court costs, and signed an apology and agreed to delete allegedly offending material from the Adelaide Institute website. But then, when I discovered the prosecution's legal team had fed the *Australian Jewish News* details of the consent orders made on 27 November 2007 and published a report over the heading: "Toben gives Holocaust denial apology in court," I unilaterally withdrew my apology – and felt all the better for it.

Mrs. Scully's and my appearance before HREOC pales into insignificance to what the above two-named had to endure during their renditioning and time spent at Guantanamo, but the legal pattern of the applied law is similar – truth as a defense is irrelevant.

Also, the partial defense of sincerity of belief, or of doing things for academic purposes, as claimed by both of us, would never be accepted, because in matters Holocaust-Shoah the Jewish prosecution team – Jones, Rothman, Wertheim, Lewis, *et al.*, – bring the matter before the tribunal. The court, in turn, with a refined argument has as its premise the projection of their own Talmudic-imbued hatred onto those they deem to be their enemy.

The defamation of those who are brought before the courts by such interest groups is legendary with labels such as "hater," "Holocaust denier," "anti-Semite," "racist," "Nazi," "xenophobe," *et al.*, and the compliant media joins in – as we witnessed at the Zündel trials, for example.

The 2000 London Irving-Lipstadt trial had media reports claim Irving is a Holocaust Revisionist, but this is not the case, because he still believes in "limited gassings" having taken place while Revisionists claim the existence of homicidal gas chambers has not been proven.

Last month the High Court of Australia was given for consideration the extradition of alleged "war criminal" Charles Zentai to Hungary where he is alleged to have killed a Jew. Zentai's defense is that the legal concept of war crimes did not exist at the time. Needless to state that behind this action is Dr Ephraim Zuroff, the "legendary Nazi hunter" from the Simon Wiesenthal Center's Jerusalem office. This matter has been going on for years, and this protraction is an indication that Anglo-Australians are resisting Jewish pressure to proxy for them such prosecutions and to have on their books the war crimes allegation. The 1991 Adelaide War Crimes Trials fiasco exposed the injustice and hypocrisy that lies behind such Jewish-inspired actions where state agencies proxy for Jewish self-interest that is falsely dressed up as national interest. It's a dirty business!

Still, I remember such character assassination techniques from my teaching days, and have thus concluded that such normal battle-of-the-wills require individuals of high moral and intellectual courage to cut through such negatively construed arguments. Hence, where truth-telling is not a defense, then lies flourish and we slip into a highly immoral situation, and Mrs. Scully and I both premised our refusal to participate any further in the HREOC hearings on that basic legal flaw.

Unfortunately, when our matter progressed to the Federal Court of Australia (FCA), the RDA still applied and "hurt feelings" still mattered, but interestingly Jeremy Jones never had to prove his "hurt feelings" by having to submit a doctor's certificate for that alleged hurt. In both our cases that determination of whether Jones' feelings were hurt was made by the FCA judges hearing the matter.

8. Human Rights and Free Expression

Both Mrs. Scully and I never managed to begin our proceedings with the basic first legal task in any court case, that of completing our discoveries. We were pushed from the matters of facts stage immediately to the matters of law stage where both of us were up against legal experts.

We could not afford legal representation, and Legal Aid was refused because the matter was not a criminal matter and thus the presiding judges made the determination that we were both guilty of an offence and so ordered us to stop our work, which we as teachers and responsible citizens considered important community work, *i.e.* fulfilling our moral, social and legal duty – to liberate the community from ignorance and reveal the historical truths as we had researched it.

Alan Dershowitz

Thus to this day our overarching principle remains one of free expression, which the USA still has enshrined in its First Amendment. But there are many individuals and interest groups within the USA who wish to water down, if not eliminate, this guaranteed constitutional free expression. Professor Alan Dershowitz, the prime polemicist and Israel First proponent in the USA, has fervently begun to split free expression into free speech and hate speech, thereby in principle watering down one of the fundamentals of adversarial British Common Law and aligning it with European Civil Law where a judge controls the quest for truth.

Dershowitz also realized that Ernst Zündel's Holocaust trials in Toronto, Canada, of 1984-5 and 1988 – which in both instances led to a jury finding Zündel guilty which the Canadian Supreme Court in 1992 overturned on grounds of unconstitutionality – had damaging consequences for the Holocaust-Shoah narrative. Witnesses had their evidence shredded, as defense lawyer Doug Christie grilled them over their fictitious stories.

Even a witness for the prosecution in cross-examination, Professor Raul Hilberg, had to admit that the two written Hitler orders he had mentioned in his book *The Destruction of European Jews* didn't exist. There was no written Hitler order that allegedly began the "extermination process." Only recently the German newspaper *Die Zeit* admitted there never was a Hitler Order but that none was needed, because everyone involved in the 'Holocaust-Shoah' knew what the Führer wanted done to the Jews! Anyone mature enough to know how a bureaucracy functions knows that without a written order there is no activity. The German newspaper's report is attempting to pre-empt German anger, as slowly the truth emerges about those horrendous allegations that Germans are alleged to have perpetrated on Europe's Jews.

Of course, what is also never mentioned in this respect are examples of injustices, for example the fact that on 17 April 1946 Alfred Rosenberg objected before the International Military Tribunal to the German word "*ausrotten*," as used in one of his speeches, being translated as "*exterminate*." For Rosenberg "*ausrotten*" meant mere removal of Jews from specific German territory.

It's like many mistranslations during the IMT's two-year reign of legal terror that served the purpose of discrediting Germany's World War Two endeavours – and in a court case where no appeal is allowed, such proved fatal but fruitful for those who were busy constructing an overarching narrative, which solidified through legal precedent, set it in legal concrete. The continuation of the IMT's legal terror, the USA's Guantanamo Bay operations as an almost exact copy of the IMT procedures, almost succeeded but were finally deemed unconstitutional.

This means that the Nuremberg 1945-46 IMT's findings can be re-visited without having also to undo another precedent-setting system of justice.

9. Human Rights, the United Nations, and Free Expression

The 1966 United Nations International Covenant on Civil and Political Rights contains Article 19, wherein it guarantees Freedom of Opinion and Expression. This right is limited by Article 20 that prohibits any form of expressed national, racial, religious hatred.

From a cursory glance at these two articles I would safely conclude that the Holocaust-Shoah narrative is indeed an expression of German-Nazi hatred, and I do not accept the argument that the term "Nazi" does not equate with German. But were I to launch an action before the Human Rights Commission or in the FCA, then I would not see myself obtaining a favourable finding – not yet. Then again, I have said elsewhere, I don't sue, I'm not a Jew, which is supposedly an offensive "racist and anti-Semitic" thing to say!

As to the United Nation's role in propagating human rights for all, an interesting development occurred a year ago when the UN Human Rights Commission met during 11-29 July 2011 for its 102nd session at Geneva, Switzerland (**see here for some background info**). What appeared in the advanced unedited version of General Comment No. 34 dated 21 July 2011 only recently became widely known and inspired hope in some that many European nations will now have to rescind their anti-Revisionist legislation. The committee is made up of eminent persons that attempt to influence the global community wrestling with the implementation of human rights.

The entire document can be downloaded here from the **UN Office of Human Rights.** Subsequently I will quote only the most interesting sections:

9. … No person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual, perceived or supposed opinions. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature. It is incompatible with paragraph 1 to criminalise the holding of an opinion.[emphasis added and here reference is made to **Faurisson v. France, No. 550/93**]. The harassment, intimidation or stigmatisation of a person, including arrest, detention, trial or imprisonment for reasons of the opinions they may hold, constitutes a violation of article19, paragraph 1.

10. Any form of effort to coerce the holding or not holding of any opinion is prohibited. Freedom to express one's opinion necessarily includes freedom not to express one's opinion.

11. …This right … embraces even expression that may be regarded as deeply offensive – [emphasis added], although such expression may be restricted in accordance with the provisions of article 19, paragraph 3 and article 20. …

28. The first of the legitimate grounds for restriction listed in paragraph 3 is that of respect for the rights or reputations of others…

33. Restrictions must be "necessary" for a legitimate purpose…

47. Defamation laws must be crafted with care to ensure that they comply with paragraph 3, and that they do not serve, in practice, to stifle freedom of expression. All such laws, in particular penal defamation laws, should include such defenses as the defense of truth…

48. Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant [emphasis added], except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant…

49. Laws that penalise the expression of opinions about historical facts [reference here to So called "memory-laws," see **Faurisson v. France, No. 550/93.**] are incompatible with the obligations that the Covenant imposes on States parties in relation to the respect for freedom of opinion and expression. The Covenant does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events. Restrictions on the right of freedom of opinion should never be imposed and, with regard to freedom of expression they should not go beyond what is permitted in paragraph 3 or required under article 20.

10. United Nations Human Rights and Holocaust-Shoah Revisionism

The above sounds encouraging for Revisionists, especially in the Civil Law countries of Europe where, for example in Germany and Austria, so-called 'Holocaust denial' prosecutions are still effected with an iron fist. For example, Horst Mahler in Germany faces another 11 years in jail and Wolfgang Fröhlich in Austria another 5 years, among others. These are individuals who are still set on bringing historical narratives in accord with the historical facts – and who will not recant their beliefs!

However, against this latest Human Rights Committee statement, in particular § 49, stands its 1996 communication in the case of **Revisionist scholar Dr. Robert Faurisson vs. France**, which was submitted by Faurisson to the Committee on 2 January 1993.

Here is a brief summary of the Committee's decision to reject the Faurisson submission.

In May 1990 the French parliament amended the 1881 Freedom of the Press Law with the hastily conceived Gayssot Act by the then President of the National Assembly, L. Fabius and his Interior Minister, P. Joxe. This was after the Jewish cemetery at Carpentras, Vaucluse, was vandalised on 10 May 1990.

We had a similar incident during the 1990s Adelaide War Crimes Trials where the Adelaide West Terrace Cemetery was vandalised – not only the already dilapidated Jewish section but also the clean and well-cared-for Catholic section. This created an international incident where immediately city, state and federal authorities placated the shouters of "anti-Semitism" in Adelaide by giving financial support for repairing the headstones damaged, although it later transpired that the incident had been committed by a non-political individual high on drugs but who had been wearing the Springer boots, a certain sign for some of his allegiance to Nazi groups.

The French argument is that such a law is necessary in order to fight the rise of anti-Semitism, which is expressed in "Holocaust denial," which is claimed to be a "contemporary expression of racism and anti-

Semitism." Holocaust denial is also a direct challenge to the validity of the Nuremberg Trials' judgments, and it unlawfully attacks the reputation and the memory of the victims of Nazism.

Dr. Robert Faurisson

On 14 July 1990 Faurisson was convicted not on grounds of expressing an opinion but because his utterances deny a historical reality universally recognized. This allegedly threatens public order, morals and social cohesion and tarnishes the memory of the victims of Nazism.

Faurisson's responses are classic Revisionists arguments that cannot be met by those who propagate the official version of the Holocaust-Shoah narrative:

"There is no denial but merely a challenge to the 'universally recognized reality.'

I have excellent reasons not to believe in the policy of extermination of Jews or in the magic gas chambers … I wish to see that 100 per cent of the French citizens realize that the myth of the gas chambers is a dishonest fabrication.

… No one will have me admit that two plus two make five, that the earth is flat or that the Nuremberg trial was infallible. I have excellent reasons not to believe in this policy of extermination of Jews or in the magic gas chamber …

I would wish to see that 100 per cent of all French citizens realize that the myth of the gas chambers is a dishonest fabrication, endorsed by the victorious powers of Nuremberg in 1945-46 and officialized on 14 July 1990 by the current French Government with the approval of the Court historians."

Faurisson's statements are pitted against the French State's claim:

"The denial of the Holocaust by authors who qualify themselves as revisionists could only be qualified as an expression of racism and the principle vehicle of anti-Semitism … the denial of the genocide of the Jews during World War Two fuels debates of a profoundly anti-Semitic character, since it accuses the Jews of having fabricated themselves the myth of their extermination."

Think of the 9/11 tragedy and how thinking individuals cannot accept the overarching narrative offered by the U.S. government, *i.e*. that a bunch of Arabic-speaking Muslims did the job. As with the Holocaust gassing narrative, the physical facts speak against the correctness – truthfulness – of that narrative. An assertion that this was an "insider job" is more plausible, especially when we regard the event as needed to replace the disintegrating dialectic of east vs. west – Communism vs. capitalism/democracy, as the Soviet Union disintegrated in 1991. The new global political dialectic is now U.S.-led "liberal democracy/freedom and democracy/predatory capitalism/consumerism vs. international terrorism/Muslim world."

11. Human Rights and Natural Justice: No Right-of-Reply

Faurisson claimed he had no choice but to contest the official narrative of events surrounding the Auschwitz concentration camp because there was no Hitler Order for extermination, no homicidal gas chambers at Auschwitz, and any historian interested in facts MUST challenge this official version of events.

The Human Rights Committee agreed with Faurisson that in general he had a right to say this because of the involved free expression principle, but he also thereby violated the rights and reputation of others. Thus because the Gayssot Act's aim is to fight racism and anti-Semitism, and because denial of the Holocaust-Shoah is the principle vehicle for anti-Semitism, the restrictions placed on Faurisson are justifiable. His comments strengthens anti-Semitic feelings, which is a justification within the meaning of Article 19(3) of the Covenant as well as Article 20.

Although paragraph 47 of Comment No. 34 requires that "defense of truth" must be allowed, that apparently does not apply when banned statements about the Holocaust-Shoah are concerned. In fact, any attempts at discovering the truth in such proceedings are turned against the defendant.

For instance, particular comments submitted by Faurisson to the Committee were read not as a defense but as a further example of his offence, much as Mrs. Scully's and my defense statements were regarded by the FCA judges as evidence of us committing a further offence.
Such thinking reached absurd heights in German courts where a defense counsel could not vigorously defend his client on account of fearing personal indictment, as occurred to Ludwig Bock during the Deckert trial at Mannheim in the 1990s. In Germany, if you submit evidence in support of your defense or in "defense of truth," then you are actually aggravating your situation by risking yet another indictment and trial for re-offending. There is in Germany no "defense of truth" against an arraignment under Section 130 of the German Criminal Code.
The Human Rights Commission has now addressed this in its Paragraph 49 where a footnote reference is made to "Memory Laws" citing the Faurisson case. The Committee now reasons that it is a matter of balancing the rights of an individual to free expression with that of the (Jewish) community's right to protection (from scrutiny and criticism).
In his 1993 defense before the U.S. Human Rights Commission Faurisson used expressions such as "particularly Jewish historians," "magic gas chamber," "the myth of the gas chambers," "dirty trick," "the sinister and dishonorable judicial masquerade of Nuremberg." With this, he is said to have singled out Jews and allegedly implied that Jews concocted the story of gas chambers for their own purposes.
The Committee held that by doing so Faurisson's freedom of expression and research were justly limited by the Gayssot Act, because his expressed views did not meet the Proportionality Test. In fact, Faurisson's above comments during the proceedings augmented this deficiency, because they underscored Faurisson's intent, and exemplified his will, to incite anti-Semitism.
Under the legal principle of the Proportionality Test a person's right to be unmolested and unthreatened by allegedly racist or anti-Semitic statements needs to be safeguarded as well. It was then held that Faurisson's denial of historical facts is an anti-Semitic act that incites anti-Semitism and that the French judgment against him is thereby in conformity with Article 20(2) of the Covenant.
It is similar with the European Convention on Human Rights and Fundamental Freedoms. Its articles 10 and 17 are comparable with UN Articles 19(3) and 20(2), as it is under Canadian law. Of course the Committee's decision in effect imposes on the world a Judaeo-Holocaust worldview through its Human Rights legislation, something that is a legal scandal of the highest order because it turns historical truths and experience/hurt feelings into a legislative dogma.
The Committee's overall conclusion thus is one of supporting censorship of matters Holocaust-Shoah. In its own words, the imposition of the "restriction by the Gayssot Act was necessary for securing respect for the rights and interests of the Jewish community to live in a society with full human dignity and free from an atmosphere of anti-Semitism."
Hence, the **recent scrapping in France of the law that banned the denial of the 1917 Armenian genocide** did not extend to the Gayssot Law, because that law is legally "necessary and proportional," thereby securing an unchallenged Jewish-determined narrative of matters Holocaust-Shoah, never mind the distortions, fabrications and outright lies which it contains.

12. Conclusion

Michael O'Flaherty, a UN representative, praising the work of the UN Human Rights commission.

As a member of the Committee explained in a video posted online, the Committee's detailed comments aim not to establish new laws but seek to explain to interested parties, such as nations, lawyers and human rights activists, the legal implications the Human Rights Convention has on any legal frameworks. However, it is quite clear that the United Nations limit free expression because of Jewish self-interests

and endorses the orthodox Jewish version of the history of the Second World War, which is a legal outrage, not to mention the moral dilemma it poses for Revisionists and other truth-seekers.

The new UN Human Rights Commission's General Comment on Freedom of Expression, which took two years to negotiate, is of value only if it improves the human rights of all, and this includes the lot of so-called "Holocaust deniers."

The only light I can see emerging from the Commission's "Comment 34" is the reference to so-called "Memory Laws," which "dictate how the past has to be referred to and what version of history may be propagated. It is admitted that in extreme forms 'Memory Laws' are in violation of Article 19."

Only time will tell whether legal sophistry will actually undermine the thrust of the UN Human Rights Commission's latest comment and give way to those whose hypocrisy knows no bounds.

I personally worry about the basic thrust of human rights legislation, because it does not operate on a basic universal truth principle. Truth is the foundation principle of our civilization. If, for example, an engineer constructs a bridge and during this process fabricates and falsifies data, then in time the structure will collapse. So, too, it is if a society loses the concept of truth as a foundation stone.

How this mindset derives from the Talmudic-Marxist mindset where truth is considered to be a social construct, an opportunistic instrument with which dialectically to win an argument and by implication to encourage outright lying, will be revealed as nation states attempt to grapple with this directive.

In this respect it will be interesting to watch how the Jewish state of Israel, the only "democracy" in the Middle East, handles its countless human rights violations by justifying the ethnic cleansing/extermination of the Palestinian people and the advocacy of attacking the Islamic Republic of Iran with reference to the Holocaust-Shoah, as did its prime Minister recently.

This incessant use of the Holocaust-Shoah as a propaganda weapon for the racist state of Israel has become notable within the past couple of months at the same time as the Anglo-American-Zionist financial war machine's hyped rhetoric prepares to attack Iran.

For a while to come I can see that, on account of the Holocaust-Shoah's propaganda value, the various states that have criminalized its open debate will continue to ensure that a belief in the official version of events is sustained for as long as practicable. Once the Holocaust-Shoah narrative has lost its usefulness, then it will be abandoned – and with it all those who have propagated it for decades. **http://barnesreview.org/wp/archives/469**

I trust this material will shed further light on my matter before you.

Sincerely
Fredrick Töben
Adelaide – 30 April 2012

Australian Human Rights Commission
everyone, everywhere, everyday

Our Ref: 2030716 16 April 2012

Dear Mr Toben

Your complaint against Ms Halina Wagowska and the ASO

I refer to the above mentioned complaint which alleges racial hatred under the *Racial Discrimination Act 1975* (Cth) (RDA).

I am writing to inform you of the decision that the Delegate of the President may make in relation to your complaint and to provide you with the opportunity to make further comments, should you wish to do so.

The complaint

You say that you are an Australian citizen of German national or ethnic origin. You say that during a radio program on the ABC on 11 April 2012, Ms VVagowska made comments concerning her experience in Birkenau during World War I I. You claim that by doing this, Ms Wagowska attacks the good character of German people and you say that you found her comments highly offensive.

Current assessment of the complaint

Section 18C of the RDA concerns offensive behaviour because of race, colour or national or ethnic origin and provides that:

(1) It is 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 the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.

(2) For the purposes of subsection (1), an act is taken not to be done in private if it:
(a) causes words, sounds, images or writing to be communicated to the public; or
(b) is done in a public place; or
(c) is done in the sight or hearing of people who are in a public place.
(3) In this section:
"public place" includes any place to which the public have access as of right or by invitation, whether express or implied and whether or not a charge is made for admission to the place.
Ms Wagowska expressed certain views in a radio program that was aired by the ABC. It appears clear that the respondents' collectively caused words to be communicated to the public and that these acts were done otherwise than in private. Given this, the key issues under s 18C of the RDA become:
• whether the acts were reasonably likely to offend in all the circumstances; and
• whether the acts were done because of the race or ethnic origin of some or all of the people in the group.

Were the acts reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate the other person or group of people?

The test of whether an 'act is reasonably likely to offend or insult a person or group of people is an objective one. In the case of *Creek V Cairns Post Pty Ltd* [2001] 112 FCR 504, the court determined that the act in question must have "profound and serious effects, not to be likened to mere slights". In *Bryant V Queensland Newspapers Ltd* [1997] HREOCA 23, Sir Ronald Wilson states that, "the notion of hatred, although not used in 18C itself, suggests that the section allows a fair degree of journalistic licence, including the use of flamboyant or colloquial language". Sir Ronald stated that words could convey racial hatred if they were, "plainly malicious or scurrilous, designed to foster hatred or antipathy in the reader".
I understand that you are offended by the airing of the radio program and Ms Wagowska's comments but at this stage it is unclear that the comments made by Ms Wagowska that you complain about or that the airing of the radio program are acts that are plainly malicious or designed to foster hatred. I note that the radio program provides a discussion of Ms Wagowska's experiences during World War II and following that time, including the insights she has developed as a result of her experience and her hope that such events will not occur again in the future.

Were the acts done because of the race of the other person or of some or all of the people in the group?

I consider the case of *Miller v Wertheirn* (Miller) [2002] FCAFC 156 - may be relevant to this matter. In this case, among other claims, a member of the Orthodox Jewish community alleged racial hatred as the respondent made a speech in which he stated that a 'small part of the Orthodox community' were being divisive and destructive.
In *Miller* the Full Federal Court considered whether the speech complained of was capable of being characterised as an act done because of the race or ethnic origin of the other person or of some or all of the people in the group. The court found that it was not reasonably arguable that the aspects of the speech complained about were capable of being characterised as an act done because of the race or ethnic origin of the group or its members. The court noted that the group and its members were criticised because of their allegedly divisive and destructive activities, and not because the group or its members were of the Jewish race or of Jewish ethnicity.
I also note that Drummond J held in *Hagan v Trustees of the Toowoomba Sports Ground Trust* – [2000] FCA 1615 - that section 18C(1)(b) implies that there must be a causal relationship between the reason for doing the act and the race of the 'target' person or group.
It is unclear that the aspects of Ms Wagowska's comments complained about and the airing of the radio program were done because of the race or national or ethnic origin of you or other German people. Rather, it appears that Ms Wagowska made certain comments because of her views on the actions of members of the Nazi party during World War II and that these comments were not based on your race. Additionally, there does not appear to be any evidence to suggest that the ABC aired the radio program based on your specific race or national or ethnic origin or that of other German people. Rather, it appears that the airing of the program may have been done as the ABC considers the events discussed in the program to be an important comment on historical issues that may be of interest to its listeners.
I also note that even if you were successful in making out the elements of section 18C, it appears that the respondents may be able to make out the defence contained in section 18D of the RDA. Section 18D of the RDA provides that section 18C does not render unlawful anything said or done reasonably and in good faith:
(a) in the performance, exhibition or distribution of an artistic work; or
(b) in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest; or
(c) 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 *Explanatory Memorandum on the Racial Hatred Bill 1994* (Cth) states that the exemptions are needed to ensure that debate can occur freely and without restriction in matters of public interest. The issue of World War II is a subject that receives much attention and is a matter of public and political debate. I also note there does not be appear to be any evidence currently before the Commission to suggest that Ms Wagowska and the ABC have acted otherwise than reasonably and in good faith. In the circumstances, an exemption may apply to this matter. **Summary of the proposed decision**
Based on the above, the President or her Delegate may decide to terminate the complaint under section 46PH(1)(c) of the *Australian Human Rights Commission Act 1986* (Cth) on the ground of being satisfied that the complaint is lacking in substance.

Next steps

If you would like to make any further written submissions in relation to your complaint please forward these to me within 14 days of the date of this letter.
I can also be contacted on (02) 9284 9756 or at **adam.dunkelhumanrights.gov.au** should you wish to discuss this matter further.
Yours sincerely
Adam Dunkel
Principal Investigation/Conciliation Officer