

## APPENDIX A

### **Note:**

**Table 1** is based on the comparison of international legislation examine by HREOC (see, HREOC 1982-84).

**Tables 2 and 3** relate to proposals for the amendments to the 1975 RDA to include racial incitement/hatred legislation. The comparisons in **Table 3** refer to the RDA Amendments as they cover constituency, provisions, nature of the Act, consequences specified provisions for intent, defences permitted by the Act, and the sanctions specified.

Table 1: International Legislation Bearing on Racial Incitement/Hatred

	International Convention on Civil and Political Rights (1966)	International Convention on the Elimination of All forms of Racial Discrimination(CERD) (1965)	UK Act (1976)—amending the Public Order Act (1936)	NZ Act (1971)
<b>Constituency</b>	20.1 All individuals without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other states	4 (a) Any race or group of persons of another colour or ethnic origin	5A (1) & (b) Any racial group in G.B. (defined by reference to colour, race, nationality or ethnic or national origins—including citizenship)	25(1) Any group of persons in N.Z. distinguished by colour, race or ethnic or national origin
<b>Act</b>	20.1 Propaganda	<ul style="list-style-type: none"> <li>· Propaganda</li> <li>· Provision of assistance to racist activities including financing and participation</li> <li>· Dissemination (of ideas)</li> </ul>	<ul style="list-style-type: none"> <li>(a) Written matter (including any sign or visible representation) published or distributed (exclusive associations exempted)</li> <li>Words used in any public place or meeting</li> </ul>	<ul style="list-style-type: none"> <li>5 (1) (a) Written matter published or distributed, plus radio or TV broadcasts</li> <li>(b) Words used in any public place or meeting</li> </ul>

<b>Nature of Act</b>	1. Propaganda 2. Advocacy Incitement	Attempts to justify or promote (racial hatred or discrimination) incitement (of racial discrimination)	(a) and (b) · Threatening, abusive or insulting	(a) & (b) · Threatening, abusive or insulting
<b>Consequences</b>	1. War 2. National, racial or religious hatred 3. Discrimination, hostility or violence	1. Racial hatred 2. Ideas or theories of superiority 3. Discrimination Violence	(a) and (b) · Having regard to all the circumstances, hatred likely to be stirred up (against the constituents)	(a) and (b) · likely to excite hostility or ill-will, or bring constituents into contempt or ridicule
<b>Intent</b>	(No provision)	(No provision)	(No provision)	(a) and (b) without intent
<b>Defences</b>	(No provision)	(No provision)	Above does not apply to judicial or parliamentary proceedings Or where accused not aware of content	((No provision)
<b>Sanctions</b>	1 & 2. Prohibition by law (local)	4 (a) Punishable by law (local)	On summary conviction—up to 6 months and/or up to \$400 On indictment—up to 2 years and/or a fine (unspecified) (No prosecution without A/G's consent)	On summary conviction—up to 3 months or up to \$500 (\$1000 as of 1977) (No prosecution without A/G's consent)

Table 2: Comparison of the 1992 and 1994 RDA Draft Legislation

	1992 Draft RDA S 59 (1) to amend Crimes Act 1914	1992 Draft RDA S 19 B to amend the RDA	1994 Draft RDA S 60 (1) to amend the Crimes Act	1994 Draft RDA S 18 C to amend the RDA
<b>Constituency</b>	A person or group distinguishable on the basis of race, colour, race, nationality or national or ethnic origin	A person or group distinguishable on the basis of race, colour, race, nationality or national or ethnic origin	A person or group distinguishable on the basis of race, colour, race, nationality or national or ethnic origin	A person or group distinguishable on the basis of race, colour, race, nationality or national or ethnic origin
<b>Act</b>	“Public Act” any form of communication to the public including distribution and display, broadcasting, telecasting or screening material and any conduct seen by the public	“Public Act”	“Public Act”	“Public Act”
<b>Nature of Act</b>	Not specified	Not specified	Not specified	Not specified
<b>Consequences</b>	Stirring up racial hatred	Stirring up racial hatred	Inciting of racial hatred	Offend, insult, humiliate or intimidate

<b>Intent</b>	No provision)Intent and likelihood of the consequences	Knowledge or recklessness and likelihood of the consequences	Reasonable likelihood of the consequences	No intent required, but the race, colour etc. of the victim must be at least one reason why the act was done
<b>Defences</b>	None provided	Artistic work, academic, artistic or scientific purposes or any other purpose in the public interest including or a fair reporting and fair comment on a public matter	None provided	Artistic work, genuine academic, artistic or scientific purpose or any other purpose in the public interest including or a fair reporting and fair comment
<b>Penalty</b>	1 year imprisonment	<b>Conciliation</b>	1 year imprisonment	Conciliation

Table 3: Comparison of Criminal Sanctions in the 1992 and 1994-RDA Drafts with the 1995 RDA

	1994 Draft Federal Act Lavarch Bill - S 58 to amend the Crimes Act	1994 Draft Federal Act Lavarch Bill - S 59 to amend the Crimes Act	1995 RDA Federal Act - S 18 C (Part II RDA)
<b>Constituency</b>	A person or group identifiable on the basis of race, colour or national or ethnic origin	A person or group identifiable on the basis of race, colour or national or ethnic origin	A person or group identifiable on the basis of race colour or national or ethnic origin
<b>Act</b>	Not specified	Not specified	“Public Act” Acts done in a public place on in the sight or hearing of people in a public place
<b>Nature of Act</b>	Threats of physical harm	Threats to damage or destroy property	Not specified
<b>Consequences</b>	Not specified	Not specified	Offend, insult, humiliate or intimidate
<b>Intent</b>	No intent required but the race, colour etc. of the victim must be at least one reason why the act was done	No intent required but the race, colour etc. of the victim must be at least one reason why the act was done	Reasonable likelihood of consequences

<b>Defences</b>	Not provided	Not provided	Artistic work, genuine academic artistic or scientific purpose or any other purpose, in the public interest, including fair reporting and fair comment
<b>Penalty</b>	2 years imprisonment	1 year imprisonment	Conciliation