



PUBLIC SUBMISSION

REVIEW OF THE EQUAL OPPORTUNITY ACT (1984)

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Executive Summary

The Australian Christian Lobby (ACL) is opposed to the introduction of any religious vilification provisions into the Equal Opportunities Act. There has been no major advocacy for vilification laws by religious bodies, and the last time that the matter was suggested for public consultation there was an overwhelming opposition to the measures from religious groups.

Both Federal Labor and Liberal Parties, the Labor and Liberal Parties in NSW, the SA Government, the previous WA Government plus overseas nations, including the UK, have also actively opposed religious vilification laws. The current Victorian Parliament in the debate, 4 May 2006, on the amendments to the Racial and Religious Tolerance Act 2001 responded to major problems with its own religious vilification provisions and acknowledged that the issue has caused more concern among religious groups in the State than any other issue in living memory. ACL maintains that the current amendments do not adequately address the concern of many church leaders that freedom of religion is still not protected.

The ACL opposes any introduction of religious vilification measures for a number of reasons:

- However noble and good intentions of the law may be, Religious vilification laws inhibit freedom speech, and freedom of religion and stifle genuine religious debate for fear of litigation.
- Religious vilification laws do not promote tolerance and unity; in fact, in practice, the laws have created division.
- Other State legislatures, including the UK Parliament, have either rejected or been required to heavily amend legislation due to massive concern from religious constituencies, including Christian, Muslim and Jewish.

The ACL believes that religious vilification provisions are not necessary, desirable or helpful for this State and recommends maintaining the status quo in this regard.

Religious Vilification and Free Speech

Protecting freedom of speech does require a level of responsibility, which is addressed in specific legislation such as defamation law. Freedom of speech also cannot be used to incite hatred, such as anti-Semitism. This was adequately covered by the introduction of the Racial Hatred Act 1995. These provisions were an outworking of Australia being a signatory to the International Covenant on civil and political rights (Articles 19 and 20).

ACL is apprehensive of legislation that limits the ability of religions to proclaim their beliefs, although this may not be the intention of any law it is still an undesirable and unmanageable consequence. Religious beliefs are generally based on the presupposition that other religions are incorrect. ACL believes all religions should be able to articulate their beliefs without fear of prosecution. In some cases this activity may be perceived by others of another religion to be offensive or slanderous. When a religion proclaims to have an exclusive truth, it should not be a crime to declare that or to refute it. This was acknowledged in 2004 when the possibility of introducing vilification laws was proposed as part of the Racial and Religious Vilification Consultation Paper. The then Premier Geoff Gallop acknowledged that “one person’s religious affirmation can be someone else’s vilification”, and removed the religious components from the legislation.

The ACL does not believe religious vilification laws should limit debate on religious beliefs. There is a difference between debating the correctness of religious beliefs, and making abusive or hateful remarks about someone based on their religious beliefs. The ACL does not support masking religious debate. The ACL believes it is vitally important that individuals be able to have freedom of religion. The only way this freedom can be achieved is if individuals have access to the ideas of many different religions. If religious groups are unable to express their ideas for fear of offending another religious group, individuals will no longer be able to search for truth. All religious organisations must be able to proclaim their beliefs freely however offensive it is or is perceived to be.

The ACL believes differences of opinion and spirited debate should be encouraged as this is vitally important to the intellectual fabric of society. Individuals and groups should be able to listen to other group’s points of view without taking offence.

The Victorian Experience of Religious Vilification Laws¹

In June 2001, the ALP Bracks Government in Victoria passed the Racial Religious Tolerance Bill. Whilst the purpose of this bill was to promote tolerance, in practice it has been used to limit freedom of religious discussion and to promote vexatious litigation. There have been significant test cases, which demonstrate this, such as the CTFM vs. ICV and Fletcher vs. The Salvation Army cases. The bill has also been the subject of a petition signed by 30, 000 people calling for the repeal of the religious components of the bill.

The Victorian experience of religious vilification laws show that they are not required or desired by the religious community. In response to the bill and its applications a Joint Statement of Concern was sent to Premier Bracks from 19 church leaders² detailing what they saw as the failings of the bill. One of their concerns was that the bill “fail[ed] to recognise freedom of religion, while it does recognise freedom of speech.” The Statement also recognised that the possibility of civil action was being misused by religious groups to take each other to court to settle long held differences.

However, it is not just religious leaders who feel that there are problems with the Bill. In his judgement on Fletcher vs. The Salvation Army case, Justice Morris recommended a number of revisions of the Act and felt the need to clarify some points. He also made the observation that bringing these cases to trial may “actually inflame a dispute.” In many ways, the Victorian experience of vilification legislation has been unhelpful and condemned by the religious groups they are supposed to protect.

¹ Adapted from “Analysis of Equal Opportunity and Tolerance Legislation (Amendment) Bill”. Australian Christian Lobby 2006, pp 2-3. Accessed at www.acl.org.au on 29th May 2006.

² “Christian Leader’s Statement of Concern.” Accessed at www.acl.org.au on 29th May 2006.

Conclusion

The ACL opposes any moves to introduce religious vilification sections to the Equal Opportunity Act. Whilst it may seem natural that people should not be vilified or discriminated against because of their religious beliefs, in practice legislating against this possibility is fraught with difficulties and problems. Laws that seek to protect religious groups can be used against them when they claim exclusivity or critique other groups' ideas and thus religious debate is stifled. This effectively stems the flow of religious ideas and prevents open dialogue between religious groups, hindering freedom of religion and understanding. In this way vilification laws promote intolerance and disunity, and may be the cause of mistrust between groups. For these reasons the ACL feels it would be best to retain the status quo in these matters.

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Annex 1 -The Australian Christian Lobby

The Australian Christian Lobby (ACL) is a non-partisan political lobby group, which represents the views of hundreds of churches and thousands of supporters Australia wide. This submission is from the Western Australian branch of the national group. The Christian constituency reflects a sizeable percentage of the broader community. 68% of the Australian population declared themselves Christian in the 2001 ABS Census and about 2 million Australians attend a church regularly. This submission reflects the views of its Christian supporter base and is therefore able to contribute significantly to an understanding of religious vilification laws from a Christian point of view.

The ACL is concerned that any religious vilification components added to the Act would be a hindrance to religious communities rather than a benefit to them.