

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE
Inquiry into exceptions and exemptions in the Equal Opportunity Act

Melbourne — 5 August 2009

Members

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Witnesses

Ms H. Ibrahim, executive member, and
Mr H. Gulam, executive member, Islamic Council of Victoria.

The CHAIR — The purpose of these hearings is to report to the Parliament on whether any amendments should be made to exceptions and exemptions in the Equal Opportunity Act. Anything you say or publish before the committee today is protected by parliamentary privilege. However, once you leave the hearing, anything you say or publish outside the room is not so protected.

I invite you now to make a brief statement to the committee on the relevant issues that you consider important to your organisation, and we will follow that up with a series of questions.

Ms IBRAHIM — I would first like to thank you for giving us the opportunity to come here and speak. This is a very important matter for the Islamic community — definitely an important matter. The Islamic Council of Victoria recommends that section 75 and subsections (1) and (2) addressing religious bodies are not changed as the majority of areas and religious orders and many areas in the Islamic industries cannot be done by non-Muslims due to their necessary spiritual aspects and adherence to sharia law on many matters such as ethics, law on burial practices, for example, the slaughtering of an animal so that it is Halal permissible for consumption et cetera. Because such acts are so sacred to the Muslim community, not just within mosques but also industries such as the Halal meat industry and the Islamic banking industry, due to its focus on particular ethics and spiritual practices, it is necessary and expected by the community accessing these services that trustworthy Muslims undertake these roles.

The Halal industry, for example, is one of the biggest and fastest-growing industries in Australia. Australia has one of the best quality meat outlets in Australasia, and we export meat to Islamic countries and countries which are secular but have Muslim majorities, such as Indonesia, Malaysia and Saudi Arabia. Victoria holds one of the biggest markets for this because of the growing demand within the domestic market and because there are more Muslims in Victoria.

The trust factor here for consumers is vital, because if Muslims are in these industries, it is thought by the Islamic community here in Victoria and Islamic countries who buy or invest in our products that they would care more by virtue of their beliefs and their Islamic ethics and knowledge of the rituals and laws attached to these industries than, say, a non-Muslim who does not necessarily value these ethics. For them, that which was once a sacred Islamic practice is at risk of becoming secular, and this will have devastating effects on those who attend congregations and access these services and industries.

More importantly, it will cut off those who need to ensure that these industries are true to the values of the Islamic faith, because the person or people doing the jobs are Muslims and have a vested interest in upholding these values, and it is not merely a job to them.

The Islamic community in Victoria appreciates these exemptions greatly due to the points I have just discussed, and the Islamic Council of Victoria believes that the Muslim community will be negatively affected if changed or amended.

The Islamic Council of Victoria also recommends that subsection (3) of section 75 and section 76 addressing religious schools not be changed due to the growing demand for Islamic schools and the growing number of Islamic schools being established. It is vital that school boards have the freedom and choice of being able to employ the most appropriate person based on their religious belief, because Islamic values touch almost all of the disciplines taught in school and parents consider teachers to be role models for their children. For example, when the concept of interest is taught in maths and commerce, it must be taught that there are alternative methods of banking because Muslims are forbidden to deal with interest.

This is just a small example amongst many. Although many Islamic schools employ non-Muslim staff, teachers included, the teachers need to adhere to Islamic dress codes which establish a consistency for the children attending and provide them with a suitably dressed role model in accordance to the faith. The parents of the children expect that the education their children receive in all fields adheres to Islamic ethics rather than just a secular based education, and again the best person or role model for their children is someone who believes and holds their faith dear, not just someone who tolerates it.

I will pass over to my colleague Hyder, who will talk about section 77.

Mr GULAM — Asalaamaialaikum, which means greetings of peace to you all. We see the exemptions in the act as a shield, and that is the way to envisage it. It is not a sword to enforce or to propagate our religion. Rather it is a shield to defend us against any litigation.

I personally think — and the ICV shares this view — that if you were to remove these exemptions, you would see a hell of a lot more litigation happening. That is something for you to consider and to consider with the workload of VCAT as well. There may be some legitimate claims, but there may be a lot of vexatious and frivolous claims as well, and that needs to be really considered as well before you remove these exemptions.

Sister Heba has already outlined our position on the other options. In terms of the section 77 exemption discussion, which is the religious beliefs or principles, our preferred view is option 3, which is that section 77 be amended to allow an application for an exemption to be granted where the religious claim is objectively validated and it is reasonably proportional within section 7(2) of the charter. This strikes us as different from the other religious bodies, but we believe this is a fair and balanced test in the circumstances. With the other two aforementioned exemptions, which are in regard to religious bodies and religious schools, you have heard the submission of Sister Heba, which is no change. Thank you.

The CHAIR — I was just looking at 77. I do not know if you have been here for the previous submissions from the Anglican and Catholic churches, or their organisations. They were suggesting that the attributes, which in the act are very broad, including age, race and a host of other ones, could be narrowed in terms of the exemptions in 75 and 76 to ones that are probably more relevant or could conflict with religious freedoms — for example, sexual orientation, gender identity, religious belief, lawful sexual activity, marital status. They suggest it could be narrowed to those and leave others out. Would that be something you would see as acceptable?

Mr GULAM — I think we share a lot of common values with the other religious bodies; that goes without saying — the major Abrahamic religions of Judaism and Christianity. I think that is something we would take on board. We would need to examine how far the exemptions would go; at this stage, how far would the ambit be. I note that that is obviously sex, sexual orientation, gender identity, pregnancy, breastfeeding, marital status, status as a carer, age, race, de facto spouse status and legal, religious, and political beliefs. The exemptions are quite large, so we would need to examine those carefully before I could give you a response.

Mrs PEULICH — First of all, thank you. I thought the first part was particularly illuminating, because there is often very much an Anglo misunderstanding of religion, that it is a relationship between man or woman and God and forget about the lifestyle, but it is actually a holistic set of principles. You are saying that you do not oppose the removal of exemptions and that you could justify your exclusion from that to a secular tribunal that you would trust to make the right decision for you?

Mr GULAM — That section 77 case? Of course; we abide by the laws here in Australia. We heard about the Catch the Fire case. The matter at VCAT was favourable to the Muslim community at first instance, but when it went to the Court of Appeal it was not, and there were not mass riots on the streets; houses were not being burnt down. We respect the laws that are made by the judiciary here, and we accept it and move on.

The CHAIR — That is just for section 77?

Mr GULAM — Correct, yes.

Mr LANGUILLER — Thank you for your submission and the general work you do in the community, by the way. I was very interested in your submission in relation to your position, views and the value you put on issues of — as I understand and if I may by extension — commerce, business and interest rates. I really mean that, particularly at a time when there is a financial crisis. I found it really interesting, and I wonder if you can expand further as to why it is important for you to have a maths, commerce or business teacher of your faith background, and in what way can that value-add to our society generally?

Ms IBRAHIM — I suppose, as you said, in the current economic climate Islamic finance is taking on a different role in many of the Western countries. In Australia, for example, the NAB has taken on a small section to do with Islamic financing. If I recall, something was going to happen with ANZ as well. It is starting to grow, and there is more of a market for it because the Muslim community here is starting to grow. It is starting to reach other communities as well. I suppose when I was going to school, for example, I attended an Islamic

school, and I did the maths class. One of the issues that came up was this issue of interest and how to calculate interest, how banks use interest and what they use it for, as well as in commerce.

If I had been going to a public school, I would not have known, or rather this is not something that my parents would have felt that they needed to tell me at the age that I was. I was still quite young, and they would not have felt the need to tell me about interest, because it is a very complicated sort of matter. But it gave me that, I suppose, idea, as it does many other children who go to Islamic schools. It gives them that idea that they can explore further, that it is something necessary to their faith that they will not get anywhere else. You cannot just rely on parents to teach it to their children. Some parents do not have the necessary knowledge, I suppose.

It is important to both the individual in order to grow up within a concept of what their faith allows and what their faith does not allow as well as how they can contribute to the wider society, which is what is happening at the moment. Many Muslims at the moment are starting to look at this idea of Islamic finance in order to deal with the current economic climate, and that is what is happening. You grow up with that faith, and you are able to talk about solutions in your own society. It is important that schools have that.

Mr GULAM — If I could follow on from what Sister Heba has said, we had an incident earlier this year where a Muslim student teacher was denied a placement at a religious school of another denomination. We have agonised long and hard about these exemptions, because it has generally been, from what I have seen in the media this year, Muslims who have been discriminated against in places of education and the like. We do not take this matter very lightly. We have considered it quite carefully. In the best interests of the umma, the Muslim community, we felt that the exemptions needed to be in place as a shield.

Mr SMITH — Can I suggest that that example you cite is the only example I have been able to come up with as well?

Mr GULAM — There are others that have not made the media.

Mrs PEULICH — So your first preference is for the exemptions to stay in place, but if they are removed, to have a process — right? I misunderstood your initial position.

Mr GULAM — Yes. When you look at the options paper, it breaks it up into religious bodies. It has a number of options there, and we recommend following the ‘no change’ with that particular example; religious schools, again no change; but with regard to religious beliefs or principles we believe option 3. We have communicated that with some of our other religious brethren, our family, so they are well aware of our position on this.

The CHAIR — I would like to thank you for your contribution — —

Mr GULAM — We could add something about interfaith, because that was a question you asked.

Ms IBRAHIM — It is not just a Muslim thing; we also engage with various different cultural and religious communities. We are quite big on interfaith, and we definitely see that it is not just something that will benefit the Muslim community. All of the faiths that we deal with will find it absolutely necessary that these remain intact. It is not as though the Muslim community will say that just because we are going to be able to do that, that that might affect our dealings with members of different faiths — not at all. We recognise that in order to coexist we need these in place and that other faiths as well need to be able to have something to lean on in that respect.

Mrs PEULICH — Those faiths have appreciated your involvement. You are to be commended for it.

Mr GULAM — I recently visited Indonesia and visited a number of pesantrens and madrassahs, religious schools, and one of the things that they really liked about what they heard about interfaith here is that apart from JCMA and all the other interfaith organisations, we actually have visits to Mount Scopus, to King Khalid; we share visits to all the different schools by the religious bodies. That was one thing the Indonesians really liked about what we do here in interfaith, that it starts at the primary school and high school level. It is not something done by old, bearded men and old women; it is done at the children’s level, so that whole interfaith is shared as a common upbringing.

The CHAIR — I would like to thank you for taking the time. You have given us some really interesting insights into this whole issue, so thanks a lot for your contribution.

Witnesses withdrew.