

**Submission
No 26**

INQUIRY INTO ANTI-VILIFICATION PROTECTIONS

Organisation: Jewish Community Council of Victoria

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SUBMISSION TO LEGAL AND SOCIAL ISSUES COMMITTEE OF THE LEGISLATIVE ASSEMBLY INQUIRY INTO ANTI-VILIFICATION PROTECTIONS

The Jewish Community Council of Victoria (**JCCV**) is the peak body for Victorian Jewry, representing over 52,000 Jews living in Victoria. The JCCV is comprised of over 50 Jewish community organisations, including educational, welfare, religious, social, youth, sporting and communal organisations. It has acted as the voice of Victorian Jewry for 80 years, and is particularly active in the areas of social justice, community welfare, social inclusion and social cohesion.

The JCCV welcomes the opportunity to make a submission to the Parliamentary Inquiry into Anti-Vilification Protections (**Inquiry**) as this is an issue of great concern to the members of the Jewish community in Victoria.

Generally the experience of the Jewish Community in Victoria is positive, and we value the social cohesion which is a feature of communal life in Victoria, and the ability for Victorians who identify as Jewish to participate fully in society while at the same time maintaining their identity and specific practices and lifestyles. However, while the JCCV does not wish to overstate incidents of vilification against the Jewish Community, known as antisemitism, they do exist, and where they exist, can have a significant impact on the community.

In considering whether or not an incident is antisemitic in nature, the JCCV follows the *Working Definition of Anti-Semitism* adopted by the International Holocaust Remembrance Alliance (**IHRA**). Australia became a full member of IHRA in June 2019. The definition is as follows:

Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

Contemporary examples of antisemitism can be found at the IHRA website at <https://www.holocaustremembrance.com/working-definition-antisemitism>.

1. Evidence of increasing vilification and hate conduct in Victoria

On 24 November the Executive Council of Australia Jewry (**ECAJ**) publish its annual report *Antisemitism in Australia 2019 (ECAJ Report)*, which can be downloaded [here](#). The ECAJ Report details antisemitic incidents where were reported to the ECAJ and its constituent organisations, including the JCCV and the Victorian Community Security Group, for the period from 1 October 2018 to 30 September 2019, and also contains historical records back to 2013. From the ECAJ Report it is apparent that there has been a significant increase in antisemitic incidents between 2013 and 2019. While there was no overall increase in antisemitic incidents during the period covered by the current ECAJ Report, the figures show that there has been a marked increase in some of the more serious categories of incidents, including verbal abuse, harassment and intimidation.

As indicated in the ECAJ Report the types of antisemitic incidents experienced by members of the Victoria Jewish community are very broad, and include:

- (a) incidents such as abusive emails and phone calls;
- (b) or verbal and/or physical abuse;
- (c) graffiti, including swastikas and white supremacist slogans;
- (d) public debate or discourse (including on social media) about members of the Jewish community which is antisemitic and discriminatory in nature, including denial of the existence or extent of the Holocaust, and which may be disguised as anti-Zionism; and
- (e) incidents which can be classed as “casual racism”.

Antisemitism is often experienced by those who can be identified as Jewish by their mode of dress, such as orthodox men who typically cover their head. There are also some members of the ultra-orthodox community who adopt a clearly identifiable mode of dress, and who can be victims of physical abuse, such as egging. This often occurs in the vicinity of Synagogues on the Sabbath or Jewish festivals, when members of the orthodox community do not drive, and are therefore particularly visible.

Antisemitism can be directed at individuals, who are either Jewish or perceived to be Jewish, or against Jewish people as a group or Jewish institutions. For example, it is often intuitions which are the recipient of “hate mail” or threats.

Based on anecdotal evidence, the JCCV believes that there is significant underreporting of antisemitic incidents. There may be a number of reasons for this. Some people experiencing antisemitism do not feel there is any value in making a report as ‘nothing can be done’. Others, particularly those who have experience trauma based on antisemitism, such as survivors of the Holocaust, or migrants from the former USSR, may have a distrust of authority or be reluctant to publicly identify as Jewish.

2. **Impact of Antisemitism**

Regardless of the nature of antisemitism, its impact can be significant. Apart from the obvious impact of physical abuse, abuse, either verbal or physical, or via emails, can lead to loss of self-esteem and, in extreme circumstances, negative health outcomes.

Antisemitism can lead to fear of people expressing their Jewish identity in public, either through dress, or particular practices.

There have also been reports of students who have experienced antisemitism in a school environment being forced to change schools, and of families electing to home school their children (examples of this have been widely reported in the media in Victoria recently).

Although vilification must be distinguished from discrimination, the two behaviours are related, and a perception that antisemitism and other forms of vilification against minorities is acceptable can have a broader impact on the society. For example, if a person forms the view that vilification on the basis of a particular attribute is acceptable, it may lead to discrimination on the basis of that attribute.

3. **The effectiveness of existing protections against vilification, in particular the *Racial and Religious Tolerance Act 2001 (Act)***

The view of the JCCV is that the existence of the Act in its current form plays an important role in protecting the community against vilification on the basis of race or religion in that is

both provides an avenue for redress for victims of vilification, and it sends an important message to members of the broader community that this type of behaviour is not acceptable. However, the Act does have some limitations, as follows:

- (a) Judaism is considered to be both a race and religion, and therefore members of the Jewish community in Victoria are able to make use of the current protections provided for in the Act. However, experiences of vilification are not limited to those of a particular race or religion, but is experienced by a significant proportion of the community on the basis of a broad range of attributes, such as those set out in Section 6 of *Equal Opportunity Act 2010*. We consider that it would be appropriate, and consistent with current community standards, to extend the protection against vilification to people with those attributes.

This approach is consistent with that adopted by other Australian jurisdictions.

- (b) The threshold for vilification in the Act is too high and difficult to prove, as it requires proof that conduct has incited serious negative emotions in a third party rather than focussing on the impact of conduct on the person who is the subject of the vilification.

This is apparent from the small number of complaints and prosecutions under the Act in the 17 year of its operation. Information provided by the Victorian Equal Opportunities and Equal Rights Commission (**VEOHRC**) which is responsible for administering the Act shows that in the past 17 years there have been:

- 295 complaints of racial vilification;
- 264 complaints of religious vilification; and
- 3 successful cases of vilification before VCAT under the Act; and
- 1 prosecution of serious vilification by Victoria Police.

In addition to changing the focus of the Act from the impact of vilification on third parties to the impact on victims, we recommend moving the office of serious vilification from the Act to the *Crimes Act 1958*, legislation that is more family to Victoria Police and prosecutors. This is the approach recently adopted in New South Wales.

- (c) As noted above, vilification is often directed against a whole community and not individual member of a community. Further, individual members of a community may be reluctant to bring a complaint under the Act for fear of retribution/victimisation. This could be overcome by allowing representative complaints without the need to name individual complainants.
- (d) Often vilification is through social media or other forms of media, and the impact of a particular form of vilification is not limited to within Victoria. In view of this, it would assist victims if there were more uniformity in the protections afforded to victims in across jurisdictions in Australia.

Legislation is not the only tool to combat antisemitism and other forms of racism. Also important are:

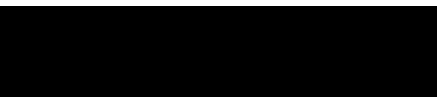
- Government policies, such as the Victorian Government's Multicultural Policy Statement, and the Anti-Racism Action Plan;
- interfaith and intercultural groups such as the Victorian Multicultural Commission and its Multifaith Advisory Group and Victoria Police Multicultural Portfolio Reference Group, which

play an important role in providing information to Government and Victoria Police about the experiences of the community as well as disseminating information to communities;

- community based programs, which provide play an important role in educating members of the community about the rights and responsibilities, and empowering community; and
- institutions such as community museums, and educational programs which are designed to educate the broader community about what it means to belong to a particular group.

We thank the Legal and Social Issues Committee of the Legislative Assembly for the opportunity to make a submission in relation to this important issue, and look forward to seeing legislative changes which will have a positive impact of the lives of a variety of members of the Victorian community, including the Jewish community.

Yours sincerely

A solid black rectangular box used to redact the signature of Jennifer Huppert.

Jennifer Huppert
President
Jewish Community Council of Victoria