



Parliamentary Inquiry into anti-vilification protections

Introduction

The Casey Multi-Faith Network is pleased that the Parliament of Victoria's Legal and Social Issues Committee in the Legislative Assembly, is conducting an inquiry into the current anti-vilification laws as this is long overdue.

The Casey Multi-Faith Network as per our mission statement, "seeks to promote peace harmony and understanding in our community. We promote friendship, learning and goodwill between people of all faiths and no faith. We respect and honour the rights of all to peacefully practice and celebrate their own religion, and we support Council in valuing diversity."

We are an organisation made up of members from various ethnic and religious backgrounds across the City of Casey which is one of the most diverse yet growing areas of Metropolitan Melbourne.

Our submission will argue that:

- **The current Racial and Religious Tolerance Act 2001(the Act) is not effective in delivering upon its purposes;**
- **There should be a greater role by the state government to address online vilification via social media and other forms of technology;**
- **The Act should also be extended out to protect other classes not currently protected under the Act.**

Response

The current Racial and Religious Tolerance Act 2001(the Act) is not effective in delivering upon its purposes.

The Act in its' current form does little to protect Victorians from being victims of vilification. [REDACTED]

Commissioner Hilton from the Victorian Equal Opportunity and Human Rights Commission said that 'in its 17 years of operation, only three cases of vilification have been successful before the Victorian Civil and Administrative Tribunal and only one criminal offence of serious vilification has been successfully prosecuted. We need to



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*strengthen the law to make it more accessible and effective in addressing hate speech in its various forms.*¹

Given that there is only a small number of cases effectively prosecuted in a world where there is growing concern around vilification both in Australia and internationally, it is our view that the Act needs a large overhaul to reflect the world we live in now.

The need for this is evident when we compare the ineffectiveness of the Act as an enforcement tool to the documented rise of political hate speech and political violence. This rise is exemplified in the recent Christchurch attacks by an Australian extremist. We must acknowledge that views that are inflammatory and vitriolic have the capacity to incite hatred towards the race or religion that they are directed towards.

This is why we believe the Act needs to change its' focus from putting the onus on the victim of vilification to show that the vilification incited hatred in another person but more so how the vilification would 'incite hatred against that other person or class of persons;² and 'threaten, or incite others to threaten, physical harm towards that other person or class of persons or the property of that other person or class of persons,³ within "reasonable grounds."

A shift is also required from placing the onus of a complaint to whether the offender knowingly engages in conduct that incites hatred and all of the aforementioned, to whether it is "reasonably likely" to have.

It is impossible to be able to prove that an act of vilification lead to violence or threats of it in an another person unless the other person directly says so, however it is possible for a judgement to be made whether an act of vilification would be "reasonably likely" to incite threats or violence against a class of people and this should be the threshold of proof required to prosecute an offender.

There should be a greater role by the state government to address online vilification via social media and other forms of technology.

¹ <https://www.humanrightscommission.vic.gov.au/home/news-and-events/commission-news/item/1837-victoria%E2%80%99s-anti-vilification-laws-to-be-reviewed-by-a-parliamentary-committee-of-the-legislative-assembly>

² RACIAL AND RELIGIOUS TOLERANCE ACT 2001 - SECT 24 Offence of serious racial vilification

³ RACIAL AND RELIGIOUS TOLERANCE ACT 2001 - SECT 25 Offence of serious religious vilification



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In a world where people are more connected than ever via social media and modes of technology, people are finding it easier to also discuss and disseminate their views to others without face to face interaction or knowledge. This ease of access and speech means that people feel more at liberty to engage in acts of vilification in the comforts of their own home.

We feel that this underscores the need for stronger enforcement mechanisms and info-sharing agreements with big technology companies to put the onus on them to disclose details of perpetrators. Acts of hate speech or vilification, and perpetrators of should not be protected by the anonymity provided by online platforms.

There is also growing evidence that discussions and propaganda can and has led to violence based on race, religion, gender, disability and sexuality.

*'Internet forum discussions have been shown to provide an arena for the production of narratives legitimizing political violence³⁰ and there are strong indications that exposure to "extremist" content on social media has an independent effect on an individual's propensity to commit acts of political violence.'*⁴

The framework to legislate online forums into jurisdictions for prosecuting offenders can also be found when looking into National Child Safe Principles, where Principle Eight is 'Safe physical and online environments' where 'Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed'⁵

If the State Government is going so far as to adjudicate on issues around vilification, it must extent its' purview to online modes of communication, given its' increasing importance in our society.

The Act should also be extended out to protect other classes not currently protected under the Act.

People in our municipality and indeed in our society should be able to live without fear of being persecuted or vilified for who they are. We therefore also think that the

⁴ Mattias Wahlstrom and Anton Tornberg, 'Social Media Mechanisms for Right-Wing Political Violence in the 21st Century: Discursive Opportunities, Group Dynamics, and Co-Ordination,' *Terrorism and Political Violence*, 2019.

<https://www.tandfonline.com/doi/full/10.1080/09546553.2019.1586676>

⁵ National Child Safe Principles

<https://www.humanrights.gov.au/sites/default/files/National%20Principles%20for%20Child%20Safe%20Organisations.pdf>



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legislation should reflect current best-practice frameworks around inclusion, which include gender, LGBTIQ+ and disability as a demographic or class of people who can often be discriminated, vilified or persecuted.

Within the local context of a growth area in Melbourne's Southeast, the proposed changes reflect adopted Council inclusion frameworks as seen in the Inclusive Casey which identifies a broader cohort of vulnerable groups.

*'Aspects of identity such as race, ethnicity, physical ability, socio-economic status, age, religious/faith beliefs, political beliefs, gender identity and sexual orientation are acknowledged in Council's Diversity Access and Inclusion Policy as being important considerations...Protective factors are experiences or environments which support inclusion.'*⁶

Conclusion

Overall, our submission posits that the current Act needs to be clearer and provide more protections to Victorians from Vilification due to Race, Religion, Gender, Disability, and Sexuality. We believe that people have the right to have their own views and engage in discourse to discuss this so long as it does not incite or threaten violence on "reasonable grounds", based on the aforementioned classes. We also believe Victorians should be provided with protections while online.

The above discussion points are based on a core value of our organisation, and that is to promote peace and harmony. We believe that a key to ensuring our society is tolerant and understanding towards one another is to ensure that vilification based on ones race, religion as well as gender, disability or sexuality is called out on and subsequently appropriately prosecuted. We also believe that governments and indeed our society can do more to ensure this behaviour stops by educating people on the different facets of our society to create this understanding and tolerance.

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This submission is written by Kasuni Mendis [REDACTED] on behalf of the Casey Multi-Faith Network committee and the organisation as a whole. We acknowledge that this may not represent the views of all our members and stakeholders.

⁶ City of Casey, Inclusive Casey, Page 20. <https://www.casey.vic.gov.au/policies-strategies/inclusive-casey-strategic-framework-2018-21-0>