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Parliament House, Spring Street
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By email: avpinquiry@parliament.vic.gov.au

Dear Legislative Assembly Legal and Social Issues Committee,

Inquiry into Anti-Vilification Protections

The Law Institute of Victoria ('LIV') is Victoria's peak body for lawyers and represents about 19,000 people working and studying in the legal sector in Victoria, interstate and overseas. The LIV welcomes the opportunity to provide feedback on the Anti-Vilification Protections Inquiry ('the Inquiry'). This submission was written with input from the members of the LIV's Human Rights Committee, and consultation with the Victorian Equal Opportunity and Human Rights Commission ('the VEOHRC'). It addresses items 1-4 and 8 of the Terms of Reference.

In responding to the Inquiry, the LIV reiterates its general support¹ of the Racial and Religious Tolerance Amendment Bill 2019 ('the Bill'), particularly where it seeks to expand the grounds of protected attributes to include gender, gender identity, sex characteristics, sexual orientation and disability. Nevertheless, the LIV supports the view echoed by the VEOHRC that the anti-vilification provisions under the *Racial and Religious Tolerance Act 2001 (Vic)* ('**RRTA**') would operate more effectively under existing state-based anti-discrimination legislation, more specifically the Equal Opportunity Act 2010 (Vic) in Victoria. This paper shall illustrate the reasoning behind this position.

¹ The Law Institute of Victoria, *Racial and Religious Amendment Bill 2019* (Submission, 3 September 2019).

Recommendations:

The LIV makes the following recommendations:

Table One:
Recommendations

1.	<p>The RRTA should be incorporated into a new part of the <i>Equal Opportunity Act 2010</i> (Vic) ('EOA').</p> <p>If Vilification continues to be regulated in a standalone Act, the Victorian Government should replace the title of the Racial and Religious Tolerance Act 2001 (Vic) with a title that is inclusive of any additional protected attributes and which removes the word 'tolerance' to promote respect for diversity.</p>
2.	<p>A new civil harm-based provision should be introduced under the EOA, modelled on the existing harm-based tests in 18C of the <i>Racial Discrimination Act 1975</i> (Cth) and s 17 <i>Anti-Discrimination Act 1988</i> (Tas).</p> <p>The LIV provides the following suggested wording:</p> <p><i>'If the conduct is reasonably likely in all the circumstances, to offend, insult, humiliate or intimidate a reasonable member of the target group.'</i></p>
3.	<p>The existing civil incitement provisions under sections 7 and 8 of the RRTA, should be amended:</p> <ul style="list-style-type: none">a. To provide a single provision which prohibits vilification on the ground of specific attributes; andb. To lower the threshold for incitement. <p>The LIV proposes that the word 'incites' be replaced with 'expresses or is reasonably likely in the circumstances to incite.' This recommendation is consistent with the ACT's Law Reform Advisory Council's Review of the Discrimination Act 1991(ACT).</p>

<p>4.</p>	<p>The existing criminal offences under sections 24 and 25 of the RRTA, should be amended:</p> <ol style="list-style-type: none"> a. To provide a single provision which prohibits vilification on the ground of specific attributes; and b. To lower the threshold for incitement. <p>The LIV proposes the following suggested wording:</p> <p><i>‘A person must not, intentionally or recklessly, engage in conduct that:</i></p> <ul style="list-style-type: none"> • <i>Is likely to incite hatred, serious contempt for, revulsion or severe ridicule; or</i> • <i>Threatens violence or property damage</i> <p><i>Towards another person or group of people on the ground of the following attributes under [‘Section X’].</i></p>
<p>5.</p>	<p>The <i>private and public conduct</i> exceptions under sections 11 and 12 of the RRTA should apply to both civil provisions.</p>
<p>6.</p>	<p>The public conduct exception under section 11 should be narrowed by:</p> <ol style="list-style-type: none"> a. Removing ‘religious purpose’ from section 11(b)(i) and including a specific religious subclause that reads: <i>‘any genuine manifested religion or belief in worship, observance, practice and teaching’</i>². This would reflect the wording within Article 18 of the International Covenant on Civil and Political Rights (‘ICCPR’); and b. Amending the exception for ‘any purpose in the public interest’ to ‘any genuine purpose in the public interest.’ This amendment is consistent

² UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, article 18.

	with the wording in section 18D of the <i>Racial Discrimination Act 1975</i> (Cth) ('RDA') ³ .
7.	The definition of 'public act' as per the <i>Crimes Act 1900</i> (NSW) be adopted into the civil and criminal provisions.
8.	The criminal offence of serious vilification should be duplicated into both the EOA and the <i>Crimes Act 1958</i> (Vic).
9.	The Victorian Government should introduce educational campaigns and resources to ensure affected communities understand their rights, and to increase understanding of anti-vilification laws among the general public.
10.	The RRTA (under the EOA Act) allow anti-vilification complaints to be determined, without the need to identify the complainant(s).
11.	The VEOHRC be empowered with regulatory functions and powers to address vilification in the Victorian community.
12.	Victorian anti-vilification law should be extended to prohibit vilification on the grounds of; <ul style="list-style-type: none"> a. Gender; b. Gender Identity; c. Disability; d. Sexual Orientation; e. Sex; and f. HIV/AIDS Status.
13.	The definitions of ' <i>gender identity</i> ' and ' <i>sex characteristics</i> ' under the EOA should be modernised in accordance with other Commonwealth and State legislation, and in consultation with the LQBTIQ sector.

³ *Religious Discrimination Act 1975* (Cth) s 18D(b).

1) The effectiveness of the operation of the Racial and Religious Tolerance Act 2001 ('RRTA') in delivering upon its purposes;

The broad purposes of the RRTA as examined in its preamble⁴ and section 1⁵ are centred on promoting racial and religious tolerance by prohibiting vilifying conduct, and providing a means of redress for victims of racial or religious vilification. The preamble of the RRTA also discusses the importance of protecting the dignity and sense of self-worth of people with diverse ethnic, indigenous and religious backgrounds.⁶ On reviewing the purposes of the RRTA, the LIV notes that protecting individuals against objective public vilification, as well as subjective or objective attacks on individual dignity, are fundamental goals of the RRTA.

The LIV recognises that in assessing the effectiveness of the RRTA in delivering upon its purposes, it is important to first determine how the RRTA's effectiveness should be measured. The primary way in which the RRTA protects against vilifying conduct and promotes racial and religious tolerance is through its civil and criminal anti-vilification provisions under sections 7, 8, 24 and 25.⁷ Under these provisions however, there have only ever been two successful cases of vilification since the RRTA's introduction in 2001,⁸ and a total of 26 claims being successfully brought to the VEOHRC in the past two years.⁹

If one were to assess its effectiveness by these metrics alone, this could easily infer that the RRTA has failed to protect individuals against vilification. Indeed, the low numbers of successful vilification claims contradict the many stories of racism and religious

⁴ *Racial and Religious Tolerance Act 2001 (Vic)* Preamble.

⁵ *Ibid*, s 1.

⁶ *Ibid*, Preamble.

⁷ *Racial and Religious Tolerance Act 2001 (Vic)* ss 7, 8, 24, 25.

⁸ Victorian Equal Opportunity and Human Rights Commission, 'Racial and Religious Vilification' *AustLII Communities*

⁹ <https://www.humanrightscommission.vic.gov.au/home/our-resources-and-publications/annual-reports/item/1745-victorian-equal-opportunity-and-human-rights-commission-annual-report-2017-18-dec-2018>

discrimination commonly making headlines¹⁰, with social media platforms expressing concern about combatting online hate-speech.¹¹

The LIV submits however, that a more accurate assessment of the RRTA's effectiveness in delivering upon its purposes, requires an examination of the following:

- 1) The civil 'incitement' test under sections 7 & 8¹², its threshold and exceptions; and
- 2) The criminal offence of serious vilification under sections 24 and 25¹³ and its threshold.

In outlining the points below, the LIV aims to illustrate the reasoning behind 'Recommendation 1':

Recommendation 1: The RRTA should be incorporated into a new part of the *Equal Opportunity Act 2010 (Vic)* ('**EOA**').

If Vilification continues to be regulated in a standalone Act, the Victorian Government should replace the title of the Racial and Religious Tolerance Act 2001 (Vic) with a title that is inclusive of any additional protected attributes and which removes the word 'tolerance' to promote respect for diversity.

¹⁰ Charmaine Clarke, 'I've stood up against racists most of my life,' *Indigenous X* (Article, December 2019) <<https://indigenousx.com.au/ive-stood-up-against-racists-most-of-my-life/>>.

¹¹ Iner, Derya, ed. *Islamophobia in Australia Report II 2017-2018*. Sydney: Charles Sturt University and ISRA, 2019.

¹² *Racial and Religious Tolerance Act 2001 (Vic)* s 7, s 8.

¹³ *Racial and Religious Tolerance Act 2001 (Vic)* s 24.

Civil Provisions

Sections 7 and 8 of the RRTA adopt an ‘incitement model’, by prohibiting conduct that *incites* hatred against, serious contempt for, revulsion or severe ridicule of a person or class of person, on the ground of race¹⁴, or religious belief or activity.¹⁵ This incitement test is solely concerned with whether a third party, who has been exposed to the alleged vilifying conduct, was incited to hatred, serious contempt or other emotions. The test therefore, disregards the effect of the conduct on the vilified individual, which the LIV submits is contradictory to the RRTA’s purpose of protecting dignity and self-worth. Furthermore, in assessing the merits of a claim made under the RRTA, the applicant may feel re-traumatised and further stigmatised, particularly where the alleged vilifying conduct fails to meet the test of incitement. For example in the case of *Bennett v Dingle*,¹⁶ comments of a highly offensive nature made towards the Jewish applicant including, ‘*you big fat Jewish slob*’ and ‘*Hitler was right about you bastards*’ were deconstructed and examined at length by the tribunal. However, the application was dismissed due to the conduct being specifically directed to the applicant personally rather than a third person¹⁷. The LIV is concerned that such decisions may have an unintended consequence of diminishing the overall perceived harm. In this respect, the LIV notes the prospective benefits of alternative dispute methods in offering potential restorative justice.

In order for the RRTA to more effectively deliver upon its purposes of protecting personal dignity and self-worth,¹⁸ the LIV recommends the addition of a civil harm based provision as proposed above.¹⁹ Such a provision would objectively assess harm from the perspective of a reasonable member of the target group, whilst still protecting the same attributes under the incitement test.

¹⁴ *Racial and Religious Tolerance Act 2001* (Vic) s 7.

¹⁵ *Racial and Religious Tolerance Act 2001* (Vic) s 8.

¹⁶ *Bennett v Dingle* [2013] VCAT 1945.

¹⁷ *Ibid*, [at 46].

¹⁸ *Racial and Religious Tolerance Act 2001* (Vic) preamble.

¹⁹ *Anti-Discrimination Act 1988* (Tas) s 17.

Recommendation 2: A new civil harm-based provision should be introduced under the EOA, modelled on the existing harm-based tests in 18C of the *Racial Discrimination Act 1975* (Cth) and s 17 *Anti-Discrimination Act 1988* (Tas).

The LIV provides the following suggested wording:

'If the conduct is reasonably likely in all the circumstances, to offend, insult, humiliate or intimidate a reasonable member of the target group.'

Civil threshold

The LIV submits that the threshold of the 'incitement test' under sections 7 and 8 is too high, due to the focus on the effect of the conduct on the audience, rather than the immediate target. The limited decisions which consider the operation of the RRTA have demonstrated that the conduct must incite 'extreme responses',²⁰ and will not amount to vilification if it is solely critical, offensive or insulting.²¹ Furthermore in *Fletcher v Salvation Army*,²² the Victorian Civil and Administrative Tribunal ('**VCAT**') noted that the term 'incites' relates to conduct which generates strong passions in the ordinary person, such as where people are so moved that violence might result.²³

In considering to what extent the threshold should be lowered, the LIV acknowledges that harm threshold under section 18C of the *Racial Discrimination Act 1975* (Cth) ('**RDA**') may be considered too low, particularly in comparison to the RRTA. The terms 'offend' and 'insult' within section 18C has received some criticism, namely that it lacks sufficient

²⁰ *Catch the Fire Ministries Inc v Islamic Council of Victoria Inc* [2006] VSCA 284 [34].

²¹ *Catch the Fire Ministries Inc v Islamic Council of Victoria Inc* [2006] VSCA 284 [173].

²² *Fletcher v Salvation Army* [2005] VCAT 1523

²³ *Fletcher v Salvation Army* [2005] VCAT 1523 [5].

precision and clarity²⁴. However, courts have clarified that the section applies to conduct that has ‘serious and profound effects – not to be likened to mere slights.’²⁵

Recommendation 3: The existing civil incitement provisions under sections 7 and 8 of the RRTA, should be amended:

- a. to provide a single provision which prohibits vilification on the ground of specific attributes; and
- b. to lower the threshold for incitement.

The LIV proposes that the word ‘incites’ be replaced with ‘expresses or is reasonably likely in the circumstances to incite.’ This recommendation is consistent with the ACT’s Law Reform Advisory Council’s Review of the Discrimination Act 1991 (ACT)²⁶.

Exceptions – public and private act

To reflect the adjustments to the incitement threshold, the LIV makes the following recommendation:

Recommendation 6: The public conduct exception under section 11 should be narrowed by:

- a. Removing ‘religious purpose’ from section 11(b)(i) and including a specific religious subclause that reads: ‘*any genuine manifested religion or belief in worship, observance, practice and teaching*’²⁷. This would reflect the wording within Article 18 of the International Covenant on Civil and Political Rights (‘**ICCPR**’); and

²⁴ Dan Meagher, ‘So Far So Good?: A Critical Evaluation of Racial Vilification Laws in Australia’ (2004) 32(2) *Federal Law Review* 225, 251.

²⁵ *Eatock v Bolt* (2011) 197 FCR 261 [268] (Bromberg J), citing *Creek v Cairns Post Pty Ltd* [2001] FCA 1150 [16] (Kiefel J); *Bropho v Human Rights and Equal Opportunity Commission* (2004) 204 ALR [70] (French J); *Jones v Scully* [2002] FCA 1080 [102] (Hely J).

²⁶ ACT Law Reform Advisory Council, *Review of the Discrimination 1991 (ACT) Recommendation 17.1*.

²⁷ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, article 18.

- b. Amending the exception for ‘any purpose in the public interest’ to ‘any genuine purpose in the public interest.’ This amendment is consistent with the wording in section 18D of the *Racial Discrimination Act 1975* (Cth) (**‘RDA’**)²⁸.

In order to clarify that prohibited conduct under anti-vilification legislation includes any form of communication, conduct, distribution or dissemination of material to the public, the LIV recommends the adoption under Victorian law the definition of ‘public act’ under s 93Z(5) of the *Crimes Act 1900* (NSW). This includes;

- (a) *any form of communication (including speaking, writing, displaying notices, playing of recorded material, broadcasting and communicating through social media and other electronic methods) to the public, and*
- (b) *any conduct (including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia) observable by the public, and*
- (c) *the distribution or dissemination of any matter to the public.*

*For the avoidance of doubt, an act may be a public act even if it occurs on private land*²⁹.

Recommendation 7: The definition of ‘public act’ as per the *Crimes Act 1900* (NSW) be adopted into the civil and criminal provisions.

Recommendation 5: To ensure consistency among the civil provisions, the *private and public conduct* exceptions under sections 11 and 12 of the RRTA should apply to both civil provisions.

²⁸ *Religious Discrimination Act 1975* (Cth) s 18D(b).

²⁹ *Crimes Act 1900* (NSW) s. 93Z(5).

Criminal Provisions

Recommendation 4: The existing criminal offences under sections 24 and 25 of the RRTA, should be amended:

- a. To provide a single provision which prohibits vilification on the ground of specific attributes; and
- b. To lower the threshold for incitement

The LIV proposes that the criminal threshold be lowered by:

- (i) Amending the fault element to ‘intentionally or recklessly’, which is consistent with other Australian jurisdictions³⁰;
- (ii) Replacing the subjective test of ‘conduct that the offender knows is likely to incite’ with an objective test of ‘conduct that is likely to incite’;
- (iii) The offence of serious religious and racial vilification prohibit threats or incitement; and
- (iv) The term ‘conduct’ should be defined in the same way as the civil provisions.

The LIV proposes the following suggested wording:

‘A person must not, intentionally or recklessly, engage in conduct that:

- *Is likely to incite hatred, serious contempt for, revulsion or severe ridicule;*
- or*
- *Threatens violence or property damage*

Towards another person or group of people on the ground of the following attributes under [‘Section X’].

We note that through consultation with Victoria Police, the Commission identified that the location of serious vilification offences under the RRTA was a barrier to their enforcement.

³⁰ The LIV acknowledges that the Racial and Religious Tolerance Amendment Bill 2019 also proposed this amendment of ‘intentionally or recklessly’, and reiterates its general support of the amended Bill.

Victoria Police suggested that replication of the criminal vilification offences in the *Crimes Act 1958* (Vic) would assist police enforcement and increase visibility of the offences.³¹

Recommendation 8: The criminal offence of serious vilification should be duplicated into both the EOA and the *Crimes Act 1958* (Vic).

2) The success or otherwise of enforcement of the Act, and the appropriateness of sanctions in delivering upon the Act's purposes;

Under sections 7 and 8 the RRTA, a vilified individual empowered by sections 19, 20 and 21 must lodge a written complaint with the VEOHRC. This civil complaint scheme requires the vilified individual to have the resources, knowledge and time to be able to enforce their rights. The limited number of successful cases under the RRTA indicate a lack of education and understanding of rights under the RRTA.

A recent parliamentary inquiry into the RDA showed that a lack of awareness and understanding of individual rights in targeted communities, contributed to the lack of anti-discrimination and vilification rights being enforced.³² The same parliamentary inquiry also noted the importance of education in eliminating prejudiced attitudes, which can target the root causes of vilifying conduct³³, and also improving enforcement of vilification laws.³⁴ The LIV therefore calls for the Victorian Government to introduce educational campaigns and boost resources which will aid communities to better understand anti-vilification laws.

³¹ VEOHRC Interview with the Prosecutions Court Unit, Legal Services Department and the Research and Training Unit, Police Prosecutions Unit, 29 November 2019.

³² Parliamentary Joint Committee on Human Rights, Freedom of Speech in Australia: *Inquiry into the operation of Part IIA of the Racial Discrimination Act 1975 (Cth) and related procedures under the Australian Human Rights Act 1986 (Cth)*, Inquiry report (Commonwealth of Australia, 2017) [2.110] – [2.113].

³³ Ibid.

³⁴ Ibid.

Recommendation 9: The Victorian Government should introduce educational campaigns and resources to ensure affected communities understand their rights, and to increase understanding of anti-vilification laws among the general public.

Currently section 20(1) of the RRTA,³⁵ allows a representative body to bring a dispute on behalf of a named person to the VEOHRC. Given the nature of claims and vulnerabilities experienced by those subject to vilification, the LIV also recommends that the RRTA (or consequently under the EOA Act) allow for representative complaints without the need to identify complainants. This could be modelled on s 46PB of the Australian Human Rights Commission Act 1986, which allows representative complaints that 'describe or otherwise identify the class members'.

Recommendation 10: The RRTA (under the EOA Act) allow anti-vilification complaints to be determined, without the need to identify the complainant(s).

In order to combat the above-mentioned difficulties with enforcement, the LIV echoes the VEOHRC's recommendation to empower the Commissioner with a range of regulatory functions and powers to address vilification in the Victorian Community.

Recommendation 11: The VEOHRC be empowered with regulatory functions and powers to address vilification in the Victorian community.

The LIV echoes the Commission's recommendation to be empowered with regulatory functions to promote effectiveness of legislation, provide redress for victims and address vilification. Before the EOA was introduced in 2010, amendments were made with the effect of removing inquiry powers from the commission. These amendments, prevent the Commission from conducting an investigation if the matter could reasonably be expected to be resolved by dispute resolution or VCAT, require the Commission to apply to VCAT

³⁵ *Racial and Religious Tolerance Act 2001* (Vic) s 20(1).

for an order to compel attendance, information and documents, and remove the ability of the Commission to enter into enforceable undertaking and issue compliance notices.³⁶

These regulatory functions would include:

- extending the VEOHRC's functions under the EOA to the regulation of vilification
- expanding the VEOHRC's full range of regulatory powers and functions under the EOA, including powers to:
 - undertake own motion public inquiries;
 - investigate any serious matter that indicates a possible contravention of the Act;
 - without the need for a reasonable expectation that the matter cannot be resolved by dispute resolution or the Victorian Civil and Administrative Tribunal (VCAT);
 - with the introduction of a 'reasonable expectation' that the matter relates to a class or group of persons;
 - compel attendance, information and documents for the purposes of an investigation or public inquiry (without the need for a VCAT order); and
 - seek enforceable undertakings and issue compliance notices as potential outcomes of an investigation or a public inquiry.

These reinstated powers should also apply to the regulation of vilification under the EOA.

3) Interaction between the Act and other state and Commonwealth legislation:

The RRTA closely intersects with the Charter of Human Rights and Responsibilities 2006 (Vic) ('Charter') and the EOA. The Charter protects specific civil and political rights and requires all Victorian legislation to be interpreted consistently with the rights expounded in the Charter.³⁷ The preamble of the Charter indicates that "human rights are essential in a democratic and inclusive society that respects the rule of law, human dignity, equality and

³⁶ Equal Opportunity Amendment Bill 2011 (Vic).

³⁷ Charter of Human Rights and Responsibilities 2006 (Vic) s 1(a) and (b); s 32.

freedom”.³⁸ The principles of human dignity and equality, as noted in the preamble of the RRTA, are also reinforced under the Charter. This supports Recommendation 1, in that the purposes of the RRTA align with the Charter, which underpins the EOA.

4) Comparisons in the operation of the Victorian Act with legislation in other jurisdictions³⁹;

The Victorian anti-vilification legislation differs in structure and operation to other Australian jurisdictions. While most other Australian states have a dedicated piece of legislation, containing both anti-discrimination and anti-vilification provisions, Victoria is the only State to have enacted separate anti-vilification legislation on the grounds of racial or religious belief. Other state legislation such as the *Anti-Discrimination Act 1977* (NSW), *Anti-Discrimination Act 1991* (Qld) and *Discrimination Act 1991* (ACT) currently contain incitement provisions which protect against vilification on the basis of other attributes, such as gender, sex and disability. A discussion on expanding protected attributes is below under term of reference 8, however the simplicity and uniformity of other state legislation provides a strong argument in favour of bringing all Victorian anti-vilification legislation under the EOA.

8) Possible extension of protections or expansion of protection to classes of people not currently protected under the existing Act;

The LIV reiterates its supports for the Racial and Religious Tolerance Amendment Bill 2019’s objective to expand the protection to classes of people not currently provided under the RRTA. The LIV recommends the following:

³⁸ Ibid, preamble.

³⁹ Note: See term of reference 1, for a discussion on the harm-based civil provisions under Tasmania’s *Anti-Discrimination Act 1988* and the recommendation for the RRTA to accommodate a similar provision.

Recommendation 12: Victorian anti-vilification law should be extended to prohibit vilification on the grounds of:

- a. Gender;
- b. Gender Identity;
- c. Disability;
- d. Sexual Orientation;
- e. Sex; and
- f. HIV/AIDS Status.

The LIV submits that the introduction of these protected attributes under the RRTA, would assist the legislation in achieving its broader purpose to protecting individuals from social, political and economic exclusion⁴⁰. The introduction of these additional protections would also bring Victoria in line with other Australian jurisdictions which already protect sex, gender and disability status characteristics in their anti-vilification legislation, as noted in the table below:

Sexual-orientation Vilification	<i>Anti-Discrimination Act 1977 (NSW) s 49ZT</i>
	<i>Anti-Discrimination Act 1991 (Qld) s 124A</i>
	<i>Discrimination Act 1991 (ACT) s 67A(1)(g)</i>
	<i>Anti-Discrimination Act 1998 (Tas) s 19C</i>
Gender vilification	<i>Anti-Discrimination Act 1977 (NSW) ss 38S and 38T</i>
	<i>Anti-Discrimination Act 1991 (Qld) s 124A(1)</i>
	<i>Discrimination Act 1991 (ACT) s 67AB</i>
Disability vilification	<i>Discrimination Act 1991 (ACT) s 67A</i>
	<i>Anti-Discrimination Act 1998 (Tas) s 19(b)</i>
Gender identity vilification	<i>Anti-Discrimination Act 1991 (Qld) s 124A(1)</i>
	<i>Discrimination Act 1991 (ACT) s 67AB</i>
	<i>Anti-Discrimination Act 1988 (Tas) s19(e)</i>
HIV/AIDS status	<i>Anti-Discrimination Act 1977 (NSW) s 49ZXB</i>
	<i>Discrimination Act 1991 (ACT) s 67A(1)(c)</i>

⁴⁰ *Racial and Religious Tolerance Act 2001 (Vic) preamble, s 1.*

In introducing new protected attributions, the LIV also recommends:

Recommendation 13: The definitions of *‘gender identity’* and *‘sex characteristics’* under the EOA should be modernised in accordance with other Commonwealth and State legislation, and in consultation with the LQBTIQ sector.

If there is any aspect of this correspondence that you would like to discuss further, please contact Michelle Luarte, Policy Lawyer to the Administrative Law and Human Rights Law Section [REDACTED] or Alex Moses, Paralegal to the Administrative Law and Human Rights Law Section [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Yours sincerely



Sam Pandya

President

Law Institute of Victoria