

PARLIAMENT OF VICTORIA – COMMITTEES  
**LEGISLATIVE ASSEMBLY**  
**LEGAL AND SOCIAL ISSUES COMMITTEE**

Monday, 24<sup>th</sup> February, 2020

**RE: Inquiry into Victorian Anti-Vilification Protections**

Dear Committee,

Firstly, thank you for allowing me to make a submission to this important inquiry.

Let me introduce my organisation firstly. We are National Better Balanced Futures. We aim to encourage schools to use Multi Faith Religious Education to help social cohesion and multiculturalism and reduce extremism in all its forms.

Whilst this Inquiry is focused on the efficacy of legislative prohibitions against racial and religious vilification, my organisation believes that racial and religious prejudice is so deeply embedded in our culture that it can only be addressed effectively by a combination of legislative and educational measures. Both are essential. The law imposes sanctions on harmful behaviour, and also serves an educative function by giving expression to our society's values. Yet the law clearly is not primarily an instrument for education. Respect for the lives and dignity of others and the rejection of racism and bigotry are values that have to be inculcated and nurtured in the home, in civil society, in religious communities, in the example of political and community leaders and in educational programs for children from an early age.

I will address the legislative aspects later in this submission, but I wish to begin with the question of education, because I believe that it holds the greater part of the answer to what our society needs to do to prevent the proliferation of racism and bigotry.

Religious Education provides key benefits:

- 1) includes an effective values education that empowers student decision making, fosters student action and assigns real student responsibility.
- 2) Strengthens the multicultural fabric of Australian schools.
- 3) Creates a safe place for students to explore deeper questions of faith and belief, including Building Trust, Care, Safety, Respect, Belonging.
- 4) It provides important psychological benefits to students' wellbeing.

Further, studies link positive health and wellbeing outcomes with:

- A belief in a higher spiritual being
- Public and private prayer
- Meditation
- Concepts of giving and generosity
- Expressing of Gratitude
- Values Education

All these benefits are consistent with prior literature, our results suggest associations of frequent religious participation in adolescence with greater subsequent psychological wellbeing, character strengths, and lower risks of mental health illness and several health behaviours.' (Chan and VanderWeele, Harvard University, American Journal of Epidemiology, September 2018.)

Running such a program that embraces multiculturalism and faith will play a big part in building resilience against vilification. Putting religion 'under the table' when it is such an integral part of one's culture only serves to isolate that person and builds on the ignorance of people of no faith or other faith falsely believe. Sadly, this creates an environment in which vilification will thrive and grow and a sense of belonging is lost. We should focus on what unifies, not disunifies, our communities. Trying to isolate, oppress, penalise even prosecute people in our communities because of their faith is an accident waiting to happen.

Secondly, I also believe that you may pick up on many of the positive changes that NSW Parliament made to its Vilification laws last in 2018.

The NSW Act is the *Crimes Amendment (Publicly Threatening and Inciting Violence) Act 2018*.

NSW Attorney General, These Laws were protecting identified groups from threats of violence are important to securing the safety of the New South Wales community. The Government is committed to protecting our diverse and vibrant communities for the benefit of all New South Wales residents. Importantly, a new offence of publicly threatening and inciting violence will demonstrate that the Government does not tolerate threats of violence or incitement of violence. (NSW Hansard)

Further,

NSW Attorney General noted in recent years, there has been an increasing focus on violence motivated by religious intolerance in Australia. While existing laws capture the criminality of some of this conduct, including religion as a protected ground under the offence sends a strong signal that those who incite or threaten the use of violence against a person or persons because they hold, or do not hold, a particular religious view will be held criminally responsible for this conduct. It will also bring New South Wales into line with most comparable Australian jurisdictions that have already expressly included religion as a protected category in their respective anti-vilification laws. (NSW Hansard)

The core of this bill (*Crimes Amendment (Publicly Threatening and Inciting Violence) Act 2018*.) is to insert into the Crimes Act a new section 93Z. In summary, this provision will create a new criminal offence of publicly threatening or inciting

violence on the grounds of race, religion, sexual orientation, gender identity, intersex or HIV/AIDS status. A number of things are done in creating this offence. Most obviously, it is a provision of the Crimes Act rather than the Anti-Discrimination Act. These are crimes, and it is symbolically important to have the offence in the Crimes Act, particularly given the lack of action taken to enforce this law previously. Schedule 2 makes clear there is no need for a referral by the President of the Anti-Discrimination Board to the Director of Public Prosecutions [DPP] for prosecution and the incidents can be investigated by police as crimes. (NSW Hansard)

The Hon. Adam Searle, in practical terms this is quite significant. The people best able to investigate crimes, to prepare statements in admissible form and to prepare statements that allow prosecutions are police rather than, for example, officers of the Anti-Discrimination Board. That is the job that police do every day. I note in passing that this practical difficulty and issues surrounding briefs prepared by non-police do have echoes of the situation of the Independent Commission Against Corruption [ICAC] submitting briefs to the DPP for possible prosecution. Proposed section 93Z replaces currently existing offences. This replacement is affected by schedule 2 to the bill. (NSW Hansard)

The Hon. Adam Searle was speaking on behalf of the opposition and noted in his second reading speech that.. (the bill)... is directly and inextricably linked to violence, incitement to violence or threats of violence.

Hon Fred Nile MLC in his second reading speech noted, schedule 1 to the bill will amend the Crimes Act to insert a new indictable offence of publicly threatening or inciting violence, replacing the four existing serious vilification offences in the Anti-Discrimination Act. It will also introduce a threshold for the new offence of "intentionally or recklessly threaten or incite violence". (NSW Hansard)

Hon Fred Nile MLC noted in his second reading speech that, "Material has been provided to us that shows the *trend of incitement to violence may be growing in some parts of our community*, and New South Wales should have the right mechanisms to deal with it with the full force of the law. However, it should also be noted that these laws do not, and are not intended, to stifle legitimate debate; *nor are they intended to criminalise speech or opinions that some may merely find offensive*. I think that should be quite clear to everyone. I have been reassured that the scope of the bill's provisions are narrow and that the principle behind them is pragmatism. The Attorney General has indicated that the bill is about community safety and not injured feelings. I understand this to mean that the *objective is to fight against the ideology which fosters the real threats of terrorism that the West faces today and the real threats of violence from organised groups that are criminally minded*. (NSW Hansard)

It was also noted that the test under the new section 93Z is objective but has a mental element, which means that there has to be an intention to incite violence. That may be difficult to prove in court but that is the definition in this legislation. (NSW Hansard)

A Further address by Hon. Shayne Mallard MLC noted in his second reading speech on proposed vilification law changes in NSW that Mr Vic Alhadeff, the Chief Executive Officer of the New South Wales Jewish Board of Deputies, attention of other members—the dreadful, violent posters put up around Sydney. (NSW Hansard)

On the 14 March 2018 "Miranda Live" article in the *Daily Telegraph* stated:

*Sydney has been hit with a spate of vile anti-Semitic and homophobic posters, but there's almost nothing the authorities can do to prosecute the neo-Nazis responsible due to a quirk in the law. (2)*

*Posters, some with images depicting the Holocaust and calling for people to murder Jews and gay people, have appeared in Sydney, Melbourne and regional Victoria and NSW, and law enforcement believe neo-Nazi group Antipodean Resistance is responsible. (2)*

Quoting Mr Alhadeff, the article states:

This is not about insulting people or defaming them—this is about inciting violence, it's unacceptable that you can stand up in Martin Place and say "we should kill that group of Australians", he told Miranda Devine on her online radio show. (NSW Hansard)

In his second reading speech Hon. Shayne Mallard also stated "Honourable members would be familiar with the abhorrent posters. This is why these reforms are needed. Until now, upon finding those posters the police were unable to act on those threats against the groups listed. The Government is committed to protecting our diverse and vibrant communities for the benefit of all New South Wales residents. Importantly, a new offence of publicly threatening and inciting violence will demonstrate that the Government does not tolerate threats of violence or incitement of violence against people. (NSW Hansard)

I believe Victoria could add value to your laws by embracing some of the upgrades that NSW Parliament made to the *Crimes Amendment (Publicly Threatening and Inciting Violence) Act 2018*.

On top of any further changes I believe that further initiatives can be made to build a more social cohesive community. Latest research has shown that general religious education strengthens multiculturalism, increases social cohesion and reduces extremism and vilification. (1)

As you would know there has been only one successful criminal prosecution of serious vilification in the *Racial and Religious Tolerance Act's* 17 years of operation.

Given the prevalence and steady proliferation of antisemitic hate speech and bullying of Jewish students – as well as the wide-spread use of social media and the recent use of the Swastika Flag – now, more than ever, we need a focus on the role of addressing vilification and current approaches to eradicating it.

Other submissions have noted that there also growing evidence that discussions and propaganda can and has led to violence based on race, religion, gender, disability and sexuality.

I have also noted in other submissions to this inquiry about the use of the internet and online forums for supporting violence.

We believe one of the solutions to vilification is education, and by strengthening Multiculturalism we are providing a **safe place** for students to learn about and discuss their faith, values and beliefs in government schools and allows these students to feel accepted and included in Australian society, and that their beliefs are acknowledged and respected. Thus, giving them a sense of belonging. Therefore, building on tolerance and respect and the valuing people's religious and cultural belief.

By Regulating Religious Education we can ensure transparency around **what is taught** and by **whom**, with best practice and minimum standards. This helps to reduce vilification as students are taught out in the open, therefore, putting religion "**on the table**" rather than "**under the table**". This is all about building Social Cohesion through understanding.

Moving forward we would like to see more resources put into strengthening multiculturalism through general religious education in government schools - continuing the research, implementing best practice and supporting minimum standards. We recognise that **General Religious Education (GRE)** teaches all children to respect the various faiths that exist. Then progress this initiative by getting students to acknowledge such behaviour and push back, therefore encouraging students to stand up and counter vilification and bullying in their schools. We also note that Specific Religious Education (SRE) also plays an important role where practitioners from that faith are able to teach the tenets of their faith to their students. Through the education system; young people are to be taught their beliefs and values in an open and transparent manner within the context of Australian values; and to learn to respect other cultures and beliefs – thus, increasing social cohesion for the good of all.

**I also believe that religion must be kept on the table not placed under the table where it is unable to be discussed and shared in an open transparent way; where students can learn about other religions and so they are not misunderstood; that students have a safe place to question, explore and discover issues of faith. Education normally resolves things - isolating people of faith and culture is not helpful to multiculturalism and social cohesion. All separation does is cause pain and heartache and mental health issues. It removes kids from a sense of belonging to a place of loneliness.**

**I also believe that, if we are to resolve these incidents happening on a regular basis, education will be the key.**

Research shows Religious Education can help combat antisemitism and other forms of racism. Religious Education can provide an important role in educating members of our communities about their rights and responsibilities, while also empowering them to stand against racism and vilification.

**We believe in education to resolve issues of vilification and hatred and violence. After all, prevention is better than cure!**

We appreciate your time and look forward to your report.

Murray Norman

National Better Balanced Futures

1. Professor Zehavit Gross (Bar-Ilan University and UNESCO Chair in Education for Human Values, Tolerance and Peace) and Professor Emerita Suzanne Rutland OAM (University of Sydney).

2. NSW Parliament Second Reading Speeches Legislative Council -*Crimes Amendment (Publicly Threatening and Inciting Violence) Act 2018.*)