

## **INQUIRY INTO RACIAL VILIFICATION LAW IN NSW**

**Organisation:** Forum on Australia's Islamic Relations

**Date received:** 8/02/2013

---

## **Submission to the Standing Committee on Law and Justice**

Regarding the inquiry into racial vilification law in NSW (section 20D of the Anti-Discrimination Act 1977).

Terms of Reference:

That the Committee inquire into and report on racial vilification law in NSW, in particular:

- 1 the effectiveness of section 20D of the Anti-Discrimination Act 1977 which creates the offence of serious racial vilification;
- 2 whether section 20D establishes a realistic test for the offence of racial vilification in line with community expectations; and
- 3 any improvements that could be made to section 20D, having regard to the continued importance of freedom of speech.

The ANTI-DISCRIMINATION ACT 1977 - SECT 20D Offence of serious racial vilification, states:

- (1) A person shall not, by a public act, incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race of the person or members of the group by means which include:
- (a) threatening physical harm towards, or towards any property of, the person or group of persons, or
  - (b) inciting others to threaten physical harm towards, or towards any property of, the person or group of persons.

Maximum penalty:

In the case of an individual-50 penalty units or imprisonment for 6 months, or both.  
In the case of a corporation-100 penalty units.

- (2) A person shall not be prosecuted for an offence under this section unless the Attorney General has consented to the prosecution.

## **Submission on behalf of the Forum on Australia's Islamic Relations**

There are racially motivated problems facing Muslim Australians. When we say Muslim we tend to be covering a large Middle Eastern Sector of society, Sub-continental and South East Asian Australians. The on-going racism and vilification that Muslims experience tend to inhibit some people from wanting to practice their religion openly from fear from persecution and discrimination.

This is mainly due to the pervasive attitude that exists in the broader NSW society against Islam and Muslims. There are connotations with terrorism, chauvinism and general mistrust. This leads to many Muslims hiding their faith, changing their names and some even stopping their practice all together.

There are inadequate laws that protect Muslim Australians against vilification and racial and religious hatred. The current federal and state acts do not specifically cover Muslims and therefore they slip through the system and experience much higher rates of vilification than other ethno-religious groups.

The problem is that for far too long Islam and Muslims have been demonised in the media and by certain politicians both state and federal, and this has led to an increase in discrimination and general prejudice affecting particularly young people's perceptions and self-identity. There has been many cases of religious hatred and discrimination since 911, the HREOC Asma report is one source of evidence which showed an increase in discrimination against Muslims after 911 and the Bali Bombing. There are also a number of surveys carried out by academics such as Kevin Dunn (UNSW) and from other academics such as Michael Humphrey (Sydney) and Scott Poynting and Jan Ali (UWS).

The reality on the ground is that many identifiable Muslims especially women who wear the headscarf, are intimidated and forced "inside" both physically and metaphorically. They tend to shop in safe areas and in groups. Women who wear the burqa (niqab) are even more cautious.

The lack of instruments within the current anti-discrimination act is a concern for many Muslims who feel vulnerable and helpless especially if they have been vilified. They generally believe that there are no avenues for protections or complaint and so do not bother. Others are afraid to go to the police as they do not want to jeopardise their visa status or distrusting of the police and other authority agencies.

We need to amend the current Anti-discrimination law that will include Muslims to be protected just as Jews and Sikhs are protected. One must understand that while we define Islam as a religion, it is unique, that is, it is more than just a religion, it is as they say 'a way of life'. It's a holistic approach to life and of course one of the most obvious aspects of that approach is the dress code particularly for women. This makes them identifiable targets of racists and Islamaphobes. Islam is a culture and is more than just one's religious beliefs and makes it unique like Judaism and Sikhism. The other problem is that since 911 there has been an exponential rise in hate crimes and religious persecution of Muslims globally and a shift in attitude towards Islam in the West. Muslims have carried the burden of the actions of a minority of extremists and Islam has become the most demonised religious group in the world. If we do not put mechanisms in place to protect Muslim citizens, the hatred will continue, the

vilification will continue and racist groups like the Australian People's Party and the Q society will grow. The end result will be further marginalisation, social isolation and alienation of the Muslim community. This is an unjust situation and incumbent on the government to take measures to avoid such a situation.

We need to reinforce the message of religious freedom as one of the cornerstones of Australian society along with freedom expression and speech. Freedom to express yourself is one thing but at the expense of another is questionable, as we found with the Bolt case and recently with the findings against Alan Jones. We need to come down heavily on "hate speech". Not only against Muslims or Middle Eastern People but all racial and religious communities. We seen in recent days hate speech directed at the Alawi community. This needs to stop and proper protections put in place under the legislation (particularly Section 20D).

There is discrimination on every level and in every aspect of society. There is discrimination in the workplace, in the school, in hospitals and the medical field, in the media, in public spaces and within institutions, the police and security agencies and in government. However, there are different types of discrimination varying from criminal acts to just indirect forms that alienate, demoralise and frustrate people.

There have been verbal and physical assaults against women in public spaces such as on public transport, in shopping centres and in hospitals. Many children suffer from intimidation and vilification on a daily basis in schools. Many young people after finishing school find it difficult to find work because of their Islamic identity.

Islam is portrayed as a violent religion and this is reflected in people's attitudes towards young Muslim males. They are stereotyped and many live out a self-fulfilling prophecy. Police in certain areas harass young Muslim males and further alienate them from society. Of course, there are young Muslim men who are committing crimes but police attitudes are extending to all young Muslim men. Also Muslims also are discriminated against in prisons (mainly with access to halal food).

The main issue is that we do not have a strong enough stance against racism and that is why it is pervasive in our society. It is strongest against Indigenous Australians and against Refugees. It extends to Arabs and Muslims and to a lesser degree against Asians and Africans. But because of our weak approach racist groups become emboldened to spruik their racist slogans on websites and in other propaganda, they rally against Muslims when they attempt to build their mosques or schools and they use the media to further their racist/Islamaphobic agenda.

Trying to get new places of worship approved, mainly due to local council and community opposition, leads to vilification of Muslims. There needs to be stronger laws in place to protect places of worship and the process involved in applying for places of worship. Currently it is simply a matter of a majority of councillors voting against a place of worship based on 'concerns' from their constituents which are usually baseless and unfounded. There needs to be a more rigorous assessment process and councillors have to be made accountable for their decisions. Usually, in

many cases Islamic places of worship applications are smeared with rumours and innuendoes that crime will increase in the area and property prices will drop. There is no evidence whatsoever to support these allegations yet in cases like the Baulkham Hills Prayer centre and the Camden school, there were large rallies organised with very offensive slogans, pig heads on stakes, vandalism and abusive graffiti, threats of violence and intimidation, promotion of religious hatred of Muslims and direct vilification of Muslims.

The police by and large are doing their best to work with the community. However, as a former police officer I know how the police on the ground think and act. The policy makers and the commanders can have very different ideas to the foot soldiers.

Especially in heavily Muslim populated areas like Auburn, Bankstown, Lakemba, Campsie, Blacktown and Mt Druitt etc, police are very aggressive and inadvertently target Muslims. They stereotype Muslims, harass Middle Eastern youth, treat them with disdain and exploit the average Muslim's lack of English fluency and knowledge of the law. Many complaints are not investigated or taken seriously. Some police intimidate people and often create the impression that they will get in more trouble.

We desperately need new legislation making it an offence to incite racial/ religious hatred in NSW. If we had a law in NSW which made it illegal to incite religious/racial hatred and promote violence, then groups would be more cautious as just how far they go with their racist agendas and would be afraid to break the law. This would send a strong signal to racists and Islamaphobes that this type of behaviour is not tolerated in NSW.

There is such a law in Victoria and it does not make sense why NSW does not have a similar Act.

It is long overdue to overhaul Section 20D of the Anti-Discrimination Act of NSW 1977 to now include Muslims under the act so it can become more effective in preventing racial and religious vilification. If we look at the reduction of cases against Jews in the past 30 years we can see that the law has clearly had an impact in reducing anti-semitism. Muslims are the Jews of today. They are the ones experiencing real racism and hatred. They are seen as the other and for many people, through ignorance, seen as the most trouble-some people in Australia.

If the laws are not changed soon, then the racism will only get worse and Australian Muslims will be denied justice.

Kuranda Seyit  
President  
Forum on Australia's Islamic Relations (FAIR)