

Department of Justice and Community Safety
Government of Victoria
via email: reform@justice.vic.gov.au

11 October 2024

Dear Committee Secretary

The Australian Association of Christian Schools (AACS) appreciates the opportunity to respond to the Victorian Government's proposed reforms on anti-vilification protections. Representing over 100 Christian schools nationally, including 13 school across Victoria, we are concerned about the implications these reforms could have on our ability to uphold our religious beliefs and maintain a holistic Christian school environment for our students.

Executive Summary

The proposed reforms introduce significant changes to anti-vilification laws, including the expansion of protected attributes, the introduction of criminal offences of incitement and threats, the introduction of civil incitement and harm-based provisions, and a broad definition of public conduct. While we support the intention to promote tolerance and protect individuals from vilification, we urge the government to reconsider aspects of these reforms that may unintentionally infringe on religious freedoms and the rights of Christian schools to teach and practice their beliefs. We have outlined our key concerns along with recommendations below.

1. Expansion of Protected Attributes

While the intention behind the proposed expansion of protected attributes is to promote inclusivity and respect for diversity, the new definitions could lead to conflicts with religious teachings on sexuality and gender. This could create a chilling effect on open dialogue within the classroom and increase the risk of litigation. It is crucial that any legislative changes consider the rights of religious institutions, such as Christian schools, to uphold their beliefs and provide an education consistent with their values.

2. Criminal Offences of Incitement and Threat

The introduction of criminal offences related to incitement and threat is particularly concerning due to the vague definitions of the terms "hatred," "serious contempt," and "revulsion". The ambiguity around these terms could lead to misinterpretation and arbitrary enforcement. The risk of criminal charges could discourage open discussion of biblical concepts and moral issues within the classroom, undermining the educational mission of Christian schools.

For example, teaching the exclusivity claims of Christ for salvation - *I am the way, the truth, and the life. No one comes to the Father except through me* (John 14:6) could be misinterpreted as serious contempt towards people who belong to a different religious group or have no religious affiliation.

3. Civil Incitement and Harm-Based Provisions

The proposed civil incitement and harm-based provisions also raise significant concerns. The provisions would allow individuals to bring civil claims against others for conduct that is “likely” to incite hatred against, serious contempt for, revulsion towards or severe ridicule of another person or group based on a protected attribute, even if no actual harm occurs. This creates a low threshold for legal action. The vagueness surrounding “likely to incite” means that teachers could be held liable for teaching Biblical beliefs that students may find controversial or offensive, leading to frivolous lawsuits against Christian schools.

For example, teaching the Ten Commandments, such as *You shall not commit adultery* (Exodus 20:14) could be interpreted as judgemental or inciting serious contempt for people who have engaged in sexual activity outside of marriage. Another example is teaching the universal concept of sin - *for all have sinned and fall short of the glory of God* (Romans 3:23) - could be perceived as judgmental or likely to incite serious contempt for some people.

4. Definition of Public Conduct

The proposed definition of “public conduct” under the anti-vilification laws is overly broad and concerning and could threaten the autonomy of Christian institutions to teach and practice their faith freely. The inclusion of private property or settings, such as schools and churches as public spaces raises concerns about how religious teaching during school activities could be classified as public conduct, placing them under the purview of the proposed laws.

Under this broad definition of public conduct, the following activities in a school setting in could be affected:

- Chapel services: regular worship services, which are often open to the school community but held on private property, could be classified as “public” under the proposed laws. Sermons that include Biblical teachings on sin, morality, or salvation may be targeted under the subjective harm test.
- Religious instruction classes: lessons on Christian doctrine, including topics such as marriage, sexual ethics, and salvation, could be deemed public conduct, even when taught within the closed setting of a classroom, if the material is viewed as offensive by someone outside the school community.

- School newsletters and social media communications: internal and external communications that share religious teachings or promote faith-based activities could be seen as public conduct if they are accessible to parents, students, or staff who may not share the school's beliefs.
- Special events and assemblies: Christian schools often hold events such as Easter and Christmas assemblies, where the Gospel message is shared. Such events, though intended for students and staff, could be classified as public and subject to the proposed vilification laws if the message is considered offensive.
- School policies on behaviour and conduct: Christian schools commonly have policies reflecting Biblical values, including dress codes, behavioural expectations and guidelines for relationships. These policies, if perceived to marginalize individuals based on gender identity or sexual orientation, could be subject to vilification claims under a broad interpretation of public conduct.

5. International Law Standards

The proposed changes to vilification laws must also be evaluated in the context of international human rights law. Article 19 of the International Covenant on Civil and Political Rights¹ emphasizes the right to freedom of expression, asserting that restrictions must be *necessary*. The current proposals infringe on these protections by restricting legitimate religious expression without clear justification. International standards also recommend that hate speech laws should focus only on serious forms of incitement, not legitimate religious expression. Christian teachings, even if unpopular, must be safeguarded as part of a free and open society.

In addition, Article 18(4) of the ICCPR protects the rights of parents “to ensure the moral and religious education of their children in conformity with their own convictions”. The proposed laws have the potential to interfere with the liberty of parents and guardians by restricting the ability of our schools to provide a genuine Christian education service to parents who choose this type of education for their children.

Recommendations

To address our concerns, AACS recommends the following improvements:

1. Refine the Expansion of Protected Attributes: clearly define and limit the scope of protected attributes to avoid unnecessary conflict with religious doctrines, ensuring that Christian schools can uphold their beliefs without fear of legal repercussions.

¹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

2. Clarify Criminal Offences: establish precise definitions for incitement and threats to prevent vague interpretations that could lead to unjust prosecutions of educators discussing traditional Christian teachings.

3. Revise Civil Provisions: amend civil incitement and harm-based provisions to include clear protections for religious expression, preventing frivolous lawsuits against religious institutions and schools for teaching and upholding their faith.

4. Narrow the Definition of Public Conduct: exempt religious institutions, including religious schools, from being classified as "public" in contexts where they engage in faith-based teachings intended for their community.

5. Align with International Standards: ensure that all proposed changes to anti-vilification laws align with international human rights standards, particularly regarding the freedom of expression and the rights of religious institutions.

Conclusion

The AACCS is deeply concerned that the proposed changes to Victoria's anti-vilification laws will have a chilling effect on freedom of expression within our schools and the broader community. The vague and overly broad language of the proposals creates significant uncertainty and risks unfairly targeting individuals and institutions whose views and beliefs deviate from prevailing cultural norms. We urge the inquiry to carefully consider these concerns and adopt recommendations that protect both vulnerable individuals and fundamental freedoms of speech and religion.

Thank you for considering our submission. We would value the opportunity to participate in any public hearings.

Yours faithfully



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