

Wise leadership to an important goal

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Religious vilification laws can undermine the very freedom they seek to protect—freedom of thought, conscience and belief. [Premier Bob Carr]

Premier Bob Carr's decision not to support the extension of vilification laws to religion is to be commended as good thinking by a wise leader. His argumentation shows why such laws are unnecessary and counter-productive. (There is a link to his speech in *Hansard* below.) This brief paper offers a Christian response to religious vilification law.

In short, such laws are **well intentioned**: they seek for social harmony. But they are **misguided**: they create and inflame social disharmony. **Christians seek for more**: a society where there can be robust disagreement, but with a culture of acceptance and what the Bible calls 'love'.

Proponents of religious vilification law also think that by introducing these laws, they are protecting the religious freedoms of speech in our society compatible with the avoidance of vilification. According to one (Prof. Gary Bouma, Monash University), there is a need 'for religious groups to behave honestly and honourably in their relations with each other.' For MP Peter Breen, 'such laws actually protect people's religious thoughts by prohibiting their vilification.'

For Bouma, when Australians 'become fearful of their neighbours on account of their religion, then vilification is occurring and our social fabric torn.' The 'core issue' in religious vilification law 'is public order and the restraint of such speech as might cause inter-group conflict and violence. The main aim is to protect the right of religious groups to exist and to pursue their business without undue harassment from others'. Christians need to notice, and perhaps have sympathy for, the *fear of violent conflict* driving these laws.

Bouma also believes that such law is a constructive use of state coercion to force compliance to social ideals. It is insufficient to aim to 'change the hearts of the citizenry, rely on good common sense [and] point to good examples'. Rather, 'make a certain type of behaviour illegal and a powerful message is sent ... to those who think it permissible to make disparaging comments about someone who dresses differently on account of their religion ... [T]he social cost of engaging in it has been made punishing.'

However according to Professor Patrick Parkinson (University of Sydney), such legislation is a counter-productive strategy for promoting social harmony. Parkinson shows how lawmakers can fail to take into account the 'collateral damage' effects of this kind of law: (a) Litigation quickly 'chills' legitimate religious activity; (b) a 'concentric circle' effect of statutory interpretation tends to cut such law loose from its original intention; (c) misinformed 'folklore' about the legislation fosters oppressive risk-averse management in organisations; and (d) in Australia, such legislation operates in the absence of a 'human rights' framework, which might otherwise serve to balance its application.

The net effect of this collateral damage is that such law intimidates against reasonable speaking out. A speaker may wish to speak strongly against some religion's practises (non-ordination of women? coercive fund-raising? female circumcision? prohibition of medical intervention?), yet even though such speech is not intended to be proscribed by the law, speakers will tend not to make these important statements.

Parkinson also observes the way such laws turn courts into new 'theatres of war' for old, long-running disputes. He also notes the absence of any obvious need for religious vilification law in modern Australia, and considers it 'copycat' legislation. (Interestingly, when Peter Breen was asked by the SIE for examples of injustice which indicated a need for religious vilification law, his reply did not supply any such examples.)

The use of such law to arbitrate conflict de-skills a populace in navigating conflict and difference. Rather than encouraging skills in courteous and robust debate, disputing parties may

now immediately invoke a third party to arbitrate their debate, thereby avoiding dealings with each other. This ‘triangulation’ of a third-party is, as psychologists know, a poor way to navigate conflict. Religious vilification law resembles a ‘peace at any price’ strategy, where *all* unpleasant talk must be avoided at *all* costs. But conflict driven underground makes the social groundwater toxic.

There are serious difficulties in defining ‘vilification’ in these laws. For Bouma, ‘Some religious people continue to feel it necessary to speak ill of those who believe or practise differently.’ But ‘to speak ill of’, like ‘harassment’, potentially ranges from hostile, hateful attack to the simple claim that another is wrong. According to Parkinson, the definition of religious vilification in Victorian law creates ‘an interpretive and evidential minefield.’

Religious vilification also law seems to assume a certain view of religion that is not held by religious people themselves. On this view, religion is (a) private (b) ethnically and culturally formed and (c) like race or disability, not generally susceptible to change by persuasion. These secular beliefs about religion represent a ‘dumbing down’ of religious difference, which misunderstands the nature of religious debate. Legislative strategies resting on these beliefs are fearful of and patronising towards rival fundamentalist groups in particular. Parkinson’s summary is relevant:

At the heart of the debate about these laws is religious freedom: not the freedom to be intolerant, and certainly not the freedom to vilify – neither of these are legitimate expressions of religious freedom. Rather, at issue is the freedom to express views about truth and falsehood, right and wrong, good and evil, which may offend others who have a different view on these matters. Religious vilification laws in practice, if not in theory, pose a grave danger to this freedom because of the collateral damage that can be caused by a legislative strategy to enforce tolerance.

But Christians do affirm some of the yearnings indicated by proponents of these laws. Of course we agree that ‘religious groups should behave honestly and honourably in their relations with each other’. Christians also know that legal strategies, born of fear, are a mistaken way to satisfy these yearnings. *Therefore, we would also be mistaken to think a Christian response to these laws should mainly be legal and political.*

Christians need to lead the way on what it is to *speak well of others while disagreeing with them*. It has always been central to the earliest Christian instruction that truth-speaking, while uncompromising, must be gentle, careful and respectful:

Always be prepared to give an answer to everyone who asks you to give the reason for the hope that you have. But do this with gentleness and respect, keeping a clear conscience ... [1 Peter 3:15-16]

The Lord’s servant must not quarrel; instead, he must be kind to everyone, able to teach, not resentful. Those who oppose him he must gently instruct, in the hope that God will grant them repentance leading them to acknowledge of the truth ... [2 Tim 2:24-25]

Elsewhere in the Bible, this kind of attitude to others is called ‘love’. Christian theology can outline how to accept and love someone, even while disagreeing with them. In the practices seen in our churches, then, we might do well to consider:

- Does our preaching have a tendency toward polemical rhetoric, and if so, is that preference always justified or defensible?
- Do our teachers and leaders make warranted statements about other religions based on sufficient data?
- When a Christian teacher is not expert on a particular religion, is he or she able to interact with it appropriately, carefully outlining what he or she does and doesn’t know

about that religion? Is disputation offered provisionally, indicating an openness to factual correction about the religion being discussed?

Preachers and teachers who have thought through these questions will be able to preach boldly, yet in a way that makes religious vilification law obviously unnecessary. And if at some future time an unwise leader imposed religious vilification law, we would be able to point to learned, well-prepared preachers whose gentleness and courtesy is not in dispute. Future legal battles need to centre upon freedom to state Christian truth, without being muddled by such truth having been proclaimed hatefully or foolishly.

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