



From: [Redacted]
Sent: Wednesday, 3 January 2018 10:00 AM
To: Policy AGD
Subject: feedback to the Modernisation of the ADA
Attachments: ADA_Vilification.pdf

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Dear Sir/Madam,
 Please find some feedback to the proposed changes to the ACT.

Firstly I congratulate the government on proposing changing so that people are cared for and listened to. Thank you for the work and the opportunity for the public to respond.

Secondly, I have attached some a paper with comments concerning anti vilification.

Thirdly the paper states, 'that gender is not limited to biological sex assignment: it takes into account appearances, mannerisms and the social identity a person chooses for themselves'.
 People can make choices about how they want to live, however gender is a given at birth when the baby is born. Gender at birth is male or female. They are 2 gender identities.

Fourthly, Should any exemptions for religious or cultural bodies be removed?
 These exemptions affect Christian schools, accommodation they provide and religious sites.
 Freedom of religion is the issue here. Christian schools should be able to maintain their Christian ethos at all levels. This means Christian schools should be able to discriminate when hiring employees with regard to their faith. Freedom of choice for parents should also be upheld.
 With regard to Religious sites, this clashes with the exemptions allowed for Indigenous religious sites. The government is upholding exemptions for some religious or cultural bodies over others.

Finally the definition for parenthood be replaced with carer responsibilities. If people make a choice to be parents then that needs to be acknowledged and they need not be denied their rights. For those who are caring for other children acknowledge them as carers BUT do not take away the term parents.

Thank you for the work that you do.
 I would ask that the report be made public.

Sincerely

Northern Territory Anti-discrimination act – vilification

The discussion paper states that “There are no federal or Territory laws that protect against vilification on the basis of religious belief, disability, sexual orientation, gender identity or any other attribute under the Act.”

The discussion paper proposes: “The Act could be amended to make it unlawful for a person to do an act, other than in private (for example at home), if the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and the act is done because of a characteristic of that person or they are a members of the group on the basis of race, disability, sexual orientation, religious belief, gender identity or intersex status.”

The proposal allows for “including appropriate exemptions to cover acts done ‘reasonably and in good faith’ to allow for free and fair speech”. This allows exemptions “if it is a genuine belief held by the person making the comment”.

It suggests this will prevent “extreme or pervasive vilification that is essential for Territorian’s [sic] to maintain the right to live their lives free from harassment, psychological distress, hurt, anger and anxiety that exists in society.”

We agree that it is good to curtail and legislate against extreme and pervasive vilification. However, there are a number of problems to include in the definition of vilification “offend” or “insult”.

Firstly, they are broad because this is a much lower standard than extreme vilification. How can a satirist write an article without the freedom to offend? How can a comedian mock being politically correct if it will offend those who want political correctness?

Secondly, they are subjective because they rely on an assessment of the person who feels vilified. It is impossible to deny or reject someone’s emotional response to any situation. So how can a person accused of vilifying another defend themselves against how that person responded?

Thirdly, how is it possible to decide between a person who is offended by another person expressing a genuinely held belief?

Fourthly, the broad and low standard of “offend” and “insult” could result in many frivolous cases being brought to the anti-discrimination commissioner. This has already been seen in Tasmania with the case against the Catholic Church distributing a pamphlet to Catholics that contained Catholic teaching about marriage. Though this high profile case has since been dropped, there are still at least two others outstanding.

Fifthly, the low standard could stifle free speech as people might be afraid to voice their opinion because they might become the subject of a complaint. How will this allow us to “live in a free and democratic society with a right to voice opinions in a respectful manner”?

Sixthly, could politicians who are offended or insulted by things said or done in the community bring a case to the commissioner? And if so, could this lead to a state of censorship or control from the government?

Preventing “excessive and pervasive vilification” is a commendable goal for anti-discrimination. To include “offend” and “insult” as a legitimate description of vilification is an over-reaction. Freedom of speech might mean some people are offended, but respectful discussion should mean offense or insult doesn’t result in “harassment, psychological distress, hurt, anger and anxiety”.