

**Submission from the Presbyterian Church of  
Australia in the State of New South Wales**



**Who we are**

The Presbyterian Church of Australia in New South Wales (PCNSW) consists of 183 congregations with over 13,500 adults regularly attending and supporting their local church and outreach into their local communities. The Church operates four independent schools and three low-fee Christian schools educating over 5,500 students, five of these schools in regional communities across New South Wales. It also provides a range of disability services, including Allowah Presbyterian Children’s Hospital; supports chaplains in hospitals and jails; operates six Early Childhood Services for Pre-schools/Kindergartens/Childcare; and coordinates the teaching of scripture in public schools which involves over 400 voluntary Presbyterian scripture teachers.

For further information contact Rev. Dr. Kamal Weerakoon. He is a member of the PCNSW’s Gospel, Society and Culture Committee, and the Church’s representative on the NSW Government’s Faith Affairs Council.

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## **Physical violence, freedom of speech, and civil society**

The section imposes criminal penalties upon anyone who “by a public act, intentionally or recklessly threatens or incites violence” towards people who bear particular protected characteristics. We agree that incitement to (physical) *violence* should be subject to *criminal* sanction. People who bear the section’s protected characteristics have the right to live lives free not just of violence but also of threats of violence against them. Freedom from these kinds of threats is a key aspect of what it means to live well in a free society. The fact that such behaviours are subject to the highest sanction of the law – i.e. criminalised – plays a key role in creating the behavioural boundaries which preserve such freedoms.

We simultaneously state however that only incitements to *violence* against a person’s *body* and/or their *property* – ‘physical’ violence – should be subject to the (rightfully) significant threat of *criminal* sanction. Broadening the definition to criminalise acts of supposed ‘verbal violence,’ which somehow challenge or discomfit people who bear those characteristics, but which do not threaten or incite physical violence against them or their property, would have a significantly negative impact on other freedoms which equally characterise a free, open, tolerant society, especially freedoms of speech and religion.

This is not to give *carte blanche* sanction to all kinds of malign or ill-considered communications. Speech which does not incite physical violence can still be aggressive, intolerant, mocking, and in other ways highly damaging to individuals, communities, and the fabric of society in general. Such speech needs to be regulated; however, we submit that it does not require *criminalisation* and can adequately be dealt with through *civil* law.

We further submit that law is not the best way to regulate such socially divisive communication. It is better to seek to prevent it through informal, communal character formation. People need to be equipped with the kinds of values and attitudes which enable them to neither suppress the differences we have with each other, nor speak contemptuously about those differences, but to speak courteously about people with whom they disagree.

That kind of character formation cannot happen through a judicial process. Over-reliance on official legal sanctions would be more likely to reinforce a sense of being unjustly persecuted for challenging the self-interests of those who are in power. That kind of martyrdom mindset entrenches suspicion and hostility towards the law, law enforcement, and public agencies in general. The kinds of attitudes which foster civility and harmony in today’s highly diverse society are best formed through communities which are simultaneously confident in their character as a particular community and also well-disposed towards – i.e., truly tolerant of – people and communities who are different to them.

## **Sexual identity, orientations, and intersex conditions**

The PCNSW (and the Presbyterian Church of Australia nationally) holds to the historically orthodox Christian definitions of sex, sexuality, and marriage. We believe that humanity is constituted in the two sexes of male and female, and that sexual activity should only be conducted between two people of the opposite sex who have publicly entered into the

covenantal institution of (heterosexual) marriage. We also believe that this understanding of human beings and human sexuality is not specifically religious but, precisely because it is about our shared humanity, is good for all people and for human society in general. Part of our role as a religious institution is therefore to teach such beliefs, and the associated lifestyles, not only to those who adhere to the Presbyterian religion, but to society at large.

Such beliefs about humanity and human sexuality, and the public nature of those beliefs, are not unique to Presbyterianism. They have been the historic teaching of the entire Christian Church for the past two millennia, and as such form part of the key 'western' beliefs and values which Australia as a nation was founded upon. For more information, see our attached papers *Marriage Matters* and *The Transgender Moment*.

Three of the protected characteristics of Section 93Z are sexual orientation, gender identity, and intersex status. If the application of this section was broadened beyond incitement towards physical violence to encompass activity which somehow challenged or discomfited such people – so-called 'verbal violence' – there is a risk that it would function as a sexual version of a blasphemy law. There is a risk that it would criminalise any communication which can be interpreted as being 'against' those characteristics, even if that communication represents the established consensus of a major world religion, viz. Christianity.

That said, we vigorously repudiate any and all physical violence against people whose sexual orientation, gender identity, or intersex status does not fit within the traditional Christian model. Jesus Christ, the centrepiece of our religion and the one we worship as Lord and God, never incited or enacted violence upon anyone. On the contrary, he protected the outcasts and the marginalised. People of all sexual orientations, gender identities, and intersex statuses should live free from, and be confident that they will be protected from, physical violence.

### **Monotheism, critique of other religions, and invitations to change religion**

Christianity is monotheistic. The uniqueness of Jesus Christ as God incarnate, and faith in him as the only means to a true relationship with God, are among its core religious tenets. These in turn imply that criticism of other religions, and consequent invitation to renounce that other religion and become a Christian – to 'convert' – are also essential to Christianity. Again, such conversionary monotheism is not unique to Presbyterianism but is historical Christian orthodoxy.

Religion is another of Section 93Z's protected characteristics. It is a fact of history that religious convictions have motivated all manner of violence. But the New Testament documents how Christianity spread, not through violence, but only through verbal proclamation and persuasion. We therefore repudiate any and all religiously-motivated physical violence and are glad that Section 93Z includes religion as a protected characteristic.

But similar to the above, we think that criminal penalties should be restricted to physical violence. Good-faith critiques of any religion, and invitations to change religion in light of

those critiques, should not be criminalised. Critiques performed in an uncivil manner can be censured through the civil jurisdiction and/or informal social and communal opprobrium.

### **Race and disease**

We also unequivocally reject violence towards, and threats and incitement of violence, towards, people of any race, or who suffer from any illness e.g. HIV-AIDS. The New Testament itself documents the international, inter-cultural nature of Christianity. The Christian church has been in the forefront of medical care for centuries.

But again, we think that criminal penalties should be limited to threats of physical violence against such people. Other communications such as slurs and disparagement can be dealt through the civil jurisdiction and/or through informal, non-judicial social censure.

### **Summary and conclusion**

We agree that incitement to violence towards people who bear the protected characteristics of Section 93Z should be subject to criminal sanction. That kind of protection is important for a free, open society.

We urge that such criminal sanction be limited to incitement towards physical violence, i.e. threats of violence towards a person's body and/or property. Other forms of communication may still be socially destructive therefore deserve to be censured through the lesser means of the civil jurisdiction and/or through informal chastisement. All forms of anti-social communication are best avoided through healthy communities demonstrating to their members, when disagreement is necessary, how to disagree in genuinely courteous, tolerant, civil ways. Broadening Section 93Z to criminalise acts of supposed 'verbal violence' would negatively impact other freedoms which equally characterise an open, tolerant society, especially freedoms of speech and religion.