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## **THE MUSLIM LEGAL NETWORK**

The Muslim Legal Network (MLN) is an Australian based legal practitioner and law student association. It was formed in Victoria in 2008, under the auspices of the Islamic Council of Victoria (ICV). MLN was incorporated in 2010 as a not for profit association in Victoria.

MLN has been created for all Australian Muslim lawyers and Muslim law students to engage with the wider community of lawyers, the legal profession, the Muslim Ummah and our Australian community.

MLN strives towards protecting the civil liberties and human rights of all Muslims and non-Muslims living in Australia. Through the MLN, a framework has been created in which Muslim lawyers, law students and those striving for a vocation in the law can associate and provide mentoring and support with regards to their legal careers.

Furthermore, MLN works diligently towards building a better understanding of the Islamic faith within the wider Australian community through the development of various bodies, projects and dialogue as well as providing assistance to Muslims and other Muslim organisations.

For more information please visit our website at <http://www.muslimlegalnetwork.com> or our Facebook site at: <http://www.facebook.com/home.php?#%21/group.php?gid=32731009622&ref=ts>

If you would like to contact the Muslim Legal Network, send us an email at: [Muslim.Legal.Network@gmail.com](mailto:Muslim.Legal.Network@gmail.com)

### **Information Sheet:**

The purpose of this information sheet is to better educate the community. The paper can be used as a source of information for those wishing to examine the issue more closely. This information sheet is not intended to be legal advice or an opinion article nor does it represent the views of any individual member of MLN or the ICV.

### **Acknowledgement:**

The MLN acknowledges and thanks Sherene Hassan (ICV Board Member) for inspiring the creation of this document.

## DEALING WITH MEDIA BIAS/ISLAMOPHOBIA AGAINST MUSLIMS

### **Australian Press Council**

#### **How to make a Complaint**

If you have a complaint against a newspaper or periodical or the news reporting on a website of a which appears to have breached the Australian Press Council's Statement of Principles or the code of privacy standards, you should first take it up with the editor or other representative of the publication concerned.

If the complaint is not resolved to your satisfaction, you may refer it to the Australian Press Council. A complaint must be specific, in writing, and accompanied by a cutting, hardcopy print, clear photostat or html attachment of the matter complained of, with supporting documents or evidence, if any. Complaints must be lodged within sixty days of the initial publication. The Council provides a complaint form for complainants to use.

The Council will not hear a complaint subject to legal action or possible legal action, unless the complainant is willing to sign a waiver of the right to such action.

On receipt of the complaint, the Council secretariat will first try to negotiate a settlement of the matter. Up to 50 per cent of complaints are settled amicably at this early stage of the process.

If such a settlement is not possible, and the complaint is accepted, a formal response from the newspaper will be sought and sent to the complainant. If not satisfied by the response, the complainant can, with the agreement of the newspaper, seek a conciliation hearing conducted by a Public Member of the Council or can immediately refer the matter to the Press Council for adjudication.

If a matter is sent to the Council, the complainant and publication have the option of attending a meeting of the Complaints Committee which makes a recommendation to the Council on the matter. The Complaints Committee consists of seven members of the Council, with a majority of public members (including the Chairman).

### **ACMA**

#### **Television complaints**

If you have seen something on TV that you think breaches a code, you must first complain in writing to the station that you saw it on.

If you have already made a complaint to the station, and have either not had a response within 60 days, or aren't satisfied with their response, you can make a complaint to ACMA.

ACMA cannot accept complaints about the quality or scheduling of programs, the content of advertisements, or advertising on the ABC.

If you have seen something that you think breaches a licence condition or a standard, you can make a complaint directly to ACMA. Standards applicable to television include:

- Children's television standards
- Australian content standards
- Anti-siphoning rules and

- Anti-terrorism standards.

The ACMA broadcasting complaints form can be downloaded from their website.

### **Radio complaints**

If you have heard something on the radio that you think breaches a code, the first thing to do is to make a complaint in writing directly to the station you heard it on.

If you have already made a complaint to the station and have either not had a response within 60 days, or aren't satisfied with their response, you can make a complaint to ACMA.

ACMA cannot accept complaints about the quality of programs or the accuracy of advertisements.

If you have heard something on radio that you think breaches a licence condition or standard you can make a complaint to ACMA.

### **Internet and online services**

The Internet has impacted on the way we communicate and interact, how we buy and sell things, how information and knowledge is distributed, but the law has not kept up. There is no single piece of legislation that we can turn to when we are faced with an Internet related legal issue, and usually, we have to conceptualise an online problem in the offline legal framework and adapt the existing law accordingly. In this context a wide range of laws are relevant including the Australian Consumer Law 2010 (formerly the Trade Practices Act 1974), the Copyright Act 1968, the Telecommunications Act 1997 and the defamation laws.

Nevertheless, the Government has introduced legislation targeting specific issues raised by the Internet, including the regulation of online content (Schedule 5 of the Broadcasting Services Act 1992), the Electronic Transactions Act 1999 and prohibitions on online gambling (Interactive Gambling Act 2001).

The rise of the Internet raises many interesting and complex concepts and problems, some of which are set out below.

### **Cyber-Crime**

The Internet has seen an increase in new types of crimes such as computer hacking and cracking, and the spreading of computer viruses. The Internet is also a new medium for more "traditional" crimes so that the phrase "cyber stalking" and other online offences like credit card fraud and the possession of child pornography are now recognised by the criminal law.

### **Defamation**

The ease by which defamatory material is published on the Internet, by email, in news groups or in chat rooms poses many challenges for the law of defamation. As the Internet can be used to conceal a person's identity (for example, through the use of anonymous email accounts or nicknames or handles), and because the defamatory material may reach any number of jurisdictions over the Internet, it may be difficult to identify and sue a person for defamation.

### **Jurisdiction**

The Internet is not restrained by location and may reach any number of countries. As such, the Internet's wide reach creates interesting jurisdiction questions:

Where has an online crime been committed?  
 Where is an online contract made?  
 Which court has the power to hear a dispute?  
 Which country's laws apply?  
 How can a court judgment be enforced if a person is based overseas?

### **The Victorian *Racial and Religious Tolerance Act 2001***

In recognition of Victoria's cultural and religious diversity, the *Racial and Religious Tolerance Act* (the Act) was introduced to promote community acceptance of racial and religious diversity.

While the Act recognises the importance of freedom of expression in an open and multicultural democracy, it also recognises the rights of all citizens to full and equal participation in society. Vilification diminishes dignity and sense of self worth and affects the ability of individuals to contribute to society. This reduces the benefits that diversity delivers to the community.

Contained within the Act are the two criminal offences of serious racial vilification and serious religious vilification. Serious racial or religious vilification occurs where:

- a person, because of the race or religion of another person/class of person, intentionally engages in conduct that the person knows is likely to incite hatred against that other person/class of person and either threatens physical harm, or incites others to threaten physical harm against that person/ class of person, or their property, or
- a person, because of the race or religion of a person/class of person, intentionally engages in conduct that the person knows is likely to incite serious contempt for, or revulsion or severe ridicule of, that person/ class of person.

Under the terms of the Act, such conduct includes use of the Internet or email to publish or transmit statements or other material.

### **Lodging a civil complaint**

Civil complaints of vilification are different by definition to criminal complaints of vilification. The following organisations can be contacted for information about lodging a civil complaint of vilification.

### **Conduct likely to be considered racial or religious vilification includes:**

- comments about the race or religion of a person that could incite contempt or ridicule of, or hatred for, that person
- publishing baseless allegations that a racial or religious group engages in serious criminal activities
- persistent and serious verbal or physical abuse about the race or religion of another person
- encouraging violence against people who belong to a particular race or religion and the destruction of their property
- promoting hatred of a racial or religious group in flyers, stickers, posters, in a speech or publication, or through websites or email. For example, Hyder is Aboriginal and complains that a social networking site publishes offensive material that vilifies Aboriginal people.

It is also against the law to authorise or assist someone to vilify others.

**Conduct unlikely to be considered racial or religious vilification includes:**

- religious criticism and racial or religious debate that does not encourage or promote hatred or contempt for other racial or religious groups
- behaviour that offends people of a particular race or religion, but does not incite hatred, severe contempt, serious ridicule or revulsion.
- Comments, jokes or other acts related to the race or religion of a person may not constitute vilification, but if they occur in employment, education, accommodation or the provision of goods and services, they could still be the basis for a complaint.

For example, Hyder complained that on a local bus the driver asked him where he was from, told him to sit at the back of the bus and sniffed loudly as he walked past.

Some behaviours may not be considered vilification if they are reasonable and done in good faith. This includes: an artistic work or performance; a statement, publication, discussion or debate in the public interest; and a fair and accurate report in the media.

**1. The Victorian Equal Opportunity and Human Rights Commission (VEOHRC)**

The Victorian Equal Opportunity and Human Rights Commission can lodge complaints about racial or religious vilification. VEOHRC can be contacted at:

Victorian Equal Opportunity and Human Rights Commission  
Level 3, 380 Lonsdale Street,  
Melbourne, 3000,  
Phone: 9281 7100  
Toll free: 1800134142,  
Email: [complaints@veohrc.vic.gov.au](mailto:complaints@veohrc.vic.gov.au)

**2. Australian Human Rights Commission**

Civil complaints about racial hatred can also be lodged with the Australian Human Rights Commission. You can contact the AHRC for more information, via:

Australian Human Rights Commission  
GPO Box 5218  
SYDNEY NSW 2001  
Complaints Infoline: 1300 656 419  
Email: [complaintsinfo@humanrights.gov.au](mailto:complaintsinfo@humanrights.gov.au)

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[http://www.humanrightscommission.vic.gov.au/index.php?option=com\\_k2&view=item&layout=item&id=981&Itemid=677](http://www.humanrightscommission.vic.gov.au/index.php?option=com_k2&view=item&layout=item&id=981&Itemid=677)

## WHAT CAN YOU DO IF YOU ARE THE VICTIM OF CYBER-HATE/VILIFICATION?

1. Remain assertive but not aggressive and stay calm.
2. Contact the Muslim Legal Network and report the matter immediately.
3. Flag the material if the website provides this function. Make a detailed report of why and how the matter is Cyber-Hate/Vilification and should be taken off.
4. Collect information about the website, their internet service provider (ISP), whether they have posted similar content before and the authority of the offensive content. Services such as [www.domaintools.com](http://www.domaintools.com) will enable users to find the ISP of the website.
5. Check with the ISP's Terms of Service (TOS) and hold them accountable if it has been breached. Write to them with regard to the advice below in the "Model Letter". This does not guarantee results as enforcing the TOS is likely to be solely at the discretion of the ISP. Additionally, the material may reappear on another ISP.
6. Contact other community groups and seek letters of support for combating the offensive content.
7. Post videos, counter viewpoints, or comments that oppose the offensive content. Let viewers see an alternative perspective.
8. Lodge a complaint at [www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au) with letters and collected information attached claiming a breach of the *Racial and Religious Tolerance Act 2001*.
9. If the Cyber-Hate/Vilification is directed at a particular race (Arabs, Pakistanis, Indians, Malays, Turkish, Albanians etc), make a report to [www.hreoc.gov.au/racial\\_discrimination/racial\\_hatred\\_act/index.html](http://www.hreoc.gov.au/racial_discrimination/racial_hatred_act/index.html).
10. ACMA deals with prohibited content - detailed at [www.acma.gov.au](http://www.acma.gov.au). Lodge a complaint if relevant to [online@acma.gov.au](mailto:online@acma.gov.au).
11. Follow up after a month and stay updated on the progress of the investigations.
12. If action is not taken by the website owner or ISP: Contact the Multicultural Liaison Officer who will support you in the reporting process to Victoria Police and file a report with the Victorian Police.
13. If race related, also file a report with the Australian Federal Police.

## POINTS FOR A MODEL LETTER

- Be clear and direct when dealing with entities on the internet. Users must explain exactly what has disturbed them, why the content is offensive, where it is located and when it was last accessed by the user.
- Explain carefully and analytically with references exactly why the content is offensive even if you believe it to be obvious.
- It is important to be clear, precise and thorough so that someone reviewing the letter can understand you even if they only have spend seconds of their time reading the your complaint.
- If a breach is found in the ISP's TOS, try to identify the particular section of the breach and explain how it has been breached.
- Complaint should be calm, polite and to the point.
- Specifically request a response
- Copy an organisation like the Muslim Legal Network/ICV on your communication.

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