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The Right to be offended

I believe in the right to be offended. If nobody is allowed to disagree, to say things you or I don't like, that hurt, that aren't nice –many illuminating, challenging comments that bring about change will not be made. Throughout history people have had to be offended time and again to have their ideas challenged and positive change happen, I would prefer we didn't force our society to stagnate by stifling healthy public discourse. I have read a transcript of a speech by the Hon. James Spigelman delivered earlier this month in which he notes that

> *When rights conflict, drawing the line too far in favour of one, degrades the other right. Words such as "offend" and "insult", impinge on freedom of speech in a way that words such as "humiliate", "denigrate," "intimidate", "incite hostility" or "hatred" or "contempt", do not. To go beyond language of the latter character, in my opinion, goes too far.*

I agree with his comments. Bullying, public humiliation, libel, serious intimidation, assault (verbal or otherwise) shouldn't be tolerated regardless of whether it is related to discrimination, drunk and disorderly behaviour or simply relational breakdown. Nobody deserves such treatment, whether they have 'protected attributes' or not. However, I don't believe that the possession of 'protected attributes' should allow you to pursue legal action should you be "offended" or "insulted".

The burden of proof

I believe in the principle of 'innocent until proven guilty'. If someone has committed assault, or verbally abused, intimidated, harassed someone – this is provable, and the plaintiff should be offering such proof.

In minor cases of "I don't like what you said", however, I don't believe there is fair grounds to pursue an opponent through vexatious litigation and occupy courtrooms which would better serve society by administering justice in more serious matters [such as our child protection system, which is in serious disarray]. To this end, placing the burden of proof on the plaintiff and further discouraging such litigation by less ambiguous language would serve society well.

Intersex

I have no vested interest in this matter (as I have no experience with any such person) however I agree with the earlier submission of the Organisation International Intersex that Intersex individuals should be afforded appropriate protection from unfair treatment by law, and that this should be identified and handled separately from 'Gender Identity'.

I feel the reference to 'genuine' where it refers to 'Gender Identity' is justified; however in the case of Intersex persons it is unnecessary and somewhat insulting to basic intelligence (either you are biologically different or you aren't.) The point made in the OII submission that not all Intersex persons identify as either gender makes sense too, and I think it ought to be taken into consideration by the committee.

Religious Exemptions

As a person of faith I somewhat welcome attempts to legislate what religious people are 'allowed' to

say and do, as it helps to separate those who genuinely believe central tenets versus those who cherry-pick what suits them but aren't willing to stand for anything. It is unfortunate. It creates schisms in faith communities between those who go with the tide of society versus those who stand for their beliefs. It means that fair-weather believers will give up, because it's 'too hard', and it leads to predictions like Voltaire's (that this or that faith will die out, because it's too removed from reality). However, at least for my own Christian community, in the end it also results in a community of believers more committed and more solid than before, who are forced to trust the God they believe in, and who are able to share fellowship in a way that they couldn't when much of the community was just going along for the ride. ☺

The question remains for the committee though - whether to try and legislate change within faith communities specifically. Allowing religious exemptions makes room for people to say things others won't like (as per my first point) in a context in which such comments are often made. Also, such exemptions probably won't hinder social change much because of the declining influence of religion on Australians generally.

I commend your deliberations and hope you uphold freedom of speech.