

# Executive Council of Australian Jewry

הועד הפועל של  
יהודי אוסטרליה

## The Representative Organisation of Australian Jewry

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### CONSTITUENTS:

Jewish Community Council  
of Victoria Inc  
New South Wales Jewish  
Board of Deputies  
Jewish Community Council of  
Western Australia Inc  
Queensland Jewish Board of  
Deputies  
Jewish Community Council  
of South Australia  
Hobart Hebrew Congregation  
ACT Jewish Community Inc

### AFFILIATES:

Australasian Union of Jewish  
Students  
Australian Federation of WIZO  
Union for Progressive  
Judaism - Australia  
Federation of Australian  
JewishCare  
Maccabi Australia Inc  
National Council of Jewish  
Women of Australia



The Executive Director  
Australian Law Reform Commission

3 July 2006

## SUBMISSION TO THE AUSTRALIAN LAW REFORM COMMISSION IN RESPONSE TO DISCUSSION PAPER 71 ON REVIEW OF SEDITION LAWS

This submission is made by the Executive Council of Australian Jewry, the elected representative body of the Australian Jewish community, with constituents and affiliates as set out on this letterhead.

The welfare of our community is very much bound up in the matters addressed in the Discussion paper. Indeed as a distinctive community we do look for protection of the atmosphere of open freedom and equality in which we live, as well as our physical security.

This submission therefore addresses two central concerns: the retention of the criminal offence of urging inter-group violence, and consideration of the provisions of the UK Terrorism Act 2006 which provide penalties for the encouragement or glorification of terrorism.

### Urging Inter-group Violence

We strongly support the ALRC's proposal to retain this provision and incorporate it within the Criminal Code. We think it is useful to characterise such an activity as a dangerous crime, and that it should be totally divorced from the political overtones of traditional seditious law.

We support the proposal in 9.95 to add the word "intentionally" before the word "urges" in s.80.2(5), provided that the words "or recklessly" are also added. (Consideration might also be given to replacing the words "it is unjustifiable to take the risk" in the definition of "recklessness" in clause 5.4 of the Criminal Code by words such as "there is no reasonable basis or excuse for taking the risk.")

We strongly support the retention of the word "religion" as a distinguishing factor in providing protection, as set out in 9.102.

In our view the opposition to the law on the ground that it limits freedom of expression is totally misconceived. We agree with the ALRC that a prohibition against urging the use of force or violence against a group in the community is quite clearly a straightforward public order provision.

### The Encouragement or Glorification of Terrorism

We believe legislation on the model of Sections 1-4 of the UK *Terrorism Act 2006* would address serious problems which Jewish communities throughout the world are increasingly encountering. We are not alone in finding that the encouragement and glorification of terrorism in written form, in public addresses and in an educational context, presents real dangers.

It is significant that the offence under the British law is limited to the most dangerous circumstances only. The offence itself requires proof of an element of intention to actually encourage or induce acts of terrorism (or recklessness), and the full context and circumstances of the statement are to be taken into consideration by the court in determining such intention.

One particularly dangerous manifestation of the encouragement of terrorism which has occurred in Australia is the selling of a manual which instructs the reader in suicide bombing techniques. We believe that such activity should be expressly prohibited.

In all the circumstances we would disagree with the ALRC's view as set out in 6.30 to 6.32. We would submit that a law in similar terms to the British provision would be clearly directed at a real threat to the peace and good order of the Commonwealth, and that an appropriately drafted Australian law would not infringe any right to legitimate political expression. We would therefore hope that further consideration might be given to such provisions, on the basis that they are to be in addition to, and not in substitution for, retention of the law against urging inter-group violence.

### Conclusion

The Jewish Community in Australia has noted a significant increase in anti-Jewish incitement in recent years, as well as incidents of violence against people and property. These are recorded in an annual summary which can be forwarded to the ALRC either as a CD or as a substantial book, on request made to Geoffrey Zygier, our Executive Director.

We are grateful for the opportunity to express our views and we hope that this submission will be of assistance to the Commission.

Please do not hesitate to communicate with our Executive Director if you require any further information.

Grahame J. Leonard  
President