

Church of Scientology Submission
to the
Freedom of Religion and Belief in the 21st Century Project
20 February 2009

The Church of Scientology wishes to thank the Commission for the opportunity of participating in this important and timely discussion. Our Church has always advocated religious tolerance and congratulates the Australian Government for this initiative.

Our submission addresses several issues, which have affected the Church since the release of the 1998 Report, 'Article 18: Freedom of Religion and Belief'. We will begin by alerting the Commission to the constant campaign of abuse to which our Church and members have been subjected by a group who call themselves 'Anonymous' and will follow this with our recommendations on how the Government could best address this issue. Secondly, we will address the impact on our parishioners and clergy of media reports which contain altered and misrepresented information about our Church and beliefs and we recommend that this issue also be addressed by the Government by passing appropriate legislation or amending existing legislation, as we are certain that we are not the only ones subjected to such unethical media stories.

Anonymous

Since January 2008, the Church of Scientology has been subjected to a continuing campaign of violence and abuse from a hate group calling themselves 'Anonymous'. This entity has been described as a group of "cyber terrorists" as its actions have previously focused on Internet harassment and other crimes. However, in the last 13 months they have also (i.e. as well as their internet based assaults) committed acts of harassment and criminal offences "in real life" against the Church, its members and Church property. Anonymous members have made numerous bomb threats, arson threats and committed acts of vandalism against Scientology churches. They have made harassing phone calls, sent vulgar and threatening faxes and e-mails, painted graffiti, posted threats on the Internet and publicly threatened to kill Scientologists engaged in religious services. They have also targeted the children of Scientologists in a local school where they have taunted children whilst wearing masks.

In Sydney they often are found outside the local Churches, wearing masks and photographing parishioners, staff, their vehicle number plates, etc, in order to deliberately harass and intimidate. They talk on the Internet of deliberately angering or instilling fear and upset into Scientologists.

It is a malicious campaign of hate that claims protection under the democratic banner of free speech. However, in truth, it is an anathema to democracy. It overtly states that its intention is to destroy an entire religion and way of living for an entire community of people. Its initial "Long Term Strategy" specifically laid out that members should make false, criminal claims against Scientologists and its lawyers and anyone else who gives the Church aid; to hack into Church computers and create havoc for the operations of the Church; to send abusive faxes, emails and letters pretending to be Scientologists or reporting to the Church some invented

crime by a well known Scientologist in an effort to get that individual into trouble with the Church itself.

This hate group has created chaos by interfering with Church communications, making false reports about the Church to local officials and by harassing parishioners and staff. Its goal is to place sufficient fear into the hearts of Scientologists that they are too afraid to go to their own church; and to create loathing of Scientology and Scientologists through a deliberate campaign of public disinformation.

On January 30, 2008, Anonymous members sent letters containing simulated anthrax to over 20 Scientology Churches in Southern California.

Anonymous have also sent threatening emails to the Church, including, “ [I will] kill you ... I have the authority to use lethal force”, and “I’m watching you, and I control the bombs”. And on February 13, 2008, Anonymous placed a video on the Internet, saying:

“We are an elite Anonymous. On the 13th of March 2008... one 5 kilogram pack of nitroglycerin will detonate in the Churches of Scientology across the United States of America... This will be the world’s biggest terrorist attack on a religion. Lives will be lost....A separate personal attack on [the President of the Church] will be launched on the 13th of March 2008 at an undisclosed time. His execution along with the deaths of other countless Scientologists will strike fear into the hearts of every member of this cult.”

Law enforcement authorities have been notified of these illegal activities.

The members of Anonymous mainly associate via Internet forums and Internet game websites. They remain anonymous by wearing masks at their protests against the Church, and the use of code names and other Internet privacy measures.

The campaign of abuse began with our Internet servers being attacked in early 2008. This attack was orchestrated over the Internet and resulted in significant damage and financial cost to our Church. At least one member of Anonymous, Dmitriy Guzner from Verona, New Jersey, has been charged with and plead guilty to the cyber attack.¹ Since their campaign began, our Churches in both Australia and internationally have been subjected to bomb threats, arson threats, violence, received threatening faxes and phone calls, including death threats, and been the victim of defamatory websites. In Sydney for example, two female Church staff were targeted sexually on the Anonymous website recently and subject to intimidation and harassment.

In Australia Anonymous have mounted a sustained campaign of misinformation against the Church. As we are a minority religion with the vast majority of the population unaware of our true beliefs and humanitarian programs, their campaign has no justifiable purpose and violates the Church of Scientology's and parishioners rights to human dignity and religious freedom under the Constitution.

¹ <http://news.softpedia.com/news/Hacker-Charged-for-Cyber-Attacks-Against-the-Church-of-Scientology-96009.shtml>

The Church of Scientology is recognized in Australia as a bona-fide religion by the High Court of Australia and as a religious community throughout the world, including such countries as Spain, Sweden, Portugal, Hungary, Italy, USA, New Zealand, Canada and many other countries. In the last 30 years German courts have acknowledged the religious character of the Church of Scientology in more than 50 decisions.

Civil suits and recommendations for criminal charges have been increasingly difficult because of the group's anonymity. The group now protests against our Churches world-wide and wear largely the same type of mask to conceal their identity. It is the same as that worn in the film 'V for Vendetta' in which the character, 'V', symbolically wore a mask based on Guy Fawkes, who attempted to blow up the British Parliament in 1605 (the Gunpowder Plot). This mask acts as a symbol of anarchy and is clearly intended to intimidate Church parishioners.

In addition, it has been successfully used to conceal Anonymous members' identities, because by all wearing the same mask they are difficult to differentiate.

Since January 2008, Anonymous has held protests against the Church: which they call 'raids'. They also hold surprise 'raids' in which they interfere with our Church operations, harassing and intimidating parishioners and staff. At these raids, Anonymous regularly hands out defamatory leaflets containing lies and hearsay denigrating the Church and Scientologists.

Whilst the Church does, of course, support the democratic right to freedom of speech, it does not support the distribution of defamatory material and lies which are solely intended to 'destroy' our religion: A purpose stated time and time again in Anonymous' briefings.² They also hold large signs and make speeches containing statements of religious hate and vilification. Even one of the Anonymous members in Sydney recently admitted on their site that it contains hate speech.

The tort of defamation is a well established and viable remedy. However, to bring an action for defamation, it is first necessary to identify the defendant: a task which has proven very difficult given the deliberate anonymity of Anonymous members. As a result of their anonymity, it has also been difficult to seek other civil remedies such as a prohibitory injunction to prevent the distribution of defamatory material and a mandatory injunction to compel Anonymous members to remove defamatory websites.

When police assistance has been requested to move Anonymous on from the protests or remove defamatory material, the police have been reluctant to do so because of the lack of a specific criminal law covering religious vilification and because they consider it to be largely a civil matter.

Recommendation 1: Implementation of Criminal and Civil Restrictions on Religious Vilification

The Church of Scientology supports the adoption by Federal and/or State Governments of Article 20(2) of the International Covenant on Civil and Political

² <http://au.youtube.com/watch?v=JCbKv9yiLiQ>

Rights ('ICCPR') which states that 'any advocacy of...religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.'

In recognition of the importance and value of freedom of speech in a democratic society, it is only recommended that religious vilification be restricted to the extent 'necessary for respect of the rights or reputation of others' as provided for by Article 19(3) ICCPR.

We believe the implementation of Recommendation 5.3 of the Commission's Report³ would achieve such a balance.

Recommendation 5.3 advocates a law to 'proscribe the advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence as required by ICCPR Article 20.' The Recommendation continues by stating that, '[t]his [law] should exempt from the proscription of religious vilification acts done reasonably and in good faith:

- in the performance, exhibition or distribution of artistic work;
- in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest; or
- in making or publishing a fair and accurate report of any event or matter of public interest.'

This provision has already been implemented in the Victorian Racial and Religious Tolerance Act 2001 and our Church considers it an appropriate measure to prevent and deter religious vilification.

As recommended by Recommendation 5.4 of the Report, contravention of such a provision shall be remediable by way of 'civil remedies similar to those provided for in the racial hatred provisions of the Racial Discrimination Act 1975 (Cth).'

In addition, a criminal law equivalent of the above recommended provision shall exist for 'serious' religious vilification which results in harm, or a reasonable likelihood of harm to religious parishioners, practitioners or property. Such an offence shall be the subject of a fine, imprisonment or both.

To facilitate the enforcement of such proposed laws, people engaged in campaigns of harassment and vilification against religions shall be prohibited from deliberately concealing their identity by way of wearing masks, etc. Police should be empowered to order the removal of such masks if there is a reasonable likelihood that the proposed religious vilification law has been offended against.

Recommendation 2: Restriction on Anonymity of Religious Bigots

2.1 Websites created with the primary purpose of inciting religious vilification shall be removed or their access to the Australian public restricted

³ 'Article 18: Freedom of religion and belief', Human Rights and Equal Opportunity Commission (1998).

Anonymous currently uses the website www.whyweprotest.net [and other sites dedicated to a particular city] to orchestrate their raids and other anarchist activities against the Church. These websites are not legitimate forums in which some members defame the Church and orchestrate its destruction. These sites have as their central purpose to act as a forum for Anonymous members whose sole goal is to 'destroy' our Church for what they consider to be the 'good of mankind' and for their 'own enjoyment' as seen in the highly intimidating and frightening you tube propaganda video contained on the link below.⁴

We have identified that such websites play a major role in the ongoing hate campaign against our Church and their removal or a restriction of access and of content would play a major role in preventing further religious vilification against us.

2.2 Creators of websites whose primary purpose is the incitement of religious vilification shall be prevented from concealing their identity

It has become common practice amongst Anonymous' anti-Scientology website developers to pay a fee to a service provider such as 'WhoisGuard' to have their registrant details blocked from public access. Sites such as www.whois.net ordinarily allow the registrant details of websites to be accessed. In the realm of religious vilification websites, this allows the website creator to be contacted and the content of the website discussed with them in case the page contains false and misleading information. It also allows the registrant to be identified so that a civil action may be commenced against them for defamation, if necessary, and the details to be passed on to the Police for further investigation. We have no recourse to the law to defend our basic rights with such anonymity.

However, this cannot currently be achieved because of the use of WhoisGuard and other like services to conceal the Registrant details.

It is therefore recommended that the Australian Government take action to prevent to the creators of websites, whose primary purpose is the incitement of religious vilification, to be prevented from using programs such as WhoisGuard to conceal their identity, so that normal recourse to the law may be accessed as needed to defend basic rights covered by Australian law.

Media

The Church of Scientology has regularly been subject to relentless ridicule and misinformation by the media. The adverse effect of such media reports on this Church and our parishioners was reported to the Commission (as summarized on pages 121 of the 1998 Report)⁵ over 10 years ago and still continues to this day.

⁴ <http://au.youtube.com/watch?v=JCbKv9yiLiQ>

⁵ 'Article 18: Freedom of religion and belief', Human Rights and Equal Opportunity Commission (1998).

Such reports include articles and magazines and the supply of questionable and incorrect data to Today Tonight to create sensational and false reports on the Church.

Such reports present an altered (or invented) version of our beliefs and misrepresent them to the public, which has caused the Church and our parishioners much anguish over the last decades.

Recommendation 3: Restriction on Religious Misinformation and Misrepresentation known or reasonably known to be untruthful, in the Media

As stated above, it is important to balance the principles of freedom of religion with that of freedom of speech. While we recognize the importance of freedom of speech in a democratic society, we do not believe that a constant campaign of misinformation and misrepresentation of our beliefs in the media should be tolerated. This is so, whether it is deliberately untruthful or not.

It is recommended that a law be enacted to prevent the dissemination of antireligious propaganda in the media, which is based on unfounded hearsay and either known or reasonably known to be untruthful. Such dissemination shall be the subject of a civil penalty provision in favour of the defamed Church, and/or its individual parishioners if they are individually named or otherwise identified.

Victoria currently has a law which addresses religious vilification –The Racial and Religious Vilification Act, so that re-dress may be taken without going to expensive courts of law to defend against defamation, however other states do not and there is no federal law covering this.

Free Exercise of Religion

Section 116 of the Australian Constitution states that:

[T]he Commonwealth shall not make any law for...prohibiting the free exercise of any religion.

Such a protection acts as a major safeguard of freedom of religion in Australia. However, its weakness is that it only prohibits the Commonwealth from making laws which 'directly' prohibit the free exercise of religion.⁶⁶ The Commonwealth could therefore constitutionally enact a law to 'indirectly' prohibit the free exercise of religion, by e.g. imposing unduly difficult taxation compliance measures against religions or restricting the immigration of its practitioners, the practical effect of which could be their inability to function.

Recommendation 4: Include a form of Bill or Charter of Rights into the *Australian Constitution*, which prevents the Commonwealth from making any

⁶⁶ *Krygger v Williams* (1912) 15 CLR 366, 369; *Kruger v Commonwealth* (1996) 190 CLR 1, 31, 161.

law, which 'directly, indirectly or incidentally' prohibits the free exercise of religion to the extent of such prohibition.

SUMMARY OF RECOMMENDATIONS

Recommendation 1: The implementation of Criminal and Civil Restrictions on Religious Vilification.

Recommendation 2: Restriction on Anonymity on acts of Religious Vilification:

2.1 Websites created with primary purpose of inciting religious vilification shall be removed or their access to the Australian public restricted.

2.2 Creators of websites whose primary purpose is the incitement of religious vilification shall be prevented from concealing their identity.

Recommendation 3: Restriction on Religious Misinformation and Misrepresentation known or reasonably known to be untruthful in the Media

Recommendation 4: Include a form of Bill or Charter of Rights into the Australian Constitution, which prevents the Commonwealth from making any law, which 'directly, indirectly or incidentally' prohibits the free exercise of religion to the extent of such prohibition