



ATTORNEY-GENERAL
THE HON PHILIP RUDDOCK MP

05/15645, MC05/10817

Mr Anthony Picarello
President
The Becket Fund for Religious Liberty
1350 Connecticut Ave NW Ste 605
Washington DC 20036-1735
UNITED STATES OF AMERICA

14 OCT 2005

Dear Mr Picarello

Thank you for your letter of 25 August 2005 in which you make a number of observations about the Victorian Civil and Administrative Tribunal's decision in the case of *Islamic Council of Victoria v Catch the Fire Ministries Inc and Ors* and about the Victorian *Racial and Religious Tolerance Act 2001*.

As I mentioned in my previous letter to you, the findings of the Tribunal and the remedy granted are subject to the usual appeal processes, and it is inappropriate for me to comment upon them. Our system of government is based on a separation of powers and members of the executive, including myself as Attorney-General, cannot interfere with, or comment on the actions of the judiciary. It is fundamental to our system of government that the judiciary is free from political interference or control.

Section 109 of the Constitution provides that when a law of a State is inconsistent with a law of the Commonwealth, the State law shall be invalid to the extent of the inconsistency. In this instance, the Australian Government is not aware of any inconsistency between the Victorian *Racial and Religious Tolerance Act 2001* and any Commonwealth law. It would be inappropriate for me to comment on the scope or appropriateness of the Victorian Act, provided that it is not inconsistent with Commonwealth law.

As both of these matters fall within the jurisdiction of the State of Victoria, you may wish to address your concerns to the Attorney-General of Victoria:

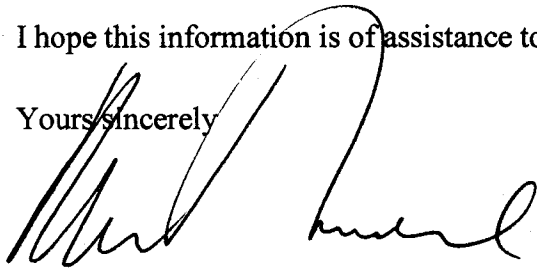
The Hon Rob Hulls MLA
Attorney General
Parliament House
Spring Street
MELBOURNE VIC 3000

As mentioned previously, the right to freedom of religion under Article 18(1) of the International Covenant on Civil and Political Rights (ICCPR) is qualified and may be limited by laws necessary to protect the fundamental rights and freedoms of others. Article 19, which provides for freedom of expression, also recognises that any such freedom carries duties and responsibilities and may be subject to certain restrictions provided by law. Article 20 of the ICCPR specifically provides that any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. To fulfil all of the obligations under the ICCPR, certain qualifications to any freedom are inevitable. It is permissible to place some limitation on freedoms to protect against religious vilification in order to give effect to international obligations under the ICCPR.

At the federal level, the Australian Government remains committed to protecting the right of all people to practise their religion without intimidation or harassment, as long as those practices are within the framework of Australian law. Section 116 of the Australian Constitution also prohibits the Commonwealth from making any law establishing any religion, imposing any religious observance, or prohibiting the free exercise of any religion. Consistent with section 116, the Commonwealth has not passed any law prohibiting the free exercise of any religion. Section 116 does not operate to restrict the States' ability to make laws with respect to religion.

I hope this information is of assistance to you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Philip Ruddock', written over the typed name below.

Philip Ruddock