

N.Z. ASSOCIATION OF RATIONALISTS & HUMANISTS (Inc.)

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Robert Hallowell
Review of Human Rights in NZ 2010
PO Box 6751
Wellesley St
Auckland 1141

NZARH Submission on the Right to Freedom of Opinion and Expression Draft

Dear Robert,

Thank you for your invitation to comment on the draft *The right to freedom of opinion and expression* section for the Human Rights Commission's status report - *Human Rights in New Zealand Today*.

I am writing on behalf of the New Zealand Association of Rationalists & Humanists (Inc.). The NZARH is a not-for-profit organisation founded in 1927 to serve the interests of non-religious people in New Zealand.

Overall the chapter looks to be very good. However we are concerned that a position taken by the International Humanist and Ethical Union (IHEU), of which the NZARH are Associate Members, has been misrepresented. We also think that a discussion of the crime of blasphemous libel is missing from the chapter.

Misrepresentation of position taken by the IHEU

1. The commentary in the section titled *Recent developments* completely misrepresents the position taken by the IHEU. In regard to the 2008 amendment to a resolution on freedom of expression at the UN Human Rights Council the draft chapter only has to say about the IHEU's position:

"The International Humanist and Ethical Union said at first reading the amendment to the resolution to renew the mandate of the Special Rapporteur might seem reasonable."

2. The quote is taken from an article on the IHEU's website titled "The Death of Universal Human Rights". As the title suggests this article strongly condemns the amendment but this is not apparent from a straight reading of the draft chapter. Furthermore the next sentence containing criticism of the amendment distances itself from the IHEU by starting with "But..."

Honorary Associates: Gianni Bartocci, H James Bix, Raymond Bradley, Richard Dawkins, Warwick Don, Denis Dutton, Sanal Edamaruku, Brian Edwards, Levi Fragell, Ida Gaskin, Annie Laurie Gaylor, Maurice Gee, Dame Barbara Goodman, Finngair Hiorth, Paul Kurtz, Lavanam, Richard Leakey, Tim Madigan, Michael Martin, Taslima Nasrin, Jean-Claude Pecker, Ian Plimer, Younas Shaikh, Barbara Smoker, Dame Catherine Tizard, David Tribe, Ibn Warraq, Lewis Wolpert

3. While we don't believe this misrepresentation to be deliberate, it should be resolved, and this can be achieved by changing the next sentence to:

“However the IHEU along with some countries and sections of civil society fiercely criticise the new mandate for turning the role on its head.”

Omission of the crime of blasphemous libel

4. Nowhere in the draft chapter is there mention of the crime of [blasphemous libel](#), which gives religious doctrine special protection that other ideas and beliefs don't have. This is inconsistent with the Human Rights Act, which prohibits discrimination in regard to both ethical and religious beliefs.
5. In addition to being discriminatory, the position of the NZARH is that having a crime of blasphemous libel places unnecessary restrictions on the freedom of expression. As the teachings of every significant religious prophet challenged and blasphemed previously held beliefs, any attempt to restrict criticism of religion is hypocritical and invokes a barrier to progress and improvement.
6. While there has only been one prosecution for blasphemous libel, and that was unsuccessful, there have been many calls for its use. Recent instances include the “Virgin in a condom” which was part of the Pictura Britannica art exhibition held at Te Papa Tongarewa, The Museum of New Zealand; and the “Bloody Mary” Southpark episode which was shown on C4.
7. The NZARH believes that the HRC as well as reviewing section 61 of the Human Rights Act to ensure it fulfils its legislative purpose, should also review section 123 of the Crimes Act (1961), which makes blasphemous libel a criminal offence. This review should determine whether this law is inconsistent with the Human Rights Act due to it being discriminatory, and whether it is an unnecessary restriction on the freedom of expression that cannot be demonstrably justified in a free and democratic society.

Summary

The HRC has generally done an excellent job on the draft *The right to freedom of opinion and expression* section for the Human Rights Commission's status report - *Human Rights in New Zealand Today*.

I trust the Human Rights Commission will take the appropriate action to ensure that the actual position of the IHEU in regard to the 2008 amendment to a resolution on freedom of expression at the UN Human Rights Council will be made clear. In addition, I hope the HRC will consider reviewing the crime of blasphemous libel to ensure that it complies with our human rights legislation.

Yours sincerely,



Andrew Geard
President
NZ Association of Rationalists & Humanists