

Institute News:

Politicians and the Noahide laws

The Institute has just completed a series of eight seminars in Melbourne for a group of Victorian State politicians and Melbourne based Federal politicians. Amongst Federal politicians attending were the Hon Kevin Andrews, Federal Shadow Minister for Housing, families and human services, Kelly O'Dwyer and endorsed candidate Josh Frydenberg. State Parliamentarians who attended the seminar included Murray Thompson, Bruce Atkinson, the Hon Robert Clark, Shadow Attorney General, and endorsed candidate David Southwick. There was considerable interest in the common "moral compass" which the Noahide laws represent, and which have found a strong resonance amongst the world religious cultures.



The Director, Rabbi Dr Shimon Cowen(c-r), with members of the NSW Parliament, (l-r) the Hon David Clark, the Hon Marie Ficarra and the Hon Fred Nile

In Sydney on May 12 the Director of the Institute addressed a breakfast for NSW Parliamentarians, hosted by the Leader of the Labor Government in the lower House, the Hon John Aquilina. Members from all major parties attended the breakfast lecture. The topic was also the moral compass of the Noahide laws, and attracted a strong response.

Judaism and music: the music of Felix Werder

The Institute is planning a special event devoted to the music of Felix Werder a leading Australian composer and consciously Jewish cultural figure. The event is planned to take in both discussion of Werder's music and performance of some of his work. This is part of the general project of the Institute on Judaism and aesthetics. The program will feature the pianist, composer and opera conductor, and Creative Director of "More Than Opera", David Kram and the known tenor Daryl Barclay, a singer with the Melbourne Opera. It is expected that Felix Werder will himself participate. The event will take place on Sunday June 27 in the "Caulfield Cup Room" of the Glen Eira Town Hall, cnr Hawthorn and Glen Eira Roads, Caulfield, Melbourne at 2 pm. Entry (\$20 [\$10 concession]) may be purchased at the door or pre-booked through the Institute on 9527 5902 or by email: admin@ijc.com.au

ESSAY



Rabbi Dr Shimon Cowen

Thoughts on amending the Sentencing act for identity motivated hate crimes

The educative role of augmented sentencing for certain crimes

The reason why society may treat the same crime – say killing or attacking – differently, according to the identity of the victim, is because the society wants, via the law, to educate society with regard to a certain point. Killing a policeman is treated more seriously than killing another citizen because the act of killing a policeman is also an attack on the State, and society must warn especially about this. Similarly, in applying differential penalties for the same crime in the case of different victims and perpetrators and the motives of the perpetrators there must be an ancillary consideration, an extra point which the law is seeking to make. This point must itself be justified.

The decision as to which crimes should be treated as hate crimes must be specified by statute

Because, as mentioned above, the decision to bolster a principle or protect certain individuals more than others is a political one, needing public discussion and justification, it may not be left to the discretion of judges. Were there to be no established categories of hate-crimes, then, for example, a judge with "socialist tendencies" might punish with extra severity the assailant of a low economic group member, because he wishes to bolster the economically disadvantaged. A judge with "right-wing leanings" might punish the union official assailant of an employer to protect employers against what he understands to be unionist proclivities to violence. This political discretion cannot be allowed to a judge.

The concern that hate-crime legislation will not distinguish between speech and acts of "hate"

A further grounds for extreme caution in this legislation is that once an act has been classified for special treatment as a hate-act, then also speech or acts (relating to the same class of victim) intermediate between physical acts and speech such as offensive graffiti will also be classified in the same category for extra penalty. Now in justifiable cases of hate crimes this is understandable. For example anti-semitic acts of violence, anti-semitic graffiti and anti-semitic speech could all reasonably be classed as hate acts, under the rubric of hate crimes motivated by hatred of race and religion.

They are all inflammatory towards, and deeply unsettling for, the target group.

Were homosexuality and homosexuals to be put in the class of hate-based crimes, it is very conceivable that this would carry through to speech, which, based on genuine religious conviction, condemns homosexuality. The law would then be hard pressed to determine what constitutes speech which incites to violence and which does not. It could effectively move to infringe freedom of speech and freedom of religion condemning the practice of homosexuality.

Which categories of hate crime are defensible?

In view of the educative role of the law in making an extra point, by treating the same crime differently (depending on motive and victim), that educative decision must, as mentioned above (in regard to the example of killing of a policeman) be validated by the society as a whole. Hate crimes targeted at religion and race are justifiably regarded as crimes deserving extra severity. The reason for this is that our society and religious traditions believe in the inherent dignity of all persons. In religious terms, each person is made in the image of his or her Maker. Race makes no difference to this point, and must not be allowed to make a difference. Religion is the expression of the human soul, of conscience. To attack on the basis of religion is to attack the exercise of human conscience, it is an attack on the expression of the human soul. Attacks on account of race and religion attack inherent human entitlements, which are affirmed by our society and culture and international accords. Possibly disability is also something which should come within this protection also, since the disabled person is also possessed of essential human dignity (in the image of G-d), and this may not be infringed.

The difference between race, religion, disability – and homosexuality

Homosexuality may indeed constitute a strong impulse in certain people. There are many other impulses, such as the incestuous impulse, described by Freud as the “Oedipus complex” and unfortunately there is much documented abuse of children, testifying also to uncontrolled impulses. For thousands of years, however, civilization has maintained a norm, that whatever homosexual impulse may be experienced within a person, the expression of that impulse - the behaviour and practice of homosexuality - may not be condoned. A social movement of no more than 40 years has sought to overturn a millennial civilizational disapproval of the practice of homosexual behaviour (barring certain irruptions at the end of the Greek and Roman empires). Religious tradition continues to oppose this behaviour, whilst at the same time feeling compassion for homosexuals as human beings. It maintains, however, that the practice of homosexuality is not an inherently worthy activity; it is not an inherent entitlement of a human being to practice this behaviour (however great the struggle may be for certain individuals) and its expression not part of the essential dignity and identity of a human being. To the contrary, this behaviour contradicts the essential identity of the human being, made in

the image of his or her Creator. “Hatred” of homosexuality as a behaviour is very different to hatred of a human being on the grounds of race, religion or disability. The latter opposes the essential person. The former opposes a behaviour.

The politics and consequences of treating crimes against homosexuals as hate-crimes

The political intention in seeking classification of attacks against homosexuals as hate crimes, meriting extra sanctions, is to “educate society” to a purported inherent dignity of the practice of homosexuality. This already finds expression in a program found in rural schools called “Way out”. On the pretext of eliminating bullying of homosexual school children, it goes into the schools to educate that homosexuality is as normative as heterosexuality; it teaches young children, whose sexual identity is still fluid, that homosexual behaviour is intrinsically normal, just like heterosexual behaviour. The result is the cultivation of a homosexual norm amongst children. Similar to this, with regard to a much wider social program, is the intention of the homosexual lobby to bolster and institutionalize homosexuality through the law. This has already led to highly contentious legislation, providing the commissioning of children through surrogacy and IVF for homosexual couples and the attempt to institute or replicate homosexual marriage.

Moreover, it is highly probable that were the homosexual lobby to achieve hate-crime status for violence against homosexuals, it would then move to stop all speech educating against homosexual behaviour as “hate speech” against homosexuality. It would then, Heaven forbid, have achieved the silencing of 3000 years of religious and cultural tradition, which has taught that this behaviour runs directly contrary to the norm by which a human being must struggle to live.

Conclusion

Whilst violence against any person, a practising homosexual, a dentist or a labourer is deplorable and must be stopped by the law and its enforcement agencies – and so also the bullying, on any grounds, of children in schools – privileging a certain group by according it (provable) hate-crime status has wide-ranging political implications. This status and privilege can only be verified by as universal as possible a consensus. Race, religion and disability have a candidature for such status, because they are universally held as features, the attack upon which infringe the inherent dignity and entitlements of the human being. Homosexual practice, on the other hand, is not regarded as an entitlement of the human being by the great world cultures and religions. To bolster it with this status by giving it a hate-crime category is a political move, calculated by the homosexual lobby, with deeply destructive and contentious consequences for social institutions, freedom of religion and conscience.

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