



**Proposed Amendments to the Classification Code for  
Publications that Advocate Terrorist Acts**

**Discussion paper of the Standing Committee of Attorneys-  
General**

**University of Melbourne Submission  
May 2007**

## **Background**

Under the existing national classification scheme material that ‘promotes, incites or instructs in matters of crime and violence’ can be refused classification (RC). Under Victorian law, RC publications cannot be sold or displayed in public. Due to RC decisions by the Classification Review Board, the University of Melbourne has removed from its library two books by Sheik Abdullah Azzam, *Defence of the Muslim Lands* and *Join the Caravan*.

The classification system also includes a category of ‘submittable publication’, a publication likely to be refused classification. Submittable publications also must not be sold or displayed in public. As a precautionary measure, the University removed from its library a further book by Abdullah Azzam, *The Lofty Mountain*.

With the goal of further limiting publication of and access to materials that might foster terrorism, a discussion paper from the Standing Committee of Attorneys-General canvasses a possible broadening of the range of publications that could be refused publication to include advocacy of a terrorist act. It notes uncertainty over whether the existing term ‘promote’ covers ‘praise’ of or the ‘indirect counsel’ of a terrorist act.

## **University of Melbourne concerns**

As noted in the discussion paper, freedom of speech issues are raised by the classification code. These are particularly complicated in the case of material advocating terrorism due to the sometimes blurred lines between legitimate political discussion and advocacy of political violence. We presume that other submissions will discuss freedom of speech in general, and focus in this submission on three issues of particular relevance to universities.

### *Material of educational value*

The RC classification category focuses solely on the publication, rather than the context in which it is read. This is not the case for category 1 and 2 classifications, which permit publications in contexts that protect minors and people the publication is likely to offend.

A difficulty with extending the RC classification to the advocacy of terrorist acts is that such advocacy is unlikely to have any serious impact on most readers. Calls to violent jihad, for example, can have no impact outside a very particular context of religious belief, political alienation, and capacity to act. This is quite different from regulating materials likely to offend most ‘reasonable adults’.

Possible effects on a very small number of people have to be considered against a legitimate interest in the beliefs and strategies of movements that advocate terrorism in pursuit of their goals. At universities, students taking courses that cover terrorist movements will move on to careers in the government agencies that must analyse the activities of these movements. They will arrive less well-informed if their studies cannot cover primary materials that include advocacy of terrorist acts.

The discussion paper mentions vilification laws. In one respect, these laws are better designed than a censorship regime to deal with the problem raised by the discussion paper. For example, the Victorian *Racial and Religious Tolerance Act 2001* focuses not just on the content of speech, but also its context. It has exceptions covering, among other things, genuine academic purposes. Words that are potentially dangerous in one context can be harmless or beneficial to understanding in another, and the law should recognise this possibility.

#### *Academic access to refused classification publications*

Even within a refused classification system, the University believes that exceptions should be put in place so as not to prevent legitimate academic research into terrorist movements. This would better balance the need to be well-informed about terrorist beliefs and strategies against concern that some publications could encourage terrorism. The contents of the RC publications could be summarised, paraphrased or appropriately quoted in teaching or research.

There is a practical means of controlling access already in place. Universities operate closed access collections for materials that should not, for various reasons, be available to all library users. Placing RC publications in closed collections would enable universities to restrict access to those with a legitimate academic reason for reading them.

#### *'Submittable publications' in library collections*

The relevant legislation appears aimed primarily at the publishers and distributors of material that may be refused classification, or receive a classification requiring limited access. It places the onus on them to ensure that books are either classified or handled in ways consistent with their likely classification. In the normal context of their work, publishers and distributors are likely to be in a position to make such an evaluation of each item, and there is a reasonable belief defence if they make a misjudgement.

The situation is far more complex for public libraries, many of which have very large collections of books acquired over many years. While it is possible to assess new additions to the collection in light of changed classification rules, it would be an enormous task to review the existing collection. The contents of a book are not always obvious from the title of a book (eg *Join the Caravan*, *The Lofty Mountain*). This makes it very difficult for library staff to know whether or not books in their collection may be submittable publications.

This is a problem that exists under current law, rather than one that would be created by the proposed changes. However, widening the range of books that may be refused classification increases the risk that libraries may inadvertently find themselves in breach of the law.

A possible solution to this problem is to exempt libraries from the 'submittable publication' provisions. They would remain obliged to remove from their open shelves publications that had been refused classification, but would not be otherwise subject to penalties

## **Conclusion**

The University shares the concern of Attorneys-General about terrorism. National security, however, requires a sophisticated understanding of terrorist movements as well as measures to obstruct their recruitment. Any measures to restrict access to publications advocating terrorism should therefore ensure that such publications remain available for teaching and research purposes.