

Catholics For Renewal Inc.

www.catholicsforrenewal.org.au



The Secretary
Australian Law Reform Commission

23 February 2023

Dear Secretary,

Please find attached the Submission of Catholics for Renewal to the ALRC Consultation Paper on Religious Educational Institutions and Anti-Discrimination Laws. Should you wish to make any inquiries regarding the Submission, please contact:

Dr Michael Leahy

[Redacted]
Email: [Redacted] Mobile: [Redacted]

Yours sincerely,

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Submission to ALRC Consultation Paper on RELIGIOUS EDUCATIONAL INSTITUTIONS AND ANTI- DISCRIMINATION LAWS 23/01/2023

Introduction

As indicated in our earlier submission on the previous government's proposed Religious Discrimination Bill 2021 and related legislation, *Catholics for Renewal* is a group composed chiefly, but not exclusively, of Catholic lay people. In the eleven years or so of their existence, members have dedicated themselves to the cause of reforming the Catholic church whose failings in recent years have been aired so publicly, and caused so much scandal, in Australia and beyond. In the service of that cause, this group has provided witnesses to the *Inquiry into the Handling of Child Abuse by Religious and Other Organisations* by the Parliament of Victoria (Committee, Family and Community Development 2013), and to the Royal Commission into Institutional Responses to Child Sexual Abuse (2017). More recently, *Catholics for Renewal* has published its submission to the church's Plenary Council preparatory Committee in the form of a book (*Catholics-for-Renewal* 2019). It has also made submissions to the following parliamentary inquiries: to The Parliament of Victoria on the *Change or Suppression (Conversion) Practices Prohibition Bill 2020* and to The Standing Committee On Legislation Of The Parliament Of Western Australia Into the *Children And Community Services Amendment Bill 2019*. Together with other organisations we have made a submission to the Victorian government proposing an alternative scheme to that proposed by the Victorian Catholic Bishops for handling complaints of sexual abuse by personnel in their employ (*Let Justice Be Seen To Be Done: A proposal for a scheme independent of the Catholic Church for handling complaints of sexual abuse by Catholic Church personnel*, 2021). Although we respond in what follows to the specifics of the Consultation Paper, the substance of our submission is the same as that of our earlier one.

Political and religious context of the proposed legislation

The political and religious context of the ALRC Consultation Paper bears many of the same features of the context of the *Religious Discrimination Bill 2021* and related legislation. In assessing the merits of the Paper, *Catholics for Renewal* believes that an analysis of the political and religious contexts that gave rise to the 2021 Bill and to the present Consultation Paper is necessary if the real intent and effects of the proposals are to be identified.

Firstly, the political context. Following the affirmative vote on the plebiscite on marriage equality, pressure grew within the federal parliamentary Liberal Party to strengthen the legal protections for

religious groups and individuals who had favoured the traditional definition of marriage. Conservative religious leaders including some Catholic bishops campaigned publicly for such protections. The termination of Israel Folau's contract by *Rugby Australia* brought the grievance of conservative religious believers to a point where the then federal government felt emboldened to act on the matter. The Ruddock Committee's Report gave plausibility to the claim that the handling of the issue was at arm's length from government. However, many who had supported marriage equality in the plebiscite felt that the process which culminated in the proposal of those three Bills was a mask for an attempt by conservative groups, including conservative religious groups, to regain some of the influence over public policy that they lost in the plebiscite. For these supporters of marriage equality, these Bills, rather than strengthening religious freedom, would have served to restore to certain groups of religious believers some of their former power to discriminate against non-heterosexual citizens.

The current religious context, at least so far as Catholics are concerned, is a division of opinion between groups that may be termed 'conservative' and 'progressive'. Conservatives regard doctrines as divinely revealed, and therefore fixed and unchanging. Any restriction by the state of the Church's right to teach any doctrine is therefore, on their view, an infringement of religious freedom. Progressives regard doctrines as authoritative, but also as formulations by historical communities of their experience of the call of God revealed to them in the events of those histories. Of their very nature, on the progressive view, doctrines need to be reformulated in the light of the changing scientific insights and the evolving historical and cultural experiences of believing communities. Since Catholic educational institutions in particular will be affected by the content of the proposed legislative reforms, conservatives are mounting a concerted and vociferous public campaign to assert their view that restriction of their freedom to teach *any* doctrine – but in this case the doctrine on homosexuality – is an infringement of religious freedom. It is important to note in this connection that support for the marriage equality plebiscite suggests that a majority of Catholics voted in favour of it. It is therefore tendentious of bishops to be arguing that recognition of this right in Catholic educational institutions would offend the religious susceptibilities of Catholic school communities, and thus offend the religious freedom of their members. On the substantive issue of the doctrine itself, in what follows we argue that the scientific assumptions about the nature of homosexuality underpinning this Catholic doctrine have changed, thus undermining the doctrine itself. We then urge the ALRC and the government to see this dispute as an in-house theological one properly left to the Catholic Church to resolve.

In our response to the ALRC Paper we submit that the Human Right principally engaged in this debate is the right of the individual to sexual identity, not the right to religious freedom. Indeed, our claim is the very limited one that in the particular case of *this doctrine* and of its *teaching in religious educational institutions*¹, the duty to protect individual sexual identity entitles and obliges the state to limit religious freedom. In making this submission we draw attention to the Paper's own reference to the need, when interpreting the right to religious freedom, to recognise that this freedom also entails respect for the rights of dissidents within religious communities.

As Catholic dissidents from the Church's present doctrine that homosexuality is an objective moral disorder, we take issue with the ALRC's claim in Proposition B 2. that this doctrine can be taught in educational institutions without violating what may properly be termed the norms of education,

¹ It is conceivable that in another context e.g. where a religious group wanted to preach from the *pulpit* a *doctrine* such as that Jews or all non-whites belong to inferior races, the duty of the state to uphold the racial equality of such individuals would require it to restrict the religious freedom of such groups by banning the preaching of this doctrine.

and/or the state's duty of care to non-heterosexual students. We present our argument on this issue under our discussion of Proposition 7.

We are pleased, however, to support the ALRC's proposals in regard to Propositions 1 and 11. From this point our submission considers issues arising from the Consultation in the order in which the Paper presents them.

Issues arising from the Consultation Paper

P. 5: 4: our earlier submission (A SUBMISSION ON THE RELIGIOUS DISCRIMINATION BILL 2021 AND RELATED LEGISLATION) insisted that since human rights are by definition individual rights, any laws to protect them should not be usurped by faith groups to protect institutional rights. The ALRC proposal seeks to respect this requirement by expressing the purpose of such laws in terms of protecting the 'religious susceptibilities of adherents of that religion or creed'. The problem with this way of individualising the rights claimed to teach doctrines that might offend human rights is that the susceptibilities are defined by institutions in terms laid down by those institutions. The ALRC proposal considers the issue of the autonomy of religious institutions and the rights of dissidents in paras A11-A25. *Catholics for Renewal* acknowledges the importance of institutional authority for religions; without a sufficient degree of such autonomy the religious susceptibilities of the individual members of religious groups would be seriously threatened. However, we strongly affirm the sentiment expressed in A15:

In considering religious autonomy, two recent UN Special Rapporteurs have emphasised that it is also important to consider the religious freedom of dissidents within a religion 'to come up with alternative views, provide new readings of religious sources and try to exercise influence on a community's religious self-understanding, which may change over time'.

In what follows we will argue that the present state of Catholic institutional doctrine on homosexuality² does not reflect the degree to which that doctrine is now contested within the Catholic Church on the grounds of changes to the scientific understanding of this form of sexuality, and of the effects of such changes on theological reflection on the matter. A claim to protection for a contested doctrine would be claim for protection of a partisan position in an in-house theological debate. By granting such protection the state would in fact be infringing religious autonomy by becoming party to a debate in which, as a secular entity, it had no competence. *Catholics for Renewal* submits therefore that in this matter the secular state should confine its role to making laws on matters in which it is competent such as protecting of its citizens from serious harm. Indeed, where vulnerable students are concerned, we believe the state has a duty of care to protect them from such harm. The ALRC document itself identifies in some detail the harm that can be done by institutional practices that threaten the self-identity, self-esteem and sense of security of homosexual students (see footnotes 147-9). Since religion can play such an important role in people's lives, and religious teachings be regarded as so authoritative, such a threat would be posed by allowing the Church to teach this doctrine in the classrooms of its schools.

² The Vatican Congregation for the Doctrine of the Faith tried to resolve the controversy surrounding this doctrine in the Catholic Church in its LETTER TO THE BISHOPS OF THE CATHOLIC CHURCH ON THE PASTORAL CARE OF HOMOSEXUAL PERSONS (1986) in which it taught that 'Although the particular inclination of the homosexual person is not a sin, it is a more or less strong tendency ordered toward an intrinsic moral evil; and thus the inclination itself must be seen as an objective disorder' (N. 3).

In short, in our submission the right which engages the power of the state in regard to the teaching of the doctrine that homosexuality is an objective moral disorder is not the right to religious autonomy but the right of vulnerable students to protection from likely serious harm as a result of such teaching. The problem of what the Church's doctrine on homosexuality should be, we contend, is a religious/theological one, and should properly be left to the relevant Church communities to resolve. The problem of the potential harm to be done to gay students by the teaching of this doctrine in the classrooms of religious schools, however, engages the duty of the state to protect its citizens from the serious harm likely to result from such teaching.

PROPOSITION B: Discrimination against staff on the grounds of sex, sexual orientation, gender identity, marital or relationships status, or pregnancy

There is an anomaly under this proposition between 1. and 3. By implication, 1. grants staff the unrestricted right to challenge Church doctrines by their life situations:

1. Religious educational institutions should not be allowed to discriminate against any staff (current or prospective) on the grounds of sex, sexual orientation, gender identity, marital or relationship status, or pregnancy.

That right is however restricted in 3. by obliging staff to teach the relevant doctrine as set out by the institution:

2. Religious educational institutions should be able to require staff involved in the teaching of religious doctrine or belief to teach religious doctrine or belief on sex or sexuality as set out by that institution and in accordance with their duty of care to students and staff, and requirements of the curriculum.

Both the unrestricted and restricted freedoms would pose some challenge to the ethos of some schools. The ALRC paper rightly recognises the right of schools to protect their religious ethos (Proposition D). However, it also rightly observes that different schools place different values on establishing and preserving such an ethos (58). It follows therefore that the determination of the rules supporting that ethos will vary according to the value placed by the relevant community on fostering that ethos. It surely also follows that some room must be left to negotiation in the determination and application of those rules.

The major problem with Proposition B, however, concerns the assumption of 2. that a doctrine such as the Catholic Church's teaching that homosexuality is an intrinsic moral disorder can be taught (a) in accordance with the norms of education³, and (b) without breaching the school's duty of care to gay students. Since this goes to the issue of whether the state may legitimately legislate on matters relating to the content of the religious education curriculum in religious schools, our submission will defer dealing with that issue until the section on Proposal 7 below.

³ We hold that these norms should include (1) respect for truth, and (2) respect for the student freedom to assess truth claims for themselves, and thus to the right to be taught how to make such assessments.

CONSULTATION PROPOSAL 1: Subsection 38(3) of the Sex Discrimination Act 1984 (Cth) should be repealed

We support this measure to remove from schools the power given by this subsection to discriminate on these grounds in the enrolment of students.

CONSULTATION PROPOSAL 7: Amend the Sex Discrimination Act 1984 (Cth) to clarify that the content of the curriculum is not subject to the Act.

P. 32: 92: Along with Proposition A (3) and the relevant accompanying examples, this paragraph contains an assumption that we believe is false. At stake here is the right of faith groups to manifest their religions in relation to the teaching of doctrines that may be harmful to certain students, doctrines such as the Catholic teaching that homosexuality is an objective moral disorder. The assumption in the places cited is that restriction of this right can be avoided by ensuring that such doctrines are taught (a) by acceptable methods, and (b) by ensuring that the groups' duty of care to relevant students is fulfilled.

In the relevant philosophy of education literature, the problem of whether and how particular beliefs may be legitimately taught in class rooms is conceptualised in terms of teaching which is *education* and teaching which is *indoctrination*. This paragraph ignores the theoretical literature⁴ on this debate which includes four standard accounts of indoctrination as well as multiple hybrid accounts. The ALRC creates several difficulties for itself by ignoring this literature.

Firstly, the existence of multiple accounts of indoctrination carries at least the in principle implication that even if the teaching of doctrines like the Catholic one on homosexuality followed the ALRC's prescribed method, that teaching may fall foul of one of the other accounts of indoctrination.

The second difficulty concerns its application of the particular account that, by implication, it favours: the *method* account. Referring in 93 to the *Equality Act (UK)* in support of its proposal the ALRC leaves the impression that it accepts the characterisation of teaching contrary to that Act in the terms quoted there: 'if a school conveyed its belief in a way that involved haranguing, harassing or berating a particular pupil or group of pupils then this would be unacceptable in any circumstances and is likely to constitute unlawful discrimination'. It must be said that this is a narrow and naive characterisation of unacceptable methods of teaching. There are more subtle methods of commending a favoured belief to students than such crude and oppressive ones. Alternative views may be presented, for example, but presented in ways that downplay the force of their arguments, or do not present the full range of literature defending them. Or teachers may reward with praise students who respond positively to the favoured belief and with scepticism to those who question it. The list of possible unacceptable methods could be extended considerably. However, our point is that the ALRC's argument here fails. It argued that there is no need for the Act to restrict the

⁴ A sample of this literature includes (Flew, Antony 1972; Flew, A. 1972a, 1972b; Gordon, Linda, Hunt, David & Weiler, Peter 1987; Green, Thomas F. 1972; Gregory, I. & Woods, R. 1972; Gregory, I. & Woods, R. 1972; Huttunen, Rauno 2003; Kazapides, T. 1994; Lang, James C. 2007; Laura, Ronald S. 1978; Laura, R.S. 1980; Laura, Ronald S. 1981; Laura, R.S. 1985a, 1985b; Laura, R.S. & Leahy, M. 1989; Laura, Ronald S. & McCarthy, David 1985; Leahy, Michael 1990; Leahy, Michael & Laura, Ronald S. 1997; Marthaler, Berard 1987; Moore, W. 1972; Neiman, Alven 1989; Puolimatka, Tapio 2001; Sheehan, Peter J. 1970; Short, Geoffrey 2003; Siegel, Harvey 2004; Snook, I.A. 1972a, 1972b, 1972c; White, J.P. 1972a, 1972b; Wilson, J 1964).

curricular freedom of religious schools because there was a *method* of teaching doctrines which would respect the rights of relevant students. We submit that the ALRC's account of that method is wholly inadequate. However, the indoctrination literature raises another difficulty with the method account.

Even if doctrines such as the Catholic one on homosexuality were taught by acceptable *methods*, the possibility would remain that such teaching was indoctrinating in one or more of the other ways described in the various accounts. Indeed, on another of the standard accounts, it is the *content* taught that defines indoctrination⁵. On this account religious education is the paradigm case of indoctrination because it consists in the teaching of 'doctrines', which, so the argument goes, are of their nature incapable of being shown to be true or false. The term 'doctrine', it must be admitted, implies reliance on some teaching authority, though that in itself does not mean a doctrine is of its nature incapable of being known to be true or false. The Catholic doctrine on homosexuality is based on the theory of natural moral law. To that extent it has a rational underpinning. However, the theory itself has evolved considerably in modern times so the question of whether doctrines like that on homosexuality can be derived from it is contested⁶. Indeed, it is incontestable that the moral teaching of the Church depends upon empirical assumptions relevant to the domain to which the teaching applies. Like the world at large, the Church until recent times accepted the views of psychiatry and biology that homosexuality was some kind of disorder. Now that these views have been overturned in the scientific field, the Church's doctrine on homosexuality ought, on this logic, to change with this change in its underpinning assumptions⁷. Because all of this argument amounts to a rational process, it might be argued that doctrines like this one can meet the content criterion. However, defenders of the criterion may still argue that the truth of the doctrine depends on the authoritative interpretation of the natural law by the supposedly divinely appointed interpreter, the Catholic Church. Since this authority claim is a matter of faith rather than of reason, its assertion is an untestable proposition. The ALRC claim that the curricular freedom of religious educational institutions can be left unrestricted because such doctrines are capable of being assessed by students is thus cast into doubt by their ultimate reliance on faith.

Catholics for Renewal does not endorse either of these accounts of indoctrination. Rather it cites them for the purpose of showing that the ALRC's prescription for avoiding legislative restrictions on religious freedom to teach their doctrines in educational settings, namely, by ensuring that they are taught by 'acceptable methods', will not suffice for its intended purpose.

For us, the most problematic feature of the document is that it would allow the teaching that homosexuality is an objective moral disorder on the ground that the harm flowing from that teaching to the gay student could be avoided, or minimised to an acceptable level, by requiring (a) that it to be taught by acceptable methods, and (b) that care be shown to the vulnerability of that student. It is easy enough to show how doubtful it is that *any* methods can accomplish this purpose. The literature also shows how vulnerable the content account is to certain difficulties. But both

⁵ The other two standard accounts are the *intention* account (White, J.P. 1972a, 1972b, 1982, 2003), and the *outcome* account (Green, Thomas F. 1972; Kleinig, John 1982).

⁶ See for example (Cunningham, Lawrence 2009; Curran, Charles E. 1985, 1991; Fuchs, Josef 1960, 1971, 1984)

⁷ In Australia on October 15, 1973, the Australian and New Zealand College of Psychiatrists Federal Council declared that homosexuality was not an illness. In its 2013 Edition, the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders (DSM)* no longer defined homosexuality as a mental disorder. Recent works in biology such as Bruce Bagemihl's *BIOLOGICAL EXUBERANCE: Animal Homosexuality and Natural Diversity*, (Stonewall Inn Editions, St. Martin's Press, Chicago, 2020), report sexual diversity in the animal as well as the human world.

accounts raise concerns about the implications of the *duty of care* in this context, to which the ALRC proposal gives little attention.

The content account in particular demands more consideration of the duty of care because it claims that the mere teaching of doctrines may constitute indoctrination. Admittedly, the accounts in the literature are concerned with the inducing of false or unfalsifiable beliefs rather than the harm that accepting these beliefs may cause. However, in determining whether the curricular freedom of religious educational institutions ought to be restricted under this Act, we submit that the acknowledged duty of care obliges the ALRC to consider the possibility that the mere teaching of the doctrine on homosexuality may in itself be enough to inflict harm on gay students. As noted above, the ALRC document cites evidence of the harm done to non-heterosexual students by exposure to various experiences, footnote 149 in particular referring to evidence that ‘increased importance of religion was associated with higher odds of recent suicide ideation for both gay/lesbian and questioning students’. Of great concern in relation to educational settings is the next sentence in the same footnote: ‘The authors also highlight a link between internalised negativity toward one’s LGBTQ+ identity and religiously-based stigma in non-affirming religious contexts (at 645).’ Clearly, suicide ideation and attempts at harm are sufficiently serious consequences to engage the state’s duty of care. The ALRC has failed to demonstrate the possibility of ‘acceptable methods’ of teaching doctrines such as the Catholic one that homosexuality is an objective moral disorder. *Catholics for Renewal* therefore submits that the possible consequences of allowing Catholic schools to teach this doctrine are so serious, and the probability of their occurring high enough, as to warrant restricting the freedom of these schools to teach this doctrine.

Against our submission, it might be argued that part of the purpose of good education is to present for student appraisal ideas that disturb; that it is unrealistic, and unfair even, that gay students should go through an education system without exposure to the reality of different attitudes to homosexuality. The obligation of educational institutions, it might be argued, is therefore to equip students to appraise these views for themselves. To ban Catholic schools from teaching their views on the ground of protecting gay students from harm is unrealistic because students will become aware of the teaching anyway, and unfair because the proposed ban will deny them provision with the intellectual apparatus for appraising the teaching for themselves.

This putative defence raises the crucial question of what proposition is being taught here. Is it the proposition (a) that the doctrine that homosexuality is an objective moral disorder is true, and therefore ought to be believed despite contrary accounts of homosexuality? Or is it the proposition (b) that the Catholic church’s official teaching is that homosexuality is such a disorder, but that this teaching is contradicted by a number of reasonable people? The teaching of (b) would be much easier to defend since it would be unrealistic and unreasonable to deny that this is what the Church teaches. Moreover, the teaching of this proposition much more obviously leaves it open to students to determine their own views on the truth or otherwise of this doctrine. It should be noted however that the teaching of (a), as it is bound to do if it is not to be indoctrination, also leaves open this possibility by presenting alternative views of homosexuality provided that students are also taught how to assess those views. The teaching of (a) however carries extra risk of harm because it must assert the truth of the doctrine, thus commending it for belief.

The view of *Catholics for Renewal* is that the harm likely to be done in the teaching of (a) is so profound that the risk of inflicting it by allowing the teaching is not justifiable. Teaching does not take place in a social vacuum. If the student feels s/he is morally inferior in the school environment to all others, s/he is in a very vulnerable situation in relation to self-perception/esteem, and perhaps physical safety. On our view, then, any school, including Catholic schools, may teach (b) but not (a).

This view is unlikely to be accepted by the Catholic Church because, even though the restriction we advocate would apply only to this particular doctrine on homosexuality, the Church would probably regard state restriction of the teaching of *any* of its doctrines as a violation of its religious freedom.

Catholics for Renewal has always argued, however, that in imposing such restrictions the state is simply exercising its duty of care towards gay students. The restriction expresses no judgment upon the truth or otherwise of the doctrine. The state is saying rather: 'We have neither the desire nor the competence to judge the truth of your doctrine. We do however have the competence and the duty to protect vulnerable citizens from foreseeable harm from public institutions. To this end only we impose this restriction on the teaching of this doctrine'. Thus, the state fulfils its duty of care to gay students and leaves the question of the truth of this doctrine to the Church to determine.

Catholics for Renewal believes that this resolution of the problem is entirely appropriate because it correctly locates its cause in the Church's persistence in the view that prevailed until recent years that homosexuality was a psychiatric disorder. When that view was superseded, state institutions revised their attitudes and attendant policies on homosexuality in the light of this scientific development (see footnote 7). The conflict between the Church's teaching on homosexuality and the law of the various Australian jurisdictions is the result of the Church's refusal to accept the implications of the changes in the scientific doctrines underpinning this doctrine for the formulation of that doctrine. Since formulation of doctrine is indisputably the competence of the Church and not the state, it is only right and proper that the state leave formulation of this doctrine to the church and look to its own duty of care to gay students. The human right of gay students in this case engages that duty of care, and requires that it be weighed against the right of respect for the religious susceptibilities of holders of this doctrine. Our contention is that since the human right to freedom from discrimination on grounds of sexual orientation is absolute, in order to protect it the state is bound to limit the freedom of citizens with these religious susceptibilities to manifest their belief in this doctrine.

We also submit that this limitation is proportionate to the demands of the situation because the loss to be suffered by the gay student by overriding his/her right is much greater than that to be suffered by those with these religious susceptibilities: the student may suffer lasting damage to his/her sense of identity, worth, and even physical safety and mental health. Those with these religious susceptibilities, however, will suffer only indignation at this limitation on their freedom to manifest their belief in this doctrine, or, at worst, the challenge to it may damage the religious ethos of the school insofar as adherence to the doctrine may be weakened within the school community. However, the latter consequence is entailed already in the ALRC's proposal insofar as it will require teachers to present alternative views of homosexuality in teaching this doctrine.

The ALRC paper has argued that a restriction on this religious freedom is unnecessary to protect the threatened human rights of gay students. Our argument has been that the 'other way' of achieving the primary right of students to protection of their right to freedom from discrimination on this ground is incapable of providing this protection. The claims that some jurisdictions are already operating under such a regime, and that their comments on it are positive, are weak support for a permission capable of having such serious consequences for individual human rights. For this argument to be persuasive it would need to be supported by strong empirical evidence of the effects of teaching according to this prescription upon gay students in particular, and upon all students exposed to it.

Moreover, by ignoring the multiplicity of ways in which the teaching of this doctrine might indoctrinate students, the ALRC proposal simply glosses over what the fulfilment of the duty of care

might entail. We cannot know whether harm has been done to students by the teaching of such doctrines merely by observing that they have been taught without using the methods proscribed in the UK document, or that no gay students have presented with symptoms of harm following the teaching of these doctrines. What the ALRC is proposing is merely the *presumption* that the duty of care to such students has been fulfilled if these conditions are satisfied. Would we be satisfied with such an approach if we were afraid that the teaching of certain beliefs was encouraging e.g. sexist or racist attitudes in some students and thereby possibly injuring relevant students' sense of identity, esteem, security in their environment? Or would we not rather undertake empirical studies to determine the actual effect of teaching these beliefs, and base our prescriptions for any remedy needed on these studies? We suggest that the duty of care requires rather the cautionary presumption that the teaching of this doctrine as true would be likely to produce the kinds of harm to gay students canvassed in the literature cited in footnotes 147-9.

CONSULTATION PROPOSAL 11: The Australian Human Rights Commission Act 1986 (Cth) should be amended so that religious educational institutions are subject to the Act.

We support this proposal to make religious educational institutions subject to this Act. The fact that the relevant institutions are 'religious' does not exempt them from human rights obligations, and indeed respect for such obligations, as such institutions often remind us, is usually demanded by their doctrinal commitments. If such institutions have the right to promote respect for human rights on the part of governments and civil society generally, there is nothing about the nature of religion that would justify exempting such institutions from scrutiny of their own performance in this area by civil institutions. In some measure religion and state must be accountable to each other.

Conclusion

Catholics for Renewal welcomes this opportunity to contribute to the ALRC's research on this issue, and to the development of government legislation on it. We underline our belief expressed above (on Consultation Proposal 7) that, contrary to the ALRC's proposal, the rights of gay students in Catholic educational institutions cannot be protected without restricting the curricular freedom of those institutions in relation to the teaching of the official Catholic doctrine on homosexuality.

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