

## Submission to Australian Law Reform Commission

### RELIGIOUS EDUCATIONAL INSTITUTIONS AND ANTI-DISCRIMINATION LAWS

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Unfortunately, “the ALRC is not tasked with assessing the relative importance of religion and equality, nor of related human rights such as the rights to privacy and the rights to freedom of association.”, but these matters can not be divorced from the concerns that (some) religious institutions and organisation have. Accordingly, such institutions are at an immediate disadvantage, notwithstanding the Australian Government’s commitment to permit, on the one hand, an educational institution that, by necessary inference, may be “conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed” ; but on the other hand, criminalise large swathes of the practices of such faiths, whose practices are an implicit and essential part of the ethos of that faith; in particular of course, chastity and abstinence before marriage, itself to be only between a man and a woman; and bringing up our children in “the nurture and admonition of the Lord.”

It follows that pragmatic elasticity or trade-offs would usually be the same and so melt away for the institution to remain consistent with its beliefs. This is not to say that failure to live up to ideals is either unforgivable or uncommon, simply that ideals are to be striven for and upheld in principle and in practice as far as possible.

Some conditions and behaviours are ipso facto contrary to the ethos of (some) religious traditions and institutions; therefore, logic and fairness dictate that they do not belong in such circles; and those circles are entitled to insist that those with or practising such behaviours and conditions go elsewhere to receive or render educational services, or agree to be bound by the standards of those circles or communities.

Throughout the Consultation Paper “Religious Educational Institutions and Anti-Discrimination Laws”, the expressions “sexual orientation, marital or relationship status, or pregnancy; gender identity, LGBTQ+” are used with the assumption of moral neutrality; more specifically, another example is that “a school could not require, as a condition of appointment, any staff member or prospective staff member to sign a statement of belief by which they had to affirm that homosexuality is a sin (because this would be discriminatory against an LGBTQ+ applicant)”. Or, under Proposition D (Page 26) “a religious school could not take action against a staff member for supporting an LGBTQ+ student, or attending a Pride rally, on the grounds that it undermined the religious ethos of the school; and a school could not terminate the employment of a lesbian teacher on the grounds that she was actively undermining the religious ethos of the institution merely by entering into a marriage with a woman”.

It is clear that such activities run counter to the Christian ethos. To restate the principle above, chastity and abstinence before marriage, to be man-woman only, is an implicit and essential part of Christian ethos and practice.

It may perhaps also be worth observing, that the bias in favour of countenancing and promoting sexual liberation presents an anomaly vis-à-vis the other prominent move, proper in itself, to eliminate child abuse. From the supposition that a student may be pregnant necessarily follows the conclusion that she has engaged in sexual intercourse. Likewise, the expression “LGBT+” presumably also implies that such children are also engaged in sexual encounters. To restate the previous point, this is contrary to Christian morality (and what was accepted as proper not so long ago); but the question arises, at what age discrepancy does “legitimate” (under the new regimes) sexual activity become abuse under the law? One can only ponder the solution that will be proposed in the context of ever-loosening moral standards and the push (already in progress in the Western world) to lower the age of consent and countenance “minor attracted persons”.

Accordingly, while one may peruse the extensive arguments of the consultation paper with an open mind, it is really not possible to accept them without compromising one’s own profoundly-held convictions. In other words, some of us will not accept the most fundamental presuppositions of the paper upon which its arguments hang, because they conflict with ours. It will therefore not be possible to obtain rapprochement except to the extent of acknowledging as the paper has it, as per Principle 1, that “Human dignity is central to the expression and protection of all human rights”. Some of us would maintain that our human dignity is only extant when accommodated, as the paper states: “Freedom of religion and freedom from discrimination (among others) are ‘important rights in a liberal society and represent important underlying values’. Religion is of great importance in many people’s lives, and can be central to a person’s identity, sense of self, and purpose. Similarly, protection from discrimination supports a person’s sense of self-worth, belonging, equal respect, and value.”

Concerning financial and practical matters, it should be observed that Christians contribute to the public education system through taxation, so the argument that Christian schools should not be supported financially by government falls away, as we support them by our fees and contributions as well. i.e. we pay (approximately) “double” (whatever the exact proportions may calculate to be.)

Again, as a practical matter, if certain religious schools are forced to close because of imposition of certain conditions (as has already been foreshadowed in Tasmania), the burden on the public system will be unmanageable. (This of course raises another subject, that of the extent to which governments should be entitled to dictate education at all; and the home school movement gives expression to that doubt, which becomes an objection when the LGBT etc. movement is promoted in such education.)

Also, again as a practical matter, clearly the government is not going to be able to vet every selection criterion, job application, interview, and decision on employment. I dare say sometimes an interview will be confidential, and one cannot escape the regrettable suspicion that some applicants who (will) raise objections to non-engagement will do so for mischievous reasons. In other words, why apply for an institution whose philosophy you do not approve of in the first place?

One cannot escape also the regrettable sense that the drift of the current zeitgeist particularly in official, government and even business and medical circles now, is towards actual persecution of traditional Christian positions, akin to that in totalitarian regimes. Who would have thought so, in Australia, the land of the fair go?

Perhaps the simplest way of cutting through the impasse is to acknowledge that under the principle of multiculturalism, conservative Christians these days are a minority entitled to the same protections as others. From this flow freedom of association and expression, and formation of organisations to further specific aims, with untrammelled freedom from interference, including of course (and mainly) schools.