

21st December, 2012

To: Ms Julie Dennett
Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
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Parliament House
Canberra ACT 2600
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Inquiry into Exposure Draft of Human Rights and Anti-Discrimination Bill 2012

By Reverend Angus McLeay (St Hilary's Anglican Church, Kew, Victoria)

Dear Ms Dennett,

I wish to express my support for the Human Rights and Anti-Discrimination Bill 2012.

It is well known that Commonwealth anti-discrimination legislation lacks coherence and consistency. It also falls short of being an accessible and effective legal regime for those who are discriminated against. Laws that lack transparency, clarity and accessibility need to be reformed by the Parliament. The exposure draft goes a long way towards that end and should be supported, along with constructive feedback.

Resistance to the Bill from Religious Quarters

Despite the well-reported deficiencies of such a system there will inevitably be resistance to statutory reform in this area because it is felt to impinge on personal liberties or indeed on religious freedoms. As an Anglican minister with an interest in human rights I am familiar with arguments against legal reform made on the grounds of threats to religious liberty. This submission briefly examines claims commonly made by religious groups or individuals against improving legislation.

One claim is that anti-discrimination legislation threatens freedom of speech, in particular the ability to proselytise (or evangelise). Within various Christian traditions it is understood that the news concerning Jesus' life, death and resurrection (the "gospel") can be offensive to some. Paul the Apostle wrote in 1 Corinthians that,

"we preach Christ crucified: a stumbling block to Jews and foolishness to Gentiles" (1 Cor 1:23)

Some may point to the Victorian Racial and Religious Tolerance Act (2001), and particularly the "Catch the Fire Ministries" legal action as an example of the problems of legislating in the area.¹ This particular episode may be beneficial for the federal Parliament in drafting better legislation than that in Victoria. Yet this one episode does not prove that as a general rule all anti-discrimination legislation is prone to similar issues.

¹ *Islamic Council of Victoria v Catch the Fire Ministries Inc* (Anti Discrimination – Remedy) [2005] VCAT 1159; *Catch the Fire Ministries Inc & Ors v Islamic Council of Victoria Inc* [2006] VSCA 284.

It should be further noted that recent controversies involving freedom of religious speech – in particular evangelism – have not involved anti-discrimination legislation of the kind in this Bill. For example, legal action against Adelaide street preachers, Caleb and Samuel Corneloup, has taken place under Local Government by-laws not anti-vilification legislation.²

In view of this the Committee should regard claims of potential vilification of Christians under this Bill as exaggerations of groundless fears.

Another area of resistance from religious communities may involve confusion over terminology. Some show a misunderstanding of the very concept of discrimination, confusing it with discernment.

Some see a conspiracy behind moves to reduce discrimination, a vague and widespread plot to undermine religious freedom, free speech and even democracy by the political left. Such conspiracy theories owe more to political and social ideologies than to religious beliefs and practices.

Positive Support for Equality

Christian theology has a strong tradition at its core of equality of treatment. This is based in the notion of humanity being created in the image of God (thus sharing equal dignity), and in the redemptive actions of God, namely that Jesus' sacrifice was for all people without distinction. At the heart of this Bill is an effort to improve fairness for people in every walk of life. The Christian faith upholds the centrality of equality of treatment, or non-discrimination, for people of all walks of life and backgrounds. Jesus was renowned for crossing cultural, religious and social barriers in order to uphold the dignity of people. In particular, the Christian faith has traditionally maintained a concern for the marginalised and vulnerable (for example, 1 Sam 10:25; Prov 29:7; 31:5, 8; Jer 5:28; Job 36:6; Ps 82:3; Eccl 5:8; Lam 3:35). Individuals and groups who are most at risk of being discriminated against are the very reasons Christians should be supporting this Bill.

Law is never a substitute for personal responsibility in relation to non-discrimination but it nonetheless influences normative standards for society. Reforming Commonwealth legislation to improve protection for vulnerable minorities is an important step forward in moving towards a more compassionate and fairer society.

Former US President, Jimmy Carter is a well-known evangelical (a Baptist of conservative theological persuasion). He has devoted his post-presidential time to serving the needy in a multitude of ways. He spoke at the World Parliament of Religions as a representative of 'The Elders'. His topic was discrimination, specifically as it affects women. He concluded his speech as follows,

“Having served as local, state, national, and world leaders, we understand why many public officials can be reluctant to question ancient religious and traditional premises – an arena of great power and sensitivity. Despite this, we are calling on all those with influence to challenge and change the harmful teachings and practices – in religious and secular life– that justify discrimination against women and to acknowledge and emphasize the positive messages of equality and human dignity.” (Melbourne, 2009)

Jimmy Carter speaks for many Christians globally and nationally.

² Corneloup v Adelaide City Council [2010] SADC 144; The Corporation of the City of Adelaide v Corneloup & Ors [2011] SASFC 84.