

Submission on [‘Exposure Draft of Human Rights and Anti-Discrimination Bill 2012’](#)

It is extremely important that this Bill does not in any way limit people’s rights to draw attention to the possible adverse practical consequences of the cultural assumptions and traditions of particular groups.

The risk that discussing such issues could be restricted seems to be embodied in Section 19 which suggests that discrimination occurs if another person is ‘offended’ (see following extract from p36).

“**Division 2—Meaning 1 of discrimination**

**2 19 When a person *discriminates* against another person, and related
3 concepts**

4 *Discrimination by unfavourable treatment*

5 (1) A person (the ***first person***) ***discriminates*** against another person if
6 the first person treats, or proposes to treat, the other person
7 unfavourably because the other person has a particular protected
8 attribute, or a particular combination of 2 or more protected
9 attributes.

10 Note: This subsection has effect subject to section 21.

11 (2) To avoid doubt, ***unfavourable*** treatment of the other person
12 includes (but is not limited to) the following:

13 (a) harassing the other person;

14 (b) other conduct that offends, insults or intimidates the other
15 person.”

My reason for suggesting that great care needs to be taken to ensure freedom of speech in relation to highlighting the practical consequences of cultural assumptions and traditions is that: (a) the latter are primary determinants of the ability of a society to be materially successful and to live in relative peace and harmony; and (b) some of those assumptions and traditions can be founded in religions whose criticism could cause offence to some adherents to some religions.

This point is developed in some detail on my web-site in relation to suggestions that Australia’s traditional approach to multiculturalism has been inadequate (see [Moving Australia Beyond Traditional Multiculturalism](#), 2010).

The latter suggests (for example) that the traditional desire to ignore the practical consequences of cultural assumptions to avoid offending others leads to: (a) an inability to help communities (such as Australians with indigenous ancestry) that are disadvantaged by cultural assumptions that have dysfunctional consequences; and (b) conflicts in extreme cases (such as the ‘war against terrorism’ by Islamist extremists) when the disadvantaged are left with no way to understand their plight except in terms of blaming outsiders.

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