



The Secretary

Senate Legal and Constitutional Affairs References Committee

Dear Committee Secretary

Supplementary submission by Christian Schools Australia to the Inquiry into the Criminal Code Amendment (Hate Crimes) Bill 2024.

In the Inquiry hearing on 2 December into the Criminal Code Amendment (Hate Crimes) Bill 2024 Christian Schools Australia (CSA) was invited to provide some additional information in relation to evidence that emerged during the hearings.

CSA is pleased to provide the following supplementary submission in response to this invitation.

1. Response to recommendation in Parra 22 of Submission No 8.

In its submission the Australian Human Right Commission (AHRC) supported amendments to the Bill:

“consistent with those proposed by the ALRC in its 2006 report to then s80.2 that would require consideration of the context in which the conduct occurred, including (where applicable) whether the conduct was done:

- (a) in the development, performance, exhibition or distribution of an artistic work; or
- (b) in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest; or
- (c) in connection with an industrial dispute or an industrial matter; or
- (d) in the dissemination of news or current affairs.”

The advantage of such amendments is that it provides in the legislation the context that prosecutors and authorities must consider when assessing if a potential offence of a hate crime may have been

committed. So the proposed amendment does provide an additional safeguard. CSA would support this language but would also suggest that the context in clause (b) could be expanded as follows:

“(b) in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic, **religious, educational** or scientific purpose or any other genuine purpose in the public interest;”.

2. Response to the remarks of Peter Wertheim of Executive Council of Australian Jewry

Mr Wertheim proposed an amendment to the bill which:

- (a) would have maintained the current test of “intention” to incite harm or violence to protected persons or groups rather than the lower threshold in clause 3 and others of “reckless in relation to”; and
- (b) would have added the additional words in the current s80.2A(1)(a) presumably after ‘intentionally’ to include “‘advocate’, ‘promote’, ‘glorify’”.

This would seem to have the purpose of requiring a person to intentionally ask another person or group to advocate, promote or glorify the use of harm or violence on the nominated group in order to meet the threshold of a hate crime in criminal proceedings.

Mr Wertheim’s position would be likely to ensure that school principals or their delegates would not be captured by the hate crime provisions simply by pursuing biblical ethics, which is the unintentional consequence of the current bill we fear.

Consequently, CSA would support Mr Wertheim’s proposed amendments provided that the current threshold of intention is retained.

3. CSA preferred position

While not opposing the proposed amendments listed in 1 and 2 above CSA retains its position that the best amendment to the bill is a clarification that ‘harm’ is circumscribed to physical rather than psychological harm.

CSA would seek to impress upon Senators the view that given there is a lack of support for the current version of bill across the spectrum of Inquiry participants, the bill, in its current form, is not yet ready to proceed to the Parliament for consideration.

Dr Rachel Carling

Dr Brendan Long

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