

Submission to the
**Exposure Draft of
Human Rights and Anti-Discrimination Bill 2012
Senate Inquiry**

The Human Rights and Anti-Discrimination Bill 2012 Exposure Draft Legislation represents a significant expenditure of resources, both in its development and also in the public review and resulting discourse. However the committee should not be swayed by sunk costs in considering the future of this proposal.

In terms of the stated objective of the bill, to consolidate Commonwealth anti-discrimination legislation, the bill dramatically oversteps this mandate. At a technical level the document is poorly drafted, leaving various loose ends of significant consequence for all concerned. As a policy agenda the underlying presumptions are corrosive and destructive, despite the well-intentioned thrust of the ideals. Many words have been written elsewhere which provide justification for these conclusions. This submission is intended to convey the writer's overall assessment and recommendation, with only a few selected supporting points.

It is recommended that the committee should reject the exposure draft in its entirety. The shortcomings are extensive and foundational and cannot be remedied through amendment. No further legislative work should be carried out in this area in the current term of parliament at least. The resources can be more effectively deployed to more productive ends on agendas which have broader support across society.

Reading through the exposure-draft documents conjures up an impression of a society which is something of a cross between *1984*, *The Rocky Horror Picture Show* and *The Hitchhiker's Guide to the Galaxy*, except that it is neither fictional nor funny. Typifying the ideologies pervading the documents are the notions surrounding normalisation of inconsistent gender identity and related behaviour. That such ideas have taken hold to a degree as to find their way into a serious parliamentary document is beyond belief. A person can assume a gender identity at odds with the reality contained in every cell of their body, cross-dress and

behave in a manner that causes offence, unease and discomfort to others around them, and then issue plausible legal threats to anyone who might consider censuring their behaviour. The legal framework created around the expanded classes of protected attributes shouts a clear message that once such legislation is enacted 'THERE SHALL BE NO FURTHER PUBLIC DEBATE ON THIS SUBJECT'.

Hanlon's razor would dictate that the reason for the above situation is other than the determined pursuit of a sinister agenda, but this writer is not entirely convinced. A segment of society has been pursuing a relentless agenda with the aim of enshrining the privilege of being able to engage in a range of sexual-related behaviors entirely free from any disapproval or criticism, with all opposition crushed by legal sanction. Those who disagree are labelled homophobic, to which the response must be surely that the proponents of such stifling of opinion are homofascist. Among other aspects, this proposed legislation furthers that homofascist agenda, to the detriment of all society including the individuals intended for increased privilege. The outcome can be summarised as the promotion of diversity of sexual perversity. This is despite both houses of parliament conclusively voting against the notion that homosexual relationships deserve legitimacy equal to that of the norm.

The exposure draft and the underlying ideology is corrosive and destructive for a number of reasons. Bear in mind the following basic facts. An individual who has or develops a gender identity inconsistent with their biological reality can be either encouraged to affirm, cultivate and pursue their inconsistent sexual identity or they can be encouraged and assisted to endeavour to overcome it. The former path is more likely to lead to irreversible bodily mutilation. Mutilation that is not far removed from that of a person who identifies with being a bird, has their hands cut off and straps on wings. Yet the proposed legislation entrenches the affirmation approach and supports those who want to discredit and if possible block the other alternative by framing it as discrimination or harassment. Normalising inconsistent gender identity and severely restricting the expression of alternative viewpoints will inevitably lead to a continued increase in the prevalence of this sad practice and the damage and suffering it creates. The same applies to a person who experiences attraction to the same sex. What might have been be a temporary developmental aberration can end up being cultivated into an almost unshakeable identity. The simple fact is that the majority of new HIV infection cases, and a

range of other lesser publicised diseases, continues to be men who have sex with men. The self-destructive private behaviour has a very public cost. It follows that public policy which effectively privileges and hence encourages such lifestyle-linked behaviour and prohibits the expression of opposition to, or active discouragement of it, is contrary to the public interest of eliminating the resultant suffering and burden to society. The underlying principle of the proposed legislation is that criticism of such lifestyle and behaviour, or treating a person differently, is wrong and must be outlawed by default, with a few limited exceptions. Imagine a country in which the tobacco industry succeeded in having legislation passed effectively outlawing the criticism of smoking. After all, many people are strongly biologically predisposed to being smokers. Why should they be the subject of advertising campaigns denigrating their lifestyle. Human rights and anti-discrimination policy has become the vehicle for the advancement of the diversity of sexual perversity interest groups who have already caused untold suffering and cost to our society not unlike that of the tobacco industry. This exposure draft is only the most recent manifestation of this destructive ideological agenda. Other pernicious, or at least unhelpful, ideological agendas are evident in the exposure draft but this appears to be the main one.

One of the weaknesses typical of the exposure draft is that discrimination is permissible in the name of equality. What is left open, whether intentional or otherwise, is any elaboration on whether the objective is equality of opportunity, equality of outcomes, or equality of legitimacy, noting that equal opportunity and equal outcomes in particular tend to be mutually exclusive. What is likely is the expansion and entrenchment of the privileging and advantaging of certain individuals at the inherent relative disadvantage of others. The overall result is an increase in unfair discrimination, not a decrease. There is significant opportunity for the development of a more just and fairer society. Unfortunately this exposure draft goes generally in the opposite direction. It should be entirely rejected.

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