

**SUBMISSION OF THE INSTITUTE FOR JUDAISM AND CIVILIZATION INC
ON RELIGIOUS EDUCATIONAL INSTITUTIONS AND ANTI-DISCRIMINATION LAWS**

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This submission falls into two parts:

- (1) A critique of the principle that gives preference to prospective staff on religious grounds **only** where the teaching, observance, or practice of religion is a part of their role
- (2) To explain to the commission the nature of the clash of its terms of reference with fundamentals of religious belief concerning human freedom.

Critique of the principle that gives preference to prospective staff on religious grounds only where the teaching, observance, or practice of religion is a part of their role

The intention of the ALRC’s report to allow preference to be given to those who profess and practice the institutions belief’s only to those school staff who teach religion and not in regard to other staff members is contradicted by Australian law. The contradiction is found in the Victorian Equal Opportunity Act of 2010, Part 4, Division 1, Section 27 “Exception – political employment”, which states:

“An employer may discriminate on the basis of political belief or activity in the offering of employment to another person as a ministerial adviser, member of staff of a political party, **member of the electorate staff** of any person or any similar employment”.

In an electoral office of a Parliamentarian there are employees with a variety of roles which include those of (a) receptionist, (b) diary keeper and (c) (secretarial-typing etc). There is also the role of adviser. It is understandable that a politician should be able to require the adviser whom he or she employs to discriminate on the basis of the prospective employee's "activities and beliefs". Yet we find with regard to the appointment of the receptionist, diary keeper and secretary, that prospective employees for these positions too – although they are not political roles – may also be discriminated against in employment on the basis of their "beliefs and activities". The reason for their inclusion is also understood, for they permit a homogeneity of ethos within the electoral office of the Parliamentarian.

Yet we find that the ALRC has chosen to disallow discrimination in employment against all other members of the religious school community with the sole exception of the religious studies teacher. In other words, the political electoral office of the Parliamentarian is granted a homogeneous ethos of belief and activity amongst all staff; whilst the school community of the religious school is not permitted a homogeneous ethos of belief activity. The counterpart of the religious studies teacher of the religious school is the political adviser in the electoral office. But Australian law does not require that only the political adviser but also other staff whose inherent characteristics bear no relation to political policy (receptionist, diarist and secretary) also support the electoral office in "belief and activity". This is a unique discrimination against religion, especially in view of the fact that a uniform and non-contradictory ethos is vital in education: that children learn not only from what they are "told" but from what they "see" around them. The homogeneity of the school environment is no less – and more – important than that of the political office.

The nature of the clash of ALRC's terms of reference with fundamentals of religious belief concerning human freedom.

Contemporary western society is marked by two very striking features: (1) it is a time of deep schism between the values of religious and secular citizens and (2) it is a time of eclipse of genuine, open and critical discussion interested in mutual understanding. I am tempted to call it the "age of libel", that is, of distorted, inflammatory non-communication. Consequently, when a so-called mainstream newspaper runs a headline like "Religious Schools move to sack gay teachers, expel trans kids" this panics politicians and creates walls of fear and or anger between religious communities and secular groups. In short, it paralyses analysis, discussion and communication. In the following I want to set out some very basic tenets of religious thought which will explain, hopefully, to secular listeners what is behind that inflammatory headline. There has been a huge hiatus, for several generations now, in the transmission of religious values and experience in many parts of society, to the extent that a former President of the European Union, Herman van Rompuy asked, how one can expect a young person to know something about G-d, "when he has never heard of Him". Here is an attempt to speak to that young person, who in the meantime has grown older, and is representative of a significant segment of society.

The psychophysical self

What is the religious understanding of what a human being is? In very basic terms the human being is a combination of two elements, which do not always sit easily with one another. One is what the psychologist Viktor Frankl called the "psychophysical self". These are the feelings, desires, wants and experienced needs which arise in the instinctual and emotional department of personality. Adjoined to these is a realm of psychological

perceptions, how one spontaneously sees oneself and others. This psychophysical self may be settled, it may be turbulent and it may have been impacted by a host of experiences, some pleasant and some difficult.

Conscience or the soul

The other element in a human being, according to religious belief, is the soul or as it is also sometimes called the “conscience”. This is the spiritual or non-psychophysical element. The key characteristic of the soul or conscience, as Viktor Frankl, is its ability to transcend the feelings, perception and predicament of the psychophysical self. This element, so to speak, arises above the person and examines the impulses, emotions and perceptions of body and mind. It reviews them from a moral standpoint detached from the physical and mental and *decides* with reference to its moral template whether those impulses, emotions and perceptions should be accepted, rejected or modified. In very simple terms the psychophysical self states “What I want from life”. The self-transcending soul or conscience asks and seeks the answer to the question: “What does life want of me?”

In religious thought, the self-transcending soul or conscience eventually comes to the point where it can “imitate” its Creator, which it does by carrying out the eternal, universal values transmitted by religious tradition. One of these values is heterosexuality enshrined in traditional marriage. This also prohibits homosexual and transsexual practice, as being against will of the Creator. Secular thought by contrast does not believe necessarily in a Creator, nor in the idea of a Divine template of universal and eternal values. It may not believe in the soul as the mirror of G-d, within the human being.

What is the relationship between the psychophysical self and the soul?

Religious thought posits the soul as the ultimate authority within the human being. That means that, however strong an impulse or perception originating from the psychophysical self may be, the soul is bound to reject it if it contradicts the universal moral template which the soul knows to be Divinely authorized. A person may have an overpowering urge to steal (kleptomania) or be possessed by aggressive urges, which unleashed could bring one to harm or kill another. Here the soul intervenes to prohibit them as forbidden by divinely given universal prohibitions theft and killing.

In all domains – including that of sexuality – the role of conscience or the soul is to evaluate whether the desired sexual behaviour is consistent with a divine template of moral action, and if not to modify that behaviour. Sometimes one cannot do it alone and counselling is needed to navigate the emotional and psychological factors which drive towards a forbidden sexual practice, but in the end the soul or conscience has to prevail. Religious teaching is that not only must the soul or conscience prevail in moral questions, but also that it has the ability to prevail, whether on its own or with help.

Freedom and responsibility

The religious concept that a person is bound to bring conscience (or the soul) to bear on physical impulse and psychological perception and to adjudicate them in accordance with a divine template of morality signifies that the human being has freedom. That the religious person is bidden to make morality prevail over impulse and perception means that one has freedom and choice whether or not to do so. Much contemporary secular thought, which does not believe in the soul or conscience and its reference to divine template of morality, states that the human being is only a psychophysical complex and no more. Consequently, it

believes that the human being is driven by impulse and perception and there is no other faculty in the human being which can oppose them. In other words they are not free to act contrary to these impulses and perceptions and consequently their happiness consists solely in the fulfilment of those impulses and perceptions. They oppose both a moral evaluation of them and a psychological examination of the causes of those impulses and perceptions. Hence homosexual attraction and transsexual identification must be taken at face value, facilitated and any attempt to impede their facilitation censored. They do not believe that the person is free to be anything else.

The religious position, on the other hand, states that every human action is a product of free choice, and is to be judged on the morality of that choice. No action can escape moral evaluation, that is to say evaluation in the light of conscience or the soul. This means that life may be a struggle to rein in, and if possible to transform, certain impulses and perceptions, but the ultimate human fulfilment and happiness is a life lived in accordance with conscience or the moral mandate of the soul.

Personal development and education

For the adult human being the corollary of freedom to choose between subordinating impulse and perception to the moral conscience, or not subordinating them, is responsibility. We are responsible to choose in accordance with conscience and to give sovereignty to conscience. All our acts are choices and we are responsible for our choices. The adult human being has the inner maturity to go through the struggle of choice and to choose morally.

Children do not have the maturity to make moral choices, that is to say, to recognize and hold fast to moral principles and regulate their action accordingly. That is why children are *educated*, which means, in its Latin root, to be “led out” of their amorphous psychophysical selves and moulded in accordance with moral principles. The adult can work on any remaining need for moulding by him or herself (with or without help from others), but the child, who cannot do this, is moulded through education. Thus, in a religious view, adults mould themselves with regard to the divine moral template accessed by conscience or the soul, and children are moulded in the same template in education.

Much contemporary secular thinking, which believes in the primacy of the psychophysical self, wants to remove any external moral regulation of the expression of spontaneous impulse and perception. It grasps this as a good in itself, fortified by its rejection of the concepts of soul, conscience and an objective moral template. If we look at the Website of the “Worldpride” mega Mardi Gras about to take place in Sydney, we will note that it is a festival of the total deregulation of (in this case, sexual) impulse and perception. This kind of secular thinking seeks the same result in its concept of the education of children. With gender fluid programs operating in schools, it seeks, and has actually stimulated and cultivated, a major growth in children wishing to alter the bodies into other genders or identifying as homosexuals. It is education as instinctual and perceptual deregulation.

Let us return to the headline from the Age of libel, “Religious Schools move to sack gay teachers, expel trans kids”, which panicked even politicians who themselves have religious beliefs. What does this mean from a religious point of view? A “gay” teacher is a person who has chosen to practice and manifest a life style, which according to religious belief, he or she

was not compelled to follow. Consequently, that teacher has made, what from standpoint of religious morality, is a bad moral choice. Religious people do not want teachers, who make bad moral choices, manifesting them and influencing their children.

As for the “trans kid” in the headline, this is a child who is following an impulse or perception, which it is by no means bound to – and according to religious morality, may not – adopt as it grows up. Wherever the child got its “trans” perception from, whether from its own disposition or from trauma – and this may call for psychological as well educational help – this is a disposition which is morally and psychophysically harmful. Indeed, the highest morbidity – suicide – rates are found amongst persons who have surgically transitioned. Accordingly, if the child does not alter its behaviour, then just like the child who repeatedly steals from, or kicks and hits, other children, and does not listen to rebuke, that child may be threatened with expulsion and be actually expelled. Expulsion is an extreme (and sometimes sadly necessary) means of education itself. This is the religious side to the story which needs to be heard amidst the hysteria and rage intended with the headline “Religious schools move to sack gay teachers, expel trans kids”.