

Submission to Australian Law Reform Commission on Discrimination against students in religious education institutions.

Because of the widely held religious tenet of male leadership, headship, and female complementary roles in marital relationships, many religious educational institutions discriminate against women. Through that discrimination and related conditioning severe public health and safety issues eventuate.

Data on intimate partner violence against women reveals that abusive male power sanctioned by, almost synonymous with the religious tenet of male headship, is responsible for intimate partner violence in 70 to 90% of cases of domestic violence. That material is evidence that the pattern of practice in marriage relationships has crossed beyond being within “private” or religious thresholds. Rather it is a starkly manifest public health and safety issue, indeed, a societal issue.

There is evidence that domestic violence is more prevalent in marriages between persons influenced by male leadership religious tenets than in those marriages across the wider community. (See: National Anglican Family Violence Project Report. 2021. (NAFVP report))

An Anglican seminary for the education of religious ministers hold weekly sessions for the wives of student/candidates,. The function of the sessions is to teach wives their “complementary” roles, submissive to the male headship. For the purposes of Proposal A 1 of the ALRC Discussion Paper, that class of wives ought be considered and deemed to be equated with “students” *mutatis mutandis*. But exemptions to the Sex Discrimination permit religious institutions an unfettered right to teach and practice this belief. The pressing need for primary protection of women’s rights demands that Parliament intervene to manage the tensions between competing rights to religious belief and public safety.

Proposals A 1, 2 and 3 ignore the issue of discrimination against women. It is more than an issue of equality that the Discussion Paper avoids. It is a systemic impact of an anachronistic, historical religious preference of the kind referred to in Article 18(3) *International Convention on Civil, Political, and Religious Rights*.

The magnitude of discrimination on the grounds of gender orientation is a dynamic factor driving the reform proposals discussed in the ALRC review. Youth suicide, public and parental objection, along with Australia treaty obligations under UN Conventions, have already informed legislative reforms.

Australia’s treaty obligations also apply to discrimination against women, informed by historical religious tenets and the danger of preferencing one protection over another protection. The UN Rapporteur’s comments, confirmed by the UN Committee on Human Rights 2020, reflect an acknowledgment of the need to address that tension.

Entrenched protection of religious beliefs about male headship in marital relations diminishes women’s equality before the law generally, and in access to religious Goods and Services.

Further, equality before the law relies on an available cause of action. None exists for the syndrome of coercive control that defines the abuse of male power in proselytising and holding beliefs about male headship marital relations. To the extent that there is any form of redress, the criminal law is being used to address situations of violence brought about as a result of one social right being allowed to seriously override another no less important social and individual right. The criminal law punishes wrongs against society. The role of mediating competing interests or protections lies in Parliament. It falls to be exercised through the *Sex Discrimination Acts*. It is a power, indeed an obligation, to prevent societal harm, arising out of the legislative power under Australia's UN treaty obligations.

Sex Discrimination legislation should now be directed to address that tension. It should prevent religious male power from becoming a societal problem, by limiting religious patriarchy to appointment of religious functionaries and the elimination of all stereotyping of male and female roles in society.

As a matter of urgency, Parliament must address the public competing rights between men and women in Sex Discrimination laws relating to historical religious tenet, beliefs in religious educational institutions at all levels. It is a primary health protection against intimate partner violence and homicide. It is of equal importance to the protections intended in Proposal A1 based on sexual orientation etc.

Recommendation:

- That Parliament codifies, in the Sex Discrimination Act, protections afforded by the UN Conventions on Human Rights to limit the injurious effects of historical, religious and cultural attitudes that stereotype men's and women's roles and impede or compete with women's or other's full enjoyment of UN Convention freedoms.
- That explanatory notes refer to systemic education, beyond educational institutions, being all areas for religious education, envisioned by the education BY ministers, priests etc and as referred to in the UN Committee on Human rights, education at every level and everywhere.
- Religions have lost credibility as the arbiters of ethical sexual relations and sexuality in a gender diverse evidence-based world. Faith in a supernatural being and references to creation stories does not justify the judgmental harshness applied to the faith relations of others, to their supernatural being, no matter where they lie on a gender continuum.

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