

February 22, 2023.

To:

The Australian Law Reform Commission

Review of Religious Educational Institutions and Anti-Discrimination Laws

To Whom it May Concern

My name is Gabor KALOTAY and I write to you to express my profound concerns regarding the proposed changes to anti-discrimination laws with regards to religious and faith-based institutions and their ability to deliver education and formation to students in accordance with very clearly defined beliefs, traditions and values, and the clearly expressed wishes/desires of their parents. These changes are detailed in the Consultation Paper *Religious Educational Institutions and Anti-Discrimination Laws*.

I will pre-empt my challenge to Propositions A to D and, logically and concomitantly, to the Technical Proposals, (or legislative reforms which underpin them), 1 to 14 with the following points:

My wife and I elected to send our children to a private and Catholic school for the express purpose of facilitating their formation and education in an environment that reinforces the traditional Catholic beliefs and values with which they are, unashamedly, being raised at home. I believe the proposed changes have significant potential to pervert, corrupt and create discordance with those intentions.

The Consultation Paper makes numerous references to international laws/charters/obligations related to anti-discrimination in this specific context. It seems reasonably clear to me, despite references to a number of opinions, (that in detail appear quite superficial, poorly conceived and subjective), which are referenced in an attempt to mitigate potential detrimental effects of these proposed changes on pre-existing international obligations, that the proposed changes are in clear contravention to a number of these obligations. Specifically, Article 18(4) of the International Covenant on Civil and Political Rights (ICCPR) which requires respect for the '*liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions*', as well as the concept of Institutional Autonomy. The proposed changes, particularly those related to employing staff who openly exhibit lifestyles, political and ideological affiliations and values that are contrary to, and undermine, those of the religious/faith-based institutions who are forced to employ them, to say nothing of the clearly defined intentions of parents who pay to send their

children to those institutions, clearly contravene these international standards/obligations. I understand that this may be an inconvenient truth.

The proposed changes are at best vague, open to interpretation, or indeed misinterpretation, and thus a potential source of costly litigation, or, at their worst, clearly discriminatory against institutions whose core values and beliefs, which form the bedrock of their formation/education models, are diametrically opposite to those whose interests and intentions it aims to facilitate/'protect'. The proposed changes embody imbalance and disequilibrium. In sentiment, intent and postulated outcomes, the perceived needs of one side are favoured and promoted over those of the other. As history attests, where the interests of one group are disproportionately and unjustly favoured over the no less valid interests of another, disharmony, resentment and failure ensue. There is much room for improvement.

In terms of the specific propositions, I offer the following: (I will not address the technical propositions specifically. An objection/rejection to/of a proposition, clearly objects/rejects the legal framework intended to underpin them.)

Proposition A:

In general, vague and open to interpretation.

Point 3 should clearly state that 'religious educational institutions should be permitted to teach religious doctrines or beliefs on sex and sexual orientation in a way that accords with **their core beliefs, values and traditions**', not limited to their duty of care and requirements of the curriculum. It should also clearly protect the institution from claims of discrimination by recipients of that teaching who disagree with those **core beliefs, values and traditions**.

Proposition B:

In general, vague, contradictory and open to interpretation.

Those who openly express/exhibit a homosexual/gender dysphoric lifestyle/inclination/ideology inherently contradict the **core beliefs, values and traditions** of most mainstream faith-based institutions, which should be equally protected. This makes Pont 3 entirely redundant. How could those individuals in good faith, conscience, clarity and conviction deliver teaching of religious doctrine or belief related to sex or sexuality in accordance with the institutions **core beliefs, values and traditions**? The proposition is entirely nonsensical and a glaring example of the inequity spattered throughout this document. Again, this proposition should proffer clear protection to the institution against claims of discrimination by individuals who passively and/or actively undermine those **core beliefs, values and traditions**.

Proposition C:

In general, vague and open to interpretation.

I view this as the 'sweetener' in the proposed changes, though a very weak one.

The language is ambiguous – 'should be able to', 'should be taken into account'.

Exactly who will determine whether selection, appointment or promotion is justified or not depending upon the staff members 'religious beliefs or activity'?

As for Proposition A and B, Proposition C should clearly state that a religious institution is protected against claims of discrimination by those who are in discordance with the

institutions **core beliefs, values and traditions**, and that this **would**, not 'should', disqualify a person from selection, appointment or promotion.

Proposition D:

In general, vague, imprecise and open to interpretation.

Again, excessive use of 'should be able'.

Point 1 limits action to those who 'actively undermine the institutional ethos'. Define actively. Is referencing/exhibiting a homosexual lifestyle/partnership through imagery, anecdotes or clothing that bear symbols which commonly signify solidarity/participation/membership of such a social/political/ideological grouping active or passive? They are equally and profoundly contrary to Catholic teaching on human sexuality, family and morality. They also grossly undermine the capacity for an individual to deliver teaching with any conviction or integrity in accordance with that institution's **core beliefs, values and traditions**.

Point 2 is also corrupted by ambiguous language. Who determines the nature of 'reasonable and proportionate staff conduct', or lack thereof? Who defines these terms? This document certainly does not. Are the scenarios raised in Point 1 inherently **disrespectful** to the institution's ethos? They are certainly completely contrary to most Judaeo-Christian teachings. Who decides?

The imposition of Point 3 would clearly, passively and actively, undermine the **core beliefs, values and traditions** of virtually all traditional/orthodox Judaeo-Christian and Islamic institutions and would leave such institutions open to claims of discrimination and resultant litigation if they justifiably defined such expressions of sexuality and gender dysphoria as actively undermining institutional ethos. Point 3 confers redundancy to both Proposition C and D.

In summary then, Propositions A to D are deeply flawed. Ambiguous, contradictory and, intrinsically, disrespectful and discriminatory. They are an attempt impose the values, beliefs and ideology of one group upon another with, in this context, entirely contrary convictions. As such, it is destined to fail. You have much work left to do.

Yours Sincerely,

Dr Gabor KALOTAY

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