

SUBMISSION TO THE AUSTRALIAN LAW REFORM COMMISSION  
THE BISHOPS OF THE AUSTRALASIAN-MIDDLE EAST CHRISTIAN  
APOSTOLIC CHURCHES

INQUIRY INTO RELIGIOUS EDUCATIONAL INSTITUTIONS  
AND ANTI-DISCRIMINATION LAWS

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## Introduction

The Bishops of the Australasian-Middle East Christian Apostolic Churches (**AMEC**) welcome the opportunity to provide a submission to the Australian Law Reform Commission Inquiry into Religious Educational Institutions and Anti-Discrimination Laws (**Inquiry**).

Our faith communities operate ten primary and secondary schools across Australia, as well as several theological colleges. These schools afford parents the choice to have their children educated in a place that is faithful to their cultural and religious heritage.

Parents are the “primary and principal educators” of their children<sup>1</sup>, responsible for providing their children with “a sound cultural and religious formation.” Parents share this responsibility with schools, but do not forfeit it. The role of the State is to support parents in their role as primary educators by ensuring they have the necessary freedoms to make the most appropriate choice for their family.

In addition to sending their children to our schools, many of the parents in our community also choose to send their children to Catholic, Orthodox and other Christian schools, as these schools align closely with the values and beliefs in which they wish to have their children raised.

Religious education is not merely a matter of religious freedom as expressed in international covenants, but also of personal duty. The human person has not only the right, but also the moral obligation, to seek truth, especially religious truth. This right belongs to individuals and communities, because it is within religious communities that individuals seek religious truth.

AMEC is greatly concerned by the proposals put forward in the Consultation Paper for the Inquiry. If implemented by the federal parliament, these proposals would drastically undermine the nature of religious education in this country and the right of parents – recognised in the International Covenant on Civil and Political Rights – to “ensure the religious and moral education of their children in conformity with their own convictions.”<sup>2</sup>

This submission will focus on the general propositions made in the Consultation Paper and not the technical proposals. Unfortunately, the general propositions contain several fundamental flaws such that commenting on the technical proposals stemming from those propositions would be futile unless and until the propositions that underpin them are altered.

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<sup>1</sup> Pope Paul VI, *Declaration on Christian Education, Gravissimum Educationis*, 28 October 1965. [online] Vatican. Available at [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_decl\\_19651028\\_gravissimum-educationis\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651028_gravissimum-educationis_en.html) [Accessed 23 Feb 2023], paragraph 3.

<sup>2</sup> UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html> [accessed 23 February 2023], Article 18.3.

## Proposition A

Christians believe that the human person is made in the image and likeness of God which affords them a dignity that must be upheld. All persons are created by God and loved by Him and so must always be shown respect and never subjected to unjust discrimination.

Proposition A appears to have the aim of ensuring unjust discrimination against students does not occur. However, it contains some fundamental flaws.

Firstly, it contains in the proposition itself and the examples of what the implementation of the proposition could mean in practice, an implication that the Christian understanding of sexuality and gender is both discriminatory and harmful to students. The Consultation Paper provides that one effect of Proposition A would be that “a school could continue to teach its religious beliefs or doctrine on matters of sexuality and relationships (while continuing to be subject to existing legal requirements to do so in a way that respects its duty of care to students, and accreditation and curriculum requirements).” The implication of this example is that the teaching of religious doctrine on sexuality and relationships may not be in accordance with the duty of care owed to students. This implication is incorrect and, indeed, reveals an anti-religious bias that is also seen in other parts of the Consultation Paper. The Christian understanding of the human person, of the gift and proper use of their sexuality, of marriage, family and gender is life-giving and life-affirming. It is taught to students not only because it is in accordance with religious doctrine, but importantly, because it contributes to their flourishing as individuals.

Secondly, the Consultation Paper’s assertion that “a failure to address homophobic or transphobic bullying in a school would be unlawful” could lead to unintended consequences for teachers and students of faith within the school who wish to live in accordance with their own beliefs about gender and sexuality. One possible scenario that could arise is when a teacher refuses to address a transgender student by their preferred name and pronouns on the basis that affirming gender to be fluid is against their religious beliefs. If the transgender student complains that this refusal amounted to ‘transphobic bullying’, the school would be left in the ridiculous position of having to discipline a staff member who is living by the religious beliefs on which the school is based in order to comply with its legal obligations to the student.

Thirdly, it has no regard for the rights of parents who choose religious schooling partly because they desire to protect their children from being exposed to numerous secular matters, such as matters of gender and sexual fluidity at a young age. It is notable that Proposition A does not contain any differentiation between primary and high schools, meaning that parents may be forced into introducing matters of gender and sexual fluidity to their children at an age they consider to be inappropriate, because the school will be required to accommodate students who seek to transition gender or openly discuss sexuality.

Finally, Proposition A wrongly assumes that religious schools cannot simultaneously maintain their teaching and policies on matters of gender and sexuality and also offer care for students who experience gender dysphoria or same-sex attraction. Religious schools minister daily to students in their personal challenges in a sensitive and pastoral fashion. Schools should not be forced to choose between transmitting religious faith and accompanying those experiencing same-sex attraction or gender dysphoria: they can do both without heavy-handed regulation.

## Proposition B

The first fundamental flaw contained in Proposition B is that it underestimates the impact that the beliefs and behaviour of staff can have on the ethos of a school.

Pope Paul VI said: “Modern man listens more willingly to witnesses than to teachers, and if he does listen to teachers, it is because they are witnesses.” This is especially true of school teachers, who do more to transmit the faith through their lives than through what they teach in a classroom. A document from the Sacred Congregation for Catholic Education relating to Catholic schools explains this concept as follows: “[Faith] is principally assimilated through contact with people whose daily life bears witness to it. Christian faith, in fact, is born and grows inside a community.”<sup>3</sup>

Students seek authenticity and they are acutely aware of when it is lacking. Staff members who are contractually obligated to teach certain doctrines but who make no attempt to live by it, even if they fail to do so, will be ineffective in transmitting anything more than academic knowledge of religion to students. But religious schools are not simply places where academic education is offered, they are small communities of faith where religious belief is both taught and modelled. This is true notwithstanding the Consultation Paper’s rejection of the idea, and is especially true of schools that have both a religious and cultural identity.

The second fundamental flaw contained in Proposition B is that it assumes a religious understanding of gender and sexuality is not important to the delivery of a broader religious education.

Religious teaching on gender and sexuality is not primarily about the moral law; rather, it is integral to the understanding of the human person. Christians believe that the human person is created as an intimate union of body and soul, created in the image and likeness of God. Body and spirit are central to the expression of human life and love, that is, the expression of a person’s whole being. Teachers cannot adequately form children in other aspects of religious faith if they do not share a religiously-informed understanding of a person as body and soul, because the understanding of the human person is at the very foundation of human identity.

## Proposition C

The first fundamental flaw contained in Proposition C is its assumption that authentic religious belief and practice is only necessary for certain roles within a religious school, namely, those related to leadership, religious education or religious observance.

Christian faith lived properly is something that permeates every aspect of a person’s life; it is not something that can be compartmentalised. For this reason, the faith of the science teacher or the gardener is just as important as that of the religion teacher or school principal. As the Sacred Congregation for Catholic Education noted:

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<sup>3</sup> The Sacred Congregation for Catholic Education, *The Catholic School*, 19 March 1977. [online] Vatican. Available at [https://www.vatican.va/roman\\_curia/congregations/ccatheduc/documents/rc\\_con\\_ccatheduc\\_doc\\_19770319\\_catholic-school\\_en.html](https://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_19770319_catholic-school_en.html) [Accessed 23 Feb 2023], paragraph 53.

*“A teacher who is full of Christian wisdom, well prepared in his own subject, does more than convey the sense of what he is teaching to his pupils. Over and above what he says, he guides his pupils beyond his mere words to the heart of total Truth.”<sup>4</sup>*

A holistic, faith-filled education is one that demonstrates to students that they can and must bring their faith into whatever profession or vocation they choose after school, that is, that religious belief and activity is not just something reserved for Sunday worship, but something that covers every aspect of their lives. Schools must not be forced, through anti-discrimination laws, to undermine this idea by only having a handful of roles for which religious faith and practice is relevant.

The second fundamental flaw contained in Proposition C is the suggestion that a civil authority is competent to assess what is a “genuine requirement” of a role when it comes to religious belief and practice. Paragraph 58 of the Consultation Paper states that “whether participation in the teaching, observance or practice of the religion... requires an objective inquiry into the actual nature of the role.” With respect, the suggestion that a body external to the religious school or faith community to which it belongs (likely the Australian Human Rights Commission), is competent to conduct such an objective inquiry is highly unreasonable and a dramatic overreach of the State into religious matters. It is not appropriate that external, secular bodies that have no expert knowledge in religious beliefs be empowered to decide, on behalf of a religious school, what is and is not a genuine requirement for a role.

The third fundamental flaw contained in Proposition C is the notion that the teaching of alternate views on relationships and sexuality in religious education classes would not undermine the religious education of students.

The Consultation Paper states:

*“The ALRC expects that Proposition C would, for instance, have the effect in any future religious anti-discrimination legislation that... it would be reasonable and proportionate for a school to preference an applicant for the position of religious education teacher who was willing to teach the school’s particular beliefs around sexuality, as long as the teacher was permitted to objectively discuss the existence of alternative views about other lifestyles, relationships or sexuality in a manner appropriate to the context.”*

Under Proposition B, the suggestion that the ability to teach alternate views would not be limited to sexuality, but other matters as well. The Consultation Paper provides that the effect of Proposition B would be that “a school could require a LGBTQ+ staff member involved in the teaching of religious doctrine or beliefs to teach the school’s position on those religious doctrines or beliefs, as long as they were able to provide objective information about alternative viewpoints if they wished.”

The ability for a teacher of religious education to present religious doctrine as one option amongst a number of different viewpoints would amount to an egregious undermining of religious education, the purpose of religious schooling and the ICCPR-guaranteed right of parents to ensure the religious and moral education of their children in conformity with their own convictions. Proper religious education in the Christian tradition asserts the truth of the Christian story; it is not one story that sits alongside equally-valid others, but rather a truth that is to be accepted to the exclusion of other claims. Allowing a

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<sup>4</sup> Ibid, paragraph 41.

teacher to present religious doctrine, whether it be about marriage and sexuality or other teachings, as just one idea undermines the ability of a school to teach religion authentically because it necessarily invites students to a ‘cafeteria Christianity,’ accepting some religious teachings and rejecting others. Any attempts to impose this style of education on every religious school is manifestly unreasonable.

## Proposition D

Proposition D contains a similar fundamental flaw to Proposition C, in that it claims that a teacher can publicly reject religious teachings without undermining the religious ethos of the school. Proposition D suggests that, absent a teacher actively denigrating a religion or seeking to convert students or parents to another religion, they cannot affect the quality of religious education provided at the school. This is simply incorrect.

As noted earlier in this submission, the authentic Christian witness of teachers is vital to the formation of students. As the Sacred Congregation for Catholic Education wrote:

*“The achievement of this specific aim of the Catholic school depends not so much on subject matter or methodology as on the people who work there. The extent to which the Christian message is transmitted through education depends to a very great extent on the teachers. The integration of culture and faith is mediated by the other integration of faith and life in the person of the teacher. The nobility of the task to which teachers are called demands that, in imitation of Christ, the only Teacher, they reveal the Christian message not only by word but also by every gesture of their behaviour. This is what makes the difference between a school whose education is permeated by the Christian spirit and one in which religion is only regarded as an academic subject like any other.”<sup>5</sup>*

The culture of a school and the quality of the religious education it provides depends greatly on the sincerity of the staff.

## Conclusion

Religious schools are not simply places where the curriculum is taught; they are communities of faith that partner with parents to ensure the religious and moral education of their children in accordance with their beliefs. Many parents, particularly those in our own faith traditions who are from migrant communities, make significant sacrifices in order to send their children to these schools. The proposals contained in the Consultation Paper would render these sacrifices meaningless because they would have the effect of stripping any authentic religious identity from religious schools. The Consultation Paper unfortunately contains a dramatic lack of understanding of the nature and purpose of religious schooling, and reveals an indifference to the desire of parents to have their children educated according to a particular faith tradition. It cannot be used as a basis for any law reform in this area.

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<sup>5</sup> Ibid, paragraph 43.

Yours sincerely in Christ,

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