

I wish to lodge a brief submission regarding the Consolidation of Commonwealth Anti-Discrimination Laws. Specifically, I wish to address Question 22 in the Consolidation of Commonwealth Anti-Discrimination Laws: Discussion Paper – “How might religious exemptions apply in relation to discrimination on the grounds of sexual orientation or gender identity?”

I advocate that *all* the current religious exemptions be retained in the consolidation of federal anti-discrimination laws.

There is, of course, no general community consensus on the issue of religious exemptions. Consensus is utterly unimaginable in contemporary Australia owing to its pluralist social complexion. The current religious exemptions are perfectly consistent with pluralist society.

Furthermore, removal of exemptions relating to discrimination on the grounds of sexual orientation or gender identity would undermine the constitutional right that all Australians have to exercise religious freedom (see section 116 of the Australian Constitution), the opinion of the High Court notwithstanding (see Church of the New Faith v Commissioner of Payroll Tax (Vict) (1983) 154 CLR 120 at 135-136). Surely, freedom in this context extends to institutions associated with religions, including organised religions/denominations and educational institutions.

I have seen legal advice that makes it clear that the constitutional documentation required to satisfy a court of law that an organisation can claim a current exemption is substantial. I think this is enough to protect society from arbitrary discrimination against individuals or groups.

The only change that I would support would be one that requires relevant organisations to declare that they reserve the right to exercise their exemptions. This would signal the organisation’s position in a transparent way.

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