

Church & Nation Committee  
Presbyterian Church of Australia

Convener:  
Rev. Stefan Slucki  
Brighton S.A. 5048  
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Assistant Secretary  
International Human Rights and Anti-Discrimination Branch  
Attorney-General's Department  
Robert Garran Offices  
3-5 National Circuit  
BARTON ACT 2600  
E-mail: [antidiscrimination@ag.gov.au](mailto:antidiscrimination@ag.gov.au)

30 January, 2012

Dear Sir/Madam,

Submission of the Presbyterian Church of Australia  
Consolidation of Commonwealth Anti-Discrimination Laws Enquiry

1. This submission is made by the Presbyterian Church of Australia through its national Church and Nation Committee.<sup>i</sup> The church welcomes the opportunity to make this submission. It comprises over seven hundred congregations with members drawn from many cultural backgrounds.
2. The Presbyterian Church of Australia is opposed to all acts of discrimination which do not properly honour each individual as a unique person created in the image of God. The church also strongly affirms the importance of religious freedom and the rights of the religious conscience before God. The principles of anti-discrimination and religious freedom need to be kept in proper balance. Contemporary anti-discrimination laws enacted at a federal, state and territorial level leave room for the exercise of religious freedom and other important liberties through various exceptions or exemptions to the application of anti-discrimination rules. Casting them merely as 'exceptions' or 'exemptions', without acknowledging their importance in giving room for the exercise of freedom of religion, is potentially inconsistent with Australia's commitment to religious freedom, reflected in section 116 of the Constitution and Article 18 of the International Covenant of Civil and Political Rights (ICCPR), to which Australia is a signatory. Australian law is certainly inconsistent with this commitment if anti-discrimination laws do not allow adequate room for the exercise of religious freedom.
3. The Presbyterian Church urges the Government to ensure that the policy protecting religious freedom and other important liberties embodied in the existing exceptions and exemptions in federal laws is fully maintained. It is also submitted that federal anti-discrimination laws ought to be amended to make clear that the exceptions and exemptions exist in order to protect religious freedom and other liberties in accordance with the ICCPR. The very definition of unlawful discrimination should recognise that policies

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adopted and decisions taken by organisations in exercise of religious freedom and other important liberties are not relevantly discriminatory.

4. The existing exceptions and exemptions should continue to operate in their specificity and not be replaced by any general limitations clause that places the onus on religious bodies to establish that a certain employment decision or other organisational policy is 'necessary' for some particular purpose. Religious freedom should not be made contingent in this way. Religious bodies should enjoy permanent and general exceptions and exemptions from the application of anti-discrimination rules.
5. The right to exercise religious freedom should not be limited to 'religious bodies' narrowly conceived; all faith-based organisations should have the same rights to religious freedom, as respected in the existing exceptions and exemptions. Such organisations are formed in various ways to provide a great variety of welfare and other services (eg, education, health, employment, counselling, aged care, accommodation, etc). The provision of such 'secular' services does not undermine the religious motivations of those who establish, lead and manage such organisations. The right to freedom of religion should extend to the freedom to employ staff and engage volunteers who adhere to the beliefs and behave in accordance with the values of the organisation.
6. The review of federal anti-discrimination laws should also continue to respect the existing protection of religious freedom and other important liberties recognised in state and territory laws. The capacity of the Commonwealth Parliament under the Constitution to override state and territory laws should not be used to reduce the scope of religious freedom under those laws.

Yours sincerely

*Rev. S. Slucki.*

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<sup>i</sup> We gladly acknowledge the more comprehensive submission to this enquiry provided by our Victorian State Committee colleagues. Ours is in the nature of a brief summary of principles.

Yours sincerely,

Rev S. Slucki

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