

Religious Freedoms and the Religious Discrimination Bill in Australia, 2019-2020

By Peter Barnes

It is not uncommon in life to be dragged into unwelcome territory – I once took a kindergarten Scripture class which came to resemble drowning on land, as the children got off the topic of Abraham and onto an aunty who was visiting that weekend or a pet cat that had died. Being involved in meetings of faith leaders over the government’s proposed religious discrimination bill gave me a similar sense of not quite belonging. I am not a lawyer, I find the minutiae of legal codes boring, and I am suspicious of the whole process. So these comments are made in the light of these confessions.

There is no doubt that the second attempt at a Religious Discrimination Bill was an improvement on the first one. Clearly, the government is trying, or appearing to try. However, there are troubles on the issue of religious freedoms now, and we ought not to put our trust in princes and parliaments to usher in a society of love, peace and freedom. These are just a few thoughts:

1. THERE ARE NO GUARANTEES OF FREEDOM FOR HOSPITALS, CHARITIES, RADIO STATIONS, AND OTHER RELIGIOUS ORGANISATIONS THAT ARE NOT CHURCHES OR SCHOOLS.

Anti-discrimination laws mean that one cannot discriminate on grounds of race, sexual preference, gender, age, and disability. What is (e.g. one’s nationality or age or disability) is mixed in with how one behaves (viz, sexual activities). So far, churches and religious schools have enjoyed some kind of exemption. Even this has been hazardous, with Julian Porteous’ defence of the Catholic view of marriage landing him in trouble in Tasmania, a Christian school being sued in Victoria for squeezing out a teacher who was very vocal in favour of same-sex marriage, and the expensive two Dannies (Daniel Scot and Danny Nalliah)

case, also in Victoria, which sought to muzzle two Christian evangelists to Muslims.

It is not only churches and schools that are at issue, nor is the matter simply one of whom one can employ. It also concerns the issue of services rendered. Why should the Jews, for example, not be allowed to set up a nursing home for Holocaust survivors? Or why should Christian campsites not be allowed to preference Christian groups and exclude hostile groups? Already, Christian student groups on university campuses are being called in to explain why they ‘discriminate’ against unbelievers. This is a waste of time and money, and has an intimidating effect on the student groups.

2. ANTI-DISCRIMINATION LAWS CATER FOR ANTI-DISCRIMINATION COMMISSIONS AND TRIBUNALS.

Words like ‘discriminate’, ‘vilify’, and ‘hate speech’ have meaning, but, like beauty, they can be very much in the eye – or ear – of the beholder. Listening, for example, to the foul-mouthed Benjamin Law complain about Christian hate speech is one of modern life’s more galling exercises. Michael Kirby – thankfully now a retired judge – has argued strongly that religious freedoms cannot trump what he sees as the rights of LGBTIQ people.

Charles Dickens commented in Bleak House that ‘The one great principle of the English law is, to make business for itself.’ And he did not live to see the establishment of Anti-Discrimination Boards! Some Christians, with more legal expertise than I have, are welcoming the proposal to set up a Freedom of Religion Commissioner. They would be hard-pressed to point to a single society where the establishment of a Ministry for Religion or Ecclesiastical Affairs or the like led to anything except more

restrictions and coercion.

3. THE WHOLE APPROACH NECESSARILY WORKS WITHIN A FRAMEWORK OF WHAT IS REGARDED AS GOOD LAW WITH SUPPOSED EXEMPTIONS.

Logically, if anti-discrimination laws are good, there ought to be no exemptions. Laws do not confer freedoms; they take them away. Where there is no clear concept of moral law, tolerance takes its place, and then becomes intolerant. 'Tolerance,' said G. K. Chesterton, 'is the virtue of the man without convictions.' The historian Andrew Pettegree called it the 'loser's creed'. We have moved beyond that. Those who previously argued for

toleration are now the winners, and are full of moral outrage, and demanding affirmation.

When asked in 1933 why he did not join the pro-Nazi German Christians in order to change them from within, Dietrich Bonhoeffer replied that he couldn't: 'If you board the wrong train, it is no use running along the corridor in the opposite direction.'

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