

To: The Expert Panel on Religious Freedom

C/O Department of the Prime Minister and Cabinet

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We are investigating in this submission, as to whether the intersection between the enjoyment of religious freedom interferes with basic human rights.

* Australia is a signatory to the 'International Covenant for Civil and Political Rights' [ICCPR] According to this covenant member states are under obligation to implement the articles of rights contained within the covenant. Under this treaty we are obliged to legislate and make known the Peoples rights which include, religious freedoms.

Article 18 of ICCPR reads ...

1. Every person shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private to manifest his religion or belief in worship, observance, practice and teaching.,
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs. may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have 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.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

* As part of our scrutiny of our rights as a nation, in being a signatory to the ICCPR and in investigating religious freedom for all faiths and, bearing in mind the laws pertaining to Same Sex Marriage [SSM] as only recently introduced after the existence of ICCPR, it is apparent that our rights as in accordance with the Governments obligation to ICCPR have been jeopardized and are not being implemented.

* New SSM laws under which the following events could take place would deem these occurrences against the law, and cause the people involved who are considered the perpetrators to be law breakers, having prosecutions laid against them because they are wishing to exercise their right to choose to live by their convictions, according to the faith they adhere to.

Examples:

-- Christians or other religions who may refuse to be involved in SSM ceremonies or preparations, due to their religious convictions.

-- Christians or people of other religions or people who do not uphold SS values who do not wish their children to take part in SS education or programs/exercises in schools.

-- Religious and or other organisations who do not wish to take part in SS activities because of their religious belief system or know opposition to the SS movement.

These events, if deemed unlawful under current law and if prosecutions were laid would contravene our obligation as a state member of the ICCPR.

* There are other human rights of which SSM laws could have a great potential to violate.

ie. SSM laws without safeguards for vulnerable segments of our communities have the potential to destroy those communities and society as we know it. They will do this by interfering with or nullifying many other human rights that are currently accepted as basic rights of a human being.

Examples:

-- Children's rights to know and live with a Mother and Father.

-- Parents rights to the moral education of their children.

-- Rights of an employer to employ a person that he believes is best suited to the vocation in which he would be employing them for.

-- The rights of a person to refuse to be indoctrinated by people who may try to enforce upon or to involve them in a life style they are not comfortable with.

Conclusion:

There is a need for a variety of individuals, organisations and even communities to have protection against the ramifications of the SSM laws. The reason being, that there is anti-discrimination legislation that is wide and varied covering every scenario possible, therefore there should also be exemptions to the law, giving comprehensive protection to people and organisations with genuine religious beliefs and convictions.

We site this case below as an example where anti-discrimination laws have failed to take into account the rights to an organisations religious and moral standing in the community:

...Example: 'Christian Youth Camps Services Ltd Vs .Cobaw Community Health Services Ltd. 2014 VSCA 75.

The facts of this case are: Christian youth Camp Services had a venue for hire for camp purposes. Their constitution [inter alia] stated that the organisation needed to hire out the venue for camps that are conducted and are consistent with Christian values.

The defendant attempted to book the venue and conduct a camp on addressing suicide among Homosexuals for the Gay community. The booking was refused on the basis that some of the content was not consistent with the Christian values of the plaintiff. The court of appeal held that the plaintiff had discriminated.

In short, the Plaintiff was not entitled to refuse the booking on the basis that the content of the camp was not consistent with the Christian values held by the organisation.

In reality, the Christian entity was not able to exercise their freedom of thought Conscience and religion whereas the Gay community freedoms were permitted under anti-discrimination laws. This in principal can be used as a weapon against the freedoms of religion that are supposed to be the individual's rights in this nation according to ICCPR of which we are a member.

Please Note: Not all agree on what is a human right.

There are several cases where the European Court has held that SSM is not a human right, yet traditional marriage is held and recognized as being an inherent human right.

Ref: Chapin and Charpentier V.s France (n 40183/07) - One of many like cases.

Universal Declaration of Human Rights:

Article 16: 1. Men and women of full age, without any limitation due to race, nationality or religion have the right to marry and found a family. They are entitled to equal rights as to marriage, during marriage and at it's dissolution. Founding a family refers to the natural propagation of children which takes place in a marriage between a man and a woman, as SS couples cannot propagate children.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 23: 1. Everyone has the right to work, to free choice of employment. to just and favourable conditions of work and to protection against unemployment.

The necessary result needs to be from the conclusion above:

That Christians, other religions and other segments of our community who don't hold or support same sex values need adequate protection to continue in their own beliefs, freedom of thought and conscience as has been granted to those with Same Sex values.

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