**Submission in response:**

***Review of the Equal Opportunity Act 1984 (WA)***

***Project 111 Discussion Paper***

**Email:** [equalopportunityreview@justice.wa.gov.au](mailto:equalopportunityreview@justice.wa.gov.au)

**Mail:** Law Reform Commission, GPO Box F317, PERTH WA 6841

**Respectfully submitted by:**

**Name:**

**Contact:**

**Email:**

***I consent to this submission:***

* **being published and public**
* **not being published and made public**

*Closing date: Friday, 29 October 2021.*

1. **Introduction:**
   1. Introduce yourself
   2. Give a brief overview of who you are, and what you do
      1. Areas of church /community involvement / for how long?
2. **Why religious freedom and expression is important to you:**
   1. Share what the expression of your Christian faith means to you, and why you believe it positively adds to the community
   2. Provide some good news stories or examples of how the Christian faith impacts those around you
   3. Any other observations or feedback

Considering the importance I place on my human right to exercise my Christian faith, I would like to raise concern about some of the proposed changes and how they might affect me and my family. There are many elements that require careful consideration in this Act, but for the purpose of my submission, I’ll focus on Sections 72, 73 and provide additional comments as encouraged by the Commission.

1. **Areas of concern – Section 72, 73 and other comments** 
   1. ***Protecting Freedoms of Religious Schools and Charities and Churches (p166-171)***
2. As a parent / grandparent / supporter of Christian schools, I consider it essential for Christian schools to ensure that all their staff, from the principal to the gardener, adhere to the same principles of their faith. The suggestion (pp. 166-167) that only employees who are directly involved in religious instruction/or have direct involvement with students should be covered by the exemption, shows a sad lack of understanding of the purpose and intrinsic nature of a Christian-based school.
3. It is a reasonable expectation that all staff employed within a Christian organisation adhere to its constitution, mission, and statement of faith to reduce unnecessary conflict and litigation. I believe all Christian organisations; church, school, or charity, should have the right to hire staff who adhere to the Christian practice that the organisation is based on. If a staff member no longer adheres to the Christian faith on which the organisation is based, then it is fair for both parties to part amicably. Organisations should have the right to dismiss persons from their employment if the situation becomes untenable and that person no longer agrees to the terms of their employment, which might include adherence to the Bible and its teachings.
4. A recent public opinion poll (The Australian, Sept 21,2021 – *Majority supports religious freedoms*) found that 60% of respondents supported a school’s right to not employ staff whose views conflict with the religious beliefs of the school. This indicates that Australians continue to support the right of religious bodies to employ only those who embrace that faith.
5. The proposal that religious bodies only be allowed to discriminate in employment for persons directly involved in teaching is flawed. For example, a librarian who is non-Christian and employed at a Christian school could heavily influence the library catalogue and materials that are available to students. Similarly, a non-Christian nurse at a Christian school could recommend alternative ways of dealing with issues that teenagers go through. Christian parents would be appalled if the nurse recommended gender reassignment or referred a student to an abortion clinic.
6. Many organisations, including political parties, have the right to employ staff that promote and adhere to their values and policies, and that is how it should be. Christian bodies should be afforded the same right.
7. Any Christian body that holds to the traditional Christian understanding of human sexuality (that teaches marriage and sexual union be between a biological male and female), should not be forced to continue to employ any staff whose life shows they no longer agree with that fundamental teaching. Having someone on staff who does not share that understanding and reverence, can undermine the very purpose of that organisation.
8. I truly believe the removal or narrowing of the exception in **Section 72 (d)** that allows religious bodies *to discriminate if their action conforms to the doctrines, tenets and beliefs of the organisation and is necessary to avoid injury to the religious susceptibilities of adherents of that religion* is a direct attack on religious freedom, and would be in violation of International Covenant on Civil and Political Rights:
   * 1. ***Art. 18 (1):*** *"Everyone shall have the right to freedom of thought, conscience and religion. This right shall include 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. ***Art. 18 (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."*
9. **Training and Ordination of Ministers and Priests. (p163 – p 166)**

The Discussion Paper raises the questions (p163) as to whether the scope of the current exemptions (Section 72 (a)-(c)) surrounding the way that religious workers, such as church ministers and priests are ordained and trained or appointed should be narrowed or amended. Any narrowing of these exemptions would be in direct violation of the ICCPR Article 18 as well as other documents to which Australia is a signatory to.

***b. Gender Identity (p4 and p193-194)***

1. The Christian and Jewish faith teaches that sex is binary (male and female). We therefore reject the use of the term ‘sex assigned at birth’ as it is in fact a recording of a biological reality. Any changes to the Act which would effectively enshrine in law a view of humanity that is in defiance of biological reality would infringe the rights of people who for scientific, philosophical, or religious reasons continue to view sex as binary. To expand protections beyond the currently defined gender reassigned persons, would create problems for safe space access. It would enable biological males to access safe spaces such as women’s refuges and/or change rooms. Expanding protection to persons purely based on self-proclaimed gender identity will effectively make it impossible to have safe spaces exclusively for biological females.
2. Likewise, it would become impossible to have groups or venues that cater exclusively for biological men. Legal recognition of a person’s sex should not be confused with issues relating to gender identity[[1]](#footnote-1) as it has further legal complications.
3. We object to conflating intersex, which is a very rare biological condition with gender identity, which has no basis in biology or science.
4. If the Act were to be amended to broaden the provisions to include anyone who self identifies as transgender, the wording would need to ensure that people who hold to a biological, scientific understanding of sex as binary, and give expression to that view, cannot be hauled before The Equal Opportunity Commissioners or tribunals on the grounds of engaging in discrimination.
5. Conversion Practices: p194

The Commission asks whether prohibitions on conversion practices should be included in the Act. Given the complexity of the legislation enacted in other jurisdictions, this matter should be given separate consideration. Such legislation has far-reaching implications for ministers, priests, chaplains, pastors or any person engaged in prayer, conversation or counselling.  
  
I am of the view that a person should be a) free to engage services (including prayer) that they deem helpful to them, and b) no Christian should fear litigation if they simply choose to pray for someone.

**c. *Vilification (p 25, p150-154)***

The Discussion Paper canvases the idea of introducing broad ranging anti-vilification laws. I oppose the introduction of anti-vilification laws for the following reasons:

1. Vilification, as pointed out in the Discussion Paper (p.25) has been legally defined as ‘hate speech’. Activists frequently claim a person is engaging in ‘hate speech’ when someone is simply expressing a view that is different to their own. If such person is offended, they could say they felt ‘vilified’ without understanding the true definition of the word.
2. People’s definition and understanding of ‘vilification’ differ. One example is the ongoing case of Mr. Lyle Shelton, who was ordered to appear before the Queensland Human Rights Commission on the grounds that he vilified a trans person by simply expressing his view that drag queen story times are not suitable for children. In this instance, anti-vilification laws were used to silence a personal belief.
3. Any change to the Act should include a provision that a reasonable expression of faith made in a person’s own time cannot be used by an employer to adversely affect that employee.
4. A person should not be discriminated against or harassed on the basis of a statement of faith or expression. This again is an obligation under the International Covenant on Civil and Political Rights (ICCPR) Article 18, Article 18 of the Universal Declaration of Human Rights, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.
5. A recent public opinion poll (The Australian, Sept 21,2021 – *Majority supports religious freedoms*) found 65% of respondents supported such protections being introduced and maintained.
6. **Personalising your submission:**

**Why removing exemptions might prove problematic:**

* 1. As a pastor, parent, family member, Christian leader, will these above changes affect you? If yes, how?
  2. Other reasons why you do not agree with exemptions being removed?
  3. Any other observations or feedback given the above key points?

For many Christians, the issue is not to have freedom to discriminate, but the freedom to select and live out one’s Christian belief. My hope and expectation is that the Law Reform Commission provides balanced recommendations that practically address some of these conflicts, to ensure all sides of the community can enjoy their fundamental freedoms without removing the right of someone else.

Expression of faith should not be viewed as an unwelcome element in society but rather as an important part of the moral and compassionate social fabric of our society.

1. Feminist Legal Clinic. Submission to Law Reform Commission relating to issues of sex and gender. 19 October 2018, page 2. [↑](#footnote-ref-1)