



Ethical Rights

Submission in response to the

Religious Freedom Review 2018

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1. SUMMARY

1. This submission is concerned with the rights of individuals to have freedom of choice in their religion and belief. Some of the submission's more significant points, highlighted throughout the submission, are listed below.

1. An acceptance that all human beings are born free and equal in dignity and rights constitutes the most fundamental of all human rights.
2. Many human rights, including the freedom of religion, are not absolute. A balance needs to be reached when rights conflict.
3. If people do not want other religions or belief systems forced on them, they should not force their own belief systems, religious or otherwise, on others.
4. Scenarios that permit invidious discrimination, under the guise of religious freedom, are unacceptable.
5. A freedom of religion for all people requires that people have choice in religion and belief and that their religion should not adversely affect the rights of others.
6. Governments should not financially reward institutions, including many religions, that invidiously discriminate.
7. The subjective and discriminatory nature of religions is no reason for liberties under a freedom of religion to be extended, or exemptions from discrimination legislation to be granted, to religious groups.
8. If Christians were permitted to discriminate against LGBTIQ people, there is no objective reason why we should prevent others discriminating against Christians, blacks, Asians, women etc. These types of invidious discrimination are ethically equivalent, unacceptable and violate the UDHR.
9. It is illogical for a society to abhor discrimination against Aborigines and Torres Strait Islanders yet consider sanctioning discrimination against LGBTIQ people.
10. If discrimination against any one group of people is permitted, then all groups are vulnerable.
11. Organised religion and other belief systems should not be imposed on others, should not invidiously discriminate and should not be used to oppress others.
12. Conservative religious groups have been trying to expand their ability to discriminate with impunity, under the pretence of an attack on religious freedom.
13. Religious arguments for further discrimination against same-sex marriage are subjective, reinforce discrimination, lack ethical merit and should be rejected in any public policy debate respecting equality.
14. Any continued discrimination against LGBTIQ people or other groups would be considered an ethically retrograde step on the wrong side of history.

2. INTRODUCTION

2. This paper has been prepared as a submission to the 2018 Religious Freedom Review. My submission addresses ethical issues relating to the imposition of religious views on others and conflicting human rights. It considers arguments that are often overlooked.

3. I argue that when there is conflict between freedom of religion and belief and other rights, an individual's rights should generally prevail. I support the right of all people to believe what they will, so long as they do not discriminate against others or impose their views on others through physical, emotional or legislative means, or otherwise oppress or deny other people their rights or freedom of choice in religion. My analysis in this submission supports this philosophy.

4. Given that this Review has arisen as a consequence of the 2017 Australian debate on same sex marriage, my submission further argues that no special exemptions should be granted to religious groups from laws that apply to others. On the contrary, exemptions and discrimination that is currently allowed under the guise of religious freedom should instead be toughened, rather than condoned or weakened. Governments should not reward organisations for bad behaviour.

5. I am not concerned here with legal matters; I shall leave that to others. I contend that the ethical arguments that prioritise individual rights over discrimination and a limited freedom of religion are compelling. It will be up to the regulators, our politicians, to legislate as appropriate to achieve rational and desirable ethical outcomes.

3. EQUALITY AND DISCRIMINATION

6. An acceptance that all human beings are born free and equal in dignity and rights constitutes the most fundamental of all human rights. This equality principle is reflected in Article 1 of the Universal Declaration of Human Rights (UDHR), see Box 1. Not only does Article 1 advocate equality over inequality, but it also implicitly decries discrimination.

Box 1. Articles 1, 2 and 7 of the Universal Declaration of Human Rights.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

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7. Articles 2 and Article 7 of the UDHR (see Box 1) clearly denounce discrimination, which would include that of the sort envisaged by some conservative commentators in the wake of the passing of the 2017 same-sex marriage amendments. Discrimination based on sexual preference qualifies under Article 2, and Article 7 is an even more explicit rejection of discrimination.

4. HUMAN RIGHTS

8. Many human rights, including the freedom of religion, are not absolute. A balance needs to be reached when rights conflict. Where rights conflict, limitations on at least one right are required. For example, there is a conflict if one person's religion advocates that they could harm a person from another religion, and others (particularly those from the other religion) do not wish to be harmed. In this case, a right to practice a firmly held religious belief that causes harm to others should be forfeited, because nobody wants to be harmed by others.

Many human rights, including the freedom of religion, are not absolute. A balance needs to be reached when rights conflict.

9. Another reason that rights to religious freedom are not absolute is that religious belief is subjective. An issue cannot be resolved if both parties to a human rights dispute argue that they are right because their god says it is right. In the 21st century we must do better than constructing arbitrary subjective assessments; an objective approach is necessary.

10. That the balance rests with priority given to individual rights is a consequence of application of the Golden Rule. The Golden Rule is a strongly held maxim, certainly held by the major religions, that one should do to others what one would want done to oneself. Analogously, one should not do to others what one would not want done to oneself. If people do not want other religions or belief systems forced on them, they should not force their own belief systems, religious or otherwise, on others. To do otherwise would violate this Rule, contravene Article 2 of the UDHR and be hypocritical.

If people do not want other religions or belief systems forced on them, they should not force their own belief systems, religious or otherwise, on others.

11. In particular, if Christians don't want Islamic or gay views forced on them, then they should not force their religious views on those who don't want them, including LGBTIQ¹ people. Consistent with the Golden Rule, people should be able to choose how they live their individual lives. Scenarios that permit invidious discrimination, under the guise of religious freedom, are unacceptable.

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¹ LGBTIQ is an acronym for lesbian, gay, bisexual, trans, intersex and queer.

12. A freedom of religion for all people requires that people have choice in religion and belief and that their religion should not adversely affect the rights of others. If one religion were to impinge on others' rights and religions, then it would deny religious freedom to others. Implicit in religious freedom is that one religion should not be favoured over others.

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13. It can be seen here that choice is key to the human right of freedom of religion and belief. People must have the right to choose their belief system, and the right to think and act as they please, so long as they do not directly adversely affect others (again consistent with the Golden Rule). A denial of religious choice causes a denial of freedom and a denial of equality. Such is the case in Islam, where apostasy is often considered a crime. Through a heavy-handed approach, Islam limits choice, and freedom, of religion.

14. Invidious discrimination denies people rights, unfairly affects their interests and should be condemned in religion or any other aspect of society. From a rights perspective, these observations not only make a strong case against any religious exemptions, but also establish a case for more stringent conditions on religions. A freedom of choice of religion means there can be no more early childhood indoctrination in publicly funded institutions. Moreover, religions should not be granted special tax status and legislated exemptions from discrimination if equality is paramount and invidious discrimination is worthy of condemnation. Governments should not financially reward institutions, including many religions, that invidiously discriminate.

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5. WHY ARE PEOPLE RELIGIOUS?

15. To gain insight into the extent of any religious freedoms that might be required, it is appropriate to consider the nature of the Australian religious spectrum. Australia's diverse and multicultural society fills the religious spectrum. Some Australians are not religious (over 30% of Australians according to the 2016 Australian Census) and do not believe in any gods, some are religious but do not worship gods, and some are religious and worship one god or many gods. Of those who are religious, Christianity (about 40% of Australians) dominates over Islam (2.6%) and Buddhism (2.4%).

16. Why are so many people religious? Religion is a faith, a belief system, and many people believe in religions regardless of what evidence there is to the contrary. It's a tenacious meme. Most world religions are based on religious texts written many hundreds or thousands of years ago by people with ancient, superstitious, and primitive customs and ethical systems. They had no modern scientific understanding, their knowledge of the world was poor, and they created gods to explain what they could not.

17. Unsurprisingly, religious texts such as the Bible are scientifically flawed, and the god theories of all religions are inconsistent with available evidence. Despite what religious leaders may suggest is revealed in their allegedly infallible and perfect religious texts, there is no credible evidence, and certainly not in the scientific literature, for gods, devils, fairies, angels,

ghosts, that the universe was created, heaven, hell, a resurrection, a virgin birth, souls (something that survives death), miracles (events that are contrary to established scientific consensus), or that prayers work. In the 21st century, it is delusional, from a common sense if not psychological definition, to hold a belief in imaginary beings that have characteristics or perform deeds contrary to scientific and credible evidence.

18. Beliefs in imaginary beings and miraculous events are propagated mainly through instruction, whether indoctrination, or less intensely, acculturation. My standard indoctrination test is the following: consider what religion people would follow if they were raised in a country of a different religion by parents who fervently followed that other religion? As an example, a Christian should consider being raised by Muslim parents in an Islamic country, and Muslims should speculate about being raised by Christians in a Christian country. Buddhists, Jews, Hindus and other religious groups should ask similar questions.

19. Would they still follow the same religion? If their answer is no, then they should question why they follow the religion that they do, because clearly their religion is a subjective function of their indoctrination. They have admitted that if they were indoctrinated in a different religion in a different culture, they would change their religion.

20. If their answer is yes, then perhaps they should try to objectively explain the geographical distribution of religions around the world. If a Catholic said he or she would be a Catholic regardless of whether they were raised by Muslim parents in a Muslim community, it should be asked why he or she is so special. The overwhelming majority of children raised by Muslim parents in Muslim communities become Muslims. Children growing up in a Muslim community do not suddenly have a revelation of ‘Yes, Catholicism is for me’.

21. Many people might think that, as adults, they are making a choice about which religion is right, but this does not explain the high correlation between the religion of indoctrination and an adult’s final religion. The geographic distribution of world religions and cultures is best described by this indoctrination theory because the correlation between religion and geography (culture) is so high.

22. Religious people, once indoctrinated, usually rely on religious leaders or their scriptures to tell them what to do, how to behave, what’s right and wrong, and what to believe in, rather than thinking for themselves. They might believe that their gods proclaim that killing is wrong. They might also believe (hypocritically) that their gods are good when they murder people (including children). This is morally perverse.

23. Gods too are often sexist, racist, and homophobic—according to scriptures the Christian and Islamic gods seem to be. These gods and the associated belief systems reflect the primitive societies in which they originated. In the 21st century, it is disappointing that people still consider that these gods, guilty of discrimination and atrocious acts, are worthy or worship, but that is an issue for our education system, amongst others.

24. The subjective and discriminatory nature of religions is not an intrinsically meritorious quality. Consequently, there is no reason for liberties under a freedom of religion to be extended, or exemptions from discrimination legislation to be granted, to religious groups.

The subjective and discriminatory nature of religions is no reason for liberties under a freedom of religion to be extended, or exemptions from discrimination legislation to be granted, to religious groups.

25. On the contrary, discrimination under the guise of religious freedom provides a compelling reason for religions to be subjected to more stringent requirements. If society does not condemn invidious discrimination, or the legislative imposition of some groups' subjective views on others, it condones them. Condoning discrimination is unacceptable and contravenes articles in the UDHR.

6. SHOULD RELIGIOUS VIEWS BE IMPOSED ON OTHERS

26. Given the sexist, racist and homophobic religious beliefs present in many ancient religions, it is important that an environment be created where these are not readily propagated. This seems at odds with the views of many religious parents, who feel compelled to instil these values in their children. Governments cannot dictate how parents must raise their children, but through education governments can discourage sexist, racist and homophobic beliefs and their propagation. No exemptions should permit people to discriminate with legal impunity.

27. For many religions, Christianity included, the role of the clergy is to try to convert others to their religion. However, when discussion about values evolves into a more troubling legally sanctioned imposition of one religion's values on others, then religions cross over into hypocrisy. As noted earlier, Christians would not wish Islamic or Jewish, or even non-religious (atheistic and agnostic) beliefs, habits or customs to be forced on them. It is hypocritical and unethical, and inconsistent with the Golden Rule, for Christians to do unto others what they would not want others to do unto them.

28. Significantly, if Christians were permitted to discriminate against LGBTIQ people, there is no objective reason why we should prevent others discriminating against Christians, or blacks, Asians, women etc. These types of invidious discrimination are ethically equivalent, unacceptable and violate the UDHR.

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29. One religion's discrimination against people of a particular race or sex cannot be condemned if, at the same time, other religions are permitted to discriminate against people of different sexual preference. It is illogical for a society to abhor discrimination against Aborigines and Torres Strait Islanders yet consider sanctioning discrimination against LGBTIQ people.

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30. To invert this situation, let us assume religions were allowed to discriminate and some religious bakers were choosing not to provide their services and their pastries to gay weddings. This is ethically equivalent to another newly established religion refusing to provide pastries to aboriginal communities. That this observation needs to be stated says little about the level of critical ethical thinking in modern society.

31. Modern societies should object to unjust discrimination, because as the above example shows, if discrimination against any one group of people is permitted, then all groups are vulnerable.

If discrimination against any one group of people is permitted, then all groups are vulnerable.

32. The Review was initiated in part so consider the extent to which individual can have the freedom to express and act according to views held by his or her own religion or belief system. As a human right, people should be able to believe what they will. As we have seen, this should not conflict with other people's rights. It follows that organised religion and other belief systems should not be imposed on others, should not invidiously discriminate and should not be used to oppress others.

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7. SAME SEX MARRIAGE VIA A HYPOTHETICAL RELIGION

33. As noted above, invidious discrimination is wrong because it is a denial of equality. Most people condemn discrimination based on sex, race, disability or other status. They understand that it violates the sound ethical principle of equality for all humans, reflected in Article 1 of the UDHR.

34. To explore this lack of equality and the extent of this discrimination in some religions, let us consider the following hypothetical scenario. What if a new religion were to be established tomorrow and an inspired person drafts religious text that reflects the views of their new god? The newly drafted religious text includes the following verses.

- a. A white person should learn in quietness and full submission. I do not permit a white person to teach or to have authority over a non-white person; the white person must be silent.
- b. Any white person who is arrogant enough to reject the verdict of the priest who represents your God must die.
- c. A white person who works on God's holy day will be put to death.
- d. White people who reject God will be killed in a great flood, and the first-born sons of white people will also be killed.
- e. If a person has sex with a white person, both of them have done what is detestable. They must be put to death; their blood will be on their own hands.
- f. Non-white people are protectors of white people. Non-white people can advise white people, then forsake them in bed, and then strike them lightly if they are disobedient.
- g. People should fight against white people until all religion is only for God.

35. The above verses discriminate against a person's colour. Many would consider them disgusting. They deny rights to a group of people, in this case white people. Such religious text

should be treated with the contempt that any discriminatory text based on colour or race deserves.

36. The astute reader would realise that the first five of these verses have been extracted from the Christian Bible and, for good measure, the last two have been adapted from the Islamic Qur'an². The biblical text has been reworked to substitute the phrase 'white person' in scripture that condemns women, non-believers and same-sex activity, while verses from the Qur'an that discriminate against women and non-believers have been reworked. This scenario could have been changed by simple word substitution to instead discriminate against women, same-sex or black people, Christians or atheists, and clearly such scenarios are ethically equivalent. The new religion's proponents might say that God moves in mysterious ways, the text is taken out of context (it applies to ancient events) or it is not meant to be taken literally. No explanations hide the underlying discrimination.

37. Anyone who condemns the discriminatory text in the hypothetical scenario should condemn the ethically equivalent scriptures in Christianity and Islam, including those verses condemning same-sex relationships. Consequently, society should also condemn any invidious discrimination based on colour, race, sex, sexual orientation, language or other status, including if it occurs in religion.

38. It is clear from the arguments above that mainstream religions and their lobbying groups have forfeited the moral high ground they might have coveted, as they continue to revere subjective and discriminatory scriptures and reject objectivity and equality.

39. Nonetheless, conservative religious groups have been trying to expand their ability to discriminate with impunity, under the pretence of an attack on religious freedom.

Conservative religious groups have been trying to expand their ability to discriminate with impunity, under the pretence of an attack on religious freedom.

40. Same-sex marriage does not pose a threat to freedom of speech or appropriate religious freedom, unless opponents of same-sex marriage want to continue discriminating against same-sex people. Religious arguments for further discrimination against same-sex marriage are subjective, reinforce discrimination, lack ethical merit and must be rejected in any public policy debate respecting equality.

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8. A FUTURE PERSPECTIVE

41. Australia recognised too late that denying women the right to vote (150 years ago), the white Australia policy (70 years ago), and the policies that discriminated against Aboriginal and Torres Strait Islander people (even until recently), were unethical and wrong. Policies that

² A number of biblical verses have been reworked to include the phrase 'white person'; these include 1 Timothy 2:11-12, Deuteronomy 17:12, Exodus 35:2, Leviticus 20:13, as well as the Great Flood and Passover stories. Surahs 4.34 and 8.39 have been reworked from the Qur'an.

permitted the stolen generations and institutional child sexual abuse also require the strongest condemnation.

42. Today these policies are rightly seen as a violation of human rights. Some of these policies were even considered acceptable at the time because they had popular appeal. However, all of them violated the fundamental rights of an individual—nobody would like to be abused or discriminated against—yet societies did discriminate against certain groups of people.

43. Why didn't objective argument reveal these problems at the time? One reason is the prevailing religious influence that retarded social progress and muted objective discussion. This religious influence still pervades a more secular Australian society today. Only objective debate can find other human rights that should be, but are not currently, observed.

44. How will Australia be viewed in the future? Any continued discrimination against LGBTIQ people or other groups will be considered an ethically retrograde step on the wrong side of history. Australia should not go down that path.

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