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Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Submission on behalf of
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Preamble:

The Apostolic Church Australia is a Christian denomination with churches in all Australian states and mainland territories and has had a continuing presence in Australia since 1929.

I write on behalf of the church in respect of the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012 and note the following concerns:

Scope:

The section that deals with discrimination (Division 2 19 2 (b) 'other conduct that offends, insults or intimidates the other person') seems to shift the point at which a breach of law occurs. Under current legislation, a breach can be measured by the extent to which, for example, one person incites another, or defames another. Under the draft, an offense would occur in circumstances where a person is offended, insulted or intimidated. It seems incomprehensible that a person could be expected to know if, in the reasonable exercise of free speech or expression, the extent to which another person might be offended or insulted. Current law provides an adequate method of addressing any potential imbalance between free expression and expressions that defame or incite.

Recommendation: That the section that seems to reach beyond current law be removed.

Burden of Proof:

The section that deals with the burden of proof (Section 124) shifts the burden to the respondent. This seems to be an unnecessary, even dangerous, departure from accepted legal principle. The onus of proof must surely remain with a complainant.

Recommendation: That the burden of proof remain with a complainant.

Freedom of Religion a basic Human Right

The very notion that religious freedom be described as 'an exception' in the Bill is unfortunate. The implication is that the Bill provides an exception as though it were negotiable or even that it could be changed. Freedom of religion is a basic human right long enshrined in international laws and covenants and cannot be contained or limited by the Bill.

Recommendation: That the Committee explore ways of describing basic human rights in language appropriate to their standing.

I trust that these perspectives will be considered along with others that the Committee may receive.

Sincerely,

TIMOTHY W JACK
National Leader

13th December 2012