

To whom it may concern

I note with concern the proposal to introduce yet another Bill on human rights, namely the Human Rights and Anti-Discrimination Bill 2012.

It is one thing to defame a person or to harshly treat a person. It is quite another to merely offend a person for saying things that offend someone, merely on the grounds that the statement objected to discriminates on the basis of sex (gender), religion, sexuality, ethnic group membership, political views or a host of other attributes considered to be 'protected'.

If people are liable to be made to appear before a commission to explain why they said these things, they will usually play safe and not say such things. This is simply a 'chilling effect', just like the so-called Strategic Lawsuits Against Public Participation (SLAPP) that large and powerful groups have sometimes used against their opponents. This goes right against the whole idea of having freedom of speech in a democracy.

As for discrimination, we do it often. Employers have to choose one of a hundred candidates for the one vacancy. Parents have to warn their children not to associate with certain persons on the grounds of their untrustworthy nature or bad character. Oh, yes, we are judging but it is hard to see a good alternative. In reality, it would be very difficult to prove in a law court or similar forum that a person or organisation was guilty of 'unlawful discrimination' since the respondent can usually give an 'acceptable' reason for their decision.

People should have a basic freedom to make their own decisions and to have their own views on matters of public interest and other subject of general interest without the fear that someone might take them to a court or tribunal. I am not advocating bullying or baiting people on the grounds of having or not having certain attributes.

It would be wiser to abandon this Bill altogether. Some people may genuinely believe that the Bill will promote greater respect for other people and protect the vulnerable. I doubt it very much. A classic instance in Australia is the case of the indigenous peoples, some of whom are still living in deplorable circumstances in the outback after many years of intervention on their behalf and the presence of various Commonwealth and State laws to promote their well-being.

As for religious groups, why can't they prefer to employ persons who adhere to their basic tenets? It is just commonsense. In practice, some persons will make a fuss about religious groups making such choices but they mainly attack the Church, not other groups.

The ABC Chairman, Jim Spigelman, has strongly criticised the proposed law, saying it goes too far. It could seriously threaten other freedoms by using the rather subjective test of being 'offended' in legal action. Worse, persons accused of these 'unlawful' comments would have to prove that they were actually lawfully, rather than relying on the complainant having the obligation to demonstrate their claims against the accused person. The obligation for the accused to prove their innocence would soon have a chilling effect (referred to above).

In a nutshell, it's time for your Committee to scrap this Bill and move on to more useful legislation for the general public. This proposal sounds like a very bad idea and I strongly distrust the proposed law. Please drop this proposed Bill.

Yours sincerely

Bill Lloyd-Smith