



Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013

**Submission by
The Australian Association of Christian Schools Limited.
to
Senate Legal and Constitutional Affairs Committee**

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26th April, 2013

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Introduction

The continued pressure to bring about legislative changes that satisfy the demands of the LGBTI lobby needs to be put in context.

In the first instance, this lobby group is not at all homogeneous. Its very title identifies that it is, in fact, a collection of groups with quite some different characteristics, needs and dynamics operating in each sub-group. While they have been joined together strategically to create the appearance of a larger critical mass, they are in reality several very small groups.

Secondly, when taken as a whole, it is a very small proportion of the population as a whole (1.2% homosexual and 1.15% bisexual). ABS data also indicates that same-sex couples constitute .46% of all couples in Australia. AACS notes that these figures are to some degree impacted by definitions used, by specific data collection questions used and by statistical methodologies applied. Australia's data is very similar to the data from other western nations. (eg Canada, USA, New Zealand, UK)

Thirdly, within each of the elements of the LGBTI lobby group, there are those who identify with the group:

- by open choice (including those who choose to satisfy sexual appetites, sexual addictions, sexual obsessions, etc)
- by virtue of genuinely atypical or ambiguous physiological, hormonal and/or anatomical characteristics.
- by virtue of past abuse, trauma, neglect
- by virtue of a philosophical commitment to permissive liberalism (i.e. those for whom there are no moral boundaries in matters of sexuality)

In other words, this lobby group is far from homogeneous and united in one voice on all issues.

Fourth, within the LGBTI lobby group there are those who have been introduced to homosexuality socially and those for whom there seems to have been a significant biological driver – i.e. for whom it is a genuine sexual identity issue.

With such a diverse pathology of the LGBTI collective group, it is imperative that legislators do not make law that ignores that pathology nor assumes a homogeneity that is simply not valid.

For example, to legislate to provide 'greater protection' for characteristics that include those who are homosexual by 'open choice' or 'philosophical commitment to permissive liberalism' runs the risk of opening a Pandora's box of licentiousness including legalised open bigamous marriages, polygamy, serial de facto relationships, etc with the consequential destabilizing affects for children, for deserted partners, mental health consequences and social welfare dependency.

AACS notes with concern that the dividend of four decades of liberal family law and associated policies and practices has certainly not been positive for children, for many single parents, for welfare dependency, for disadvantage nor for performance in schools or mental health trends.

The oft-cited 'progressive' policies of recent times are simply presumed to be for the overall benefit of society without any public discussion to test those presumed benefits. AACS regards many of these policies as 'permissive' and not always 'progressive'. We certainly believe that they beg for far more rigorous research and a more probing public debate before being assumed into legislative change.

Our Submission

AACS recognises the need for some legislative amendments to deal with outstanding inconsistencies but is concerned that some of the proposed amendments are a step too far. As indicated above, AACS believes that legislative change should not accommodate those who, because of sexual appetite, obsession or addiction, seek greater freedoms and recognition under the law. That is a perilous path for society to pursue as it opens up precedents for other sexual appetites to be recognised and condoned. The consequences of this for an already over-sexualised society could be tragic.

The proposed changes under this Bill are, in our view, too loose. While we have some sympathy for the proposals in relation to those of intersex characteristics, we believe that the proposals in relation to sexual orientation and sexual identity and those equating 'relationship status' with 'marital status' will open up precedents that will invite other law (ie marriage law) to be contested in the courts.

Insofar as a loose piece of legislation may further undermine the stability of society and impact many more children because of unstable and/or conflicted home circumstances, AACS recommends that this legislation not proceed in its current form. We are particularly concerned that legislation not be created whereby conflicting laws would see a long line of contested interpretations of law being settled in the High Court. If this were the outcome of loose legislation in this case it would see the very concerns that lead to the rejection of the proposed Human Rights Bill revisiting us in another form – ie the High Court settling matters that should be accountable in the parliament of the country.

Exemptions

AACS appreciates the provisions in the proposed amendments for sundry exemptions for voluntary and religious organizations.

In relation to amendments pertaining to 'requests for information and keeping of records in relation to sex and/or gender', AACS is of two minds. In relation to the need for data, schools have many legitimate reasons to request data, including data pertaining to gender (eg seeking to establish a gender balance in make-up of the staff, covering supervision in change-rooms, Child Protection sensitivities, etc). As other areas of law are implicated by such requirements, AACS believes that schools must be free to seek such information. This must not be made more difficult under proposed legislative changes. It is difficult to predict whether the proposed exemptions would be adequate to cover this concern.

The issue of 'sex' and/or 'gender' as it applies to the 'intersex' group of persons is very sensitive as it might be argued that the very provision of a category 'both' or 'neither' in a question seeking information on this subject is, of itself, intrusive and offensive. Notwithstanding that an employer

may need to know such information in order to make provision for the employee and for the students, it is difficult to discern how such disclosure should be sought or given. Certainly, AACCS believes that, under Child Protection law, they must not be denied the right to have access to relevant information that would be material in situations that required the segregation and supervision of students by gender.

Thank you for the opportunity to make a submission on this issue.

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