

To: Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

*Submission in relation to  
Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill  
2013*

Dear Committee Secretary

This is a personal submission concerning the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013*. Please pass my comments to other members of the Senate Committee. The *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill*, like the the Human Rights and Anti-Discrimination legislation, undermines free speech. Therefore it ought be rejected, or at very least radically amended. Below my case for this is outlined.

It remains alarming to find that in this Bill, under the new Attorney-General Mr Mark Dreyfus for the Gillard government is still in fact proposing to reverse the onus of proof. This was one of the most horrendous features of Human Rights and Anti-Discrimination legislation. Clause 7C of this Bill states:

*"In a proceeding under this Act, the burden of proving that an act does not constitute discrimination because of section 7B lies on the person who did the act."*

Surprise, surprise! The 1984 Act already has the onus of proof reversed. But as to whether or not this clause should have been included within the 1984 Act, it is not my purpose to discuss this here. Nevertheless, in 1984, issues of conscience, religious liberty and freedom of speech were *not* part of the social equation then. I put to you, that in 1984 there was considerably much *more* of a consensus within the community about providing equal opportunity to women. Once again, as with the Human Rights and Anti-Discrimination legislation, this is incontrovertible evidence to support the view that freedom of speech would come under increasing levels of restriction within our nation, if legislation such as this is allowed to proceed in its current form.

Clearly, the Sex Discrimination Bill 1984 did not directly target speech as such, but discrimination in a range of forms, but especially employment, and the like. Nevertheless, it's relevant to point out that discrimination law obviously targets thought(s) and action(s) more than speech. But clearly speech is always an indicator and hence free speech will also be targeted through this amendment Bill; especially in the context of clause 7C. And once again we have the horrendous situation that the person so charged has to prove themselves innocent. *Clearly, this legislation is far from innocuous.*

The following comments form part of different type of argument. I wish to remind committee members of due process. Perhaps a call for the complete rejection of this legislation is not warranted. Why? It is well recognised that same-sex marriage is now part of the federal ALP policy. This is by far the greater debate. It is also well known that prior to the next election ALP parliamentary members still have a conscience vote on the matter. It is also fully acknowledged that this will not apply following the next federal election. The next federal election therefore will represent something of an Australian plebiscite on this issue. My argument here is that same-sex marriage legislation and this legislation are related debates. The importance of the same-sex marriage debate ought to provide the framework for determining the significance and structure of the current legislation.

Coming at this juncture - this legislation is pre-empting things. I put to you; certain events are in train in relation to the ALP's policy on same-sex marriage. This current Bill is attempting to put the cart before the horse. The same-sex marriage legislation would be the most definitive and important piece of legislation; in this field, assuming it proceeds. The value and significance of a Sex Discrimination Amendment Bill would be to support such legislation once the greater question has been determined; not the other way around. So I put to the committee that a logical and reasonable way of dealing with this issue would be to suspend the matter, until the ALP is in a position, assuming they are re-elected, and debate is initiated on the more substantial aspects of these reforms. In this context I would like to provide a cursory introduction, as to why the jury - so to speak - has not yet been called on this greater vexed question.

My argument above for suspending debate on this Bill requires no further evidence. I have simply stated the obvious. My following comments are aimed to show that proposed reforms are not as simple and straight as they may otherwise appear. The one example I wish to present relates to concerns about children's safety. Issues to do with children's welfare should be integral to any consideration of these reforms. There are many other issues which intersect, but I only intend to raise this one issue here. My intention to show that there are essential considerations, which the proponents of this legislation have no intention of addressing.

There is significant evidence to show that rates of paedophilia occur more frequently among homosexuals; and at significantly higher rates. One study shows rates eleven (11) times higher among the homosexual community than the heterosexual community. What safeguards does the government propose to set in place to prevent children being placed at higher risk? (The evidence for this study can be located at <http://www.ncbi.nlm.nih.gov/pubmed/1556756> ) Homosexuals are over represented in child sex offences. Individuals from 1 or 3 percent of the population are committing up to one-third of the sex crimes against children, according to this study. While these statements may be regarded as very politically incorrect or offensive to homosexuals, a number of homosexuals are actually saying similar things themselves. (See links below.) Nevertheless, prior to the Northern Territory intervention, it would have been considered offensive to suggest that this action be taken. Reality isn't always consistent with one's ideology. Other sites supporting this position are listed below:

<http://www.heraldsun.com.au/news/victoria/gay-unions-a-risk-to-kids-say-doctors/story-fn7x8me2-1226353845714>

<http://www.sciencedirect.com/science/article/pii/S0049089X12000610>

<http://englishmanif.blogspot.com.au/2013/01/interview-with-xavier-bongibault-head.html>  
<http://www.c-fam.org/fridayfax/volume-15/study-shows-homosexual-parenting-not-equal-to-heterosexual-marriage.html>  
<http://www.apa.org/pi/families/resources/child-sexual-abuse.aspx>  
<http://www.wnd.com/2002/04/13722/>  
<http://www.dailyworld.com/article/20130211/OPINION/302110304/Homosexuality-pedophilia-not-same?gcheck=1>  
<http://www.frc.org/issuebrief/new-study-on-homosexual-parents-tops-all-previous-research>  
<http://www.freerepublic.com/focus/f-news/2894005/posts>  
<http://www.thepublicdiscourse.com/2013/03/9432/>  
<http://englishmanif.blogspot.com.au/2013/01/mind-blowing-speech-from-adopted-asian.html>

Some members of the committee may find this argument highly offensive and indicative of why such legislation ought to proceed with the utmost urgency. However, surely the question of whether significant rates of paedophilia may increase as a result of such legislation as this is not an idle concern, nor should it be for any member of the committee. Simply because these claims are hotly contested and denied by members of the Labor left and the Greens does not mean that this evidence does not require close scrutiny.

This legislation remains draconian. I appeal to the Senate Committee to recommend a suspension of the legislation on the ground outlined above. Considering the immensity of change which the government is considering for our nation, may I suggest that the Senate Committee consider research into some of the consequences which I have raised, once again, so as to allow the committee to serve the parliament by producing something that is far more enduring for our nation.

Should you wish to question me with respect to my views, I am only too happy to provide further information and detail with respect to any of these matters. My contact details are listed above.

Yours faithfully  
Christopher McNicol