



MARONITE EPARCHY OF AUSTRALIA

13 February 2018

The Expert Panel on Religious Freedom

c/o Department of the Prime Minister and Cabinet
PO Box 6500
Canberra ACT 2600

Email: religiousfreedom@pmc.gov.au

Dear Mr Ruddock and Panellists,

I am pleased to be able to offer this submission to you on behalf of the Maronite Catholic Eparchy of Australia, of which I have the privilege to be bishop. The Maronite Church numbers some 250,000 persons in Australia, and has been continually growing, opening new parishes in New South Wales, Victoria, Western Australia and the ACT in my five years as bishop. Although the origins of the Church lie in the Middle East, it is now a global Church, and has assimilated well into every country it has entered. The Maronites of Australia have already made a significant contribution to this land, and we hope and trust that this shall continue, and that good will flourish on all sides.

I shall be suggesting that *for the common good*, the most important religious freedoms to safeguard are:

- The absolute right of clergy and faithful to live by and teach their faith, especially but not least in their houses of worship (e.g. churches), institutions and schools, always respecting the laws of the land.
- The absolute right of clergy and faithful to live and teach free from coercion to adopt or to accept doctrinal and moral positions foreign to their beliefs, always respecting the laws of the land.
- The consequent requirement that those laws of the land which go only to issues of personal morality (as opposed to those affecting life, limb or property) contain exceptions which respect religious beliefs.

Before expanding upon these points, I shall deal with the background and relevant principles.

Background and Terms of Reference

According to the Prime Minister's media release of 22 November 2017, this panel was convened for the purpose of making an "expert stocktake to inform consideration of any necessary legislative reforms" arising from the legislation of same-sex marriage. The Prime Minister stated, in that same release, that:

Any reforms to protect religious freedom at large should be undertaken carefully. There is a high risk of unintended consequences when Parliament attempts to legislate protections for basic rights and freedoms, such as freedom of religion. The Government is particularly concerned to prevent uncertainties caused by generally worded Bill of Rights-style declarations.

While the Prime Minister did not specify the type of "unintended consequences" or uncertainties which he feared, I understand the nature of his concerns in an abstract way, and shall later address specific aspects of this question.

But an essential point to note here is that the very reason for the convening of this Expert Panel is the fact that the law and the very regime of religious liberty which existed prior to the Plebiscite and the subsequent legislation has been changed and is danger of changing further. *It is the same-sex marriage legislation which has – directly or indirectly – caused an alteration in the body politic, and so it is incumbent upon Parliament to ensure that the previous state of religious freedom is maintained.*

Your terms of reference require you to "consider the intersections between the enjoyment of the freedom of religion and other human rights", and to consult as widely as necessary, having regard to any relevant previous reviews or inquiries. I turn now to these.

Basic Principles

The Expert Panel will understand that I, as Bishop of the Maronite Church in Australia, eschew any party political stance. I speak from a moral perspective which is based on the teachings of the Maronite Catholic Church, and that these are grounded on the truths of revelation, as interpreted by human reason and wisdom. The only authoritative source for the proper interpretation of the Christian religion is, in our view, what is called the "Magisterium" of the Universal Catholic Church.

In this submission, it may be most helpful if I make reference to the *International Covenant on Civil and Political Rights* ("ICCPR"), as providing a basis and standards for discussion. Australia agreed on 13 August 1980, to be bound by the ICCPR, subject to certain reservations which are not relevant.

The most relevant Articles of the ICCPR are, I suggest, Articles 18 and 27. There is nothing in these Articles which, on my interpretation, is offensive to our Maronite Catholic principles. These are too well known to need quotation.

I also note the terms of the *UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief* ("UNDEFIDRB") which has been adopted by Australia, and in particular, Article 6, which, once more, does not citation.

Observations

1. While the Same-Sex Marriage Plebiscite may have been the catalyst for convening this panel, the abstract issues raised extend beyond that plebiscite. This is good and timely. I embrace the opportunity to make some concise but far-ranging submissions.

2. The question of the "intersections between the enjoyment of the freedom of religion and other human rights" admits of a simple analysis. From the perspective of civil society, freedom of religion can be considered as a subset of human rights. To preserve religious freedom, then those laws of the land which go only to issues of personal morality (as opposed to those affecting life, limb or property) should contain exceptions which respect religious beliefs.

3. On first principles then, it would be proper to have legislation which enacts the substance of article 18 and 27 ICCPR and article 6 UNDEFIDRB, so that these apply across the board to all legislation of the relevant Parliament. The substantial matters to be protected in legislation are therefore:

A. Allowing each individual the right to have or to adopt a religion or belief of their own choice.

B. Allowing each person, either individually or in community with others and in public or private, to manifest their religion or belief in worship, observance, practice and teaching. And specifically:

(a) The freedom to worship or assemble in connection with one's religion, to establish and maintain places for these purposes, and to acquire and use the items deemed necessary for that worship and assembly.

(b) Allowing parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

(c) The right to establish and maintain appropriate charitable or humanitarian institutions, and to solicit and receive voluntary financial and other contributions from individuals and institutions, consistent with the financial and criminal regulation of such institutions.

(d) To write, issue and disseminate publications in accordance with their religion and belief, especially in places of worship and assembly and in other religious institutions.

(e) The right to teach their religion in places suitable for these purposes;

(f) The right to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of their religion.

(g) The right to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of their religion.

(h) The right to establish and maintain communications with individuals and communities in matters of religion at both the national and international levels.

(i) Forbidding coercion which would impair someone's freedom to have or to adopt a religion or belief of their choice.

C. Allowing Churches and other religious institutions the freedom to enter employment contracts with employees who will publicly follow and uphold the ethical teachings of the relevant Church or faith. This is often treated as if it is a question of moral censorship, and the only time it is controversial is when it relates to those teachers who live contrary to the faith's sexual morality. But in fact it applies to many facets of public life: honesty in commercial matters, showing proper respect to others, and so on. Anyone can make an error or stray from time to time. However, a consistent and wilful pattern of lying or defamation, with no attempt to conform to the teaching of the faith would be as much a grounds for dismissal on the basis of breach of contract, as would be a breach of sexual codes.

The principles I have sketched above have to be applied on a case by case basis, so the principles must therefore be *practically* workable. This means that one must have regard to issues which have arisen, and make laws which deal with those situations, rather than impose an ideological straitjacket. So, for instance, we know that some medical professionals object to having any role at all in the provision of abortion and euthanasia. There are requirements in some legislation and some draft legislation that they should nonetheless furnish to their patients the name of a health professional who will perform abortion and consider administering euthanasia. Also, some persons do not wish to decorate cakes for same-sex marriages.

Even if from one view, such actions are narrow-minded (and I do not concede that they are), it is clear that some people hold conscientious objections in such cases, their refusal to cooperate cannot be shown to damage anyone else. At most, other people may be inconvenienced.

Even if one thought it bad to put others to inconvenience, there is no sound reason why that should be made illegal, or subject to civil sanction. For example, many opponents of Same-Sex Marriage found that when they booked venues for their events,

the venue cancelled them because of complaints from advocates of Same-Sex Marriage. It is not a question of two wrongs purportedly making a right, but rather, illustrating a principle that we all place the right to choose with whom we shall deal and trade.

The situation now is that this Expert Panel has been convened in the wake of the Same-Sex Marriage Plebiscite. The results of that Plebiscite, although expected, were not any the less unwelcome to practising Maronites. They feel that their country is too quickly moving into uncharted waters. Indeed, in our opinion, the waters are clearly dangerous because the basis of our society has always been the Judaeo-Christian ethic, and as that ethic is abandoned with great dispatch, our social adhesion is being lost.

That is, to the extent that our society has formed an integrated whole, it has been because there was one ethic, one set of values.

That ethic is now being dismantled. It cannot be restored by force, and no new ethic is emerging which commands general consent.

It is therefore, I suggest, imperative, that the full protection of the law be given to religion, whether Judaeo-Christian or not, because the only possible hope for the new world in which we live is that it will be tolerant of all views and opinions which do not damage life, liberty or property, and the basic freedoms we have hitherto enjoyed. Otherwise, we will end up with an endless clash of demands and counter-demands, protests and counter-protests, where rather than seeking an accommodation, each party will seek domination.

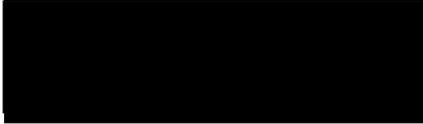
I have offered above some specific ideas for legislation. Let me reiterate that the core principles which I believe should properly guide this Expert Panel are:

- The absolute right of clergy and faithful to live by and teach their faith, especially but not least in their houses of worship (e.g. churches), institutions and schools, always respecting the laws of the land.
- The absolute right of clergy and faithful to live and teach free from coercion to adopt or to accept doctrinal and moral positions foreign to their beliefs, always respecting the laws of the land.
- The consequent requirement that those laws of the land which go only to issues of personal morality (as opposed to those affecting life, limb or property) contain exceptions which respect religious beliefs.

The need for legislation protecting religious freedoms is especially keenly felt because the recent plebiscite has done much to undermine public trust in the Australian polity. This is because the terms in which the plebiscite were publicly discussed were quite misleading. When the question of religious freedom was raised, those enquiring about it were howled down as introducing tangential and irrelevant points. The entire debate was presented by the great majority of politicians and commentators as being about whether Australia wanted life to continue as normal with just one change, in the definition of marriage, or not. Had the Australian public been fully aware of the fact

that with the introduction of same-sex marriage there would come consequent changes in the law, I do not believe that the vote in favour would have been so high. Rather, I suspect that there would have been more NO votes, and more abstentions.

Yours sincerely,



+ Antoine-Charbel Tarabay
Maronite Bishop of Australia