



Secular

**The Secular Party of Australia
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Manager
Philanthropy and Exemptions Unit
Indirect Philanthropy and Resource Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: charities@treasury.gov.au

Dear Sir/Madam,

Re: A statutory definition of charity: advancing religion, per se, is not a charitable purpose.

The definition of a charitable purpose must include only those activities that are unequivocally a public benefit. There is no doubt that relieving sickness and poverty and promoting education are unequivocally beneficial. The advancement of religion is not. To the extent that advancing religion advances the other charitable purposes, its inclusion is unnecessary. To the extent that it does otherwise, its inclusion is unwarranted.

The intention of the proposed Charities Bill 2013 is to provide a definition of charity for the 21st century. Yet this bill, as the Explanatory Notes acknowledge, entrenches an anachronistic definition of charity originating in the 17th century¹. No justification for this is provided.

The fact that advancing religion is not, of itself, a public benefit is acknowledged in the Bill. It is because of “doubt” that a religious purpose could fulfil the public benefit test that such organisations are exempted from the test². Why is it that the proposed definition of charity is specifically crafted to include a purpose that is implicitly recognised as not a public benefit? There is no explanation in the Notes.

The issue is more than that the advancement of religion is not necessarily beneficial. There is abundant evidence that it is not beneficial but harmful, corrupting, divisive and dangerous. It should not be necessary to refer to the crimes that paedophile priests have committed while engaged in their “charitable purpose”. The egregious nature of religious conflict around the world can be observed daily.

It should be noted that the charitable purpose provided by Islamic schools in Australia encompasses the teaching of an extreme style of Wahhabi Islam imported from Saudi Arabia. It is not unlikely that this particular form of the advancement of religion is now cultivating the minds of future home-grown Australian terrorists. Such effects have already been demonstrated by convictions in Australian courts.

That the definition of charity should be twisted to allow and encourage the promotion of such divisive activities is more than an anachronistic anomaly. It is an outrage.

The effect of the proposed definition does not only jeopardise the future harmony of Australian society: it comes at significant cost to the budget revenue and to the Australian taxpayer. This does not just include subsidies and tax concessions granted to religious organisations: we have calculated that when we include an estimate of tax forgone on the unreported revenue derived from the imputed

financial and other assets of religions organisations, then the total annual cost of religions to governments in Australia exceeds \$30 billion.

We therefore submit that the advancement of religion should be removed from the definition of charitable purpose. The exemption provided for religious groups from fulfilling the public benefit test should also be removed from the Bill. The Explanatory Notes provided for the Bill raise many anomalies with regard to the treatment of religion. We now comment on these in more detail.

The Notes state that to be a charity, an entity must be not-for-profit and generally have only charitable purposes that are for the public benefit. It incorporates and extends the previous 2004 definition and “modernises” the language and categories³. It is curious that the concept of modernity used still encompasses the 17th century definition. It is also curious that with the number of eligible charitable purposes being considerably extended, the religious purpose still fails to qualify under any of the other extended categories. No explanation is provided for this.

In defining the benefit of the purpose, it is stated that “there must be a benefit that is real and of value to the public” (1.46). This may include “social, psychological or emotional benefits” *or* “spiritual benefits derived from the activities of religious organisations” (1.48). What exactly are “spiritual benefits”? It is clear from the context that they *do not* include social, psychological or emotional benefits. We must infer from the religious context that “spiritual” does not refer to any mental capacity but to a supernatural entity, a spirit, soul or ghost. It is astounding that a Bill of Parliament in Australia in 2013 should be predicated on such superstition.

Furthermore, in defining a purpose for the public benefit, it is stated that the purpose should not cause harm. “Examples of detriment or harm include damage to mental or physical health, damage to the environment, encouraging violence or hatred towards others, damaging community harmony, or engaging in illegal activities such as vandalism or restricting personal freedom”(1.50).

The potential harm caused by the teaching of a hardline version of Islam in Islamic schools was cited above. It is not difficult to cite further instances where the advancement of religion has caused harm:

- Creationism is taught in some taxpayer-funded religious schools. There have even been instances of this happening in public schools in Queensland. The teaching of myths from the Bronze Age as though they were facts is not education.
- Some mainstream churches, including the Catholic Church, oppose any realistic family planning, such as the use of condoms and contraceptives. In Third World countries the Vatican has actually spread the lie that condoms spread the HIV virus.
- The negative attitude of some religious organisations towards women has been well documented: in some religions this includes women being considered to be of lesser value than men, affecting their legal status, educational and employment opportunities, rights of inheritance and healthcare.
- Many churches denigrate the gay and lesbian community, claiming their desires and behaviour to be "lifestyle choices", despite scientific evidence to the contrary. Religious families often shun homosexual children who "come out". Religious schools are at liberty to expel homosexual students, or to sack homosexual employees. This denigration has real consequences: the suicide rate among young gays and lesbians is significantly higher than that of young heterosexuals.
- Certain Pentecostal churches have duped their followers into making substantial donations, which then fund luxurious lifestyles for church leaders and their families.
- Many cults and sects alienate followers from their families, requiring them to cease all contact with family members who are not members of the cult or sect.

- The vast majority of Australians support some form of voluntary euthanasia, with safeguards, for individuals who are suffering unbearably with little or no hope of improvement. Legislation on this matter, however, has repeatedly failed, thanks to the well-funded lobbying of Christian organisations. The rationale of such opposition is based on ideologies such as the "sanctity of life" and the notion that suffering (through Christ) leads to redemption.

- Improvements in medicine have been hampered by the lobbying of religious groups to outlaw stem cell research.

- Public hospitals run by religious organisations are at liberty to provide reduced services. For example, a rape victim admitted to such a hospital can not only be denied Emergency Contraceptives, but can also be refused a referral to the Rape Crisis Centre where such contraception can be provided.

- Some religions indoctrinate their followers to reject life-saving medical intervention, even for their children. In a recent case, the NSW Supreme Court intervened on behalf of a 17-year-old Jehovah's Witness who was refusing a blood transfusion. The predicament was that the boy would either suffer psychological trauma from being forced to undergo the procedure, or else would die. As Supreme Court Justice Ian Gzell pointed out, this dilemma had come about simply because the patient had been "cocooned in faith".

It can easily be seen that the advancement of religion has caused harm with respect to practically all of the examples quoted: damage to mental or physical health, damage to the environment, encouraging violence or hatred towards others, damaging community harmony, or engaging in illegal activities such as vandalism or restricting personal freedom".(1.50) . In fact no other charitable purpose has such capacity to cause harm. It is inexplicable that with these harms being recognised, the religious purpose is nevertheless exempted from any responsibility for them in the Bill.

It is stated in the definition that a benefit must be available to the public. Limiting the benefits to "followers of a particular religion to which anyone can adhere" (1.53) is still considered a public benefit. However it is not the case that anyone can adhere to particular religions. Some are secretive and exclusive. Belief in another religion or none would also presumably prohibit adherence. This is another unwarranted exclusion of the religious purpose from reasonable criteria.

It is stated in the definition that a benefit should be a public benefit and not a private benefit. "Where there are private benefits, these must be incidental, that is, a necessary minor result or by-product, or conferred as a necessary means of carrying out the entity's charitable purpose, and be genuine and reasonable (1.57)". Many of the activities of certain evangelical churches, cults and sects thrive upon soliciting the donations of followers, the leaders acquiring a great deal of private wealth in the process. Again, the religious purpose can often be seen to fail the test specified, and yet remains exempt, without explanation.

The Bill is deliberately drafted to provide such exemption. While the "presumption of public benefit will not continue to apply where there is evidence to the contrary" (1.66), there is no prospect under this Bill of the religious purpose ever being challenged in this regard, as no likely challenger would have legal standing to do so.

The public benefit test does not apply to religious groups⁴. The only explanation provided for this is that the religious purpose may not be a public benefit (1.75), or may not be a benefit (1.76). The proposed Bill provides for the quite unwarranted advancement of religion, and in that regard is itself detrimental to the public interest.

Finally, we would mention that the Notes explain that the Bill provides for a disqualifying purpose. The purpose should not run counter to such things as the rule of law, democracy and public safety⁵. It is known to those who care to take an interest in such things that at the core of certain religious ideologies are doctrines and beliefs that do seek to undermine these values. Not even this, however, would provide any reason under the Bill for the advancement of religion to be in any way inhibited or constrained.

The advancement of religion by government is the antithesis of the ideal of secularism. This Bill effectively terminates secularism in Australia and entrenches its demise. Secularism was devised as the solution to hundreds of years of religious warfare in Europe. This Bill ensures that in the future, Australian society will be characterised by religious division and conflict. We urge you to prevent this by amending the Bill.

Yours sincerely

John Perkins

President, Secular Party of Australia

¹ See 1.8. The common law meaning has developed over 400 years, largely based on the Preamble to the Statute of Charitable Uses (known as the Statute of Elizabeth), enacted by the English Parliament in 1601.

² 1.76 There has been some doubt under the common law about whether a closed or contemplative religious order fulfils the public benefit test, and the Bill ensures that such an entity does not fail a public benefit test.

³ 1.20 The categories of charitable purpose reflect purposes found by the courts to be charitable. In addition, the Bill incorporates purposes specified in the *Extension of Charitable Purpose Act 2004*, makes further minor extensions to charitable purposes, and modernises the language and categories.

⁴ 1.74 The public benefit test does not apply in the case of open and non-discriminatory self-help groups and closed or contemplative religious orders that regularly undertake prayerful intervention at the request of members of the public.

⁵ 1.78 The purpose of engaging in activities that are unlawful or contrary to public policy is not a charitable purpose under the common law and is a disqualifying purpose in the Bill. The Bill clarifies that the reference to public policy refers to matters such as the rule of law, the system of government of the Commonwealth, the safety of the general public and national security, and that activities are not contrary to public policy merely because they are contrary to government policy.