

10 May 2019

The Hon Scott Morrison
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Email: Scott.Morrison@aph.gov.au

Dear Prime Minister

Re: Open Letter Concerning Religious Freedoms

In recent years the protections to be accorded to religious freedom, and the related freedoms of conscience, speech and association, have come under increasing focus within Australia.

We write to invite you to provide clarification on a range of key issues that are important to the preservation of these freedoms in our country. We have today also written to Bill Shorten, the leader of the Opposition, to seek his views on the protections to be given to these freedoms.

These freedoms were recently considered by the Expert Panel on Religious Freedom and we acknowledge and commend your commitment to implement recommendations 2 to 4 and 9 to 20 of the Expert Panel, and the referral of the Expert Panel's remaining recommendations to the Australian Law Reform Commission for further consideration.

While our concerns about the means to protect these freedoms are held in relation to a range of matters, the following specific matters have recently garnered significant attention:

- a. Protection of Religious Belief — We welcome your Government's commitment to legislating a Commonwealth *Religious Discrimination Act*. In legislating such an enactment will you commit to protecting religion across all areas of life in a way that is equivalent to the protections offered to the other protected attributes in Commonwealth anti-discrimination law and which also protects religious believers in their associational forms from discrimination?
- b. Free Speech — Recent events have shown that various existing State and Territory laws have the potential to impact upon the free expression of traditional views of sexuality and marriage. Attorney-General Christian Porter has referred to the Australian Law Reform Commission:

a consideration of what reforms to relevant anti-discrimination laws, the *Fair Work Act 2009* (Cth) and any other Australian law should be made in order to .. remove any legal impediments to the expression of a view of marriage as it was defined in the *Marriage Act 1961* (Cth) before it was amended by the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cth), whether such impediments are imposed by a provision analogous to section 18C of the *Racial Discrimination Act 1975* (Cth) or otherwise.

Many mainstream Australian religious communities hold the belief that, according to their religious tenets, sexual relations are to be entered into only within the context of heterosexual marriage. Under a Morrison Government will religious institutions continue to be able to hold out to their members that conformity with this belief is a

requirement for the faithful? Further, will religious persons and institutions be able to state and defend this belief within the public square?

- c. Faith-based charities - The right of religious institutions to establish and maintain faith-based charities in accordance with their religious convictions is protected in international law. Can you confirm that a Morrison Government will ensure that such rights continue to be recognised in Commonwealth law and that faith-based charities will be able to continue to act authentically in accordance with their beliefs, including in the practices they undertake and also by exercising discretion in whom they choose to employ?
- d. Government Funding - Will you commit to ensuring that faith-based and religious charities will not lose government funding on the basis that they hold or express a traditional view of marriage?
- e. Parental Rights — Will you commit to respecting the international human right of parents to ensure the religious and moral education of their children, including through recognising the right of parents to excuse their children from teaching they consider conflicts with their religious and moral convictions?
- f. Employment in Faith-based Schools — Attorney-General Christian Porter has referred to the Australian Law Reform Commission
a consideration of what reforms to relevant anti-discrimination laws, the *Fair Work Act 2009* (Cth) and any other Australian law should be made in order to . limit or remove altogether (if practicable) religious exemptions to prohibitions on discrimination, while also guaranteeing the right of religious institutions to conduct their affairs in a way consistent with their religious ethos.
Many faith-based schools seek to employ persons who not only can act consistently with the school's ethos, but who actually hold the beliefs of the school. For such schools, the ability to employ such persons is considered to be critical to their ability to offer an authentic model of belief to students and the community, across the school's entire staffing complement, not just its teachers. Will the Morrison Government commit to maintaining the positive ability of these schools to act with such authenticity?
- g. Teaching and Conduct in Faith-based Schools — Can you provide certainty that as a result of any reform you introduce, schools will continue to be able to teach in accordance with their doctrines and ensure the maintenance of their religious ethos within the school community?
- h. Marriage and Use of Facilities - The 2017 changes to the *Marriage Act 1961* did not protect the right of religious institutions to ensure that their facilities are used in accordance with their beliefs where chapels, halls or similar facilities are located within religious schools or hospitals. Should a Coalition Government be formed after the coming election, does your Government stand by its commitment to protecting the ability of such institutions to use these facilities in a manner that is consistent with their religious beliefs?
- i. Charity Tax Exemption and Government Funding - The Ruddock Expert Panel concluded, citing the earlier recommendation of the Australian Charities and Not-for-profits Commission, that amendments should be made to the *Charities Act 2013* to

clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage. Should a Coalition Government be formed after the coming election, does your Government stand by its commitment to legislating such a protection? Do you also commit to ensuring that faith-based and religious charities will not lose government funding on the basis that they hold or express a traditional view of marriage?

- j. Expert Panel on Religious Freedom — Should a Coalition Government be formed after the coming election, will your Government stand by its commitment to implement recommendations 2 to 4 and 9 to 20 of the Expert Panel on Religious Freedom?
- k. Australian Law Reform Commission - Attorney-General Christian Porter has referred various of the above matters to the Australian Law Reform Commission. Should the Coalition form Government, will you commit to awaiting the recommendations of the ALRC prior to embarking on any reform process that is relevant to the matters under its consideration?

Yours sincerely,

Bruce Meller
Assembly Clerk
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Australia

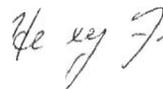
Rev Keith Jobberns
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Australian Baptist Ministries
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Pastor Jorge Munoz-Larrondo
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