

12 March 2025

The Hon. Anthony Albanese
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister,

Faith Leader Questions for Labor Government – 2025 Election Campaign

As leaders of religious communities and faith traditions, we thank you for your government's continued engagement with faith communities and its commitment to protect religious freedom.

We write to you now in light of the approaching federal election. As leaders and representatives of our religious communities we would like to give the government the opportunity to reiterate its commitment to religious freedom during and after the 2025 election.

Our intention is to make this letter and your responses to it available to our faith communities, to better inform their choices at the next election. Thank you for considering these issues that are important to our faith communities.

1. During a meeting with key faith leaders on 12 April 2024 the Prime Minister, Anthony Albanese, made the commitment to those present that religious protections for faith groups 'will not go backwards while I'm Prime Minister of Australia.'¹

Will the Prime Minister and his Government reaffirm this commitment to the Australian people as a key part of their policy platform, should they be returned to government in 2025?

2. On 09 February 2022 the Attorney General, then writing on behalf of the federal Labor Party as Shadow Attorney General stated that, 'Labor supports the extension of the federal anti-discrimination framework to ensure that Australians are not discriminated against because of their religious beliefs or activities'.² The Attorney General committed on behalf of the now Labor Government that it would:
 - a. prevent discrimination against people of faith;
 - b. protect all students from discrimination on any grounds; and

¹ https://www.csa.edu.au/CSA/Resources-and-Media/Media-Centre/Media-Release/2024/Christian_Schools_Welcome_PMs_Commitment

² <https://www.markdreyfus.com/media/media-releases/religious-discrimination-bill-mark-dreyfus-qc-mp/>

- c. protect teachers from discrimination at work, while maintaining the right of religious schools to preference people of their faith in the selection of staff.

Will the Labor Government reaffirm these three commitments to the Australian people, particularly to people of faith, that the rights of religious individuals, institutions and schools will be protected as promised above?

3. Giving effect to the first of the above commitments, the Labor Government in its current term consulted with faith leaders in an effort to pass a Religious Discrimination Bill that would protect people of faith and religious bodies from discrimination (building upon the support the Labor Party offered the passage of such legislation through the House of Representatives in February 2022). This consultation necessarily included careful consideration of the existing protections for faith-based institutions in the *Sex Discrimination Act 1984* (SDA) that ensure these organisations can operate according to their religious convictions and give effect to the human rights of parents. Faith leaders, as reported in *The Australian*,³ put forward detailed proposals that charted a way forward allowing the Government to pass laws ensuring that religious schools can preference employees who share their beliefs. Those proposals gave effect to the third of the above commitments and also to Australian Law Reform Commissioner Justice Rothman's recommendation that religious schools be given a 'positive right'.⁴ The proposal from faith leaders accorded with Labor's 2023 National Policy Platform, which states:

Labor believes in and supports the right of all Australians to have and to manifest their religion or beliefs, and the right of religious organisations to act in accordance with the doctrines, tenets, beliefs or teachings of their faith. Such rights should be protected by law and, in accordance with Article 18 of the *International Covenant on Civil and Political Rights*, subject only to such limitations as are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.⁵

The faith leaders' proposals acquitted the Government's commitments, by removing existing broad exemptions within the Sex Discrimination Act and replacing them with targeted provisions to enable a religious educational institution to continue to employ staff

³ Rosie Lewis 'Catholic Church leaders say faith laws "going backwards"' *The Australian* (30 May 2024) <https://www.theaustralian.com.au/nation/politics/catholic-church-leaders-say-faith-laws-going-backwards/news-story/df9cbd237082ba297cf3ebadb5688597#:~:text=Two%20of%20Australia's%20most%20senior,go%20a%20long%20way%20backwards%E2%80%9D>; Mark Fowler 'Is religious discrimination reform to die without a whimper?' *The Australian* 21 August 2024 <https://www.theaustralian.com.au/commentary/is-religious-discrimination-reform-to-die-without-a-whimper/news-story/08b951f8929db4245785ea92082af444>

⁴ Justice Stephen Rothman 'Amendments to the *Sex Discrimination Act 1984* and proposals for *Religious Discrimination Act*' *Notre Dame Sydney, Law School, Annual Religious Liberty Conference* (12 April 2024) <https://www.aacs.net.au/international-context-religious-freedom>.

⁵ <https://www.alp.org.au/media/3569/2023-alp-national-platform.pdf> 79, [56]

who model and teach their beliefs and also to respond to conduct that would undermine their ethos.

Will the Labor Government commit to introducing a Religious Discrimination Bill and amendments to the Sex Discrimination Act in line with the proposals put forward by faith leaders if it is re-elected?

4. Relevantly, we also note that Labor’s National Policy Platform contains various commitments that could impact detrimentally on religious institutions:
 - a. its commitment to the Australian Human Rights Commission Amendment Costs Protection Act 2024 (which is not supported by the Sex Discrimination Commissioner’s Respect@Work Report, notwithstanding the citation of that report in the Policy Platform)⁶
 - b. its commitment to consolidate existing anti-discrimination laws and conduct ‘a review of existing exemptions to ensure that they do not prevent access to essential social services.’⁷ Could you provide further details of what the essential services for which faith-based charities will lose their ability to maintain their religious character are? The right of religious institutions to establish and maintain faith-based charities (sometimes delivering essential services) in accordance with their religious convictions (including schools) is protected in international law.⁸

We are further concerned by the following developments:

- a. the erosion of Human Rights protection in the proposed Australian Human Rights Act⁹ which provided limited protections to religious institutions and did not affirm the place of parental rights to ensure the religious and moral education of their children;
- b. the recommendation of the Productivity Commission to abolish the basic religious charity exception;
- c. the failure to progress the prior Human Rights Legislation Bill 2022 that passed the House of Representatives with the support of the Labor Party which would have recognised the ‘indivisibility and universality of human rights, and their equal status in international law’ (an important clarification that the Expert Panel on Religious Freedom sought to ensure that religious freedom is not treated as a second order

⁶ Ibid 36, [63b].

⁷ Ibid 79, [59]

⁸ See, eg, UN General Assembly, *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, A/RES/36/55, (25 November 1981), art 6(b); Fowler, Mark, ‘Identifying Faith-Based Entities for the Purpose of Anti-Discrimination Law’ in Paul T Babie, Neville G Rochow and Brett G Scharffs (eds), *Freedom of Religion or Belief* (Edward Elgar Publishing, 2020)

⁹ Here we are referring to the proposals put forward by the Australian Human Rights Commission and by the Parliamentary Joint Committee for Human Rights. See the concerns raised, for example, in the submissions to the Parliamentary Joint Committee on Human Rights by Professor Nicholas Aroney, Professor Richard Ekins KC (Hon) and Dr Benjamin Saunders and by Associate Professor Mark Fowler here:

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework/Submissions.

right), protected religious institutions and schools that hold a traditional view of marriage from the loss of their charity status, and clarify that chapels on school grounds are within the exception within the *Marriage Act 1961*.

Will you commit to addressing our concerns with each of these limitations on the manifestation of religious freedom through institutions?

5. Faith Leaders are supportive of limited and appropriately drafted civil anti-vilification provisions. We believe it should be unlawful to intimidate, harass or vilify (incite hatred) on the basis of religious belief or non-belief. However, it must not be unlawful merely to “insult” or “offend”. Some key religious beliefs are offensive to adherents of other religions, and a religious vilification law that made it unlawful to cause offense because of a religious belief would be a blasphemy law by another name. Further, as we previously noted, the requirement that a person ‘engage in the conduct reasonably and in good faith’ requires clarification to ensure that ‘reasonable’ does not require a judge to assess whether a religious belief itself is reasonable. ‘Good faith’ should not require a religious institution to demonstrate ‘fidelity or loyalty’ to the principles of anti-discrimination law.¹⁰ According to the legal definition of ‘harass’ it could be unlawful if the preaching of religious truth led a person to be ‘disturbed persistently’.¹¹ Undefined, the word ‘intimidate’ may have a similarly detrimental effect on religious teaching in this country. Consistent with the reforms recently implemented by State Labor Parties in Queensland, New South Wales and the Northern Territory, the prohibition should also be subject to the general religious bodies exception for acts done in conformity with religious beliefs or to avoid injury to religious susceptibilities.

Will the Labor Government’s Religious Discrimination Bill include a civil prohibition on religious vilification, such that it is unlawful to engage in public conduct, on the ground of a person’s religious belief or activity, that a reasonable person would consider would intimidate, harass or vilify that person in a way that addresses the above concerns?

6. The incidence of state and federal legislation that undermine free speech is alarming. Changes to the anti-vilification regime in Queensland,¹² proposed changes in Victoria,¹³

¹⁰ This is the standard applied for the purposes of the ‘good faith’ exception in Commonwealth vilification law, see *Bropho v Human Rights and Equal Opportunity Commission* (2004) 135 FCR 105 ([102] French J).

¹¹ The Federal Court has provided the following definition of harassment (*Re Susan Hall; Dianne Susan Oliver and Karyn Reid v A & A Sheiban Pty Ltd; Dr Atallah Sheiban and Human Rights and Equal Opportunity Commission* (1989) 85 ALR 503, 531; [1989] FCA 72; 20 FCR 217 (15 March 1989) [9]):

The word "harass" implies the instillation of fear or the infliction of damage; as is indicated by the definition of the term in the Macquarie Dictionary: "1. to trouble by repeated attacks, incursions, etc., as in war or hostilities; harry; raid. 2. to disturb persistently; torment, as with troubles, cares, etc."

¹² Respect at Work and Other Matters Amendment Bill 2024 (Qld). See the issues identified at <https://contactyourmp.org.au/qld-ad-respect/>.

¹³ <https://www.smh.com.au/politics/victoria/allan-government-faces-showdown-with-faith-groups-over-hate-laws-20241115-p5kqz2.html>

changes to federal criminal hate speech laws¹⁴, changes to privacy laws¹⁵ and misinformation laws (including the failed Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024 and the Basic Online Safety Expectations (BOSE) Determination), and ongoing proposals in various other states to amend anti-vilification laws are eroding the free speech of ordinary Australians in the absence of robust exceptions. These laws place the validity of opinions at the whim of bureaucrats or allows judges to scrutinise the validity of religious doctrine.

Will the Labor Government commit to protecting free speech in Australia by not introducing laws that will further erode religious freedom and freedom of speech and improving general understanding in Australia of the importance of religious freedom and free speech for a prosperous and flourishing Australia?

7. Both the Federal Government and state and territory governments continue to introduce new laws that erode essential human rights. Freedom of conscience, thought and religion, freedom of association and the right to peaceful assembly are being incrementally undermined in Australia. **Will the Labor Government:**
 - a. **increase protections for freedoms of conscience, thought, religion, association and peaceful assembly in accordance with its international commitments under Articles 18, 19, 21 and 22 of the International Covenant on Civil and Political Rights?**
 - b. **commit not to introduce legislation that will further erode these freedoms?**
 - c. **commit to a parliamentary inquiry into how Australia’s human rights obligations are not being met and how those freedoms are being eroded?**
8. The recent findings in the case of *Tickle v Giggle* demonstrated that the *Sex Discrimination Act 1984* (Cth) now poses a risk to people of faith, faith-based organisations and women’s only services and facilities. Many religions hold beliefs and engage in religious practices that differentiate on the basis of biological sex, but the judgment in *Tickle v Giggle* has interpreted “sex” to be non-binary and changeable and not to mean “biological sex”, which is contrary to treaties such as the CEDAW and the ICCPR.

Will the Labor Government commit to ensuring that there are protections for women’s only services and facilities and faith-based institutions in the Sex Discrimination Act so that they can continue to engage in practices, including religious practices, that differentiate on the basis of biological sex?

9. Finally, the prospect that the next government will govern in minority is increasingly apparent. Various minority parties and independents have committed to positions that are

¹⁴ Criminal Code Amendment (Hate Crimes) Bill 2024 (Cth), https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r7240

¹⁵ Privacy and Other Legislation Amendment Bill 2024, https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bld=r7249.

antithetical to the maintenance of religious freedom in this country, and that are directly opposed to the commitments we seek above.

Will the commitments offered in reply to the above questions continue to apply if you are in minority government?

Signed,

The Rt Rev Dr Michael Stead
Bishop of South Sydney
Anglican Diocese of Sydney



Dr Rachel Carling
Director of Public Policy
Christian Schools Australia



Pastor Terry Johnson
President for the Australian
Union Conference
Seventh-day Adventist Church



Imam Shadi Alsuleiman
President
Australian National Imams Council



Rev David Burke
Moderator General
Presbyterian Church of Australia



Pastor Mark Edwards
Religious Freedom Representative
Australian Christian Churches



Robert Gregory
Chief Executive Officer
Australian Jewish Association



Vanessa Cheng
Executive Officer
Australian Association of Christian
Schools



Hussein Faraj
President
United Shia Islamic Foundation



Rev Mark Wilson
National Ministries Director
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Surinder Jain
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Ricahrd Botta
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Abdullah Kahn
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Rev Dr Ross Clifford
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Dr Byung Guen Kim
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Dr Mohamed Mohideen OAM
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Pastor Paul McCarthy

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