ISLAM
Should we be concerned?

Prostitution
Euthanasia
Anti-Discrimination
Alcohol
EDITOR'S NOTE
Welcome to Viewpoint. It is my privilege and pleasure to have been given the opportunity to be editor of Viewpoint from David Yates, who maintained a high standard of excellence in the quality and breadth of articles published in the journal. I am thankful to him for his skill and passion in putting together the issues of Viewpoint as a well-read, researched and informative journal tackling some of the most contentious topics of our time.

Viewpoint aims to inform and challenge readers, including policy makers, on issues of concern, particularly to the Christian constituency served by the Australian Christian Lobby. We do this by allowing sensitive authors, including academics, politicians, journalists and other experts in their fields, to give their informed and often opposing views on a broad range of issues in the hope that these will be considered by the parliament. Our objective is to cover issues in enough detail so as to enable policy makers and voters to make informed decisions about important topics.

The magazine seeks to remain impartial in presenting contrasting perspectives, providing the forum for a higher level of critical analysis in policy debate. This issue is no exception. We report the controversial and emotional topics of Islam, discuss the growth and dangers of the burgeoning prostitution industry within Australia, as well as examine the merits and risks of euthanasia and anti-discrimination laws. In their regular opinion pieces, columnists Cherie van Ryn, Ruth Laminche and Toby Hall address such diverse societal and cultural issues as alcoholism, the need for a drug, and the merits of funding private organizations to address society’s most difficult social problems.

Viewpoint is distributed to all federal and state politicians, plus a growing subscriber base, and is on sale in selected newsagencies across Australia. It is published three times a year in February, June and October.

Cover Story

REVEALING ISLAM
In our cover story, Christian theologian, church leader and author Dr. Mark Laver, and Professor SaminaNSEno, a specialist in the role of Islam in world politics, discuss the relevance of recent world events and their application in Australia, both immediately and into the future, within the context of the Muslim religion.

Read their expert reports on pages 12-20

euthanasia

A RIGHT TIME TO DIE?
Professor Nicholas Barnet-Fuhrman from John Paul II Institute in Melbourne, who is battling a terminal illness, debates this issue with Neil Francis, President and CEO of Dying with Dignity Victoria, and Chairman and CEO of YourLastRight now, the National Alliances of Australian State and Territory Dying with Dignity and Voluntary Euthanasia Societies.

Their reports start page 51

* BUSINESS OF SEX

Paul O'Keefe gives an overview of prostitution within Australia, including the size of the industry and the issues related to it.

Elena Jeffery, who is a full-time sex worker and part-time President of the Sex Workers Association, argues that prostitution is a viable work choice which should be legalised, while Anne M. Kramner, Professor Emeritus of Women's Studies and Medical Ethics at the University of Massachusetts, Amherst, says prostitution demeaned women and led to trafficking and exploitation.

Reports pages 46-29

FREEDOM AND PROTECTION

Should religious organisations be exempted from anti-discrimination laws? Debating this issue are Professor Patrick Parkinson from the University of Sydney and Professor Margaret Thomey from the Australian National University.

Read their reports on pages 41-48

REGULAR FEATURES

* Society and Culture
8. Power of touch: Califorina Ron
9. Booze culture: Ruth Laminche
10. Social capital: Toby Hall
* Regular: 40-55 Article references
CHRISTIANITY ‘PRIVILEGED’ IN LAWS PROTECTING FAIRNESS

The underlying problem in any open and democratic society based on human dignity, equality and freedom is which conceptions and religious freedom has to be regarded with appropriate seriousness. If such a democracy can and must go to allowing members of religious communities to define for themselves those laws which they will obey and which not. Such a society can enforce only if all its participants accept that certain basic norms and standards are binding. Accordingly, believers cannot claim an automatic right to be exempted from the law of the land.

Australia is a secular state. Unlike the UK, it has no established religion, but Christianity remains privileged in many ways. There are ever-present reminders of this through the observance of Easter and Christmas, and the wearing of oaths, although multicultural, religious diversity, and the growth of secular humanists has ostensibly reduced commitment to those rituals as the 2001 census data reveals. The percentage of the population who identified as Christian fell from 96.1% in 1991 to 68% in 2001 and, between 1995 and 2001, the number of people who identified with non-Christian religions increased by 79% for Buddhism, 42% for Hinduism, 40% for Islam and 3% for Judaism. References to institutionalization Christianity nevertheless remains strong and the census also reveals an increase of 11.4% for Pomoecanath Christians.

Traditionally, Australia has prided itself on its tolerance as a secular society, accepting that people are entitled to believe whatever they wish. There is strong resistance to any suggestion that the beliefs of men and women should impinge on the freedom of others. Most State and Territory anti-discrimination legislation proscribes discrimination on the grounds of religious belief or activity, but New South Wales, South Australia and the Commonwealth remain notable exceptions. The ground of religious belief or absence of belief was originally intended to be included in the NSW Anti-Discrimination Act 1977 (ADA) but it never materialised, despite a recommendation from the NSW Anti-Discrimination Board in 1984 following publication of a substantial report. In South Australia, the Equal Opportunity Act 1984 was amended in 2008 to outlaw discrimination on the ground of appearance or dress associated with religious belief, but not the ground of religious belief itself.

Although discrimination on the ground of religious belief is not outlawed at the federal level, the Australian Human Rights Commission Act 1983 (Cth) (AHRC) permits a complaint to be lodged with the Commission and an inquiry conducted. If settlement is inappropriate, a report may be made to the Minister (AHRC s.29). This procedure is based directly on the International Covenant on Civil and Political Rights (ICCPR), which is included in a Schedule to the AHRCA. By not being made unlawful, it would appear at first glance that discrimination on the ground of religious belief is treated less seriously than race, sex, disability or age, the grounds on which discrimination is proscribed at the federal level, but this impression is misleading.

The Australian Human Rights Commission (AHRC) is currently conducting a project entitled Freedom of Religion and belief in the 21st Century, which includes consideration of a Federal Religious Freedom Act. As evidence of the strong community views animating the issue, the AHRC website reveals it was approached by approximately 200 submissions were received by the end of February 2009, plus the files of the Act remain uncertain. A consultation exercise involving the current federal anti-discrimination Acts is underway and religious belief could be included as a new ground.
Euthanasia cannot be made safe for people who are seriously ill and thus vulnerable. It is worth noting that jurisdictions such as the Netherlands and Belgium that legalized euthanasia lack the ability to provide the kind of palliative care services that had developed in the UK.

- Euthanasia law cannot be made safe. The Northern Territory briefly had similar law. As discussed above, several of those for whom the legislation was implemented did not in fact meet the criteria of the Act, despite the safeguards. This is reflected also in the Dutch experience where many large numbers of cases had involved cases that had proven to be subject to the law, raising human rights concerns, see United Nations' concern below.

- Euthanasia is contrary to the International Human rights instruments. When the Human Rights Committee of the United Nations considered a euthanasia law enacted in the Netherlands to codify what had become euthanasia practice, the Committee stated that a State party stopping to exploit legal provisions with respect to an act deliberately intended to put an end to human life, the Committee believes that the International Covenant on Civil and Political Rights obliges it to apply the most rigorous scrutiny to determine whether the State party's obligations to ensure the right to life are being complied with (articles 2 and 6 of the Covenant). The Committee expressed the concerns that the new Act (in the Netherlands) contain[s] a number of conditions under which the physician is not punishable when he or she terminates the life of a patient, inter alia in the "voluntary and well-considered request" of the patient in a situation of "unbearable suffering" offering "no prospect of improvement" and "no other reasonable solution". The committee also expressed concern lest such a system may fall to death and prevent situations where undue pressure could lead to those criteria being circumvented. The Committee was also concerned that, with the passage of time, such a practice may lead to the recriminalization and incentivization of the strict application of the requirements in a way not anticipated. The Committee raised with concern that under the present legal system more than 2000 cases of euthanasia and assisted suicide (or a combination of both) were reported to the Netherlands' review committee in the year 2000 and that the review committee seemed to have a negative assessment only in three cases. The large numbers involved raise questions whether the present system is only being used in extreme cases in which the substantive conditions are comprehensively satisfied.

People often make a distinction between active euthanasia in which a final intervention such as a drug overdose is given in order to end the suffering by ending the life, and passive euthanasia in which life-prolonging treatment is deliberately withdrawn in order to bring about the suffering by ending the patient's life.

The Catholic Church, however, makes no such distinction and has declared that euthanasia, in the strict sense, is understood to be an action or omission, which of itself and by intention, causes death, with the purpose of eliminating all suffering. Euthanasia's terms of reference, therefore, are too broad in the intention of the will and in the methods used", and asserts that euthanasia is a grave violation of the law of God, since it is the deliberate and morally unacceptable killing of a human person.

The Church, however, makes a distinction between passive euthanasia or killing by omission and withholding or withdrawing treatment that is futile, (that is, it is ineffective), or treatment that is overly burdensome. "Euthanasia must be distinguished from the decision to forego so-called "aggressive medical treatment", in other words, medical procedures which no longer correspond to the real situation of the patient, either because they are by new disproportionate to any expected results or because they impose an excessive burden on the patient and his family. In such situations, death is clearly imminent and inevitable, one can in conscience refuse forms of treatment that would merely secure a precariously and burdensome prolongation of life, so long as the normal care due to the sick person in similar cases is not interrupted." Certainly there is a moral obligation to care for oneself and to allow oneself to be cared for, but this duty must take account of concrete circumstances. It needs to be determined whether the means of treatment available are objectively proportionate to the prospects for improvement. To forego extraordinary or disproportionate means is not the equivalent of suicide or euthanasia; it rather expresses acceptance of the human condition in the face of death."

Simply expressed, therefore, euthanasia may be defined as deliberately bringing about death by active intervention (e.g. overdose) or by neglect of reasonable care (e.g. withholding anti-burdenome treatments such as nutrition and hydration/hydration). In order to end suffering by ending the life.

CONCLUSION
Euthanasia law cannot be made safe for people who are seriously ill and thus vulnerable. It is worth noting that jurisdictions such as the Netherlands and Belgium that legalized euthanasia lack the ability to provide the kind of palliative care services that had developed in the UK.
in the embers Act, but this is by no means certain in light of the contention surrounding the ground, which includes opposition from a number of religious bodies themselves.

I should interpolate here a brief comment about the National Human Rights Consultation led by Frank Brennan SJ in 2009, even though its chief recommendation—that Australia should have a federal Human Rights Act—was rejected by the Rudd Government, a step understood to have been sought by the mainstream Christian churches. As with the Victorian Charter of Rights and Responsibilities Act 2006 (Vic Charter) and the ACT Human Rights Act 2004 (ACT HRA), the Brennan Report invoked a “dialogic” model, whereby the legislature, the courts and the community would work together and utilise educative means to realise the aims of the Act, rather than rely on litigation. Equality of opportunity for all, including equality between men and women, and freedom of religion, were identified as important rights arising from the seven main international human rights treaties ratified by Australia, including the ICCPR, the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Despite the absence of an entrenched guarantee of freedom of religion in Australia or a federal Human Rights Act, as well as continuing ambivalence regarding the inclusion of religious belief (or non-belief) as an exemptable ground within anti-discrimination legislation, we find that religious belief is nevertheless accorded a privileged status de facto. Thus, while the Australian state has responded to pressure to improve the status of women, Indigenous people, and gays and lesbians through the enactment of anti-discrimination legislation, it has simultaneously sought to appease powerful conservative interests more interested in maintaining the status quo than in promoting the non-discrimination principle. I will show how these dichotomous aims are achieved by way of exception to the stated grounds.

RELIGIOUS EXCEPTION

Other than the Vic Charter and the ACT HRA, anti-discrimination legislation is the current we have to a bill of rights. The legislation is designed to facilitate equality of opportunity for all on specified grounds in specified areas of public or quasi-public life, including employment, education, access to goods and services, clubs and accommodation. The overwhelming proportion of complaints relate to employment, which is perhaps unsurprising, given its centrality to the lives of most people.

The aim of the legislation is to achieve equality of opportunity at the point of access rather than equality of outcome, that is, the focus is on formal not substantive equality. A simple metaphor to illustrate the point is that of a race where all are treated equally at the starting points, although the outcome is going to depend on the varying ability of the contestants. An affirmative action model of anti-discrimination legislation is concerned
Should such organisations have the right to specify that well-credentialed professionals, trades people and administrative staff adhere to a particular religious belief or support a particular lifestyle?

Non-Crime Employment

Despite the tension of the non-employment exception, it is the issue of non-core employment that is most fraught. Non-core employment covers the entire gamut of positions necessary for the conduct of an organisation. Should such organisations have the right to specify that well-credentialed professionals, trades people and administrative staff adhere to a particular religious belief or support a particular lifestyle? In such cases, anti-discrimination legislation currently excludes religious bodies, generally refers to a person's religious belief or belonging to a religious body, and in the case of a religious body, determines that the religious belief is a personal belief or activity. Hence, the exception may be selectively invoked to obstruct the advancement of women, gay, lesbian and transgender people contrary to the principles of the FOA (Vic) and the Victorian Charter which binds other employers.

Beliefs Questioned

If an unsuccessful job applicant were to lodge a complaint alleging discrimination and it were not resolved at the conciliation level, she would carry the burden of proving the discrimination at a hearing, while the religious body would carry the onus of proving the exception. (The Acts vary on this point.) Because of uncertainty in the wording of the exception, the definition of "religious belief or activity" is ambiguous. The Act is silent as to the standards for deciding whether an act is religious in nature.

The notion of a "religious belief or activity" begins to make sense when it is recognised that a religious belief is a personal belief or activity. It is often a core belief and is considered irreplaceable or fundamental. For this reason, religious beliefs are not likely to be assessed in the same way as other personal beliefs and activities. However, if the use of a religious belief is to be given such a wide interpretation, it is likely to be used to exclude people from employment. This is not only undesirable but also unjust. It is difficult to reconcile the right to discriminate on the basis of religious belief with the prohibition on discrimination on the ground of race, sex, marital status or sexual orientation.

Furthermore, the exception is likely to be used to exclude people from employment. This is not only undesirable but also unjust. It is difficult to reconcile the right to discriminate on the basis of religious belief with the prohibition on discrimination on the ground of race, sex, marital status or sexual orientation. The exception is likely to be used to exclude people from employment. This is not only undesirable but also unjust. It is difficult to reconcile the right to discriminate on the basis of religious belief with the prohibition on discrimination on the ground of race, sex, marital status or sexual orientation. The exception is likely to be used to exclude people from employment. This is not only undesirable but also unjust. It is difficult to reconcile the right to discriminate on the basis of religious belief with the prohibition on discrimination on the ground of race, sex, marital status or sexual orientation.
Youth
camp imposed
doctrine

employment, involved the refusal of services to accommodation. This was
Cobaw Community Health Services' Christian Youth Camps, in which
the Victorian Civil and Administrative Tribunal found in favour of the
complainant. The respondent ran an
adventure resort under the auspices
of the Christian Brethren and the
complainant had unsuccessfully sought
to book a weekend for same-sex
young people from rural areas as
part of a youth suicide prevention
project. Harmed by this, the
respondent asked the
complainant to provide
him with a prominent
Christian
organisation, which failed
to prove that the refusal of the
booking was connected with the
denial of the Christian Brethren
religion. In fact, the Christian Brethren
connection did not appear on the website of the
respondent and witnesses at the camp
were not told about their beliefs
on marriage, sexual relationships
or homosexuality, nor were they
offered any religious program. The
belief regarding homosexuality
were found to be personal, which
meant that the respondent was not
entitled to impose them on others.
"In a manner that denies them the
enjoyment of their right to equality
and freedom from discrimination
in respect of a fundamental aspect of
their being" [DEC]. A small amount of
compensation—$5,000—was awarded.

RELIGIOUS SCHOOLS

The ambiguity of the religious
exception is underscored in the case of
employment in religious schools, which
are singled out for special mention
within the legislation. Education is the
area most likely to animate community
positions, even though it might be
suggested that the schools changing
their policies are more likely to be
class-based than faith-based. Notably,
however, discrimination based on class
is not proscribed in any Australian
anti-discrimination legislation.

The typical hypothetic school
scenario involves a situation where
a male teacher, clerical officer or
gardener, for example, is denied a
position in a faith-based school by
virtue of "lifestyle", a euphemism for
sexual preference. Evidence given in
the Harvey-Austin case suggests that
there was more concern with foster
parents who were gay and had a
homosexual relationship with others
who were non-Christian or atheist.
Similarly in Cobaw, the evidence revealed that it
was sexual activity that was of most
concern, either outside marriage or in
homosexual acts [304, 321].

In the case of an allegation of
discrimination, the burden of proving
the exception would probably be met
in the case of a teacher of religion if
the complainant were a non-believer or
an adherent of a different religion, but
this would be much more difficult in
the case of, say, a science teacher, even
if the school wished to teach that the
Bible was literal facts and opposed the
teaching of theories of evolution. There
is nothing comparable in Australia
to the "Separate But Equal" dealing with
exclusions in the teaching of evolution.

The religious exception would
also be difficult for a religious school
objecting to the sexuality of, say, a
It would have to prove that the private life of the teacher was just as important as his or her professional qualifications and the teaching of mathematics had to be in conformity with religious doctrine.

An argument based on pastoral care might have some substance but would be difficult to link to mathematics. The avoidance of injury to religious sensitivities would likely be to an issue only if the sexual preference of the teacher were public. In Griffin v Catholic Education Office, for example, a teacher was refused accreditation in Catholic schools because her "public example" as a lesbian activist conflicted with Catholic teachings.

The uncertainties in proving discrimination, the possibility of a protracted legal case, and the award of hefty costs against them are significant deterrents against individuals pursuing complaints of discrimination in this vexed area. In any case, the prospect of withstanding a hostile workplace, even if prosecution were successful, could be a daunting prospect.

CONCLUSION

Moral values based on ancient religious texts, including the Bible, are often parochial, misogynistic and homophobic, which necessarily conflict with the egalitarian concepts of anti-discrimination legislation. While the ICCPR protects freedom of religion, it does not promote religious belief or expression. The balance between the exercise of religious freedom and the protection of human rights is a delicate one. The right to freedom of belief (and non-belief) for all, without interference or coercion, may be exercised in association with others, at least in terms of the ICCPR. Article 19, 27, 3(2), require that religious organisations be autonomous to the extent that they wish to remain independent and autonomous. Discrimination by religious organisations, such as schools and welfare agencies, is highly questionable as they are likely to be the recipients of substantial public resources (an issue addressed in but not resolved in Stanley Mission). These bodies nevertheless claim that they are private and independent, which enables them to exercise the freedom to discriminate selectively, contrary to the law of the land that binds other employers.

The treatment of religious organisations under anti-discrimination legislation highlights the way the secular state defers to powerful interests despite its own egalitarian rhetoric. A way forward would be to make adherence to the non-discrimination principle a condition of receiving money from the public purse. The receipt of public money for the purpose of running a school or welfare agency should automatically disqualify a religious organisation if it fails to adhere to the non-discrimination principle. If the organisation wishes to avoid some of the "private" clauses, it should remove any claims on public monies.

While the right to freedom of belief (and non-belief) for all, without interference or coercion, may be exercised in association with others, at least in terms of the ICCPR. Article 19, 27, 3(2), require that religious organisations be autonomous to the extent that they wish to remain independent and autonomous. Discrimination by religious organisations, such as schools and welfare agencies, is highly questionable as they are likely to be the recipients of substantial public resources (an issue addressed in but not resolved in Stanley Mission). These bodies nevertheless claim that they are private and independent, which enables them to exercise the freedom to discriminate selectively, contrary to the law of the land that binds other employers. The treatment of religious organisations under anti-discrimination legislation highlights the way the secular state defers to powerful interests despite its own egalitarian rhetoric. A way forward would be to make adherence to the non-discrimination principle a condition of receiving money from the public purse. The receipt of public money for the purpose of running a school or welfare agency should automatically disqualify a religious organisation if it fails to adhere to the non-discrimination principle. If the organisation wishes to avoid some of the "private" clauses, it should remove any claims on public monies.

The retention of an exception based on the grounds of sex, marital status and sexuality reveals a latent sexism and homophobia which shocks the stated commitment to equal opportunity (for all in a way that suggests intolerance and prejudice, as highlighted by Colombo (involving a youth suicide prevention project targeting same-sex attracted young people). While the right of religious bodies to run schools, welfare agencies and hospitals out of a sense of charity and altruism is commendable, their desire to be exempted from universal human rights (except in the non-discrimination principle) necessarily prompts questions regarding the genuineness of that commitment; a
EUTHANASIA: NICHOLAS TONTI-FILIPPINI

prohibits sex discrimination in educational institutions, including employment. There is a religious exception, but it is expressed narrowly. Codified as Title 29 USC, Chapter 38, Sections 621-634.

ANTI-DISCRIMINATION: PATRICK PARKINSON
2. Equality Bill 2009 (UK), Schedule 9, cl 2.
5. For discussion, see date above.
8. Homosexual practice is here distinguished from sexual orientation, which may or may not involve sexual activity.