

# Was Jesus an Equal Opportunity Employer?

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In the March 2011 edition of *TMA (The Melbourne Anglican)*, Dr Muriel Porter published a piece (see [here](#)) arguing against further review of Victoria's anti-discrimination laws. *TMA* also published an opposing view written by me (see [here](#)). There was quite a lot of ground covered by Dr Porter's piece, and I wanted to expand on a few points, as well as give her theological argument the greater attention it deserved, hence this blog post.

Dr Porter was concerned that 'religious groups who claim to speak in Jesus' name have prevailed on the new Victorian government to give churches virtual *carte blanche* to discriminate against those they deem not acceptable.'

There are multiple errors and confusions in Dr Porter's piece.

- 1 It is simplistic to presuppose that the Equal Opportunity Act 2010 prevents churches from discriminating in employment. In fact the recently introduced Act allows religious groups to discriminate under certain circumstances on the basis of:
  - 2 "a person's religious belief or activity, sex,
  - 3 sexual orientation, lawful sexual activity,
  - 4 marital status, parental status or gender
  - 5 identity by a religious body"
- 6 It is a fact that the Catholic Archdiocese ended up supporting the changes introduced by the former Brumby government, precisely because it believed it **would** be able to continue to discriminate when employing people. Of course, there are others in the community who hope that the 2010 Act imposes severe restrictions on churches' ability to discriminate. I would say that, unless the law is changed, we are going to be in for some very interesting and intensely fought legal cases.
- 7 Dr Porter cites Rachel Ball who had commented that "religion is not an automatic, pre-determined trump." In reality, Attorney-General Robert Clark had only proposed to redraw the lines determining how religious exemptions apply. Religion was never a trump even under the pre-existing law, which preceded the 2010 Act, **as a recent VCAT case showed**.
- 8 Dr Porter cites Ball's argument that "church leaders would be rightly distressed if a secular organisation sought to discriminate against a Christian employee on the grounds that they did not want a believer in their workforce'. This is an invalid comparison. Religious organizations understandably want to be able to take into account religious considerations when selecting employees, just as a political party in Victoria will want to take an employee's political views into account; a bank would wish to take into account someone's views on banking; a pub would wish to take into account someone's attitudes on the consumption of alcohol; and an Aboriginal support group may wish to take into account someone's attitudes to aboriginality.
- 9 Dr Porter is mistaken when she claims that 'No one is suggesting' that churches should not have full control over who they appoint as 'overtly religious leaders'. In fact the Human Rights Law Resource Centre (the organisation of Rachel Ball, who Dr Porter cites with approval) argued for that **all** exemptions should be removed from the Act (including the rights

of churches in employing clergy).

Dr Porter writes:

“... who can occupy the many and varied secular roles within our large and diverse organisations should reflect the openness and loving acceptance of our Lord as far as possible. Our employment practices should clearly reflect our faith stance that all human beings are made in the image of God and deserve the fullest dignity.”

I am troubled by Dr Porter's conviction that a clear distinction exists between 'religious' and 'secular' roles in Christian organisations. The person who cares for the gardens of our church does not see her role as 'secular', nor do many Christians working in teachers in Christian schools. This distinction harks back to the old-fashioned idea that roles for clergy are religious, while roles for laity are not.

The contrast between sacred and secular is an important theological and social distinction, but it is a poor thing indeed to be inviting the state to impose its understanding of the distinction upon our institutions. It is unwise to invite the state to rule that a great many positions in our institutions, founded and sustained for Christian purposes, are 'secular' and could therefore be filled by people of any faith or none at all.

However, my greatest concern about Dr Porter's argument is her appropriation of Jesus. Yes, one must agree that Jesus opposed **as a sin** the exclusion of people by religious figures, as Miroslav Volf explains in *Exclusion and Embrace* (p.72):

"An advantage of conceiving sin as the practice of exclusion is that it names as sin what often passes as virtue, especially in religious circles. In the Palestine of Jesus' day, 'sinners' were not simply 'the wicked' who were therefore religiously bankrupt, but also social outcasts, people who practiced despised trades, Gentiles and Samaritans, those who failed to keep the Law as interpreted by a particular sect. A 'righteous' person had to separate herself from the latter; their presence defiled because they were defiled. Jesus' table fellowship with 'tax collectors and sinners', a fellowship that indisputably belonged to the central features of his ministry, offset this conception of sin. Since he who was innocent, sinless, and fully within God's camp transgressed social boundaries that excluded the outcasts, these boundaries themselves were evil, sinful, and outside God's will. By embracing the 'outcast,' Jesus underscored the 'sinfulness' of the persons and systems that cast them out."

But, as Volf goes on to explain (p.73), Jesus was no 'prophet of "inclusion", for whom the chief virtue was acceptance and the cardinal vice intolerance':

"It would be a mistake, however, to conclude from Jesus' compassion toward those who transgressed social boundaries that his mission was merely to demask the mechanisms that created 'sinners' by falsely ascribing sinfulness to those who were considered socially unacceptable. He was no prophet of 'inclusion' for whom the chief virtue was acceptance and the cardinal vice intolerance. Instead, he was the bringer of 'grace,' who not only scandalously included 'anyone' in the fellowship of 'open commensality' (Crossan), but made the 'intolerant' demand of repentance and the 'condescending' offer of forgiveness. The mission of Jesus consisted not simply in *re-naming* the behavior that was falsely labeled 'sinful' but also in *re-making* the people who

have actually sinned or have suffered misfortune."

In these times, Christians in the West are being challenged to be more inclusive at the same time that they are being convicted – literally – of excluding others, a legal process which is gathering momentum in the UK.

A much-publicized recent example is that of Peter and Hazelmary Bull, whose Cornwall B&B was targeted by the Equality and Human Rights Commission because they would only hire out bedrooms to singles or married couples – and not to same-sex couples. The Bulls were convicted of breaking the law and had to pay thousand of pounds in damages to Mr Steven Preddy and Mr Martyn Hall, who had been refused a bed for the night. In an odd twist to this case, the taxpayer-funded Equality and Human Rights Commission recently **initiated proceedings** (subsequently **withdrawn**) to increase the damages paid by the Bulls, arguing that the courts should have given no consideration at all to the Bulls' Christian faith. At the same time hotels advertising "gays only" are commonplace throughout Britain.

After targeting Christian hotels and B&Bs - by its own admission – and winning its case against the Bulls, the Equality Commission has said that, in the interests of 'objective balance' it will investigate these hotels to see if they too are in breach of the law. The Equality Commission also **recently apologized** for implying that Christian foster parents could 'infect' children with their moral values. (The senior Equality barrister who prepared the offending submission which used the word 'infect' was Koran Monagan QC, the European female director of the International Lesbian and Gay Law Association.)

In a public environment which is increasingly hostile to Christian values, and indeed to Christians themselves as individuals, the Victorian 2010 Equal Opportunity Act is a potential tool in the hands of those who wish to ramp up such lawfare here in Victoria. It is naive to pretend otherwise.

Yes, Jesus opposed exclusion, but he did not offer inclusion without boundaries as its alternative. It is profoundly unhelpful to compare those who have legitimate concerns about the Victorian law with the Pharisees of Jesus' day, and to say that Christians who have such concerns are guilty of "narrow-minded self-protection" who risk becoming "little more than a sect." Such rhetoric only serves to muddy the waters of public debate.

It matters greatly how Equal Opportunity laws are worded. I am pleased that Christians have been expressing their concerns about this law, and I welcome the Ballieu Government's decision to reconsider the Equal Opportunity Act 2010.

**[View the original post on Mark's blog](#)**