

Why is the Uniting Church ‘surprised’ Australians don’t want to go to jail just for using cash?

Dr Mark Zirnsak is the Senior Social Justice Advocate of the Uniting Church Synod of Victoria and Tasmania. He is involved with Tax Justice Network Australia and campaigns against tax evasion, organised crime and corruption. The global Tax Justice Network was founded to expose and fight the system of tax havens that multinational banks and corporations and the ultra-rich use to evade paying their fair share of tax, assisted by the corrupt Big Four global accounting firms EY, PwC, KPMG and Deloitte. Yet on behalf of the Uniting Church, Dr Zirnsak made one of the few submissions to the Senate inquiry into the Morrison government’s \$10,000 cash ban bill in support of the law, effectively siding with the same corrupt Big Four firms and especially KPMG, the main architects and promoters of this law.

Dr Zirnsak’s Uniting Church submission is a curious, contradictory endorsement of a heavy-handed assault on civil liberties. Like cash-ban architects KPMG, his submission called for the \$10,000 limit to be much lower, around \$3,000 to \$4,000; and for private and personal transactions, such as cash gifts to family members, to not be exempt from the ban.



Dr Mark Zirnsak testifying at the 12 December Senate hearings on the cash ban.

The submission claimed that international experience shows the cost of complying with a cash ban is low, yet it acknowledged that a ban would severely impact vulnerable people “who have trouble navigating the financial system”, and called for the government to establish support services for such people. However, as the government has not indicated any intention to establish such a service, why would the Uniting Church still endorse a law it acknowledges will hurt vulnerable people?

Dr Zirnsak’s submission noted the \$10,000 cash limit wouldn’t do much to stop petty tax evasion by everyday people, because \$10,000 is too high, but claimed it would impact tax evasion and money laundering by organised crime, by stopping criminals from purchasing high-value goods. However, while it may seem to be a logical approach, the weakness is that money laundering is a secondary crime by criminals who already don’t respect the law, and won’t respect this one. He sourced his “evidence” from international reports that can’t actually prove it works, heavily relying on terms such as “are likely”, “there appears to be”, “are expected to”, and “should have”. One of the reports he relied on for evidence, a Harvard Kennedy School study titled “Limiting the Use of Cash for Big Purchases”, made the sweeping claim that up to one quarter of all of the cash on issue in the world, a trillion US dollars, is used each year in money laundering, yet the report provides absolutely no evidence for this claim. By contrast, the Reserve Bank of Australia testified to the 12 December Senate hearing into the cash ban bill that it estimates that only 5 per cent of Australian cash is used for shadow economy activities—either the international reports Dr Zirnsak relied on exaggerate the problem, or Australia already has a far smaller problem than the rest of the world, without the assistance of a cash ban.

The Morrison government is using claims about the black economy, especially tax evasion and money laundering, to ram through a law that criminalises law-abiding people for spending their own money, while ignoring real tax evasion and money laundering. The Big Four global accounting firms that help multinationals evade tax dominate the government’s tax advisory body, and the government refuses to act on money laundering it knows is going on in places like Crown Casino, and in the real estate sector. The government has long promised to legislate to include real estate agents, accountants and lawyers in its anti-money laundering disclosure regime, but hasn’t done so, because it is so desperate to ensure as much money pours into real estate as possible, even if it is laundered money. Dr Zirnsak knows this, and in his submission referenced the need for the government to legislate in this area. By endorsing the policy the government has adopted as a substitute, however, Dr Zirnsak and the Uniting Church are condoning the government’s cynical ploy to criminalise lawabiding people, not to stop tax evasion and money laundering, but to force them to use banks.

‘Surprised’

In his zeal to endorse a policy that ostensibly targets tax evasion and corruption, Dr Zirnsak seemingly overlooked the real-world implications of this law, in terms of its impact on ordinary people. This became increasingly evident in his testimony to the 12 December hearing of the Senate inquiry, when he repeatedly described himself as “surprised”.

“We’ve been a bit surprised at some of the level of opposition that has emerged on this”, he opened. “This is not a measure that has been untested elsewhere.”

That’s true, but he is being selective in his consideration of the impact. In Europe, where cash restrictions are most common, there is a fierce ongoing debate about their purpose and effectiveness. The Medina and Schneider shadow economy studies published by the International Monetary Fund show that countries with cash restrictions all have much larger black economies than Australia, while Germany, the European country most opposed to cash restrictions, is the only one with a smaller black economy than Australia. According to the Harvard Kennedy School study cited extensively by Dr Zirnsak, “Many in Germany see restrictions on the use of cash as unwarranted restrictions on individual liberty and the policy objective of shifting transactions to electronic means as dangerously threatening to individual liberty.” It is no coincidence that Germany had the most egregious experience with both fascism and communist totalitarianism, hence its sensitivity to threats to civil liberties.

A significant difference between the European cash restrictions and the Australian bill is that the penalty for breaching the cash ban limit across the various European countries is a fine, either a flat fine or a percentage of the offending transactions, whereas in Australia it is a draconian jail term. It is very surprising that Dr Zirnsak is surprised that Australians are opposed to going to jail just for doing something people have lawfully done for thousands of years—using legal tender to transact business.

Dr Zirnsak was also surprised people doubted the reasons for the cash ban: “I was a bit shocked this morning when the Small Business and Family Enterprise Ombudsman sort of stated that there wasn’t really any problem with tax avoidance/tax evasion in the small business sector”, he said. “I’m wondering on what basis they’re contesting the findings of the Black Economy Taskforce, and the very thorough work that was done by that taskforce under the government?”

Dr Zirnsak may not have expressed such confidence in the Black Economy Taskforce had he waited until hearing the Black Economy Division of Treasury testify later that day. The head of that division, Patrick Boneham, admitted to an astounded Senator Alex Gallacher that the Black Economy Taskforce had not conducted any statistical studies of the alleged tax evasion the cash ban will supposedly stop, but had simply held some “community halls” at which some businesspeople had expressed complaints. Senator Gallacher said: “When you tell me you do a couple of town halls and people complain about cash payments, I can understand that, but I don’t think that’s empirical evidence.” At Boneham’s insistence that it was evidence, Senator Gallacher shot back: “How many people have told you that? 10? 12? We’re looking for some data.” Treasury didn’t have any data, and neither did the ATO, AUSTRAC or RBA.

When asked about the testimony of the funeral directors that the cash ban would discriminate against ethnic communities who use cash to pay for funerals, Dr Zirnsak replied: “It’s interesting that none of the research literature throws funerals up as a significant issue, so I’m a bit surprised. I think there is, hearing the evidence I think there is some legitimate concern there, but I’m interested in how other jurisdictions have dealt with it and why it’s not coming up in the literature that’s had a look at cash transaction limits as a significant issue. Most of the other bodies who’ve analysed this have said for people doing legitimate transactions and legitimate business in the economy there’s been a very marginal impact in terms of costs on them, and I’ve been a bit surprised at the claims other witnesses are making about how severe this is.”

This is a curious response, given that the Uniting Church’s own submission mentions that church ministers had reported that parishioners do use cash for funerals. In other words, Dr Zirnsak should not have been surprised.

FINANCIAL REVIEW

Cash payment limits of \$5000 or \$2000 proposed in black economy crackdown

Tom Mellroy

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A proposed cash payment limit of \$10,000 will be ineffective without a robust integrity and penalties regime, KPMG has warned.

In a submission to the Treasury's consultation about plans to crack down on Australia's black economy, KPMG tax partners Geoffrey Yiu and Grant Wardell-Johnson propose future caps of \$5000 or \$2000. They said a low limit, high penalty approach could help reduce money laundering and proceeds of crime opportunities.

May's federal budget included a ban on payments of more than \$10,000 under a widespread crackdown expected to raise more than \$7 billion and improve the government's bottom line by \$5.3 billion.



The Uniting Church isn't just supporting KPMG's cash ban, it is echoing KPMG's call for a much lower limit than \$10,000.

Dr Zirnsak also didn't understand how small businesses could be at risk of inadvertently finding themselves in breach of the limit, when given the example that a business might accept cash payments in increments over a number of months that total over \$10,000, with different staff taking receipt of the different payments. "I'm a bit surprised that business would not be able to manage their accounts sufficiently to figure out they're getting multiple payments to get an invoice paid", he said. Dr Zirnsak may not realise that small businesses don't have the resources of big business to ensure they comply with or get around tax and other requirements. Disturbingly, he didn't seem too bothered that small business proprietors or their staff could face jail for an inadvertent mistake, saying he expected the prosecutors wouldn't enforce the maximum penalties in those cases. This is another assumption however, especially when the architects of this law, KPMG, have lobbied the government to aggressively enforce the penalty for breaching this law. In a June 2018 submission to Treasury on the cash ban, KPMG urged: "In order for the measure to achieve its primary objective and obtain widespread deterrent value, it will be important that the community sees businesses and individuals being identified and penalised within the early months of the regime taking effect." In other words, the government should make a harsh example of people and small businesses who breach the law.

Using a sledgehammer to kill an ant ... but ignoring the elephant in the room

In expressing confidence in the Black Economy Taskforce in his verbal testimony, Dr Zirnsak heaped praise on its chairman, the late Michael Andrew. This is curious indeed coming from someone involved in the Tax Justice Network, which was founded to go after tax havens and large-scale tax evasion by multinationals and the big end of town, all of which is facilitated by KPMG and its fellow Big Four firms. Michael Andrew was the immediate former global boss of KPMG, the only Australian to ever rise to that position, and his tenure coincided with KPMG's clients HSBC and Standard Chartered being caught in massive money laundering scandals. His firm is also notorious for one of the most criminal tax evasion scandals on record, for which KPMG was fined US\$500 million by US authorities in 2005. Yet in his Black Economy Taskforce Report, Michael Andrew attacked tradies, hair dressers, personal trainers, gardeners and other small businesses as "the problem" in the black economy.

The Uniting Church's position on this law effectively endorses the government's policy of using a sledgehammer to kill an ant while ignoring the elephant in the room—high-end tax evasion and money laundering by banks and multinationals. Dr Zirnsak knows it will be a burden on law-abiding and vulnerable people while not doing much to address even petty tax evasion. As a consequence, the Uniting Church is endorsing a law that only benefits one group—the greedy, grasping, disreputable but immensely powerful banks that will be able to get a cut of more transactions, and know all of the personal affairs of their customers.

Why would the Uniting Church want that?

By Robert Barwick, Australian Alert Service 29 January 2020

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