

Thursday, 13 December 2018

Increased religious protections supported, but would be better dealt with in a comprehensive National Human Rights Act

The Law Council today welcomed steps to enshrine religious protections at the federal level, but said the delicate balance between freedom of religion and freedom from discrimination would be better dealt with in comprehensive national anti-discrimination legislation.

The Australian Government today released the [Ruddock Religious Freedom Review](#) and its response, where it indicated it had accepted 15 recommendations directly, and referred five to the Australia Law Reform Commission (ALRC) for further consideration.

Among the recommendations referred to the ALRC are questions regarding the right for private religious schools to discriminate against school children and teachers.

“A Religious Discrimination Act presents opportunities to consolidate and perhaps strengthen the protections against discrimination and vilification on the basis of religion at the federal level,” said Law Council of Australia President, Morry Bailes.

“The current protections for religious freedom in Australia at the federal level are fragmented and inconsistent. The United Nations Human Rights Committee has noted concerns regarding the ‘lack of direct protection against discrimination on the basis of religion at the federal level’.

“However, what is needed is a mechanism to protect our human rights in accordance with international human rights principles and a mechanism that appropriately balances competing rights such as freedom of religion and freedom from discrimination.

“This can be best achieved via a National Human Rights Act, or alternatively, consolidated federal anti-discrimination legislation.

“While the right to freedom of religious belief is absolute, the manifestation of religion should not be protected at the expense of other rights and freedoms,” Mr Bailes said.

Mr Bailes said the Law Council was extremely concerned that the question of whether LGBTI+ students could be discriminated against has been referred for further review.

“Children should not be discriminated against, period,” Mr Bailes said.

“Having a cloud of uncertainty over the heads of LGBTI+ children while the ALRC conducts its investigation has the potential to further traumatise or stigmatise them. It is certainly not in the best interests of the child, which should always be the primary consideration.

“Questions around the employment of teachers are more complex and are more appropriate to be reviewed by the ALRC, but any discrimination against children cannot be countenanced.”

Mr Bailes said the Law Council will need to see the detail before reaching a final position on any draft legislation.

“We strongly urge the Government to not rush the process and undertake further consultation before introducing a bill to Parliament,” Mr Bailes said.

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