

Submission to ALRC re Religious Educational Institutions and Anti-Discrimination Laws: Consultation Paper (2023)

Your terms of reference include

Federal anti-discrimination laws reflect the Government's commitments (as set out above) in a manner that is consistent with the rights and freedoms recognised in the international agreements to which Australia is a party

However, you have not paid sufficient attention to
UN Universal Declaration of Human Rights

Which includes

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or **BELIEF**, and freedom, either alone or in community with others and in public or private, to manifest his religion or **BELIEF** in teaching, practice, worship and observance.

Comment pd edit to highlight **BELIEF**.

ALRC are allowing LGBT and TRANSGENDER to maintain their status of PROTECTED ATTRIBUTES, which action gives these belief systems PRIORITY over other belief systems, when strict compliance with UN Declaration would afford EQUAL IMPORTANCE to each belief system. That is, each belief system may have SOME of the space for some of the time, NOT ALL of the space for all of the time to those attributes that are PROTECTED.

Your terms of reference SHOULD INCLUDE that the proposals are consistent with the Australian Constitution. They would include this by inference, because ALL parliamentary proposals must be consistent with the Australian Constitution.

Australians should have the rights to freedom of belief and peaceful living.

The Australian Constitution confers on Parliament the duty
“...to make laws for the peace, order, and good government of the Commonwealth ...”
(ref S51 – header)

The Australian Constitution requires that
“116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.”

DISCUSSION

S116 requires that laws do not prohibit the free exercise of any religion.

WITHOUT the existing exemption provisions, the DISCRIMINATION laws WOULD prohibit the free exercise of any religion. Therefore, the Constitution REQUIRES that the existing exemptions remain,
OR
The Constitution requires equivalent protections to be put in place elsewhere.

ALSO, removal of discrimination exemptions without equivalent protection elsewhere permits PERSECUTION of religion, and PREVENTS religious people from living in peace.

Where the Parliament grants the status of PROTECTED ATTRIBUTE to LGBT or transgender or the like,
AND

The execution of such protection prohibits “the free exercise of any religion”, then such protected status is unconstitutional.

One way to resolve this discrepancy is to grant the status of PROTECTED ATTRIBUTE to “any religion or belief”. Then, to peacefully resolve conflicts, CONDITIONS will need to be applied to tolerable beliefs:

- That beholder of a belief tolerates that neighbour may have a different belief:
- That beholder tolerates that neighbour may live in peace
- That neighbour tolerates the equivalent towards the beholder

Where a beholder does not offer such tolerance, the Parliament ought apply to the beholder such penalties as it sees fit.

The Government rightly promotes the importance of cultural diversity. ref "Religion, Cultural Diversity and Safeguarding Australia" 2004 sponsored by Dept of Immigration and others. It recognises that culture is imbued with religion; that cultural philosophy and cultural ethics of interaction with community are imbued with religious philosophy.

The Government-supported freedom for nurture, growth, display and sharing of Culture implies freedom for nurture, growth, display and sharing of religion. Because culture is alive only while the relevant religious belief is alive.

Therefore, Government must ensure that freedom of culture and belief are of at least equal importance to other rights.

Thank you for the opportunity to make this submission.