



Australia

Submission to the Australian Law Reform Commission's Consultation Paper on Religious Educational Institutions and Anti-Discrimination Laws

22 February 2023

About the Seventh-day Adventist Church and its Various Ministries

Seventh-day Adventists are a values-based community of believers, representing more than 65,000 adherents in Australia and around 25 million globally, who are committed to making a positive difference in communities in Australia and throughout the world. The Seventh-day Adventist Church operates the largest Protestant education system in the world, with more than 1.9 million students globally, including over 16,000 students in primary and secondary education in Australia.

Adventist Education has operated in Australia for more than 120 years. Seventh-day Adventist schools continue to maintain and operate an open enrolment policy that accepts students from all walks of life, provided they are willing to respect the tenets, doctrines and principles of our faith. Adventist schools attract students from all faiths and those of no faith at all and, in many cases, provide a safe refuge with strong pastoral care for those who have been bullied, victimised and ostracised in other schools.

In addition to operating a large school system, the church also operates a significant aged care system, humanitarian aid agency (ADRA) as well as Avondale University, Sanitarium Health Food Company, Sydney Adventist Hospital and a range of other entities.

We respect the rights of people to believe and act according to their conscience while being constructive citizens. The advocacy for Freedom of Religion, Belief and Conscience is central to the Seventh-day Adventist world view and is based on our fundamental beliefs. Seventh-day Adventists believe in advocating for the freedom of religion of people of all faiths and those of none. These values are based on the biblical principles espoused in the gospel message. The whole concept of the gospel message is based on the principles of free will and freedom of choice. Jesus has died for all human beings, but will

not force anyone to accept His offer of the free gift of salvation. In this spirit of the gospel message, we do not wish to compel or force any person to act or believe in a certain way, however, in return, we request that we as believers have the freedom to live out our faith as individuals and the freedom to be able to provide services and ministries to people who are attracted to our biblical beliefs, tenets, teachings and doctrines.

Values based on Christian scripture define our norms. Jesus embodied these values perfectly in His life on earth and set an example for each believer to follow. The Bible asserts in Matthew chapter 9 that Jesus focused on the ministry of preaching, teaching and healing, and so as people who desire to follow the Bible, we have established a range of ministries to carry out that mandate, to be about preaching, teaching and healing. We believe these values challenge us to strive to be ethical and responsible citizens and provide a standard to guide decisions and practices in a world changed by modern technology and challenged by ethical dilemmas. Although as individuals and as a community we can and do fall short of this ideal in practice, we accept the challenge of living according to these ideals even when they differ from socially accepted norms and result in marginalisation.

These values and convictions were demonstrated by Seventh-day Adventists in history. They are seen compassionately in the work of the famous Fuzzy Wuzzy Angels of the Owen Stanley Ranges (Kokoda Trail) who risked their lives to save soldiers (and Australia) from further war atrocities. These values were also demonstrated in the life of Desmond Doss, the hero of the acclaimed movie *Hacksaw Ridge*, who, because of conscience and conviction that was out of step with the norms of his time, went beyond the call of duty and risked his life to save people. These values continue to be demonstrated by Adventists, individually and corporately, from both the global north and the global south, in national and international development and relief projects to all people without discrimination on the basis of race, religion, gender or socio-economic status.

We recognise that not all people will choose this value system. Sometimes it can challenge a number of socially accepted norms. However, we also note that as time has passed, a number of practices based on these values have become socially acceptable. The emphasis on proactively adopting a wholistic lifestyle is now well recognised. This lifestyle includes dedicating regular time for personal and corporate spirituality, the freedom of forgiveness, drug-free living, a healthy diet, the dignity of work, regular exercise and community service. These practices build resilient people who can remain positive in the face of the complexities and pressures of modern life.

We do not have, or wish to have, the right to force these values on other people. Choice and conscience are part of our values. However, we do expect the right to model and advocate these values in all aspects of our organisation — churches, schools, colleges, hospitals, aged care and charities — as we work together for a harmonious, tolerant and peace-loving multicultural society in Australia and the world.

Related Submissions

The Seventh-day Adventist Church in Australia has partnered with a range of organisations and endorses and supports the following submissions:

Institute for Civil Society, as supported by representatives of a range of organisations including faith-based organisations

Freedom for Faith, as led by representatives of a range of churches including the Seventh-day Adventist Church

The Seventh-day Adventist Church, since its inception in 1863, has been a keen advocate of religious freedom and freedom of speech, freedom of conscience and freedom of association, and was a founding member of the International Religious Liberty Association established in 1893. Furthermore, the Seventh-day Adventist Church has had a long history of advocating not only on behalf of its own members, but for anyone whose ability to exercise these core human rights has been compromised.

Submission

We acknowledge that this consultation paper is being undertaken in response to the Government's commitment to amend Federal discrimination laws as necessary. The consultation paper sets out 4 general propositions and 14 technical proposals for the law reform. These propositions and proposals in essence remove the balancing provisions which presently allow religious institutions to function according to their religious belief. Therefore, the focus of this submission will be on the human rights issues of the propositions, and in particular the relevance of the consultation paper to fulfilment of Australia's international obligations under the treaties.

Proposition A: Discrimination against students on grounds of sexual orientation, gender identity, marital or relationships status, or pregnancy

The implication of this proposition is that Seventh-day Adventist schools and colleges can no longer apply conduct rules relating to student behaviour in the area of sexual activity or gender identity, except for theological colleges training clergy for formal ordination. The teaching of religious doctrines or beliefs on sex or sexual orientation and the corollary conduct rules that apply to them are inextricably linked in such a way that to teach the doctrine without the expectation of the attending behavior is to deny our faith as Seventh-day Adventist. This will prevent our faith community from acting authentically and will be a restriction on the freedom to practise our faith based on the dictates of our conscience.

Although *proposition A* permits educational institutions to teach religious doctrines or beliefs on sex or sexual orientation, it requires that it must be done in a way that accords with the educational institution's duty of care to students. The notion that a Christian educational institution has to be permitted in order to teach its doctrines or belief on sex or sexual orientation is concerning and inconsistent with Australia's obligation under international law. Pursuant to Article 18(4) of the ICCPR, passing on one's religious beliefs to one's children does not require a permit. It is a right which we respectfully ask the ALRC not to diminish but to uphold and protect.

Further, this proposition introduces a new requirement, "a duty of care", for teaching one's belief in an educational setting. It places a unique limitation on the ability of religious schools to freely exercise their religion in the classroom without the fear of infringing on the law by offending students who may have an alternate worldview or lifestyle on sexual matters and sexuality.

Proposition B: Discrimination against staff on grounds of sexual orientation, gender identity, marital or relationships status, or pregnancy

Seventh-day Adventist schools in Australia have long been free to give preference to employing staff who share or who are willing to support the faith and beliefs according to which the school is conducted. Seventh-day Adventist Schools do not seek the right to discriminate on the basis of a protected attribute, but simply to be able to employ staff who share or are willing to uphold the religious beliefs of the school.

Proposition B will greatly restrict this freedom by requiring Seventh-day Adventist schools to employ teachers who may not share or support the religious beliefs of the institution, and whose employment

can only be terminated where they “actively undermine” the religious ethos of the school. Additionally, we are deeply concerned by this proposition, because it infers that religious schools and colleges can no longer apply conduct or speech rules to their staff in the areas of sexual activity or gender identity, except for theological colleges training clergy for formal ordination.

The ALRC consultation paper observes correctly in paragraph 55 that the proposed reform has “the potential to interfere with institutional autonomy connected to the right of individuals to manifest religion or belief in community with others, parents’ freedoms in relation to their children’s religious education, and freedoms of expression and association of those connected with religious educational institutions.” It is inevitable that the outcome of introducing such a change will be to interfere with the the religious freedom of stakeholders of religious institutions.

However, the ALRC believes this interference is necessary. The Seventh-day Adventist church do not support the view that interfering to restrict the religious freedom of religious institutions is necessary in the undertaking of this law reform. Article 18(3) of the ICCPR states that “freedom to manifest one’s religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.” However, in this matter, Seventh-day Adventist religious institutions do not present any apparent danger to public safety, order, health, or morals or the fundamental rights and freedom of others. Considering that none of the preceding criteria has been satisfied, the limitations in *proposition B* seems unwarranted and unjustified.

Adventist Schools Australia supports the ALRC’s observation that communal life is always seen in the context of religious communities, as recognized by the UN report:

In his 2013 report on the intersection between religious freedom and gender equality, UN Rapporteur Bielefeldt explained:

“This is not just an external aspect of marginal significance. Religious communities, in particular minority communities, need an appropriate institutional infrastructure, without which their long-term survival options as a community might be in serious peril, a situation which at the same time would amount to a violation of freedom of religion or belief of individual members.”¹

¹ Discussion paper, Appendix, A.11, page 41.

Proposition C: Preferring staff involved in the teaching, observance, or practice of religion on religious grounds

Religious schools and colleges can require staff to share the religious outlook of the body, or preference such staff in appointments, but only where participation in teaching religion is a “genuine requirement” of the position and the differential treatment is “proportionate”. In making these decisions, however, no consideration may be given to staff behaviour, views or identity relating to sexual activity, or orientation, or gender identity.

This proposition appears to be premised on a misunderstanding of the ethos of religious educational institutions. The misunderstanding may stem from the view that, while it is legitimate for Christian schools to require a religious education teacher to be a Christian, there is no reason why the mathematics teacher should be a Christian. This view assumes that mathematics teachers do no more than teach mathematics; but in fact teachers transmit principles, attitudes to life, worldviews and beliefs to students in all kinds of ways outside of the classroom, for example in leading pastoral care groups or extra-curricular activities.

Many Christian schools are faith communities of staff seeking to provide a wholistic witness to students. Teachers in Seventh-day Adventist schools model Christian behaviour and belief. This is a core part of the churches’ educational ministry as taught by Jesus and any limitation on this right will be a severance of our belief from our practise. This severance may be tantamount to a new ideology or a revision of the doctrines of the faith. For this reason, we humbly request that this proposition be removed.

Proposition D: Ongoing requirements on all staff to respect the religious ethos of the educational institution

This proposition suggests that staff at Seventh-day Adventist schools or colleges can be required not to “actively undermine” the ethos of their employer, but no criteria relating to sexual activity or orientation or gender identity can be imposed by the employer on staff. In essence, this strips the employer of the freedom to practise their religion in sexual matters and imposes an alternate set of beliefs on sexual matters on the employer. The logical outcome of implementing such a reform will mean Seventh-day Adventist schools no longer have the necessary powers to make staffing decisions that are necessary to ensure that our schools can in fact be Christian in their culture and practice.

Respecting the religious ethos of a religious educational institution includes modelling the religious lifestyle of the religion. The behaviour of staff influences students and aids in incorporating the tenets of the faith into the worldview of students. As rightly noted by the ALRC, “staff may act as important role models in faith formation.” Considering this, the lifestyle and conduct of staff is consequential irrespective of the space in which they may operate.

Conclusion

In summary, *Propositions A, B, C and D*, will remove the significant protections for religious educational institutions including the rights of parents who make financial sacrifices to educate their children according to their religious worldview. These propositions will unnecessarily restrict the freedom of religion and make it impossible to operate Seventh-day Adventist schools authentically in conformity to our faith. We appeal to the ALRC to protect our freedom of religion.

For further discussion on this submission, please contact:

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