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## Religious Discrimination Bill encroaches too heavily on other human rights

The proposed Religious Discrimination Bill contains a range of new and unorthodox protections that prioritise freedom of religious expression over other well-recognised human rights, says the Law Council of Australia.

The [Law Council's submission on the Bill](#) recognises there are opportunities to consolidate and strengthen federal protections against discrimination on the basis of religion. But it notes under the proposed laws religious expression may, in a range of cases, trump the right not to be discriminated against on the grounds of race, sex, sexual orientation, disability, or age – as well as the right to health care.

“The model proposed in the Religious Discrimination Bill purports to be based upon the approach in other federal anti-discrimination laws,” said Law Council of Australia President Arthur Moses SC.

“But there are some significant and concerning departures from other anti-discrimination laws, such as the *Sex Discrimination Act 1984* (Cth), *Age Discrimination Act 2004* (Cth) and *Disability Discrimination Act 1992* (Cth). Some of these provisions are concerning because, contrary to domestic and international law, they prioritise the protection of freedom of religious expression over other well-established rights.”

The submission identifies a range of concerns held by the Australian legal profession, including:

- Departing from the well-established test of “reasonableness” in indirect discrimination law for resolving tensions between rights in a way that has the least harmful effect in the circumstances.
- Restricting “employer conduct rules” risks affording undue emphasis to the rights of employees to manifest their religion outside the workplace, at the expense of other rights, while giving rise to significant legal complexity and challenges for large employers.
- A dilution of ‘health practitioner conduct rules’ risks increasing barriers to healthcare for people in regional areas or from low socio-economic backgrounds.
- Making lawful a statement of belief that would otherwise be unlawful discrimination.

Mr Moses said key sections of the Bill would benefit from reconsideration.

“Freedom from discrimination on the ground of religion, and the freedom to manifest one’s religion, are important human rights that should be vigorously upheld,” Mr Moses said. “But the same applies to other human rights, such as the right not to be discriminated against on other grounds such as race, sex, sexual orientation, disability, or age.

“This is really a debate about what type of Australia do we want to be. The peaceful and harmonious diversity we have achieved in Australia is the envy of other nations. It should not be tinkered with by knee-jerk reaction legislation that may have unintended consequences. The Bill, if enacted, would create significant new rights at the expense of other rights. “

“It is, plainly, a step too far to allow a dentist to refuse treatment on religious grounds. It is similarly excessive for a religious school to be able to exclude all contractors of contrary religious beliefs. Freedom of expression and religious freedom must accommodate tolerance and broader anti-discrimination principles.”

Mr Moses noted the best way to resolve tensions between rights would be by a legislated Charter of Rights.

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