

14 January 2022

Inquiry into Religious Discrimination Bill 2021

The Law Council of Australia today gave evidence at the Parliamentary Joint Committee on Human Rights' public hearing into the Religious Discrimination Bill 2021 and related bills.

Appearing before the Committee, the Law Council's spokespeople reiterated its support for those parts of the Religious Discrimination Bill which make it unlawful to discriminate against a person on the basis of religious belief or activity in a range of areas of public life.

However, the Law Council remains concerned that Part 2 of the Bill departs from a conventional approach to Australian discrimination law in several important respects and those provisions are not supported.

In particular, Clause 12 makes lawful 'statements of belief' which would otherwise be unlawful, by overriding all federal, state and territory discrimination laws. This privileges manifestation of religious belief over other human rights, including the right to equality and non-discrimination, and is contrary to international human rights law.

The Law Council is concerned that several provisions in Part 2 relating to conduct that is not discrimination are so wide that they undermine the Bill's object of eliminating discrimination against persons on the ground of religious belief or activity in public life. It considers that where exceptions to the Bill's prohibitions exist, these should be justified, proportionate and limited in scope.

The Law Council recommends deleting clause 11, which permits certain state or territory laws to be overridden so that a religious educational body may give preference on the grounds of religion in employment. This provision has been subject to little consultation, undermines the concurrent operation of federal, state and territory laws, and pre-empts the Australian Law Reform Commission's inquiry into such matters.