

THE UNIVERSITY OF



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KINGSFORD  
LEGAL CENTRE

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international instruments protecting rights and freedoms, Australia falls short in the domestic enactment of these protections. Any consideration of rights and freedoms in Australia is complicated by the existing patchwork protection of rights and freedoms through a myriad of federal, state and territory laws, policies and practices, the common law. Further limited without adequate Constitutional protection and domestic enactment of the international obligations Australia has recognised through ratification of international instruments. We note that current constitutional protection of rights and freedoms is limited, and has been narrowly interpreted by the High Court.

KLC supports the enactment of a national Human Rights Act to address the insufficient protection of rights and freedoms at the Commonwealth level. A national Human Rights Act would allow for clear articulation of rights and freedoms, and would better protect these rights and freedoms from being encroached by other Commonwealth legislation. Additionally, we note that there is broad support for a Human Rights Act. The National Human Rights Commission found that the majority of those attending community roundtables favoured a Human Rights Act, and 87% of those who presented submissions to the Committee and expressed a view on the question supported such an Act.

## Freedom of Speech

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The Interim Report identifies section 18C of the

as a law that



Further, many religious organisations, including schools, are in receipt of public funding or performing a service on behalf of government. These services include aged care, education, adoption, employment assistance and child welfare services. Religious organisations in receipt of public funding or performing a service on behalf of government should not be exempt from anti-discrimination laws. Exempting them sends a message that discrimination is acceptable in our community, which goes further to entrenching systemic discrimination against vulnerable groups of people.

Existing exemptions for religious organisations should be removed from anti-discrimination laws as they are an unjustifiable encroachment on the principle of non-discrimination.

As noted in our previous submission, freedom of religion is currently insufficiently protected at the federal level in anti-discrimination law. There is currently no protection against discrimination on the basis of religion, with the exception of employment. Further, racial vilification protections do not extend to situations where a complainant is vilified on the basis of their religion, but this cannot be linked to their race. For example, recognised ethno-religious groups would be protected against vilification under the current racial vilification laws, but complainants not from recognised ethno-religious groups would have difficulty succeeding in a racial vilification complaint.

KLC supports the provisions of the <sup>6</sup> that protect the right of individual employees to organise, and importantly, also to refuse to do so if they choose. In addition, we support the concerns raised by the ILO Committee of Experts, the Australian Council of Trade Unions and the Australian Institute of Employment Rights about limits to protected industrial action, collective bargaining and right of entry for union officials. Specifically, we are concerned about the encroachment on freedom of association by:

provisions that prohibit sympathy strikes and general secondary boycotts (ss 408 411), and remove protections for industrial action in support of multiple business arrangements (s 413(2)) Union

## Burden of Proof

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The reverse burden of proof for adverse actions in section 361 is justifiable because the

things, introduce a unified definition of discrimination that addresses the difficulties in proving direct and indirect discrimination law.

Any further review of anti

mandatory and there is no scope to review those decisions, this encroachment upon procedural fairness creates broad territory for injustice.

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