



DIRECTOR: RABBI DR SHIMON COWEN

ABN 27 232 916 396

88 HOTHAM STREET  
EAST S. KILDA, VIC. 3183  
AUSTRALIA

TEL/FAX: (61-3) 9527 5902

WEB: [www.ijc.com.au](http://www.ijc.com.au)

EMAIL: [director@ijc.com.au](mailto:director@ijc.com.au)

**Submission of the Institute for Judaism and Civilization Inc  
on  
Legislative exemptions that allow faith-based educational institutions to discriminate against  
students, teachers and staff**

One of the most important provisions of the Australian Constitution is set out in section 116, of which the part relevant to this Submission is "The Commonwealth shall not make any law ... prohibiting the free exercise of any religion".

The Sex Discrimination Act as it stands currently enshrines this constitutional principle, when it grants religious schools and bodies the right to discriminate in areas of sexual behaviour as stated in sections 37 and 38.

It is a religious belief of traditional, orthodox Judaism (and I believe also of orthodox Christianity and Islam) that a person may not act upon an impulse to engage in homosexual conduct, nor to attempt to change his or sexual anatomy to resemble that of the opposite sex. This does not mean that one looks without compassion upon individuals who have difficulties with either of these. However, it is our belief that the Creator, who gave us these laws at Mount Sinai, has also provided us with conscience and strength and if need be the counselling assistance to overcome the translation of these desires into practice.

A religious school which teaches these, amongst its other, religious precepts, imparts them to its students in two ways: (1) through instruction in the laws which we have received from our Creator through the religious tradition and (2) through modelling (or at least not contradicting) these laws in the conduct of the school's staff and student body. Children learn not only by instruction, but equally, and possibly even more so, by example. To force a religious school to model to its students behaviours which contradict its teachings is to nullify those teachings. For this reason, it is unacceptable to force an orthodox Jewish (and I imagine an orthodox Christian or Muslim) school to be forced to hire staff who for example model an openly homosexual lifestyle to the student body. Equally, a school should not be forced to hire a teacher with strident personal atheistic views. It does not matter whether the staff in question teaches religious, secular (such as maths) or have an administrative or technical support role. All of these form the environment, and impact the ethos, of the school. Similarly, a religious school must not be forced to accept students who are "transitioning" from one sex to another, since this too models to the student body a behaviour which our Creator and our specific tradition have prohibited.

It should be pointed out that under current Anti-discrimination law, an exception is made for the electoral offices and staffs of politicians. They are permitted to discriminate in employment on grounds of political belief. A Greens politician is not forced to take an office worker who adheres to the One Nation Party and vice versa. Politicians are allowed to discriminate to preserve the homogeneity of ethos in their offices. Yet those who challenge the present law on sexual discrimination, want to remove this right from religious schools, whilst preserving the right to discriminate for themselves in their political offices.

To force a religious school to negate its own educational message through the compelled acceptance of students and staff, whose manifest behaviour negates that message is to violate the Constitution's protection of religious freedom. It is religious persecution. The "free exercise of religion", guaranteed by the Constitution, is utterly violated when the State forces religious schools to model the opposite of their beliefs to their students.

I note that three purportedly Jewish Schools have made submissions calling for the removal of the existing protections for religious schools. One, the King David School, is a "reform", that is to say non-orthodox school. It rejects the authority of the tradition from Sinai with its laws relating to human sexuality. Consequently, it welcomes the removal of religious protections to fulfil the objective of those who want to force orthodox Jews to forgo their beliefs in this area. Another, Bialik College, represented by its headmaster, Mr Jeremy Stowe-Lindner, is a secular Jewish school which similarly rejects the teachings of traditional Judaism in this matter. The third school, Mt Scopus College, states that the school has never had a practical case which involved using the exemptions and does not foresee having to so, and "therefore" requests their removal. His statement is baffling. Other religious schools are concerned with the very problems for which the existing protections of the religious freedom exist, even if it is true that his school has not ever experienced such a problem.

We therefore call for the preservation of the existing protections of religious freedom for religious schools in Australian federal law. The law should not be changed.

Rabbi Dr Shimon Cowen,  
Institute for Judaism and Civilization  
25 November, 2018