

**Submission
No 81**

**ANTI-DISCRIMINATION AMENDMENT (RELIGIOUS FREEDOMS AND
EQUALITY) BILL 2020**

Organisation: Catholic Schools NSW

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Catholic Schools NSW

Submission to the Joint Select Committee on the NSW Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020

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Executive Summary

- In *Dignitatis Humanae*, the Catholic Church affirms that every person has a right to religious freedom, and that this right must be recognised both for individuals and when those individuals act in community, such as a school.
- Religious freedom has a firm foundation in international law. Most prominently, the United Nations affirms this right in the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, and the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*. The rights protected by these international covenants are not written into Australian law.
- This submission is guided by criteria on religious freedom articulated by the Catholic Archdiocese of Sydney. These criteria hold that existing protections for faith-based institutions should remain in place or be strengthened, faith-based schools should be permitted to teach the Catholic faith, and that parents should be given the right to remove children from classes that present religious or moral teachings that conflict with their beliefs.
- Lessons from Canada indicate that a ‘Charter of Rights’ approach is not the best way to protect religious freedom in Australia.
- CSNSW supports the objectives of the *Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020* (the Bill). It is our submission that the following issues need further attention:
 - i. While CSNSW supports the application of section 22M to NSW Catholic schools, other provisions of the Bill should not derogate from the application of 22M. In particular, CSNSW is concerned that the application of section 22N will derogate from the ability of Catholic schools to choose employees on the basis of their support for the tenets of the Catholic faith.
 - ii. For section 22N, CSNSW is concerned that the application of sub-sections (1) and (2) could remove the right of Catholic schools to preference Catholic applicants where a school deems this necessary.
- In summary, CSNSW sees the Bill as a timely initiative to enhance the legal status of religious freedom in NSW, but not as a substitute for existing Statutory and Common Law protections, including the protections provided under the Commonwealth *Fair Work Act 2009* at section 351.

Introduction

CSNSW is the representative voice of Catholic agencies in NSW, inclusive of diocesan Catholic education offices and systemic schools and Catholic independent schools and their owners and operators. The role of CSNSW involves supporting Catholic systems and schools in managing change, educational reform and changes to government education policy and regulation.

Catholic schooling in NSW is comprised of approximately 596 schools, which employ 27,000 staff and enrol 256,000 students across years K-12.

This submission examines whether the objectives of the Bill in fact support religious freedom, and whether the terms of the Bill are appropriate for securing religious freedom. This question is addressed from the perspective of Catholic, faith-based schools.

This submission explores four key issues:

- The legal context, including religious freedom as an established international human right;
- What a religious freedom Bill should address;
- Lessons from Canadian law; and
- The provisions of the Bill itself.

The submission then sets out conclusions and implications for NSW Catholic schools arising from the Bill.

In prosecuting these issues, the submission considers the 2018 Report of the Prime Minister's Expert Panel on Religious Freedom, the 'Religious Freedom Review'.

The Legal Context

The Catholic Perspective

In its 1965 Declaration on Religious Freedom *Dignitatis Humanae*, the Second Vatican Council made explicit the teaching of the Catholic Church on the question of religious freedom.ⁱ The essence of this teaching is as follows:

- This Vatican Council declares that the human person has a right to religious freedom.
- This right of the human person to religious freedom must be recognized in constitutional law and be a recognised civil right.
- The freedom or immunity from coercion in matters religious, which is the endowment of all persons as individuals, is also to be recognized as their right when they act in community. Religious communities are a requirement of the social nature both of man and of religion itself.ⁱⁱ

Religion as an International Human Right

As Canadian religious freedom scholar Janet Buckingham argues, religious freedom has been and continues to be identified as the “first right”; while acknowledging that international law recognises no hierarchy of rights.ⁱⁱⁱ Applying Buckingham’s analysis, religious freedom attracts its first right status from the following historic enactments:

- Commencing with foundational European modern era “enactments”, being the Treaty of Westphalia in 1648 and the English Bill of Rights in 1689.
- Expanding with American constitutional developments including the Virginia Statute of Religious Freedom of 1786 and the 1791 First Amendment to the United States Constitution.
- Culminating after the Second World War with the adoption by the international community of the Charter of the United Nations, which promotes and encourages respect for human rights “and for fundamental freedoms for all without distinction as to race, sex, language or religion”.^{iv}

The 1948 *Universal Declaration of Human Rights* also articulates the right to religious freedom at Article 18:

“Everyone has the right to freedom of thought, conscience and religion; ... either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

As noted by the Bill in section 3, legislators, the Minister, Board President, Tribunal and Courts must have fundamental regard to the following:

- The 1966 *International Covenant on Civil and Political Rights* at Article 18:
 - i. “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and

freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

- ii. “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
 - iii. “Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect safety, order, health, or morals or the fundamental rights and freedoms or others.
 - iv. “The State Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.”
- The 1981 *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* at Article 2:
 - i. “No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or belief.
 - ii. “For the purposes of the present Declaration, the expression “intolerance and discrimination based on religion or belief” means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment or the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.”

And specifically with respect to the education of children at Article 5:

“The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.”

- The 1984 “Syracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights”. The Syracuse Principles assert that limitation clauses that might detract from the realisation of religious freedom (such as Article 18.3 of the International Covenant on Civil and Political Rights) shall be interpreted and applied in favour of the rights holder.

Indeed recommendation 2 of the 2018 Australian Governments “Religious Freedom Review” states that:

“Commonwealth, State and Territory Governments should have regard to the Syracuse Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights when drafting laws that would limit the right to freedom of religion”.^v

Read holistically, international law establishes religious freedom as a foundational human right.

The Case for Legislative Action in New South Wales

Whilst international law recognises religious freedom as a fundamental human right Australia has not adopted the ICCPR into domestic law, despite signing the covenant in 1980. To address this deficiency in Australian law, the recent ‘Religious Freedom Review’ recommended the following:

Recommendation 15

The Commonwealth should amend the Racial Discrimination Act 1975, or enact a Religious Discrimination Act, to render it unlawful to discriminate on the basis of a person’s religious belief or activity, including on the basis that a person does not hold any religious belief. In doing so, consideration should be given to providing for appropriate exceptions and exemptions, including for religious bodies, religious schools and charities.

Recommendation 16

New South Wales and South Australia should amend their anti-discrimination laws to render it unlawful to discriminate on the basis of a person’s religious belief or activity’ including on the basis that a person does not hold any religious belief. In doing so, consideration should be given to providing for the appropriate exceptions and exemptions, including for religious bodies, religious schools and charities.^{vi}

In the context of the Catholic perspective on religious freedom, the foundational principles of international law, and the recommendations of the Commonwealth’s 2018 ‘Religious Freedom Review’, CSNSW has developed the following analysis of the Bill.

What a Religious Freedom Bill Should Address

CSNSW’s assessment of the efficacy of religious freedom legislation is also based on the following principles articulated by the Catholic Archdiocese of Sydney to the Prime Minister’s Expert Panel on Religious Freedom in February 2018:

- Existing protections for faith-based institutions should remain in place or be strengthened so that the faith-based institution can preference for employment those candidates who are committed to the organisation’s ethos.
- Existing protections for faith-based institutions should remain in place or be strengthened so that the faith-based institution can preference for enrolment those candidates who are committed to the organisation’s ethos.
- Sufficient protections should be implemented at a federal and state level to ensure faith-based institutions are permitted to implement policies that are based on a person’s biological sex, rather than self-identified gender.
- Faith-based schools should be permitted to continue to teach tenets of their faith or morals, including those relating to life, marriage, family, gender and sexuality.
- Faith-based schools must not be forced to teach concepts relating to faith or morals, life, marriage, family, gender or sexuality that contradict the tenets of their faith.

- Special Religious Education teachers should not be prevented from presenting a faith-based perspective on issues of faith or morals, life, marriage, gender or sexuality.
- Parents should be given the right to remove their children from classes that present religious or moral teachings that conflict with their beliefs.^{vii}

In the view of CSNSW, these criteria collectively give expression to the ruling of Mason ACJ and Brennan J in the 1983 *Scientology Case* that:

“Freedom of religion, the paradigm freedom of conscience, is of the essence of a free society. The chief function in the law of a definition of religion is to mark out an area within which a person subject to the law is free to believe and act in accordance with his belief without legal restraint”.^{viii}

In the context of this judicial dicta, the Bill must establish religious freedom both with respect to individual rights and associational rights. This duality is identified both in international law and in Church teaching.

The earlier cited *International Covenant on Civil and Political Rights* also asserts at 18.1 that freedom of religion is a right exercisable “either individually or in community and in public ...”. Consistent with this principle the Vatican Council teaches that:

“Provided the just demands of public order are observed, religious communities rightfully claim freedom in order that they may govern themselves according to their own norms ... and promote institutions in which they may join together for the purpose of ordering their own lives in accordance with their religious principles”.^{ix}

Furthermore, in Canada Chief Justice McLachlin in the 2015 *Loyola High School* case explained:

“... the communal character of religion means that protecting religious freedom of individuals requires protecting the religious freedom of religious organisations, including religious educational bodies ... Canadian and international jurisprudence supports this conclusion”.^x

In citing this particular example of Canadian jurisprudence, CSNSW does not however want to be interpreted as supporting ‘Charter of Rights’ based approaches to protecting religious freedom. The paradox of the ‘Charter of Rights’ approach to religious freedom has been well canvassed by Professor Patrick Parkinson in his 2010 *Australian Journal of Human Rights* article ‘Christian Concerns about an Australian Charter of Rights’, which includes of a critique of the Victorian *Charter of Rights and Responsibilities Act 2006*.^{xi}

With respect to the Canadian ‘Charter of Rights and Freedom’ experience, Professor Parkinson cites the observation of leading Canadian scholar Margaret Ogilvie that the “Canadian courts have ‘protected’ religious freedom by the erasure of religion from public institutions, public spaces and public law”.^{xii}

Indeed, the series of Trinity Western University cases in Canada illustrates how the Charter value of equality has been deployed to erase Trinity Western University’s charter right to religious freedom.^{xiii}

Moreover, directly relevant to the analysis of the Bill, clause 22S of this Bill “Qualifying Bodies”, can be identified as a provision to pre-empt a Trinity Western University outcome in NSW.

Lessons from Canada

The association between clause 22S of the Bill and the Canadian Trinity Western University case has been cited above. It will now be elaborated for the purpose of commencing an analysis of the current NSW Bill.

Trinity Western University, an evangelical tertiary institution in British Columbia, has lost two cases it brought protesting the decision of two Canadian Provincial Law Societies to not authorise graduates of their proposed Law School as able to practice in the Provinces. The reason for the denial of accreditation was that Trinity Western University requires students and staff to agree to a Community Covenant Agreement, which undertakes (among other things) that they will not engage while studying or working at Trinity Western University in “sexual intimacy that violates the sacredness of marriage between a man and a women”. The Supreme Court of Canada has now upheld the refusal to accredit the Trinity Western University Law program on the basis that any interference with religious freedom was minor, and that the Societies were entitled to take the view that the Covenant requirement imposed “harm” on LGBTQ law students.^{xiv}

The critical aspect of this decision is that despite the Canadian Charter of Rights and Freedoms “doubly (protecting freedom of religion) under section 2(a) (which) protects ‘freedom of conscience and religion’ as a ‘fundamental freedom’, taken together with section 15(1) which guarantees that every individual is equal before and under the law without discrimination ... based on race, national or ethnic origin, colour, religion (emphasis added), sex, age or mental or physical disability”,^{xv} the Canadian Supreme court has chosen to prioritise the value of equality over the right to religious freedom.^{xvi}

This unsettling Canadian Supreme Court outcome reinforces the warnings of Professor Parkinson that a charter of rights approach is not the best way to protect religious freedom in Australia.^{xvii}

Noting this, there is an increasing sense that Australia, and NSW, is at a crossroads in our approach to religious belief. In this context, the Catholic Archdiocese of Sydney made the following point in February 2018 to the Prime Minister’s Expert Panel on Religious Freedom:

“Do we, as a nation, yield to those forces that would see the freedom of thought, conscience and religion reduced to no more than a freedom to worship as privately as possible, or do we reaffirm the value of the freedom of religion to the individual and the community?”

It is submitted that the latter is the option that will best serve Australia, in its rich diversity of nationalities and beliefs. To this end, it is critical that political leaders reiterate to the Australian people that they take very seriously the right of each Australian to hold religious beliefs and to live their lives in accordance with those beliefs.”^{xviii}

With this understanding, the provisions of the current Bill are now reviewed.

Analysis of the Bill

General Matters

The operation of Catholic schools is one of the key areas where the protection of religious freedom is necessary in order to allow Catholics to live out their faith. The selection of staff and students for faith-based schools, the ability to teach that faith in the classrooms of faith-based schools, as well as the right of parents to withdraw their students from classes in government schools that conflict with their faith or morals, all depend on a recognition of religious freedom at both State and Commonwealth levels.^{xix}

For faith-based organisations, establishing whether conduct is consistent with the doctrines of religious ethos organisations is a critical consideration. On this question, CSNSW supports the view of the NSW Court of Appeal in the Wesley Mission case. In examining the application of s56 of the NSW *Anti-Discrimination Act*, the NSW Court of Appeal considered whether the conduct of the Wesley Mission in declining to consider the application of a homosexual couple to become foster carers was “conduct necessary to avoid injury to the religious susceptibilities of its adherents”. The court determined the relevant test was the doctrines and tenets of the Wesleyan tradition to which Wesley Mission adheres, rather than those of a generic or omnibus “Christianity”. This approach ensures that the adherents of a particular faith, rather than a court or tribunal, determine matters of religious doctrine. CSNSW notes that this approach is adopted by the present Bill in the drafting of sections 22K and 22KA.

Indices of Religious Freedom for Catholic Schools

The Bill will now be assessed against the following five indices of religious freedom in the context of faith-based schooling:

- i. Employment of staff and their professional accreditation
- ii. Managing enrolments
- iii. Maintenance of school policies and ethos
- iv. Ability to teach doctrine
- v. Freedom to withdraw from government sponsored educational programs.^{xx}

CSNSW appreciates and supports the primary objective of the NSW Bill, which is to promote religious freedom as a right of individuals. However, in the following analysis of the Bill, CSNSW also emphasises that religious freedom is an associational right.^{xxi}

With respect to the protection of religious freedom as an associational right in the context of Catholic Schools, CSNSW notes that for the purposes of this Bill Catholic schools will be recognised as “religious ethos organisation(s)”.

In this context, CSNSW strongly supports the application of clause 22M, “Religious ethos organisations taken not to discriminate in certain circumstances”, to NSW Catholic schools.

It is important that other provisions in the Bill do not inappropriately derogate from the application of 22M to the operation of Catholic schools as centres of religious education and faith development.^{xxii}

Set out below are reflections on the need to clarify the interrelationship of clause 22M with those clauses of the Bill which relate to this submission's five indices of religious freedom in the context of Catholic schools.

Employment of Staff

With respect to the employment of persons to staff NSW Catholic schools, CSNSW is concerned with the particular application of two clauses of the Bill:

- Clause 22N "Discrimination against applicants and employees", and
- Clause 22S "Qualifying bodies".

Having reviewed Clause 22N, CSNSW is seriously concerned that an application of sub-clauses (1) and (2) to Catholic schools could remove the right of Catholic schools to preference Catholic applicants where a school sees this as necessary. To address this concern, the Bill needs to be amended to clarify that Clause 22M provisions regulate the interpretation and application of Clause 22N.

That is, in the context of considering the relationship between sections 22M and 22N, it is unclear how the obligations and exemptions in the Bill would operate in practice for NSW Catholic schools as religious ethos organisations.

To further elaborate, under the proposed section 22M, religious ethos organisations are taken not to discriminate if they are operating in a manner consistent with the doctrines, tenets, beliefs, teachings or susceptibilities of their religious beliefs, or seeking to further the interests of their organisation in this manner. This is a well-established principle that also operates in employment law pursuant to section 351(2)(c) of the Commonwealth *Fair Work Act 2009*.

However, it is unclear how the proposed section 22M is intended to operate in conjunction with proposed section 22N. Section 22N provides that it is unlawful for an employer to discriminate against an applicant or employee on the ground of religious beliefs or religious activities. Section 22N ss(9) limits protections for religious ethos organisations only to ss(4) which relate to 'protected activity' (defined as employees' out of work conduct only and not involving direct criticism of, or financial detriment to, an employer) and ss(5) which defines 'financial detriment'. The remainder of s22N would, however, apply to religious ethos organisations, including limitations on the ability to determine who should be offered employment and on what terms (ss1), potential disciplinary action for employees (ss2) or the wearing of religious symbols (ss6).

It is unclear how the remainder of this section would operate in practice for a religious ethos organisation. For example, it appears that a Catholic school employee could engage in behaviour or make statements that are inconsistent with the obligations for employees to support the mission, teachings and ethos of the Catholic Church's work in schools - as set out in staff contracts of employment, policies and guidelines and provisions in industrial instruments covering teachers and support staff - by arguing that these are 'religious beliefs' or 'activities' for the purposes of s22N ss(2).

This may have the effect of rendering such obligations unenforceable by Catholic employers, notwithstanding the protections provided by s22M.

Further, it is unclear if a Catholic school would be in breach of s22N ss(1), by requiring position holders of Principal, leadership and religious education roles to be a practising Catholic, again notwithstanding that such conduct is consistent with protections afforded by s22M ss(2).

In summary, there is an apparent tension in the Bill between the protections afforded to religious ethos organisations pursuant to clause 22M and the obligations that apply to religious ethos organisations pursuant to clause 22N. Any clarity that the Committee can provide in this regard would be appreciated to ensure that such apparent contradictions do not operate to limit Catholic schools' existing ability to ensure that Catholic school staff have a professional duty to support the teachings of the Church, to act as role models to students and to not publicly undermine those teachings.^{xxiii}

Regarding the scope of 22S, "Qualifying bodies", CSNSW strongly supports this provision as ensuring that a situation akin to Trinity Western University will not be permitted to arise in NSW. This CSNSW policy position has also been informed by a recent Victorian case where a medical practitioner has had her professional qualifications revoked after giving a talk to Christian school students on sexuality and gender.^{xxiv}

Managing Enrolments

With respect to the capacity of Catholic schools to preference students of Catholic families CSNSW seeks clarification on the interpretation and application of clause 22V "Education".

CSNSW is concerned that sub-clauses (1) and (2) may restrict the ability of Catholic schools to preference Catholic students when this is deemed appropriate and/or necessary.

To address this concern the Bill needs to be amended to clarify that Clause 22M provisions regulated the interpretation and application of Clause 22V.

Having raised this concern, as a matter of general practice Catholic schools, while prioritising the enrolment of children from Catholic families, do routinely enrol a wide range of non-Catholic students, such that currently approximately 30% of NSW Catholic school enrolments are non-Catholic students.

Maintenance of School Policies and Ethos

CSNSW understands that the scope and application of Clause 22M, taken with its preservation of the application of Section 56 of the *Anti-Discrimination Act* in respect of "Religious Bodies", ensures the ongoing capacity of Catholic schools to manage themselves consistent with Catholic faith principles.

In this context, CSNSW also strongly supports the provisions of Clause 22Z "State laws and Programs" on the understanding that this clause respects the right of Catholic schools to opt out of government programs which are inconsistent with Catholic beliefs, without detriment to any school's legal recognition or public funding.

Ability to Teach Doctrine

CSNSW understands that Clauses 22M and 22Z (as already canvassed above) protect this essential role of Catholic schools. Consequently, CSNSW strongly supports the provisions of Clauses 22M and 22Z in this regard.

Freedom to Withdraw from Government Programs

CSNSW strongly asserts the right of Catholic schools to opt out of programs inconsistent with Catholic teaching. On this basis, CSNSW supports the provisions of Clause 22Z “State Law and Programs”.

Conclusions and Implications

CSNSW is of the view that the Bill, conditional on certain clarifications and amendments as cited above, has the capacity to effectively uphold and protect religious freedom in NSW. In doing so, it will give effect to those international instruments designed to protect and promote religious freedom, as cited in the Bill.

Furthermore, a clarified Bill will both complement and appropriately expand the application of those “Religious Bodies” exemptions as set out in section 56 of the current NSW *Anti-Discrimination Act 1977* and interpreted and applied in 2010 Wesley Mission Case.

Given that the Bill’s primary purpose is to promote religious freedom as an individual’s right, it is the view of CSNSW that the protection of religious freedom as an associational right requires that the provisions of this Bill be read cognately with the existing exemptions and exceptions for religious bodies and “Private Educational Authorities” found in the present Act.

In conclusion, CSNSW regards the provision of the Bill as a timely initiative to clarify and enhance the legal status of religious freedom in NSW, but not as a substitute for existing Statutory and Common Law protections including the protections provided under the Commonwealth *Fair Work Act 2009* at section 351. That is, provided certain questions of application raised in this submission are satisfactorily addressed, the passage of the Bill can advance the cause of religious freedom for all NSW citizens.

Endnotes

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- ⁱ Second Vatican Council. 1965. *Declaration on Religious Freedom: Dignitatis Humane*. http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html
- ⁱⁱ Second Vatican Council. 1965. Sections 2 and 4
- ⁱⁱⁱ Buckingham, J. 2017. Competing Rights under the Canadian Charter: Are Some Issues More Equal than Others? In Iain T. Benson and Barry W. Bussey (eds.). *Religion, Liberty and The Jurisdictional Limits of Law* (pp. 261-286) Toronto, Canada: Lexis Nexis
- ^{iv} Buckingham, J. 2017. pp. 275-277
- ^v Report of the Expert Panel Religious Freedom Review. 2018. Chapter 3 at 1.149. <https://www.ag.gov.au/sites/default/files/2020-03/religious-freedom-review-expert-panel-report-2018.pdf>
- ^{vi} Religious Freedom Review. 2018. p. 95
- ^{vii} Catholic Archdiocese of Sydney. 2018. Submission to the Expert Panel on Religious Freedom <https://www.pmc.gov.au/sites/default/files/religious-freedom-submissions/13291.pdf>
- ^{viii} *Church of the New Faith v Commissioner of Pay – Roll Tax (Victoria)* (1983) 154 CLR 120 (Scientology Case) at 130. See also 135 – 136.
- ^{ix} Second Vatican Council. 1965. section 4
- ^x Bussey, B. 2017. The Charter is not a Blueprint for Moral Conformity. In Iain T. Benson and Barry W. Bussey (eds.). *Religion, Liberty and The Jurisdictional Limits of Law* (pp. 367-414) Toronto, Canada: Lexis Nexis
- ^{xi} Parkinson, P. 2010. Christian Concerns about an Australian Charter of Rights. *Australian Journal of Human Rights*, 15(2), 83-121
- ^{xii} Bussey. 2017. p. 103
- ^{xiii} Bussey. 2017
- ^{xiv} Foster, N. 2018. *Trinity Western University Loses before Supreme Court of Canada*. Law and Religion Australia. <https://lawandreligionaustralia.blog/2018/06/18/trinity-western-university-loses-before-supreme-court-of-canada/>
- ^{xv} Buckingham. 2017. p. 264
- ^{xvi} Buckingham. 2017. pp. 261, 269, 273 – 274
- ^{xvii} Parkinson. 2010
- ^{xviii} Catholic Archdiocese of Sydney. 2018
- ^{xix} Catholic Archdiocese of Sydney. 2018. p. 17
- ^{xx} Catholic Archdiocese of Sydney. 2018. pp. 17-22
- ^{xxi} The importance of associational rights for the realisation of religious freedom are discussed by Peter Lauwers in 'Liberal Pluralism and the Challenge of Religious Diversity', published in Iain T. Benson and Barry W. Bussey (eds.). 2017. *Religion, Liberty and The Jurisdictional Limits of Law*. Toronto, Canada: Lexis Nexis
- ^{xxii} *OV & OW v Members of the Board of the Wesley Mission Council* [2010] NSWCA 155 (6 July 2010)
- ^{xxiii} The Vatican Congregation for Catholic Education has clearly enunciated the religious character of every Catholic school in its 1988 publication 'The Religious Dimension of Education in a Catholic School'. See especially section 104 on the essential importance of school 'climate' with respect to both teachers and students and their commitment to the religious purposes of their school.
- ^{xxiv} Human Rights Law Alliance. 2020. *Australian Cases: Freedom of Thought, Conscience and Religion*