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KIRBY QUESTIONS SCOPE OF NEW
RELIGIOUS RIGHTS – QUESTIONS IMPACT ON
HOMOSEXUAL STUDENTS, TEACHERS AND
STAFF AT PRIVATE & RELIGIOUS SCHOOLS

The Hon. Michael Kirby AC CMG

ADELAIDE

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Former Judge Michael Kirby this morning delivered a keynote address at the “Better Together” conference held at the Conference Centre, Adelaide. The conference brings together community groups addressing issues of Activism, Advocacy and Ageing Well.

In the course of his remarks, Mr Kirby a retired judge of the High Court of Australia, turned his attention to the announcement in the media on Thursday 17 June that a Bill will be introduced into the Federal Parliament with legal provisions to enlarge the legal rights of religious communities and groups having a potential impact on the rights of others. Mr Kirby instanced specifically same sex teachers, staff and students at private religious schools.

In the course of his remarks Michael Kirby said:

“Responding to a news report of 17 June 2021, in *Persecution – International Christian Concern*, Michael Kirby said that it was time for advocates of new protections for “religious freedom” in Australia to “come clean”

about precisely what they were demanding. Laws of their nature are very specific and generalities will not do. What Australians need to know is how the new laws will impact on vulnerable Australians, including those who identify as homosexual (LGBTIQ).

Australians are entitled to know, whether under the guise of protecting “religious freedoms”, different “faith groups” are really advocating that:

- * Children attending faith-based schools who are, or think they may be, gay (LGBTIQ) must identify as such keep it a big secret or consider “conversion therapy”? Some faith bodies have been reported as supporting conversion in the face of virtually unanimous medical opposition;
- * Whether such children must answer questions at school concerning their sexual orientation or gender identity and promise sincerely to avoid all emotional and physical contact or expressions of their feelings?;
- * Whether such children will be liable to be expelled from faith-based schools if they are open about their sexual orientation or feelings?;
- * Whether teachers or other personnel in faith-based schools will provide well-informed pastoral care and support for students who identify as LGBTIQ?;

- * Whether applicants for employment as teachers or other staff in faith-based schools, including even gardeners and support staff, will be obliged to answer questions concerning their sexual orientation or gender identity before or after their appointment?;
- * Whether such teachers or applicants for other employment positions in taxpayer-funded schools would be subject to dismissal if their sexual orientation or gender identity becomes known to the school?;
- * Whether teachers and staff who marry a same-sex person will be liable to be dismissed if this becomes known, punishing them for whom they love?
- * Whether faith-based schools will, or will not, provide up to date scientific information on the origins and features of sexual orientation and gender identity, including the scientific knowledge about sexual variation? Or whether they will only be taught in terms of “binary” divisions between male and female human beings, allegedly on a Biblical basis?

“There has been a lot of skirting around these issues. Yet this is where the tyre hits the road in the new proposed legislation. I support Prime Minister Scott Morrison’s earlier reported statements that no child should be expelled from a faith-based school on the grounds of their sexual orientation; nor made to suffer bullying or inequality on such grounds. Older Australians, and especially those who are gay and who grew up in oppressive days of

bullying and hatred, owe it to young Australians to speak up for them and to insist that there is no turning back the clock to the “bad old days”.

Because much funding for faith-based schools today derives from funds raised from Australian taxpayers of all religious beliefs (and of no religious belief) it is more important than ever to limit the use of public monies to support unscientific and discriminatory practices in schools and other religious institutions or institutions having connections with faith-based organisations.

Universal human rights protect the rights of everyone to hold and practise their religious beliefs and to worship their God in the manner of their choosing. However, especially when it comes to children and other vulnerable people, the law must step in to protect and safeguard them. A universal human right to religious freedom exists but in the context of the rights of others to enjoy other universal rights. Religious liberty is not absolute. As Sir Zelman Cowen, past Governor-General of Australia, once explained: “The right to swing my arm ends when I strike someone else.” Similarly, my right to have and behold religious views is not absolute. When it comes to practising religious beliefs in ways that hurt others, the community, through the law, has the right to step in and offer protection to those others. This is especially so when cruelty and discrimination are upheld by religious doctrines. Particularly so where such doctrines are shown, by increasing evidence, to be unscientific and without empirical foundation.

Should we, for example, allow schools today to teach Australian students that the universe was literally created in six days? Or that black people had their skin colour as a punishment from God? Or that left-handed people evidenced a trait of the Devil? Or that women are not equal to men but subject to obedience to men?

At a time when there are so many important moral questions face humanity, it is discouraging that some leaders of organised religion cannot lift their sights above sex and bedrooms.” Michael Kirby said.