

Protecting religious freedoms is a matter of balance, says head of Turnbull's inquiry

Written by Michelle Grattan, Professorial Fellow, University of Canberra

Former Howard government minister Philip Ruddock, appointed by Malcolm Turnbull on Wednesday to do a “stocktake” of Australia’s religious freedoms and protections, warns that the issues do not lend themselves to “black-and-white solutions”.

“I want to identify how we protect religious freedom in a way that’s in keeping with our broader commitment to human rights,” Ruddock says.

When he headed a parliamentary committee on human rights scrutiny he became familiar with the concept of “proportionality” – balancing one right against another, for example the right to privacy against the right to life.

“Proportionality demands an element of compromise,” he says.

Announcing the examination of “religious freedom protection in Australia”, Turnbull said Ruddock would look at “whether Australian law adequately protects the human right to religious freedom”.

Reporting by March 31, Ruddock will be assisted by a panel consisting of the president of the Human Rights Commission, Rosalind Croucher, retired judge Annabelle Bennett, and Jesuit priest Frank Brennan.

The inquiry is driven by the desire of Turnbull and some of his colleagues, including influential cabinet conservative Peter Dutton, not to let the argument about religious freedom interfere with the speedy passage of the same-sex marriage legislation, which is to be passed before Christmas.

Turnbull said the impending marriage legislation “has seen a variety of proposals for legislative reform to protect freedom of religion”, many of them going “beyond the immediate issue of marriage”.

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"Any reforms to protect religious freedoms at large should be undertaken carefully," Turnbull said. "There is a high risk of unintended consequences when parliament attempts to legislate protections for basic rights and freedoms, such as freedom of religion.

"The government is particularly concerned to prevent uncertainties caused by generally worded bill-of-rights-style declarations.

"This will be a timely expert stocktake to inform consideration of any necessary legislative reforms."

There has been concern in some sections of the government that going too far on religious protections could, for instance, lead to claims to a right to practice parts of sharia law.

There are no terms of reference for the Ruddock inquiry although the statement clearly flags that it should keep away from advocating anything resembling a bill of rights.

Ruddock is an opponent of a bill of rights, saying he prefers such issues be dealt with by the parliament rather than the judiciary. But Brennan is a well-known exponent of such a bill, writing recently that: "I have become convinced that we need a national Human Rights Act in order to enhance the common good in Australia".

Ruddock brings a strong background of commitment to and familiarity with multiculturalism and ethnic communities to his inquiry. While still in parliament he was appointed in 2015 by then prime minister Tony Abbott to undertake, in conjunction with then parliamentary secretary Concetta Fierravanti-Wells, an inquiry on citizenship.

Most recently Ruddock, who is mayor of Hornsby in Sydney, served as Australia's special envoy on human rights, lobbying internationally for countries to end capital punishment.

He describes himself as a practicing Christian. But he stresses the need to keep in mind the

historical perspective when interpreting scripture.

After his wife heard a sermon on a wife's duties to her husband, drawing on the writings of St Peter, he drew the rector's attention to a later chapter, referring to the duties of a slave to his master, asking whether a later sermon would deal with the revival of slavery.

"Some of these things are reflective of the values of the times", rather than of today's values, Ruddock says.

Treasurer Scott Morrison, who has been at the forefront of the pressure for religious protections, said the Ruddock inquiry would be "a great comfort and great assistance" to Australia's religious and ethnic communities although it "doesn't replace what many of us believe we need to do in the Senate and the House now.

"But you've got to be careful about making changes that obviously you don't have any unintended consequences. I'm for religious freedoms, not for religious extremism."

The Australian Christian Lobby was critical of the announcement. Lyle Shelton tweeted:

Michelle Grattan does not work for, consult, own shares in or receive funding from any company or organisation that would benefit from this article, and has disclosed no relevant affiliations beyond their academic appointment.

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