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Time to get real as parliament is deadlocked on religious freedom

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The national parliament was deadlocked yesterday on the issue of the age — how to protect religious freedom in schools and worship with the need to protect gay children from discrimination.

The dispute here is about religious freedom in Australia — how much it should exist, how much it should be curtailed and how it should be protected in law. The Morrison government and the Shorten Labor Party cannot agree, pointing to a schism likely to run throughout the nation.

The assurances from both sides of politics for more than a year that LGBTIQ rights would be reconciled with religious freedom have failed. This project has collapsed with serious implications. Labor Senate leader Penny Wong admitted defeat yesterday, saying efforts to remove discrimination against LGBTIQ kids “will be delayed until next year.”

Unless a compromise is found this could throw the conflict into the election campaign. Attorney-General Christian Porter said Labor was responsible for the deadlock and that its uncompromising stand would undermine religious freedom “beyond the schoolyard and into churches, synagogues, mosques and temples nationwide”.

Both government and Labor agree on the principle that gay kids must be protected from being discriminated against on sexuality alone — but they cannot agree on how

to reconcile this with the right of religious institutions to teach their doctrine and their ethos.

The conflict means — at close of parliamentary business yesterday — that both religious schools in Australia have their mission at risk and gay schoolkids do not have the protection promised by Scott Morrison during the Wentworth by-election in October.

To understand this point, Labor refuses absolutely the government amendment that it is not unlawful to engage in teaching activity if that activity “(a) is in good faith in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed; and (b) is done by, or with the authority of, an educational institution that is conducted in accordance with those doctrines, tents, beliefs or teachings”.

This is one of the critical points of dispute. The government says this amendment is essential to protect religious education. Labor says it will make discrimination against gays even worse. Liberal senator Amanda Stoker told the Senate this provision was “utterly non-negotiable in a free society” and said it was extraordinary “that a simple amendment stating that it is not unlawful to teach the doctrines of a religion in good faith is so abhorrent to Labor”.

Bill Shorten released a legal opinion yesterday from Mark Gibian SC, from HB Higgins Chambers, saying this government amendment “has the potential to permit discrimination against students in schools, both direct and indirect”. Invoking this legal advice Shorten said: “The government is proposing a mechanism which will lead to greater division in the community and it doesn’t solve anything. It replaces one form of discrimination with another.”

Striking an optimistic note, Shorten said he believed the goals of religious faith and removing gay discrimination were not irreconcilable. But he said: “I don’t think the parliament at this point has been able to come across a mechanism which sufficiently reassures religious schools about how to teach faith and their ability, in fact, to teach faith without actually reintroducing the same discrimination sought to be removed.”

Just reflect on that statement — it is a catch-22 crisis. Is the problem a dispute between lawyers? It is, to an extent. Is the problem a dispute between conflicting secular and religious world views within Western democracy? It is, to a much larger extent.

The Liberal and Labor parties are deeply divided over the pivotal question of religious protection. This conflict, obvious for a long time, is now completely undisguised and sits on the doorstep of the parliament.

Labor's priorities are obvious: while professing concern about religious freedom Shorten says that "discrimination against kids" is the No 1 issue. The entire religious sector in Australia has been put on notice by Labor deputy and education spokeswoman Tanya Plibersek, who attributed the deadlock to "a very nasty campaign being run by the right-wing of the Liberal Party" — a pure denial of the issue.

With the parliament in deadlock it is past time for a dose of realism: the country faces a deep and complex problem.

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