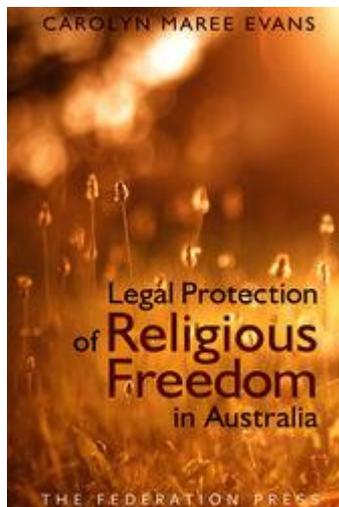


Carolyn Maree Evans, *Legal Protection of Religious Freedom in Australia* (The Federation Press, 2012) ISBN 9781862878136, Paperback.

The function and place of religion in Australia is becoming increasingly contested and controversial. The realities of multi-religious Australian society can be at odds with traditional legal practices and this poses a continuing challenge to Australian law makers. Furthermore, the “tug of war between more secularist and more religious approaches to issues of law and government” (p. 19) has resulted in a series of legal compromises between different political and world views: these compromises are manifested in the patchwork development of legal protection of religious freedom in Australia.

Legal Protection of Religious Freedom in Australia fills a significant gap in the literature by bringing together a vast number of relevant sources and presenting them in a conceptually coherent framework. The book sheds light, not heat, on a number of contemporary intersections between religion and the Australian legal system. It highlights some of the key ways in which freedom of religion or belief is currently protected (or fails to be protected) in Australia and presents some of the major debates around the role of religion in the legal system.



The book is divided into two parts. Chapters 1-4 present “the social, political, international and constitutional contexts surrounding religious freedom” (p.13). Varying definitions of religion in legal jurisdictions are considered, along with their distinctions from concepts such as sincere belief, culture, race and ethnicity. These definitions are pertinent because there are differing protections for the dimensions within each concept. For example, definitions may facilitate or preclude exemptions from laws, and state subsidies of activities. The High Court’s narrow interpretation of s 116 of the *Australian Constitution* – the section that provides some protection for religious freedom and a prohibition against religious establishment – is shown to be in discrepancy with more expansive understandings used in international law and the domestic legal systems of some other countries.

Part two examines specific issues of public controversy or importance associated with religious freedom in Australia. Chapter 5 provides an overview of some of the main approaches the legal system takes when engaging with religious organisations and individuals. These approaches are illustrated with contemporary examples: the wearing of religious clothing, conscientious objection to the provision of abortion, the recognition of religious marriages, and the refusal of medical treatment on religious grounds. Chapter 6 discusses the complex and hotly contested relationship between non-discrimination laws and religious freedom. Chapter 7 examines religious vilification/hate speech laws. A discussion of the well-known *Catch the Fire Ministries Case* is followed by arguments for and against religious vilification laws. The final chapter examines some ways in which the court system can be in tension with the religious freedom of court staff and court users. Material presented demonstrates a growing recognition of the historicity of Christianity in court traditions and practices, and how these practices are shifting so that staff and users may “carry out their roles without inappropriate constraints on their religious freedom and without pressure to adopt religious practices against their will” (p.195). Examples are the taking of oaths/affirmations in a multi-religious society, wearing religious clothing such as face coverings, and the role of religious law in secular courts (such as intra-religious disputes and the use or enforcement of religious law by secular courts). The legal fact that religious courts are already in operation in Australia is also considered in this chapter.

Written in accessible language, the book's user-friendly style includes a compilation of a Table of Cases, a Table of Statutes and an Appendix that presents extracts from selected international instruments on religious freedom.

Legal Protection of Religious Freedom in Australia is a must read for those who desire to engage with religion's role in Australian law and society in an informed way. Professionals who work with religious issues in a legal context will find the clarity and insights offered herein an indispensable resource.

Professor Carolyn Evans is Dean and Harrison Moore Professor of Law at Melbourne Law School, University of Melbourne.

Rachel Gear

is a candidate in the Master of Public and International Law program, Melbourne Law School, University of Melbourne.