

**Submission
No 15**

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

Organisation: Multicultural Communities Council of NSW

Date Received: 13 August 2020



A Submission to:
**JOINT SELECT COMMITTEE ON THE ANTI-DISCRIMINATION AMENDMENT
(RELIGIOUS FREEDOMS AND EQUALITY) BILL 2020**

12 August 2020

The Hon. Gabrielle Upton MP
Committee Chair
E ReligiousFreedomBill@parliament.nsw.gov.au
Parliament House
6 Macquarie Street, Sydney, NSW 2000 AUSTRALIA

Dear Ms Upton,

Re: A Submission from the Multicultural Communities Council of NSW

Thank you for the opportunity to make a brief submission on behalf of the Multicultural Communities Council of NSW (MCC NSW). The legislation is complex as it covers multiple religious, together with moral and ethical, issues. It would take the wisdom of Solomon to adjudicate these cases if they do come up to the Tribunal and the court system.

In particular, we were able to identify 5 scenarios which we are able to comment on after reading through the **Explanatory Note** to the Bill:

[https://www.parliament.nsw.gov.au/bill/files/3736/XN%20Anti-Discrimination%20\(Religious%20Freedom%20and%20Equality\).pdf](https://www.parliament.nsw.gov.au/bill/files/3736/XN%20Anti-Discrimination%20(Religious%20Freedom%20and%20Equality).pdf)

1. Explanatory Note “Overview”

f) to make it unlawful for an employer, qualifying body or educational authority to restrict, limit, prohibit or otherwise prevent people from engaging in a protected activity, or to punish or sanction them for doing so, or for their associates doing so,”

Our response:

- *To protect non-believers this should also include “or for not doing so”. For example, a non-Christian schoolteacher of Science /Maths in a religious run school asked to teach the Bible which he refuses on the grounds that he did not believe in it. Or generally asking a non-believer to teach or be involved in religious teachings or activities (going to a Chapel). In the past, non-religious teachers did not mind going to Church in the capacity of supervising students’ behaviour.*
- *Giving time off during work hours to engage in a religious observance but not giving equal time off to a non-believer to engage in a personal interest or just to mediate is in itself discriminatory.*

2. Outline of provisions. Schedule 1. Proposed section 22N

Our response:

This reference to being unlawful to “restrict, limit prohibit or otherwise prevent” conduct or wearing of symbols, in relation to the religious beliefs during work hours needs to be tempered in that such conduct or wearing should not be condoned if it is insulting to or incites dislike for other religious beliefs or towards non-believers.



In addition, religious belief should not be given precedence over non-religious but otherwise intensely held personal beliefs, particularly where they are of a spiritual nature such as the animistic beliefs of indigenous peoples.

3. Examples of Legislative Coverage: Item 4

“Example: A Satanist requests that a publisher print materials that promote the teachings of Satanism. A Jewish employee of the publisher requests that she not be required to facilitate the order. Having fundamental regard to it would not be necessary or proportionate, for the employer to require her involvement in the order where alternative employees who do not have a genuine religious objection are available to facilitate the order. Similarly, it would not be necessary or proportionate for the employer to require her involvement in the order where alternative publishers are reasonably available to facilitate the order.”

Our response:

This is tantamount to giving a right in what should be classified a purely commercial transaction to censure other material or concepts one party (in this case the publisher or its employee) does not agree with. That party should not be able to pick and choose which bits it works on and which parts it refuses to work on. This sets a dangerous precedent for suppressing freedom of expression.

4. Item 8

“Example 2: A sporting association requires that its employees refrain from making **statements or acting** in a way that it considers is inconsistent with its secular ethos. Applying this policy, the association suspends a competitor on the ground of the religious activity of the competitor.

The sporting association has not imposed a genuine occupational qualification under Section 22U. There is nothing particular about the playing of this sport that requires religious or nonreligious customs, rituals, artistic performances, cultural practices or welfare. Therefore the competitor has grounds for reinstatement to the sporting association.”

Our response:

*If those **statements or acting** amount to vilification or incitement of hatred (such as gays will burn in hell) then there should be no grounds for reinstatement.*

5. Item 9

Example 3: A **take-away food business** is denied access to facilities on a university campus and is denied separate accreditation to provide food because of its requirement that shareholders and directors ascribe to a religious creed. The university is providing a service for the purposes of section 22W. The university has discriminated against the business on the basis of the religious belief and activities of associates of the business.

Our response:

*If that **take-away food business** is itself in breach of the Act (such that the business is discriminating by a requirement that shareholders and directors ascribe to a religious creed) then the University should be able to deny access to the business.*



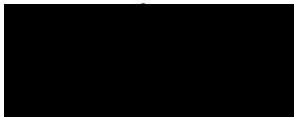
6. A Suggestion: Setting up a Conciliation Panel to resolve religious discrimination disputes before they get to the Tribunal.

We wish to propose the government consider legislation to set up a Conciliation Panel consisting of community members headed by a legal person to help resolve disputes involving religious discrimination. Such Panel would have merits in terms of the following:

1. Religions are general peaceful organisation and would expect disputes to be settled in a peaceful manner.
2. The legislation is complex and going to the Tribunal on an adversarial basis is expensive and time consuming.
3. The Panel is akin a Committee of Peers assisting to resolve the dispute based on dispute resolution principles.
4. Panel members can be religious believers or non-believers.

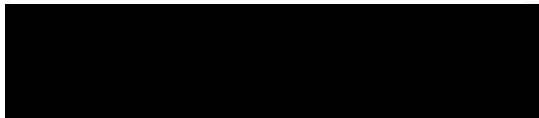
Kind regards

Yours sincerely,



Dr Anthony Pun OAM, Chair MCC NSW

and



Mark Franklin, Hon Adviser, MCC NSW