

**Submission
No 72**

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

Organisation: Catholic Bishops of NSW and AMEC

Date Received: 21 August 2020

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

**SUBMISSION FROM
THE CATHOLIC BISHOPS OF NEW SOUTH WALES AND
THE BISHOPS OF THE AUSTRALASIAN-MIDDLE EAST CHRISTIAN
APOSTOLIC CHURCHES**

21 AUGUST 2020

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Introduction

The Catholic Bishops of New South Wales and the Bishops of the Australasian-Middle East Apostolic Churches welcome the opportunity to provide a submission on the *Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 (Bill)*.

The submission is supported by Archbishop Peter A. Comensoli, chair of the Australian Catholic Bishops Conference's Commission for Life, Family and Public Engagement.

New South Wales has the highest religious affiliation in the country, with 66 per cent of the population professing a faith, and 24.7 per cent of the state identifying as Catholic.

The Catholic Church provides the state's largest non-government grouping of hospitals, aged and community care services. There are close to 600 Catholic schools providing education to more than 320,000 students and employment to thousands of staff. This is in addition to two Catholic universities, 11 Catholic hospitals and more than 60 Catholic nursing homes, all of which are reliant on robust protections for religious freedom in order to operate in accordance with their ethos.

Protection of the right to freedom of thought, conscience and religion and the connected rights of freedom of speech and association are necessary for the flourishing of the human person and, as such, for the promotion of the common good.

Until very recently, the importance of the free exercise of religion to Australia's social fabric has been largely uncontroversial. People of all faiths and none once recognised the contribution of Judeo-Christianity to Australia's laws and customs, and of religious believers to Australian society more generally. Even if not believers themselves, Australians committed to our nation's unwritten virtue of a 'fair go' were content to let people of faith practice their beliefs without interference from state or society. Many who are proudly Australian, or who aspire to be after fleeing persecution, treasure the generous space traditionally allowed in our law and culture for people to believe different things and practice their most deeply held beliefs.

However, there has been a recent shift in the openness of some elements of Australian society to religion and religious believers. For all its talk of tolerance, there are powerful influences in our culture less and less tolerant of religion. There is now a more hard-edged determination to minimise the role of faith in every life and exclude it altogether from the public square.

Recent trends in Australia and overseas point to challenges for people of faith in access to employment, education and professional accreditation, as well as increasing attempts to punish them for expressing a faith-based view. Additionally, religious organisations find themselves at risk regarding their ceremonies and sacred spaces, their employment, enrolment and accommodation policies, the message they preach or curriculum they teach, their charitable status or eligibility for government grants and contracts.

In addition to questions of marriage and family, the recent decriminalisation of abortion coupled with the push to define access to both abortion and euthanasia as 'rights' poses new challenges for

people of faith practising healthcare or running health or aged care facilities as they begin to be forced to perform, refer for or otherwise collaborate in these activities.

If passed, this Bill will implement one of the key recommendations of the Expert Panel on Religious Freedom, which over two years ago, recommended an amendment to anti-discrimination laws in New South Wales be made to render it unlawful to discriminate on the basis of a person's religious belief or activity.

While the protection of religious freedom must ultimately be found not in our laws, but in a society that recognises and values the significant contribution that religious institutions and individuals of faith make to our community, the passage of this Bill with the amendments outlined in this submission will assist in upholding the right of each Australian to hold religious beliefs and to live their lives in accordance with those beliefs.

Religious Freedom

Religious freedom is recognised as a universal human right, encompassing theistic, non-theistic and atheistic beliefs, the freedom to not profess any belief, and the freedom to change those beliefs as a person chooses.¹ It is recognised in international human rights instruments, limited domestic legislation, and church pronouncements.

The protection of religious freedom is interdependent with other fundamental human rights, and upholding religious freedom necessitates respect for, and protection of, those rights. In its report on traditional rights and freedoms, the Australian Law Reform Commission (**ALRC**) noted that religious freedom is linked to the freedom of thought and the freedom of conscience, and that its exercise directly involves the freedom of speech and the freedom of association.² The proper protection of religious freedom thus requires the protection of freedom of thought and conscience, speech and association, for without these, freedom of religion cannot be enjoyed.

Catholic perspective on religious freedom

St John Paul II said that freedom consists not in doing what we like, but in having the right to do what we ought.³ In Catholic understanding, religious freedom does not find its basis in personal autonomy, but rather in personal duty.

The Second Vatican Council taught that human beings, endowed with reason and free will, both enjoy the privilege and bear the obligation of seeking truth, especially religious truth. In order to discharge these responsibilities, the individual person and the communities they form require immunity from external coercion as well as psychological freedom. Providing for religious freedom is part of the government's role to make provision for the common welfare of the people.

The right of religious freedom belongs not only to individuals, but to communities, because it is within religious communities that individuals seek religious truth. For this reason, the Council taught that:

Provided the just demands of public order are observed, religious communities rightfully claim freedom in order that they may govern themselves according to their own norms, honour the Supreme Being in public worship, assist their members in the practice of the religious life, strengthen them by instruction, and promote institutions in which they may join together for the purpose of ordering their own lives in accordance with their religious principles.

It is worth noting that, in congruence with international human rights instruments, the Catholic Church does not claim manifestation of religious belief as an absolute right, but acknowledges that limitations for the just demands of public order are appropriate.

¹ UN Human Rights Committee (HRC), *CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)*, 30 July 1993, CCPR/C/21/Rev.1/Add.4

² Australian Law Reform Commission, *Traditional Rights and Freedoms—Encroachments by Commonwealth Laws*, ALRC Report 129 (2015).

³ John Paul II, Homily for Eucharistic Celebration at Oriole Park at Camden Yards, Baltimore, 8 October 1995. [online] Vatican. Available at https://w2.vatican.va/content/john-paul-ii/en/homilies/1995/documents/hf_jp-ii_hom_19951008_baltimore.html [Accessed 1 Feb. 2018]

Religious freedom in Australia

Australia is party to a number of human rights instruments, but not all of these have been ratified into Australian law. Notably, Australia has not adopted the International Covenant on Civil and Political Rights (ICCPR) into domestic law, despite signing the covenant in 1980.⁴ There are, however, some limited protections for religious freedom under Australian law, but these are not sufficient to comply with Australia's obligations under international law.

The restrictions on laws prohibiting the free exercise of religion found in section 116 of the Constitution apply only to Commonwealth laws, and so leave it open to the states to pass legislation that would restrict the free exercise of religion.⁵

In other items of legislation, protections for religious freedom are often provided by way of exemptions to the prohibitions against discrimination contained within that legislation. These provisions have resulted in religious freedom being framed as a concession to religious institutions and individuals of faith, rather than the protection of a right in and of itself. Laws that positively express a right to religious freedom are preferable because they counter a narrative that would otherwise suggest that religious freedom equates to a form of special treatment.

Common law in Australia provides little protection for freedom of religion.⁶ The limited protection it provides relates to a general common law principle of statutory interpretation that assumes parliament does not intend to interfere with a fundamental human right or freedom unless that intention is clearly manifested by unambiguous language. This is, however, a rebuttable presumption and so does not provide strong protection for religious freedom.⁷

Unlike the majority of states and territories in Australia, anti-discrimination laws in New South Wales do not list 'religious belief or activity' as a protected attribute. The *Anti-Discrimination Act 1977* (NSW) offers protection against discrimination on the basis of race, sex, sexual orientation, gender identity, marital status, disability and age, but not for religious belief or activity.

In its May 2018 report, the Expert Panel on Religious Freedom recommended that this be rectified. Recommendation 16 of the Expert Panel's report provides:

*"New South Wales and South Australia should amend their anti-discrimination laws to render it unlawful to discriminate on the basis of a person's 'religious belief or activity' including on the basis that a person does not hold any religious belief. In doing so, consideration should be given to providing for the appropriate exceptions and exemptions, including for religious bodies, religious schools and charities."*⁸

⁴ Joint Standing Committee on Foreign Affairs, Defence and Trade (2017). *Interim Report: Legal Foundations of Religious Freedom in Australia*. Canberra: Parliament of Australia.

⁵ *Cheedy on behalf of the Yindjibarndi People v State of Western Australia* (2011) 194 FCR 562

⁶ Australian Law Reform Commission, *Traditional Rights and Freedoms—Encroachments by Commonwealth Laws*, ALRC Report 129 (2015).

⁷ Joint Standing Committee on Foreign Affairs, Defence and Trade (2017). *Interim Report: Legal Foundations of Religious Freedom in Australia*. Canberra: Parliament of Australia.

⁸ Expert Panel on Religious Freedom (2018). *Religious Freedom Review*. Available at:

<https://www.ag.gov.au/RightsAndProtections/HumanRights/Documents/religious-freedom-review-expert-panel-report-2018.pdf>

Australian reviews or inquiries

At a national level, there have been six inquiries into or affecting the protection of religious freedom to occur in Australia in the past four years. Since 2015, there has been:

- the Australian Human Rights Commission consultation, *Rights and Responsibilities*, and the roundtable discussions on religious freedom that occurred as a result⁹;
- the Australian Law Reform Commission report, *Traditional Rights and Freedoms*¹⁰;
- the Senate Select Committee on the *Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill*¹¹;
- the Joint Standing Committee on Foreign Affairs, Defence and Trade, *Inquiry into the Status of the Human Right to Freedom of Religion or Belief*¹²;
- the Expert Panel on Religious Freedom, chaired by the Hon. Phillip Ruddock;
- the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the *Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018*;
- the consultation process for the Commonwealth religious discrimination bills;
- the Australian Law Reform Commission inquiry into the removal of religious freedom protections from anti-discrimination laws (yet to commence); and
- the inquiry into the *Anti-Discrimination (Complaint Handling) Amendment Bill 2019* (NSW).

Each of these inquiries attracted hundreds – and, in the case of the Expert Panel review, thousands – of submissions from organisations and individuals concerned about the level of protection for religious freedom in this country, but as yet, no legislative action has been taken in relation to religious freedom in this country.

During an appearance at the National Press Club, Prime Minister Scott Morrison confirmed that the proposed religious discrimination legislation had not been considered in Cabinet for some time¹³, and media reports have gone further to label the planned laws as being unofficially “binned” by the Prime Minister, asserting it won’t be back¹⁴.

People of faith in New South Wales have waited long enough for protection against discrimination. By seeking action from the New South Wales parliament in protecting its citizens from discrimination

⁹ Australian Human Rights Commission, *Rights and Responsibilities*, AHRC Consultation Report (2015).

¹⁰ Australian Law Reform Commission, *Traditional Rights and Freedoms—Encroachments by Commonwealth Laws*, ALRC Report 129 (2015).

¹¹ Parliament of Australia. *Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill – Parliament of Australia*. [online] Available at: https://www.aph.gov.au/select_ssm [Accessed 20 July 2020].

¹² Joint Standing Committee on Foreign Affairs, Defence and Trade (2017). *Interim Report: Legal Foundations of Religious Freedom in Australia*. Canberra: Parliament of Australia.

¹³ Prime Minister of Australia. *Q&A, National Press Club*. 26 May 2020. [online] Available from: <https://www.pm.gov.au/media/qa-national-press-club> [Accessed 20 July 2020].

¹⁴ Campbell, J. *Scott Morrison smart to learn from missteps*. Herald Sun. 29 May 2020. Available from: <https://www.heraldsun.com.au/news/opinion/james-campbell/james-campbell-scott-morrison-smart-to-learn-from-missteps/news-story/6e04866e8efe21b1ab067b92cb545a88> [Accessed 20 July 2020].

on the basis of religious belief or activity, people of faith are not asking for special treatment, but equal treatment.

This Bill is a welcome attempt to address the lack of legislative protections for religious belief or activity within New South Wales.

Contents of the Bill

The remainder of this submission will consider specific provisions of the Bill. Capitalised terms within this submission but not otherwise defined have the meaning given to them in the Bill.

The Bill is a welcome start at addressing the lack of protection against religious discrimination in New South Wales and, if it is submitted, will be strengthened by including the considerations outlined below.

Section 3 – Principles of Act

The specific inclusion of references to the international human rights instruments to which the Minister, Board President, Tribunal and Courts must have fundamental regard is a welcome inclusion in the Bill. *The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights* in particular provide important guiding principles for the interpretation of the limitation provisions in the ICCPR, and will assist in balancing the variety of rights in the *Anti-Discrimination Act 1977* when they inevitably come into conflict.

Section 22K – Definitions

Definition of ‘religious beliefs’

It is appropriate that the protection of religious belief also protects the right of those who choose to not hold any religious belief. This is consistent with international human rights obligations and an important inclusion in this Bill.

Definition of ‘religious ethos organisation’

It is appropriate that in the Bill, a ‘religious ethos organisation’ is not excluded from protections because of its commercial activity because doing so would exclude many religious hospitals, as well as other charitable organisations whose profits from commercial activities (such as second-hand clothing stores) are directed to other not-for-profit, charitable services.

However, the requirement that a religious ethos organisation is “conducted in accordance with the doctrines, tenets, beliefs or tenets of a particular religion” may leave religious bodies susceptible to judicial activism that would seek to limit the freedom of religious organisations.

For example, in the *Christian Youth Camps* decision¹⁵, the Court of Appeal of the Supreme Court of Victoria affirmed a narrow interpretation of the meaning of “a body established for religious purposes that conforms with the doctrines of the religion” made by the Victorian Civil and Administrative Tribunal. Essentially, the Court ruled that beliefs about marriage, sexual relationships or homosexuality were not “fundamental doctrines” of the Christian Brethren religion. The Court of Appeal went further to say that even if these were doctrines of the Christian Brethren religion, it was

¹⁵ *Christian Youth Camps Limited & Ors v Cobaw* [2014] VSCA 75

just a matter of private morality and the denying of retreat accommodation to a group that opposed these beliefs could not be seen as being an action that conformed with that doctrine.

While the drafting of section 22K is an improvement on the Victorian legislation the subject of that decision, it is proposed that it could be further improved and insulated from judicial activism by amending the requirement to define a religious ethos organisation as one that is “conducted in accordance with, or for the furtherance of, the doctrines, tenets, beliefs or teachings of a particular religion,” which would be consistent with section 22M(1)(c) of the Bill.

Section 22KA – Determining when a religious belief is held

The inclusion of a definition of, and test for, what constitutes a genuine religious belief is important because it allows for a broad range of religious beliefs to be protected under the Bill while addressing legitimate concerns that there will be those who will try to use religious belief as a cover for behaviour that should otherwise be prohibited.

Section 22M – Religious ethos organisations taken not to discriminate in certain circumstances

The affirmation in section 22M(1) that conduct by religious organisations that is:

- consistent with the doctrines, tenets, beliefs or teachings of the religion of the organisation;
- is required because of the religious susceptibilities of the adherents of the religion of the organisation; or
- furthers or aids the organisation in acting in accordance with the doctrines, tenets, beliefs or teachings of the organisation,

is important in the recognition of the freedom of religion as a right in and of itself, rather than characterising it as a license to discriminate, as it often appears in other pieces of anti-discrimination legislation.

The allowing of religious ethos organisations to conduct their affairs in accordance with their religious beliefs is not a form of discrimination, but rather the recognition that the right to freedom of religion is, as the United Nations Human Rights Committee has said, “far-reaching and profound” and encompassing a broad range of acts including the freedom to establish seminaries or religious schools, and prepare and distribute religious publications and texts¹⁶.

As federal Attorney-General, Christian Porter has said:

“Where we seek to protect people from being excluded because of their religion, we equally recognise that for religion to exist at all; religious bodies must be able to maintain a chosen level of exclusivity to their premises or composition or services.

¹⁶ UN Human Rights Committee (HRC), CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion), 30 July 1993, CCPR/C/21/Rev.1/Add.4

“For instance a religious school may admit students of many faiths or it may prefer students only of its own faith; but that discretion is not viewed by other faiths as discriminatory because they understand and accept its existential importance to all faiths.”¹⁷

Section 22M is equivalent to existing protections provided to political parties, that allow them to discriminate on the basis of political opinion or activity, an otherwise protected ground in international human rights instruments and domestic anti-discrimination law¹⁸ and is therefore an appropriate inclusion in the Bill.

Section 22N – Discrimination against applicants and employees

The inclusion of protection for religious activity that occurs outside of work hours and is not relevant to the employment of the individual concerned contained in sections 22N(3)-(5) of the Bill is necessary to protect the rights of employees who are at risk of sanction by their employers for undertaking a religious activity – usually in the form of expressing a religious belief on social media – outside of work hours.

The highest profile example of this in recent times has been the Israel Folau matter, but there have also been others that have not received the attention that Folau’s case did.

For example, a support worker given the pseudonym Marcus was fired from his position as a support worker for troubled youth in his community after failing a psychological suitability assessment due to his Christian views on sexuality and gender¹⁹.

It is also appropriate that religious ethos organisations are permitted to require that employees do not publicly contradict the teachings of the relevant religion, as is provided in section 22N(9). It is suggested that section 22N(9) should also carve out the application of subsection (3), such that the beginning of section 22N(9) will read: “Subsections (3), (4) and (5) do not apply to employment by – “.

The right to religious freedom is not only under threat in these and other examples, but also from the chilling, self-censoring effect that the fear of negative action from employers has on believers across the state, many of whom choose not to publicly express a religious belief for fear of losing their job. A strong protection for religious activity outside the workplace contained in anti-discrimination laws is a significant step at redressing this.

Section 22P – Discrimination against contract workers

The specific protection contained for contract workers in the Bill provides much needed protection that is not available under the federal *Fair Work Act 2009* (Cth), which does not provide contractors with protection against discrimination.

¹⁷ Attorney-General. *Address to National Press Club, Canberra*. 20 November 2019. [online] Available from: <https://www.attorneygeneral.gov.au/media/speeches/address-national-press-club-canberra-20-november-2019> [Accessed 20 July 2020].

¹⁸ See, for example, section 27 of the *Equal Opportunity Act 2010* (VIC).

¹⁹ Human Rights Law Alliance. *Australian Cases: Freedom of Thought, Conscience and Religion*. 2 May 2020.

An example of this was seen during the lead-up to the postal survey on marriage, with Canberra-based teenager Madeline fired from her role working with children's parties because she updated her Facebook profile to read: "It's OK to say no." The Fair Work Ombudsman deemed that Madeline's employer did not contravene Commonwealth workplace laws or the relevant industrial instrument because it was not clear whether Madeline was an employee or a contractor, and only employees receive protection under fair work laws. Because the Ombudsman could not definitively determine her employment status, Madeline was left without recourse.

Protection against discrimination in the workplace should not depend on whether a person is classified as a contractor or as an employee, because the right to be protected against discrimination on the basis of religious belief should not be contingent on employment status. This section is an appropriate way to ensure New South Wales is consistent with international human rights obligations.

Section 22S – Qualifying bodies

The protections against discrimination on the basis of religious belief or activity from qualifying bodies is also an important inclusion in this Bill, as both domestic and international experience has demonstrated the risk to professional accreditation that can occur if religious belief is not protected.

In Australia, the Medical Board suspended the registration of Dr Jereth Kok, a general practitioner of 15 years' experience who had never had a clinical complaint made against him, saying that the suspension was in the public interest. The basis for the suspension were some 30 Facebook posts made over the course of approximately ten years, which provided Dr Kok's views on issues such as abortion, gender dysphoria and other contentious matters. Many of Dr Kok's views were based on his Christian faith.

In upholding the suspension, and without providing the detail of any of Dr Kok's Facebook posts, the Victorian Civil and Administrative Tribunal described them as follows:

*"Some of the posts on a simple reading of them, arguably denigrate, demean and slur medical practitioners who provide termination of pregnancies, recognise and treat gender dysphoria (in a manner that is in accordance with accepted medical practice) and recognise that people who identify as transgender are not suffering from a mental health condition. Some of the posts, particularly read in isolation, do appear to endorse or call for violence and/or genocide towards racial and religious groups and endorse calls for capital punishment for members of the profession who provide termination of pregnancy services. Some of the posts do arguably express demeaning views regarding LGBTIQ+ individuals."*²⁰

In relation to the suggestion that Dr Kok endorsed calls for violence and/or genocide towards racial or religious groups, it is difficult to assess these without the posts being made available by the Tribunal. However, it is worth noting that in Victoria, there is a specific piece of legislation that prohibits behaviour that incites or encourages hatred, serious contempt, revulsion or severe ridicule

²⁰ *Kok v Medical Board of Australia (Review and Regulation)* [2020] VCAT 405.

of a person or group of people on the basis of their race or religion²¹ but it was not suggested by the Tribunal that Dr Kok was facing any complaint or prosecution under either of these laws.

Another case involved Dr Patricia Weerakoon, who had her professional qualifications revoked after giving a talk to Christian school students on sexuality and gender. This is despite the accreditation body also finding that Dr Weerakoon had not breached her responsibilities²².

If we look overseas, there is an example of two legal accreditation bodies, equivalent to the Law Society of New South Wales, refusing to grant accreditation to graduates from Trinity Western University, a Christian educational institution. The refusal was based on a code of conduct all students had to abide by during their studies at the university, which required them to live by Christian principles, including reserving sexual intimacy for marriage between a man and a woman. After a lengthy appeals process, the Supreme Court of Canada upheld the right of the accreditation agencies to do so²³.

The trend that emerges from these examples is the punishment of individuals of faith by professional accreditation bodies, even where their religious beliefs are not relevant to, and do not impact upon, their professional practice. It is appropriate that this section seeks to redress this trend.

Section 22V – Education

The protection against discrimination in the area of education is also a welcome inclusion in the Bill. Recently in the United Kingdom, we have seen an example of a student being discriminated against in the provision of education for expressing a religious belief about marriage on social media. Social work student Felix Ngole was expelled from Sheffield University for posting about sin and homosexuality on Facebook. While the full bench of the High Court ultimately ruled that the university must reconsider Ngole’s suspension²⁴, it took four years of legal battles for this to occur. A legislative protection against this type of discrimination would avoid similar cases from happening in New South Wales.

Section 22W – Provision of goods and services

The protection against discrimination in the provision of goods and services is an important inclusion in the Bill. It would be alarming to many that a person in New South Wales would have no recourse under anti-discrimination laws if they were refused service on the basis of their religious belief or activity, and this section appropriately deals with this unequal treatment of people of faith under the law.

Section 22Z – State laws and programs

The protection for religious ethos organisations against being forced to comply with a requirement that is contrary to its doctrines, tenets, beliefs or teachings of a particular religion in order to be able

²¹ *Racial and Religious Tolerance Act 2001* (VIC).

²² Human Rights Law Alliance. *Australian Cases: Freedom of Thought, Conscience and Religion*. 2 May 2020.

²³ *Trinity Western University v. Law Society of Upper Canada*, 2018 SCC 33, [2018] 2 S.C.R. 453

²⁴ *Ngole v Sheffield University* [2019] EWCA Civ 1127.

to tender for any State government contract, receive State government funding or otherwise participate in a State program contained in section 22Z(2) is very important.

One example of an attempt to link a government program to the religious beliefs of the entity providing it can be seen in the federal government-funded National Gender and Emergency Management Guidelines, released in December 2016. These guidelines suggested that outsourcing response and recovery arrangements to third-party faith-based organisations could have consequences for LGBTI persons because of the exemptions provided to faith-based organisations under anti-discrimination law.²⁵ The guidelines offered no evidence of faith-based disaster relief agencies discriminating against anyone in the LGBTI community, but the caution against allowing government funds to flow to faith-based organisations was nevertheless included.

If we look overseas, a recent decision of the High Court of New Zealand ruled that, if the proposed euthanasia and assisted suicide laws are passed in the upcoming referendum, nothing would prevent a government authority from only offering health care funding to those hospices that provided euthanasia and assisted suicide on their premises²⁶. Similarly, the Canadian government implemented (and then withdrew) a requirement that only employers that approved of abortion rights would be eligible to participate in a government-funded summer jobs program.

The use of government funding or the eligibility for state-based programs as a means to coerce religious institutions to act against their beliefs is another potential area of discrimination against people of faith and a limit on the free exercise of religion guaranteed by international human rights instruments. It is appropriate that this section addresses such risks.

Other matters – The protection of religious ethos organisations against discrimination in the provision of services

While anti-discrimination laws are often interpreted to apply to natural persons only, and not to corporations, including incorporated religious institutions, it is submitted that the protections afforded by section 22W should apply to both natural persons and religious ethos institutions, so as to ensure that a religious institution is not denied the provision of goods and services because they are a religious institution. Often, religious institutions seek the supply of goods and services in the name of the religious organisation rather than any of its individual members, and doing so should not deprive such organisations from protection against discrimination on religious grounds.

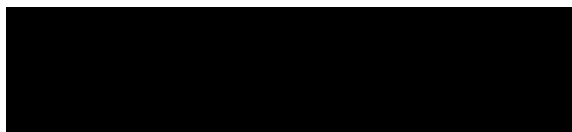
²⁵ Gender & Disaster Pod. The National GEM Guidelines. August 2018. Available at: <http://www.genderanddisaster.com.au/info-hub/national-gem-guidelines/>

²⁶ *Hospice New Zealand v Attorney-General* [2020] NZHC 1356

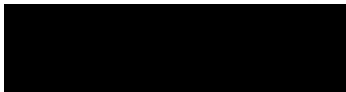
Conclusion

The Catholic Bishops of New South Wales and the Bishops of the Australasian-Middle East Apostolic Churches are grateful to the Joint Select Committee for conducting this inquiry. We recognise that providing adequate protections against religious-based discrimination in New South Wales that are consistent with our international human rights obligations and with the common good of all is a significant undertaking, and we look forward to working with the Committee and all our parliamentarians and others of goodwill in ensuring that people of faith in New South Wales finally receive protections that treat them fairly and equally.

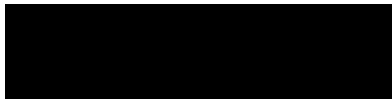
Yours sincerely in Christ,



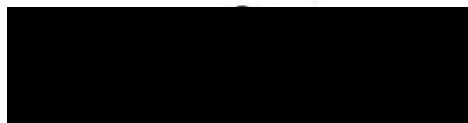
Most Rev. Anthony Fisher OP
Archbishop of Sydney
Metropolitan of the Province



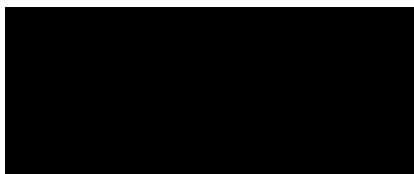
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Auxiliary Bishop of Sydney



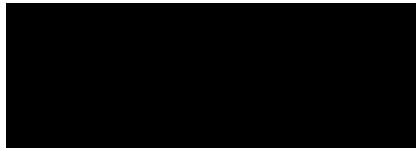
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Auxiliary Bishop of Sydney



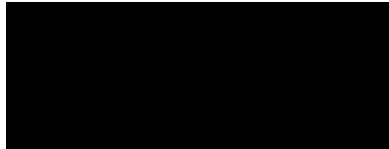
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Archbishop of Canberra and Goulburn



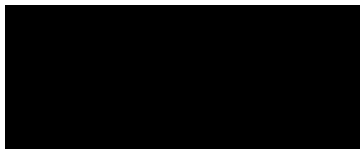
Most Rev. Michael Kennedy
Bishop of Armidale



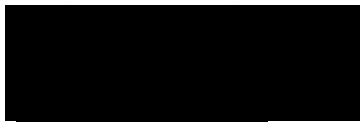
Most Rev. Anthony Randazzo
Bishop of Broken Bay



Most Rev. Gregory Homeming
OCD Bishop of Lismore

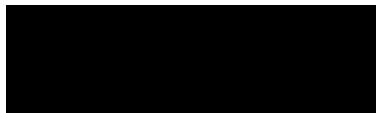


Most Rev. William Wright
Bishop of Maitland-Newcastle

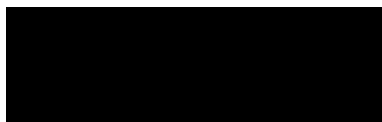


Mos

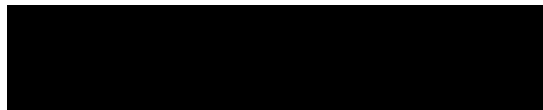
Bishop of Parramatta



Most Rev. Mark Edwards OMI
Bishop of Wagga Wagga



Most Rev. Columba Macbeth-Green OSPPEO
Bishop of Wilcannia-Forbes



Most Rev. Brian Mascord
Bishop of Wollongong



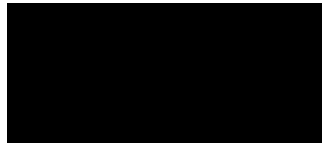
Most Rev. Robert Rabbat
Melkite Eparch of Australia



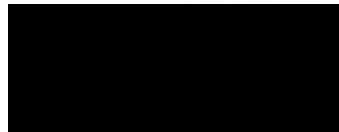
Most Rev. Antoine-Charbel Tarabay LMO
Maronite Bishop of Australia



Most Rev. Amel Nona
Chaldean Eparch of Australia



Most Rev. Max Davis
Military Ordinary of Australia



Very Rev. Monsignor Carl Reid
Ordinary of the Ordinariate of Our Lady of the Southern Cross

His Grace, Bishop Daniel
Bishop of the Coptic Orthodox Church, Diocese of Sydney & its affiliated Regions

His Eminence, Metropolitan Baslios (Kodseie)
Antiochian Orthodox Church of Australia, New Zealand and the Phillipines

His Eminence, Mor Malatius Malki Malki
Metropolitan Archbishop of the Syrian Orthodox Church

His Grace, Mar Yakoob Daniel Bolis
Archbishop of the Ancient Church of the East of Australia & New Zealand

Most Reverend Haigazoun Najarian
Primate of The Armenian Apostolic Church of Australia and New Zealand

Most Reverend Georges Casmoussa
Apostolic Visitor, Syriac Catholic Church

Very Reverend Msgr. Basil Sousanian
Patriarchal Vicar of the Armenian Catholic in Australia

Rev. Fr. Andrawes Faraj
St Mark's Coptic Catholic Church