

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

Organisation: Australian Federation of Islamic Councils

Date Received: 21 August 2020



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The Joint Select Committee on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020

Submissions made by the Australian Federation of Islamic Councils (AFIC)

Parliament House
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21 August 2020

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The Australian Federation of Islamic Councils (AFIC)

The Australian Federation of Islamic Councils (AFIC) is the peak Muslim body in Australia and an umbrella organisation for Muslims across Australia supporting and enlightening not just Muslims but the whole of Australia for over 56 years. Our objective is to establish and sustain a brighter and harmonious Australia. The aim is to help the people stand united despite their differences in race, gender, nationality, and religion. AFIC's membership are from all the ethnicities that make up Australian societies including Anglo Australians. It is this diversity that equips AFIC to be in the forefront of inclusive community organisations not only in Australia but in the world.

AFIC consists of nine (9) state and territory councils that represent over 200 grass-root organisations nationally. AFIC's representatives, staff and volunteers all focus on promoting and maintaining unity, community collaboration and cohesion. AFIC has helped establish and maintain crucial institutions and initiatives that have come to symbolise the Australian Muslim experience. AFIC has built 9 Islamic schools to aid and educate Muslim youth all around Australia. Our mission is to stand with the community and build pathways and opportunities to aid men and women of all ages to flourish.

AFIC was the first Australian organisation to institute the position of "Mufti of Australia" to unite Australian Muslims and endow them with orthodox and peaceful spiritual direction and leadership. As the peak Muslim body in Australia AFIC continues to sponsor and support mosques and Islamic centers all around Australia and subsidizes the salaries of Muslim Imams in many remote and emerging areas throughout Australia.

AFIC has and continues to diligently work to represent the Muslims of Australia and promoted better understanding and relationships between Australians Muslim and the broader Australian society. AFIC follows the teachings of our blessed prophet Muhammad, peace and blessings upon him, in solidifying the fact that all persons are equal, and diversity is to be embraced, protected and enjoyed.

AFIC aims to encourage and foster:

1. A community that is prepared to collaborate and support its constituents.
2. . The concepts of equality and unity in the hearts and minds of all persons of religious and non-religious backgrounds and to put an end to discrimination and segregation
3. Community cohesion and respect for all persons regardless of their religious beliefs and practices.

Our vision is to serve and inspire Australian Muslim and the wider Australian community to build a resilient society that is free of discrimination, racism and extremism. All persons are to be respected and have equal rights to practice their beliefs without fear of discrimination or alienation.

In working towards an Australia that refuses to give in to discrimination and segregation, we help individuals to develop the confidence to come together, communicate and understand each other. Consequently, the Australian community will be enriched.

On behalf of our State & Territory Councils, member organisations and the Muslim community we hereby enclose our submission in response to the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020. We welcome any opportunity to provide oral submissions with respect to any issues arising from our submission or provide any additional information.

In this report, AFIC does not seek to emulate other submissions that we have seen, but rather we will focus on areas that have not been sufficiently explored to date.

Acknowledgement

It is unethical and reprehensible that prior to the introduction of the current Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill, discrimination based on religion alone was not unlawful under federal or NSW anti-discrimination law.

On a separate note, discrimination related to religion, religious conviction, religious belief or religious activity can be unlawful under the laws of the ACT, Northern Territory, Queensland, Tasmania, Victoria and Western Australia. However, to date these laws did not apply to New South Wales.

AFIC acknowledges that this bill seeks to address a deeply embedded unjust disparity and discrepancy between the treatment of individuals belonging to a “race” and those belonging to a “religion”. AFIC lauds the NSW Parliament for initiating the move forward towards a brighter future for all Australians by eliminating discrimination in all its forms. It is evident that tremendous efforts have been made to cover significant grievances in sections 22L and other parts of the proposed bill.

Furthermore, it is imperative to note that laws of this nature will always be a work in progress and will be tested in the courts and that they may need future amendments to ensure that the intended protections are appropriately enforced.

AFIC stresses that this step, whilst praiseworthy, is not enough, these proposed amendments to the ACT and Commonwealth laws still do not adequately address the issue of religious vilification and Muslims continue to be the target of vilification in a variety of forms and from a variety of sectors. When it comes to freedom of speech, there is a case for reviewing the current balance that has led to considerable incitement against and vilification of people of religious faith and non-faith. In those cases, the right to freedom of religion has been deficient. AFIC will be seeking

to address this injustice separately, for the purpose of this submission, AFIC will only focus on the scope of this bill.

The purpose of AFIC's submission

In this submission, AFIC continues to take the role of exemplary corporate citizen and seeks to look out for the interests of Australia as a whole and the interests of Muslim Australians.

AFIC believes that in order for a society to prosper, it must give all its constituents equal opportunities to access government services, education, healthcare and employment. AFIC believes that all Australians must be accorded equal freedoms under law and that we as a nation must create a safe environment that is free of discrimination for all Australians to express themselves and freely explore new literary, economic, scientific and intellectual frontiers. AFIC believes that diversity paves the way for many perspectives and opens countless new possibilities to pioneer and become a more successful and prosperous nation.

AFIC does not seek to obstruct all offensive behaviour

In this report, AFIC does not seek to prevent all potentially offensive expressions in accordance with the freedom of speech policies, principles and regulations.¹ AFIC recognises that some behaviour and/or expression that may be perceived as discrimination can and should be tolerated by all. We recognize that persons of different ages, cultures, sex and learning may offend each other inadvertently and sometimes intentionally during the course of self-expression.

To some, mere expression of disagreement is seen as offensive, at AFIC, we do acknowledge that individuals have a right to wide ideological disagreements, Australians should always have the right to respectfully disagree with any expression, activity or belief. However, we do believe that there must be a ceiling beyond which such behaviour becomes unacceptable and

¹ Article 19 of the International Covenant on Civil and Political Rights (ICCPR) in which Australia is a longstanding party;

s16 of the Human Rights Act 2004 (ACT);

s15 of the Charter of Human Rights and Responsibilities Act 2006 (Vic) Anti-Discrimination Act 1998 (Tas) prohibits both direct¹ and indirect² discrimination on the basis of religious belief or affiliation

WA - EQUAL OPPORTUNITY (LGBTIQ ANTI-DISCRIMINATION) AMENDMENT BILL 2018

Northern Territory - Anti-Discrimination Act 1992, part 1, s3(b) & Part 3, division 1

Queensland - Anti-Discrimination Act 1991

punishable by law. In this regard efforts should be made to stop such behaviour from becoming excessive in the interests of Australian society.

A robust debate should not be viewed as offensive

Different denominations, faith traditions and political ideologies have over time developed frameworks for peaceful debate that have given rise to spiritual and intellectual enrichment. AFIC will welcome such debate and suggest that no lawful topic should be tabooed in genuine rational debate. In similar terms, expressing a lawful belief that is genuinely held by an individual, no matter how profoundly alien to current social “norms”, should not lead to persecution.

We as Australians pay the cost

Discrimination defrauds individuals and institutions. In many cases of fraud, the police investigate and prosecute offenders. However, in cases of discrimination or vilification, it is generally left up to the aggrieved individual to bring a claim against the perpetrator using personal funds to uphold the law.

Consequently, AFIC proposes that once a regulatory body such as The Human Right and Equal Opportunity Commission (HREOC) or the relevant Anti-discrimination body determine that the law has been breached in regard to discrimination against religious freedoms and equality, that they be empowered to recommend that the matter is funded by an appropriate authority. Additionally, costs against aggrieved applicants should be capped at a reasonable sum unless it can be proved that the applicant is malicious or unreasonable.

AFIC is aware of numerous cases where applicants have been ordered to pay costs because of technicalities thus rendering such protections impossible to be effectively invoked. AFIC makes the following recommendations:

AFIC submits to deal with two items with respect to this bill

The first item relates to the definition of “perpetrator”

AFIC believes that the word “perpetrator” as presently defined does not protect members of the same faith against discrimination by a person of their faith who may have deviated into

heretical views whilst professing to be of the same religious conviction. The definition should be broadened to include “someone having a religious conviction, belief, opinion or affiliation.

The second item relates to non-religious entities that choose to adopt a religious practice

In summary we note that the object of the Bill is to extend protections against discrimination to people of religious faith and non-faith. It is undeniable that the most common and prominent form of discrimination is against people of religious faith, in particular, Muslims. No person in Australia should be discriminated against or treated as a second-class citizen due to the innocuous expression of their religious beliefs.

In turn, we respectfully submit the following matters:

1. We have decided to focus on one area that the bill has not covered. This area is specifically relevant to Australian businesses seeking to profit from the growing local and international Halal markets. It is also important to Australian Muslims who wish to purchase products with the confidence that they are halal certified by a reputed certifier. The bill should include in s22K (definitions) non-religious institutions/entities that do not profess any religious belief/ethos but implement in their business practices an element that relates to religious activities.

Example: Company A is a manufacturer producing processed foods. Due to high demand and growth of their business, the company decided to export their products to Muslim Majority countries such as in South East Asia, the Middle East and the UAE. Company A then chooses to apply for halal certification and adopts the process according to the relevant International standards.

For the past few years, there has been some growing concerns pertaining to anti-halal movements in Australia which inter-alia call for recriminations against companies that choose to obtain Halal certification for their products. We believe that this Bill does not provide sufficient protection against discrimination towards Company A and other like businesses which will suffer financial loss and perhaps staff layoffs due to such discrimination. This movement can be seen in various online platforms such as Facebook and online blogs. One of the examples is the Facebook page <https://www.facebook.com/BH.Australia/>. This discrimination is also used as a segue to discriminate against Muslims as it creates negative debate the impact of which is specifically detrimental to Muslims as well as any company that uses Halal certification. In this case, a non-religious business is suffering guilt by associating with an religious act.

As we can see, the online attacks do not merely discriminate against Muslims and criticise Islamic beliefs, they extended their attacks to the non-faith organisations which opt, for commercial reasons, to adopt Halal Certification in their quality management system.

These acts of discrimination result in some companies stopping a service on the grounds of religion. These acts of discrimination, whilst targeted at a non-religious entity, also harm Australian Muslims in obstructing access to the products as they drop their certification. The following scenario illustrates what takes place:

Customer A wants to make sure that a certain product that, used to be, but is no longer certified as Halal. Customer A calls the company and seeks to speak to an officer who can confirm whether the product meets Halal standards. The company is left with two fears: either lose the customer or that the customer might be fishing for information to use against the company. This is a very untenable position for our manufacturing industry that has been created by the anti-Halal movement. Customer A, may also decide to avoid the product because they do not wish to spare the time it takes to investigate with the company.

The same might be argued for a business that might wish to produce chocolate Easter Bunnies to satisfy demand from Christian clients. The reverse might also be the case where a company chooses to stop producing chocolate Easter bunnies because they are no longer commercially viable.

Such discrimination against a non-religious entity also impacts on the Australian economy in relation to lost domestic and export sales. It also feeds rifts in Australian society.

Yours faithfully

Dr. Rateb Jneid
President