

**Submission
No 95**

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

Organisation: The Canberra Declaration

Date Received: 21 August 2020



A response to the

Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020

Submission to the Joint Select Committee

21 August 2020

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21 August 2020

Joint Select Committee

Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020

Parliament of New South Wales

Dear Secretariat and Committee Members,

Enclosed is a copy of our submission in response to the *Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020*. We commend Hon. Mark Latham and the Bill's co-sponsors on their proposal of this crucial amendment. Along with them, we share serious concerns about the trajectory of freedoms in Australia, and in particular, the subordinate position that religious freedom occupies in federal and state NSW legislation as it currently stands.

The Canberra Declaration is a community of people who have a vision for a better Australia where everyone is able to enjoy the prosperity, peace and freedom that comes from the revitalisation of the Judeo-Christian Values that formed the foundation of Australia. Along with our over 86,000 signatories, we at the Canberra Declaration implore you to protect religious freedom in Australia by recommending the passage of this amendment.

In this submission as with all of our advocacy work, we are concerned not just with religious freedom for Australian Christians, but the fundamental freedoms of all Australians—now and in the generations to come. Regardless of what other advocacy groups may claim, the vast majority of Aussie Christians long for the peaceful co-existence of all citizens. Moreover, we believe Christianity has historically provided the moral and philosophical framework to make such coexistence possible. As a result, silencing Christians or limiting the public practice of the Christian faith will prove detrimental to all.

Thank you for taking the time to review our submission. Should the opportunity present itself, we'd be delighted to make a presentation to the Committee as part of this process.

Sincerely,

Kurt Mahlburg and Warwick Marsh

Canberra Declaration

Executive Summary

We welcome the provision of greater protection for Australians of faith in the proposed amendment to the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020.

The need for such protections has never been more urgent. Australia's Constitution affords religious protections to our citizens, as does a raft of international agreements to which Australia is a signee. For all of these reasons, we wish to commend Hon. Mark Latham and his co-sponsors for recognising the need and responding to it.

The protections provided in this Bill are vital because of the growing intolerance of and hostility towards people of faith in Australia. Antisemitism is on the rise, as are other forms of religious discrimination. In particular, we have seen in recent years many efforts to marginalise and punish Christian points of view that have been expressed in public.

It is unthinkable that in 2020, citizens in NSW can be denied service in a shop or be sacked because of their religious beliefs, and have no legal protections against this, and no recourse to seeing such a situation reversed.

NSW is one of the few states or territories in Australia that does not offer strong protections against religious discrimination. Two years ago the Federal Government's Ruddock Religious Freedom Review recommended that "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." It is high time we saw this recommendation implemented. The opportunity to do so is now before the NSW parliament.

In the face of pressure to the contrary, we urge you to consider the vital importance of religious freedom and the role that it plays in a healthy body-politic.

The International Context for the Proposed Legislation

In responding to the proposed bill, we wish to affirm our unqualified support of the international documents that provide context for the draft legislation, and to which Australia are signees.

Article 18 of the *Universal Declaration of Human Rights* states that:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.¹

Article 18 of the *International Covenant on Civil and Political Rights* affirms that:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private to manifest his religion or belief in worship, observance, practice and teaching.

No one shall be subject to coercion, which would impair his freedom to have or to adopt a religion or belief of his choice.

Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.²

The United Nations General Assembly also passed a resolution entitled *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*. Articles 2-4 are especially prescient in the current Australian context:

Article 2

1. No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or belief.

2. For the purposes of the present Declaration, the expression "intolerance and discrimination based on religion or belief" means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

Article 3

Discrimination between human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.

Article 4

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or belief in this matter.³

Religious Protections Afforded in the Australian Constitution

Dr Augusto Zimmermann, Professor of Law at Sheridan College in Perth, Western Australia, makes the case that the Australian Constitution itself affords all Australians religious protections that are under threat by the Bill under discussion:

Among these rights deemed implied in the Constitution is a freedom of communication on political and public matters, which the court has found as a means of invalidating legislation on constitutional grounds. This freedom operates as a restriction on federal and state legislative powers, creating a corresponding immunity from legislative control.

The implied freedom should be considered in light of the Constitution's explicit protection of religious people and organisations against unwanted intrusions of the Commonwealth Government. Indeed, the provision which is found in section 116 of the Constitution is aimed at establishing a substantive limitation on the powers of federal Parliament to legislate with respect to religion. The object of the section is therefore to preserve the free exercise of religion in all its forms and manifestations, be they political or not. Section 116 provides:

The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

In Church of the New Faith v Commissioner of Pay-Roll Tax (Victoria) (1983), Chief Justice Mason and Justice Brennan stated the following about religious freedom:

Freedom of religion, the paradigm freedom of conscience, is of the essence of a free society. The chief function in the law of a definition of religion is to mark out an area within which a person subject to the law is free to believe and to act in accordance with his belief without legal restraint. Such a definition affects the scope and operation of s. 116 of the Constitution and identifies the subject matters which other laws are presumed not to intend to affect. Religion is thus a concept of fundamental importance to the law.

It cannot be overlooked that religion informs the views of many Australians about politics and government. Professor Adrienne Stone of Melbourne Law School explains that religious speech is in its nature quite often intertwined with 'political opinions, perspectives, philosophies and practices'. According to Professor Nicholas Aroney of Queensland University, indeed, 'religion, religious beliefs and religious practices (as well as irreligious beliefs) not infrequently inform, or are tied up with, political perspectives, philosophies and practices'.

If religious and political matters are so often intertwined, then one must conclude that any logical derivation to the limitation imposed on freedom of communication inspired by a religious perspective also amounts to a violation of the broader protection to freedom of

political communication implied in the Australian Constitution. After all, as noted by the Rev Dr Robert Forsyth:

Religion is rarely simply a matter of private and personal issues alone. It involves communities and institutions and thus the need to give shape to the distinctive identity of those communities and institutions.

In other words, since views about religion may so very well influence government policies through Australia's constitutionally-prescribed system of representative and responsible government, section 116's protection of the free exercise of religion should also encompass freely communicating about a religion's perspective of government and/or political matters.⁴

The Contribution of Christianity to Australia's Religious Freedoms

There are groups agitating against protections for religious freedom, many of which seem to have a particular distaste for the Christian faith which has played such a vital role in the shaping of modern Australia. This is not only unwarranted—it is unwise, given the unique role that Christianity has played in affording them and all Australians the freedoms we so enjoy.

This is not to say that Christians or Christian belief is to be privileged in Australian society or law. But it is to acknowledge and honour the indispensable contributions of Christianity such that we shouldn't, as a matter of course, be opposed to it. Indeed, without Judeo-Christian values, it is unlikely they or any of us would place the value on human rights that we do:

Subsequent to white settlement the foundational moral, ethical and cultural influence within Australia has been Christianity. This has resulted in a substantial legacy for our nation in many areas and has shaped the moral and ethical underpinning of our society. Christian beliefs themselves promote tolerance and understanding towards other faiths and views and this has been reflected in the general level of tolerance and acceptance within our society. The great Australian tradition of 'a fair go' itself owes much to our Christian heritage.⁵

Consider the words of Kevin Donnelly, a senior research fellow at the Australian Catholic University, about the significant ways in which Christianity has shaped this nation—and

therefore, why religious faith is worthy of protection to secure a prosperous future for Australia:

While the figure is now about 62 per cent, at Federation about 90 per cent of the Australian population professed the Christian faith. Our parliaments begin with the Lord's Prayer and the Constitution's preamble includes the words "Almighty God".

As shown by the national day of mourning in response to the tragedy involving the shooting down of Malaysia Airlines flight MH17 over Ukraine, with the loss of 28 Australians, it is still customary to turn to religion, especially Christianity, to help deal with loss, grief and pain.

As in Britain, Christian organisations in Australia such as the Salvation Army, the Brotherhood of St Laurence, the St Vincent de Paul Society and Caritas Australia work tirelessly to alleviate poverty and suffering, here and overseas.

Catholic schools enrol 20 per cent of students around Australia, saving taxpayers and governments millions of dollars, and if Christian hospitals and aged-care facilities did not exist, Australia's health and welfare systems would collapse. Democratic concepts associated with the Westminster parliamentary system — such as one person, one vote; separation of powers; governments being formed in the people's house; and free and open elections — evolved across hundreds of years and ensure our freedom and liberty.

Legal concepts such as innocent until proven guilty, the right to a free and timely trial, habeas corpus and the right to be judged by one's peers are also distinctive. Such rights are denied in totalitarian regimes, leading to a situation, as noted by English judge Lord Denning, where "the rulers are not under God and the law. They are a law unto themselves. All law, all courts are simply part of the state machine. The freedom of the individual, as we know it, no longer exists."

The reality is that millions across the world — in Africa, South America, the Middle East, Indochina and the former Soviet Union — are denied rights we take for granted. It is also true that extreme interpretations of Islam are hostile to democratic beliefs and values. As noted by US-based watchdog Freedom House, countries such as Saudi Arabia, Syria and Iran are oppressive regimes in which women, in particular, are denied basic rights.

The barbaric and evil acts committed by Islamic State in the name of religion, such as beheading 21 Christians, also provides a chilling example of what happens when individuals and groups turn their backs on civilised values.

In the same way that 22 Christian leaders are arguing that Judaeo-Christianity is central to British identity, there are Australian religious organisations arguing, in the context of last year's review of the Australian national curriculum, of which I was co-chairman, that religion is central to our way of life.

The Catholic Education Commission of Victoria's submission to the review states that Judaeo-Christian beliefs and values are "the foundations of our liberal democracy". The Anglican Education Commission argues: "Our justice, government, education, health and general welfare systems are all established on the Judaeo-Christian foundation of this civilisation."

Another submission received, with 1647 signatures, states that students in government and non-government schools should learn about Christianity "in a way that is fair and balanced".

Those critical of Judaeo-Christianity often argue that Australia is a secular society as the Constitution states that the commonwealth "shall not make any law for establishing any religion, or for imposing any religious observance". While true, such a statement does not mean that religion should be banished from the public square or ignored by the curriculum.

To attempt to do so not only misinterprets the Constitution, it also weakens and undermines the liberal, democratic institutions and values that ensure Australia, compared with many countries, is such a peaceful, prosperous and just society.⁶

The Pressing Need for Religious Freedom to be Protected in Australia

Australians far and wide acknowledge the pressing need for religious freedom to be protected in Australian law. The Government acknowledged this need in their response to the Religious Freedom Review:

Freedom of religion is not subordinate or secondary to the other rights which it will necessarily be balanced with. Ultimately, in consideration of the best manner in which to frame, balance and protect co-existing rights, the Australian Government considers there is a requirement to ensure some enhanced standing protection for Australians' right to freedom of religion, by giving it more weight in our community than it currently receives.

As the Religious Freedom Review noted, respecting diversity, including with respect to religious belief, is not only fundamental to recognising the inherent dignity of the individual, but also contributes to the democratic life of our community. The Religious Freedom Review further noted that there is no standalone law that gives comprehensive effect throughout Australia to the human right to freedom of religion.⁷

The Government is not alone in this observation. Archbishop Anthony Fisher, the Catholic Archbishop of Sydney, has expressed significant concern at the present state of affairs in Australia:

We cannot take the freedom to hold and practice our beliefs for granted, even here in Australia... Powerful interests now seek to marginalise religious believers and beliefs, especially Christian ones, and exclude them from public life. They would end funding to faith-based schools, hospitals and welfare agencies, strip us of charitable status and protections.⁸

John Steenhof, Managing Director of the Human Rights Law Alliance, joins the chorus of those calling for legislation to protect religious freedom:

The fundamental freedoms of Christians as individuals and as groups to speak, think, exercise conscience and associate in public and private are increasingly under threat as Australian society becomes more fragmented and moves away from its Christian roots, as the volumes of federal and state legislation expand at an exponential rate and as employment contracts morph into manifestos of groupthink.⁹

A document released in conjunction with the Human Rights Law Alliance expressed similar concerns, and provided a list of recent cases in Australia that highlight the pressing need for parliaments to act on religious freedom:¹⁰

In the recent Federal election, ordinary voters spoke and told Scott Morrison that

religious freedom is an important issue. The sacking of Israel Folau for sharing his faith on social media has roused the public, both Christian and non-Christian. Churches need to know that Israel's case is not an isolated incident. Religious freedom is under threat.

Christians throughout Australia are increasingly facing discrimination because of their religious beliefs and being dragged through tribunals and courts, disciplined by governing bodies, investigated by government departments, losing their jobs and being branded as intolerant and bigoted. Examples of cases throughout Australia in which the Human Rights Law Alliance has assisted include the following (no real names used):

Andrew is a Christian student at a large Australian university. Andrew was suspended from university for expressing a Biblical view of sexuality when asked by a classmate. This decision was only reversed through time consuming and stressful legal action.

Jared is a GP. An anonymous complaint was made to the medical board by someone who was not a patient. Jared's crime was that he had posted orthodox Christian beliefs and scientific facts about sexuality and gender issues. Jared is currently fighting an investigation by the medical board and may lose his ability to practise medicine.

Chris and Mary are Christian parents who made an application to foster children between the ages of 0 -5 with a fostering agency. They were rejected as "unsafe" as foster parents because of their orthodox Christian views on sexuality and gender.

Dan is a teacher. Dan posted links to articles about homosexual marriage leading up to the marriage postal vote. Dan was reported to the Department of Education who subjected Dan to a long investigation which was only terminated when he obtained legal help.

Barry is a tertiary lecturer. Barry was disciplined for responding to blasphemy by asking students "Oh, do you know Jesus? Because I do". Barry has been officially warned by his employer not to share his religious beliefs and has been threatened with discipline and termination. He is getting legal assistance to ensure his job is protected.

Clara is a mental health counsellor. She lost her teaching qualification when a progressive political activist reported her Christian views on sexuality and gender that had been shared on social media videos. Despite the fact that Clara has never had a complaint from anyone, she has been stripped of her livelihood.

Senator Concetta Fierravanti-Wells, Federal Senator for New South Wales, has voiced her disquiet about this growing issue, as highlighted by last year's election:

I believe that the recent election has reinforced the need for more immediate legislative action. This is vitally important to not only address our concerns but afford protection against these constant incursions from Labor, the Greens and their acolytes.¹¹

Indeed, so great are her concerns about the state of religious freedom in Australia that Senator Fierravanti-Wells stood before the Federal parliament to call for a petition for a Religious Freedom Act, explaining that:

The Israel Folau matter has hardened my resolve on this issue. Whilst this situation relates to employment issues, the greatest story—with far-reaching ramifications—is about freedom of speech and freedom to express one's beliefs. Indeed, I'm heartened to see the extensive financial support given to Israel Folau. It not only demonstrates the overwhelming support in the community for him but also shows that there are Australians who may not agree with his views but are prepared to support his fundamental right to express those views.

The results of the election had their antecedents in the same-sex marriage debate. During that debate I warned that religious freedom issues needed to be considered before we enacted same-sex marriage. My warning was prescient. Many Australians voted yes on the understanding that religious freedoms would be protected. Today we are seeing the ramifications of not having sorted out these issues at that time.

The Israel Folau issue has heightened already existing concerns about incursions on religious freedom. Ordinary people of faith are now, understandably, asking the question: if I quote the Bible, will it get me into trouble? This is now the discussion at the kitchen table for Australians who hold religious beliefs. We need to make sure that religious persecution of Israel Folau does not happen again.

Although religious freedom is a right enshrined under international law, there has been a continued push—especially by Labor, the Greens, and their acolytes—for laws to take away rights of Australia's faith based communities. I continue to work with religious leaders and

faith based communities and advocate strongly for standalone religious freedom protection legislation.

I believe that the recent election has reinforced not only the need for more immediate legislative action but also the need for a more amplified and comprehensive referral...

A religious discrimination act is not sufficient. It would be defensive in nature and limited to protecting against acts and practices by others which are discriminatory on the grounds of religion. A religious discrimination act would fall well short of the expectations of the 'quiet Australians' who voted for us. We cannot let them down.

I conclude by thanking those many Australians who continue to support my push for a religious freedom act and who are supporting the petition. I quote one who recently wrote to me:

Understanding and tolerance are fostered in an environment where ideas can be shared. As one of the quiet Australians who voted for the Liberal government, this issue is much broader than who will go to hell or not.

This is about the ability for all sectors of the community to think independently; speak and share ideas—popular and unpopular; for the ability to listen to alternate views and be listened to; for an environment where all Australians can think, speak and listen to diverse views.

Does that mean we will always agree? No. But it does mean that we should always be able to have a mature conversation and public debate without silencing or punishing the other side. This, is what we're at risk of losing as a nation. This, is what we need to fight for.

Today it is me as a Christian, tomorrow it could be you or those close to you. And this is why so many Australians are weighing in to support Israel Folau. This is not just about freedom of religion for a select group, but freedom of thought, conscience and belief for all Australians.

In conclusion, I urge you to go forth and ensure we collect as many signatures as possible, to keep the pressure on this Senate and this parliament to take decisive and long-term action to protect religious freedom once and for all.¹²

Though Senator Fierravanti-Wells' proposal for a Religious Freedom Bill is outside the scope of the proposed NSW amendment before us, her concerns provide important context for this issue.

Finally, speaking of the importance of religious freedom, policy analyst Dr. Jennifer Oriel correctly observed that:

Religious freedom is the subject of private conscience and a public good that provides for civil society by limiting state authority over family, friendships and faith. It is essential to liberal democracy and the flourishing of liberty. In the Western context, religious freedom empowers citizens to live according to their innermost beliefs while respecting the basic rules that govern open society. Without it, we would be unfree.¹³

Specific Provisions

We wish to place on record our views on the following specific provisions in the Bill.

We could not support the Bill if the differential treatment of "religious ethos organisations" was removed. It is necessary that religious institutions be allowed to pursue their religious purposes by preferencing those who share the same religion in employment and in certain other contexts, and the proposed section 22M does this very well.

We support the Bill's protection of "private" expressions of religious belief, by prohibiting adverse action on the basis of religious belief expressed outside the workplace / professional / institutional context. This is necessary, subject to limited and clearly defined exceptions, because employers, qualifying bodies and educational institutions are increasingly imposing codes of conduct that improperly restrict private religious activity.

We support the inclusion of a new clause 3, because it will ensure that all rights are treated equally. We do not seek special rights for people of faith, but want religious belief to be treated on par with other "protected attributes".

We support clause 22Z, which prevents the State from discrimination on the basis of religious. The State should be neutral towards religion, and so should not be able to impose conditions in funding contracts that exclude some religious bodies from the receipt of funding, or else force them to act inconsistently with their religious ethos.

Hon. Mark Latham's Second Reading Speech

At the Canberra Declaration, we are humbled that Hon. Mark Latham, who based on previous public statements has no particular vested interests in religion, is willing to support and defend Australians of faith. In conclusion, we wish to highlight those parts of his Second Reading Speech which deserve the special attention of this Committee:

Religious discrimination is an issue no government can ignore. In the past whenever discrimination has emerged in society, governments have legislated to outlaw such practices. This is how Federal and State anti-discrimination Acts emerged and evolved over time to quite rightly protect the rights of the elderly, disabled, carers, women and the transgender and gay communities. All forms of discrimination in society are bad. All forms of discrimination should be outlawed.

Yet now the fastest growing form of discrimination in our society is against people of religious faith, especially Christians. We have all seen the high-profile cases of Israel Folau and Margaret Court, outstanding Australians treated like second-class citizens because they take a literal interpretation of the Bible—the most important, influential and popular book in history; the book that has given civil society much of its moral code, our understanding of right and wrong; the book that stands today as one of the essential pillars of Western civilisation. Those who quote from the Bible should not be hounded from the public square as Folau and Mrs Court have been. All religious faith that respects the sanctity of life and the goodness of the human soul and reaches out to others with the hope of salvation and compassion should be honoured in our society.

This is true of the clear majority of people who practise Christianity, Judaism, Islam, Hinduism, Buddhism and other organised religions and also atheists and agnostics of good secular faith. We are a stronger society and a stronger community for respecting those beliefs and also acknowledging the incredible voluntary contribution of churches and

temples in New South Wales in caring for the poor, the sick, the disabled and the needy over a long period. The origins of the Australian welfare State lie in the mutual help and care by religious associations. Religious rights are not a fringe issue. They are at the heart of our society's origins and values. They are a basic matter of human rights...

When I refer to the rise of religious discrimination, it is not just in the cases of Mrs Court and Israel Folau. I know of Christians working for the New South Wales Government who say they are scared to admit to their Christianity in the workplace, who feel there is an official policy of inclusion for every letter of the alphabet except C and H. Under this Government, selective diversity policies have been introduced in the public service to ensure certain groups are included. Every letter of the alphabet seemingly has a flag, a network, a special ceremony to affirm and celebrate its identity, except the letters C and H: Christians and heterosexuals. It is a perverse policy of so-called inclusion to exclude other groups but this is the new State-sponsored practice in New South Wales. It is a sad, ill-conceived soulmate to other forms of religious discrimination.

We know the case of the wedding magazine run by Christians that was forced to close down because of third party advertising boycotts. We know of the Coopers Brewery boycott, punishing Christians for sponsoring a debate between Federal MPs on same-sex marriage. We know the case of the senior executive at a New South Wales accounting firm who was forced to resign from the board of the Australian Christian Lobby due to activist campaigning. We know of the Christian medical practitioners stripped of their accreditation for failing to surrender to the gender fluidity movement. We know of the academic sacked at Macquarie University because he was a director of the Lachlan Macquarie Institute Limited, a Christian training organisation. We know of university admittance rules that discriminate against people of faith, especially Muslims and Christians, who refuse to accept the new left-wing political meaning of "diversity and inclusion".

We know of the workers fired for standing by their Christian beliefs and refusing to support anything other than traditional male-female marriage. We know of employers trying to control all aspects of their workers' lives, including their religious beliefs away from work. We know of the big corporate sponsors, like Qantas, trying to control sporting codes through the back door and relegate the importance of religious rights. We know of the multinational companies that have refused to allow staff to wear Christian crosses at work as part of their jewellery. And, it must be said, we know of other, longer standing discrimination against other religions, against Jews, against Muslims and against some of the relatively new

religious communities in Australia. Each of them is an example of discrimination that warrants passage of the bill.

I believe Australia to be one of the most tolerant nations on earth. But we are not perfect. In this era of bitterly divided political debate, religion has become a punching bag for some. Religious discrimination is real, it is unacceptable and it needs to be outlawed. At our religious freedom rallies in Fairfield last year, many newly arrived migrants said, "I came to this country to get away from religious persecution. Why has it followed me here to Australia?" That is a very good question. Large parts of the community are sick and tired of attacks on their religion. Like me and others in this place, they resent the way in which activists are trying to undermine Western civilisation by undermining religion, by delegitimising Christianity. Step by step, this campaign is trying to redefine the Bible as hate speech.

Wherever the new round of religious discrimination has come from, it must end. Workers must be able to be hired and promoted without regard to matters of faith. They must be able to freely express their religious views away from the workplace. Professional people should not be forced to abandon their faith, the very basis of their existence, in the conduct of their duties. Religious organisations must be able to publicly hire venues, run events and organise charities, schools and clubs without prejudice. Our society should be free of discrimination against people on the basis of their faith or non-faith. That is the purpose of the bill, to insert a new part 2B into the New South Wales Anti-Discrimination Act.

I think it is a valid question: Why then has the New South Wales Government been so slow to protect people of religious faith from discrimination? When the Act was legislated in 1977 the Wran Government initially proposed religious protections but then dropped them. In 1999 the Carr Government's Law Reform Commission review of the Anti-Discrimination Act recommended for this Parliament to "include religion as a ground of discrimination", but nothing happened. Two years ago the Federal Government's Ruddock Religious Freedom Review recommended:

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.

The bill acts on the Ruddock recommendation. It is hard to know why Liberals in this Parliament have not already implemented the findings of their own elder statesman two years after his report was delivered to a Liberal Prime Minister. The New South Wales Government was willing to rush through a left-wing abortion bill which caused incredible distress among religious communities. It has allowed the persecution of Christians by vexatious complainants to the New South Wales Anti-Discrimination Board...

The Parliament has no reason to delay, no reason not to stand up for religious rights. I can also assure the House that my bill learns from the problems Christian Porter has encountered on the question of freedom of religious speech. I have drafted no such provisions. In 2018 New South Wales passed strong religious vilification laws introducing criminal offences under section 93Z of the Crimes Act. These remain in place. My bill is purely about protection against religious discrimination. It covers all denominations: Christians, Jews, Muslims, Hindus, Buddhists, Sikhs and others, and indeed agnostics and atheists. The bill is about inclusion—real, full-on, genuine, 100 per cent inclusion. Not selective inclusion but, rather, giving all people in New South Wales equal protection at law.

Our State's Anti-Discrimination Act has provisions protecting the rights of the gay community, transgender people, carers, the elderly, disabled, women and on the basis of domestic status. We are a stronger State and a stronger Parliament for saying that discrimination against those groups is not only wrong but also illegal. It is time to do the same for people of religious faith and those of no faith. The time for alibis and excuses has expired...

The principle is clear: Bosses do not own the private lives of staff, their beliefs, faith and religious activities. We are not a feudal society operating with the indentures of serfdom. Workers must be free to live a life separate to their obligations in the workplace. In an era of corporate political activism, this has become a fundamental requirement of the rights of labour...

The bill brings New South Wales into line not just with most other Australian States, but also with international best practice. Until now, religious rights in our State have been treated as a low-order priority. But as the Ruddock review recognised, this does not reflect the requirements of international law, which gives religious freedom equal standing with other human rights and which also states that specific criteria must be satisfied before a limitation can be imposed upon religious rights...

The international human rights law is clear. Religious freedom cannot be extinguished merely because of a clash with another set of rights. Where there is conflict the bill requires, "the minister, boards, presidents, tribunals and courts" to limit any incursion upon religious freedom to that which is necessary and proportionate—that is, the minimum degree of interference that might balance the conflicting objectives...

I say the member for Bankstown is right. It is a lot easier to dress up for ethnic communities than it is to do the detailed policy work needed to protect their rights. For both Labor and the Coalition in this place religious freedom has become the issue that dare not speak its name. This bill changes that. The bill says unashamedly: This is what a multi-faith society looks like; this is what the best of multiculturalism looks like; this is what modern labour laws look like; this is what freedom and equality look like.

References

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- ¹¹ <https://www.smh.com.au/politics/federal/foiau-s-law-coalition-mps-push-for-bolder-action-in-a-new-dawn-for-religious-freedom-20190529-p51s9m.html>
- ¹² https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansards/a202374b-d880-4e8a-8342-9c78f73c4014/&sid=0101
- ¹³ <https://billmuehlenberg.com/2018/12/17/the-battle-for-religious-freedom-in-australia/>