

**Submission
No 106**

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

Organisation: St John's Anglican Cathedral, Parramatta

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Joint Select Committee on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020
Parliament of New South Wales
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Sydney NSW 2000

By email to ReligiousFreedomsBill@parliament.nsw.gov.au

21 August 2020

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

I write in broad support of the proposed amendments being considered by the Committee.

I have the privilege of serving as Senior Associate Minister at St John's Anglican Cathedral, Parramatta. Prior to my current role I have served in parishes across the breadth of Sydney's diverse population, as curate in Neutral Bay and Rector in Macquarie Fields. In that last role I also chaired a charity, Break the Cycle Glenquarie, which sought to empower sustainable lifechoices of more than 200 clients a week from one of NSW's most disadvantaged areas.

I have contributed to a number of national media discussions on religious freedom and related matters, most notably around the recent Commonwealth Marriage Act Postal Survey.

In my submission I will argue along two clear lines.

- There is a need for specific protections against religious discrimination.
- The need for these protections is grounded in a more general right to religious freedom which those protections support and enhance.

The Place of Religion in NSW – The Champions of Diversity and Difference

St John's Cathedral was established as a parish in the very early days of the Colony in 1802, building upon a ministry that began in Parramatta under the First Fleet's Chaplain Richard Johnson in October 1788. According to the NSW State Heritage Register, St John's is 'the oldest church site and continuous place of Christian worship in Australia'.¹

From its very first years St John's expressed the essence of the seeming contradiction that lies before the Committee. As Christians we were a key supporter of diversity in our State's common life while, from time to time, also having to take positions that stood in contrast to the more general expectations of both the governing authorities and the wider society. We

¹ <https://www.heritage.nsw.gov.au/> Database number 5060990



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have championed harmony wherever possible while, when conscience required it, making the decision to stand alone. Or, as Jesus would have put it, we give to Caesar wherever possible but recognise that some things must be given to God.

Prior to the current COVID-related restrictions St John's saw well over 700 people gather every Sunday across 13 different congregational groupings. While we have meetings in 4 different languages our members come from over 100 different cultural backgrounds representing the most diverse regular gathering of people in the Parramatta local government area.

This commitment to diversity, a natural outworking of our convictions about the good news of Jesus, is not a new thing. In 1824 St John's was the site of the very first marriage between an aboriginal woman Maria of the Dharug people and a settler, the convict Robert Lock. This stand was not universally popular, but the explicit endorsement of the Governor contributed to settling the matter and the church's position prevailed with their freedom to act according to their religious conviction being protected by the Government.

Early Indigenous justice leaders from William Cooper through William Ferguson to Pastor Doug Nicholls all came from Christian missionary communities.

In 1838 it was the campaigning voice of the churches, both Protestant and Roman Catholic, that demanded the re-trial of the white murderers at Myall Creek when the Sydney Morning Herald was arguing in its editorial that,

...the whole gang of black animals are not worth the money the colonists will have to pay for printing the silly documents on which we have already wasted too much time.²

We can sadly observe that it took society as a whole much, much longer to come to the same position Christians had always held; that we are all of one blood. NSW has been at it's very best when it listened to its religious voices, even though at the time it may not have recognised the benefit they provided.

Today St John's Cathedral seeks to continue this legacy of speaking into public debate, having hosted a number of "Cathedral Conversations" covering such hotly-contested issues as Abortion and even Religious Freedom itself.³ The views of religious people expressed in their behaviour and actions may not always be immediately popular, but history shows them to have often been of great profit for all, particularly the most vulnerable amongst us.

Religious Freedom - The Increasing Need for Specific Enunciated Rights

While there has always been a necessary (and even sometimes beneficial) difference between the religious and society in general, the past decade has seen a great increase in pressure and even discrimination against religious people. Others will have documented examples in detail to the Joint Committee and I will not tread heavily over already well-travelled ground. It is,

² The Myall Creek Massacre, LaTrobe University Podcasts, <https://www.latrobe.edu.au/news/articles/2012/podcasts-old/the-myall-creek-massacre/transcript>

³ e.g. <https://stjohnscathedral.org.au/cathedral-conversations-choices-abortion-debate-nsw/>

however, helpful to give a number of examples to demonstrate a real need for a specific legislated protection.⁴

- A successful women's rehab centre that was sued for refusing a place on a female-only program to a biological male.
- Israel Folau's sacking for expressing a religious opinion that had no relevance to his employment.
- An internationally-awarded wedding photographer who was taken to the West Australian Equal Opportunity Commission for acknowledging his conscientious objection to same-sex marriage so that same-sex clients could choose whether to engage his services or not. Critically, he did not refuse to offer service but simply was open about the conflict which the client may perceive.
- A university student who was reported for misconduct, suspended and threatened with expulsion (with the resulting dire consequences for any future professional career) for offering to pray for a friend and for answering his peers' questions about his religious faith and his views on human sexuality.
- A senior executive of PriceWaterhouseCoopers (PWC) who was attacked by LGBT+ activists demanding his resignation from the board of the Australian Christian Lobby. Under the intense pressure PWC did not support him making his position at the company untenable.
- A well-respected and much-published rabbi who was removed as Senior Honorary Associate at Monash University. The academic, known for being an expert on matters of ethics and sexuality, was punished for using university email to notify municipal councillors of a booklet he had written defending the traditional view of marriage.

Not every such action was successful, but all involved high levels of stress and anxiety for those involved. Often the possible or actual outcome would be loss of employment and status. Various disciplinary and legal processes required expensive costs to prepare defences. It is widely recognised that the complaints process itself can be highly punitive, even if complaints are eventually withdrawn.

Protection *from* the Religious?

Critics of the Bill will argue that providing protection for religious belief is actually a license to discriminate. One example will suffice. Greens MP Jenny Leong, a member of the Joint Committee, has claimed that providing these basic rights will be the equivalent of⁵

Broadening the ability of these organisations to discriminate against people they don't feel share their beliefs

She describes such a move as "disastrous".

⁴ List compiled from cases catalogued at Australia Watch <https://australiawatch.com.au/>

⁵ https://www.jennyleong.org/so-called_religiousfreedoms

Equality Australia have suggested that the provision of these rights “could adversely affect, among others, LGBT people, divorced and unmarried people, as well as women” and that the Bill “effectively prohibits the NSW government requiring taxpayer-funded religious schools and service providers to treat everyone equally when delivering public services”.⁶

Objections raised in this area are reminiscent of those that circulated during last year’s public debate over the place of queer students in Christian schools. At the time it was claimed that such students required protection from the threat of expulsion simply for being homosexual or questioning their gender identity. This claim was made despite not one example being provided of such an actual case.

The truth is very different. Christian and other faith-based NGOs are consistent in their provision of services to all, irrespective of the individual’s particular gender, ethnicity, sexual orientation or otherwise. I will let others demonstrate their own impartiality in this area and provide an example from a charity that I am best acquainted with; Break the Cycle Glenquarie which I chaired for 5 years. Our funding including substantial government grants. We gained a reputation as a key trusted element in the local inter-agency network.

Over those 5 years we provided a broad range of services to the most disadvantaged residents of the Macarthur region and beyond. We dealt with retirees in the Men’s Shed, mothers of all backgrounds who faced a crisis pregnancy, single parents struggling to raise their children, women from all manner of relationships (including homosexual) who were suffering under various experiences of abuse, the homeless (who were disproportionately representative of the LGBT+ community), men and women who were caught up in the criminal justice system and countless others who needed our help.

From time to time over the same period I and the charity took public positions on matters of public debate, most notably on the question of abortion (reluctantly withdrawing from the local White Ribbon committee due to the national organisation’s support of unrestricted abortion rights) and speaking into the topic of marriage (I participated in a variety of media discussions ranging from SBS’s *Living with the Enemy* through to the ABC’s *The Drum* and *Lateline*).

At no time did we deny any service to any client despite the fact that that we held to clear positions due to our religious convictions. I spoke clearly against changes to the Marriage Act one evening on national TV and then the next morning ensured that our most vulnerable LGBT+ clients had full access to local services. We advocated for the protection of unborn child and also supported young mothers whether they chose to abort their babies or not.

I am proud to say that Break the Cycle was a model of what tolerance should really be – the ability to not only coexist but genuinely care for those who may disagree with us. I simply do not recognise Ms Leong’s claims in the actual lived experience of our charity and our clients and am confident that the same is true of so many other service providers. We fulfilled all the requirements of our government grants and established a reputation as an integral part of our local community.

⁶ <https://equalityaustralia.org.au/nsw-government-throws-support-behind-inquiry-into-one-nation-bill-on-religious-discrimination/>

Charities such as Break the Cycle ask only that they are allowed to operate consistently with their underlying religious values, just as valued organisations such as the Royal Flying Doctor Service, the Salvos and Vinnies have been doing for generations to the great benefit of New South Wales.

Religious Freedom – The Same Rights as Everyone Else

Those who hold a religious faith are not arguing for a specific right that is unique to them but simply for the uniform application of more general rights: the right to not be discriminated against simply on the grounds of belief and the right to not be compelled to act against conscience. As the law currently stands these rights are not protected while at the same time other characteristics such as sexuality, gender and race have the protections that are needed.

Religious beliefs have complex reasons for their existence. Often the belief is tied to cultural identity. Sometimes the belief is arrived at as the end point of robust consideration. Despite the many and varied ways that it can be arrived upon, such beliefs are often deeply held and drive to the very heart of how someone will understand themselves and their relationship to the world around them. Religious belief is not simply a matter of unwarrantable “faith” as some would understand it, but the logical and rational conclusion drawn by intelligent men and women as the only possible position to be held when all the evidence is assessed. In the 2016 census 75% of the residents of NSW chose to identify as holding a religious belief to one degree or another⁷ yet that position does not have any current protection under NSW law, especially when it brings the individual into conflict with others purely by virtue of having a sincere conscience.

It is conceded that there will be competing rights but this mere fact alone ought not to prevent us from producing a workable solution where all rights can be protected and balanced.

The Committee might even come to the view that the current imbalance in the rights offered to different groups constitutes its own form of religious discrimination. As things currently stand the State has taken a position against those who have such deeply held beliefs and convictions and continues to hold it by not providing them adequate protection, especially as hostility to them is demonstrably growing.

I would urge the Committee to also consider that the granting of specific protections serves as a necessary wider endorsement of the more fundamental rights and freedoms that we cherish in our liberal democracies. Supporters of recent amendments to the Federal Marriage Act argued that those changes served not only to provide basic rights but also to send a powerful signal to 21st Century Australia that homosexual relationships were valued, beneficial and worthy of protection. In the same way, the effect of legislating for protection from religious discrimination not only establishes basic rights but also sends a broader signal

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https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/1?open=document

about the valued place of various religious beliefs in our wonderfully diverse New South Wales.

I express my thanks to the Joint Committee for their consideration of this submission. I trust the case is made that

- The distinct and often contrary voice of the religious has often been a valuable element in the history and development of New South Wales.
- There is an increasing need for specific protections for religious freedom, evidenced by numerous case.
- Objections to the provision of such freedoms are ill-founded and that upon examination we see that religious charities and other NGOs do not discriminate in the provision of their services, whether government-funded or not.
- The provision of a specific protection for religious belief simply provides equivalent protections to those already provided for other categories of people and signals a proper affirmation of the place of religious belief in New South Wales.

I would be willing to speak further to the Joint Committee at their request.

Yours sincerely,

Rev David Ould
Senior Associate Minister