

**Submission
No 124**

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

Name: Jack McKenzie

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Parliament of New South Wales

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

7 August 2020

Dear Committee Members,

I am grateful for the opportunity to comment on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 ('the Bill'). The protection of religious liberty - arguably the most fundamental of human rights - is of great importance and I wholeheartedly support the objects of the Bill.

I have suggested two amendments below which I believe might see the Bill better achieve the protection of religious freedom in New South Wales:

1. The use the word 'equality' in the title of the bill seems somewhat unnecessary. It begs the question; 'equality of what?' Equality is a word frequently used but little defined. It may confuse rather than illuminate the bill as it means many different things to different people. If it is intended to mean equality before the law, it may alternatively be helpful to give it that definition - lest it be interpreted in a more abstract sense to mean 'sameness'.
2. The bill seems to provide necessary protections for 'religious ethos organisations' to conduct themselves according to their creeds - this is most laudable. However, it does not seem that the bill provides any protection for non-religious businesses or organisations who may find themselves in a position where they must either:

- i. act contrary to their conscience, or
- ii. contravene discrimination laws.

Two US cases - the famous 'baker's case' (Masterpiece Cakeshop v. Colorado Civil Rights Commission, 584 U.S. (2018)), and the wedding photographer's case (Elane Photography, LLC v Wilcock 309 P.3d 53 (2013)) serve as examples of the potential conflicts that can arise for businesses and individuals who adhere to different moral codes - albeit, mainstream until recently - to those which are increasingly promoted by contemporary progressive groups today.

Accordingly, I suggest that the bill should be amended to better protect the liberty of those who are not part of a religious organisation, but who nonetheless wish to live according to their religious convictions. This does not mean that anyone should be licensed to discriminate wantonly, however it highlights the fact that we increasingly need a distinction to be drawn between just and unjust discrimination to ensure that everyone is free to live according to his or her conscience.

Thank you again for your efforts.

Yours faithfully,

Jack McKenzie