



NSW RELIGIOUS DISCRIMINATION

The NSW Parliament is currently inquiring into the *Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020*, proposed by One Nation NSW Leader Mark Latham. But the One Nation Bill is unbalanced and unfair. Here's why.

WHAT DOES THE BILL DO?

The Bill prohibits discrimination based on religious belief or activity (or not having a belief) in certain areas, such as employment, education and the provision of goods and services in NSW.

The Bill protects any genuine religious belief, and any activities motivated by such beliefs, provided those activities are not crimes punishable by imprisonment. This means that protection is afforded to activities motivated by religious beliefs that may otherwise breach a contract or other civil obligations, such as professional obligations.

NO CONSEQUENCES FOR CONDUCT

The proposed law will make it much harder for employers, educational institutions and qualifying bodies to respond to inappropriate, offensive or discriminatory conduct by their employees, students or members, when that conduct is motivated by religious beliefs and occurs outside of occupational and educational settings.

These provisions apply to public and private employers of any size, educational institutions, and bodies which regulate or confer

professional, trade or occupational qualifications or licences.

So, for example:

- NSW Police or the Department of Education may not be able to discipline a teacher or police officer who expresses, off duty or during a break, offensive views about women, LGBTIQ+ people, people with disability or people with different beliefs to their own, even when the expression of those beliefs destroys public confidence in their ability to perform their role impartially or appropriately.
- Health professional regulators may not be able to investigate a doctor or psychologist who privately promotes discredited practices based on their religious beliefs, even when their professional qualifications give credibility of those beliefs.

Religious activities taking place outside occupational or educational settings, and which directly criticise or attack an employer, educational institution or qualifying body, will not be protected. But they may be protected where they directly criticise or attack others, such as customers, colleagues or peers.

Religious activities taking place outside traditional occupational or educational settings, and which cause '*direct and material financial detriment*' to an employer, educational institution or qualifying body, will also not be protected. But the withdrawal of financial support (for example, by customers, donors or sponsors), and any boycott or secondary boycott, cannot count as a form of detriment.



So, for example, an employer may not be able to enforce its contractual codes of conduct, even when it loses a major sponsor or customers due to inappropriate after-hours conduct by an employee who is motivated by their religious beliefs. It doesn't matter whether that employee is high profile or publicly identified with the employer.

These provisions do not protect all of us, equally. Employees, students and members of trades or professions that engage in private non-religious activities don't get this protection. Neither do employees and students at 'religious ethos organisations', if their private conduct is not consistent with the religious beliefs of their employer or school.

DOUBLE STANDARDS IN EMPLOYMENT, EDUCATION AND SERVICE DELIVERY

Faith-based schools, charities and bodies will continue to enjoy broad exemptions under the *Anti-Discrimination Act 1977* (NSW), which will be added to and expanded. This means they can discriminate on the grounds of a person's religion, sex (including pregnancy), homosexuality, transgenderism, and marital or domestic status, if this is broadly consistent with the organisation's religion or is required to meet the 'religious susceptibilities' of its adherents. This includes discrimination in publicly-funded employment, education or service delivery.

A RELIGIOUS BILL OF RIGHTS

Religious individuals and organisations will be given the ability to challenge NSW government programs, policies, contracts and decisions which discriminates against their religion.

This means that a religious individual or organisation could challenge any executive action taken under a NSW law, and any NSW government contract, decision or policy, if it contradicts their religion. For example, religious bodies could challenge COVID-19 restrictions on public gatherings which prohibited religious worship.

This protection is not available to any other group protected by the *Anti-Discrimination Act 1977* (NSW). And the manifestation of religion will now also be given special consideration in every decision made under the Act.

IS THIS BILL NECESSARY?

NSW currently prohibits serious vilification (meaning, the incitement of violence) towards a person or group based on religious belief or affiliation. NSW also prohibits discrimination based on ethno-religious origin, which covers some religious groups but not others.

But this Bill does not provide the same degree of protection to all people equally, especially given broad exemptions for faith-based organisations. Civil vilification protections are also not being extended to all people of faith, such as Muslim people.

WHAT YOU CAN DO

Tell the NSW Parliament your views on this Bill by filling out this survey [here](#).

Donate to support our work in ensuring equality for LGBTIQ+ people [here](#).

Write to us and tell us your story [here](#).