



# NSW RELIGIOUS DISCRIMINATION

## IN FOCUS: PEOPLE OF FAITH

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 and will not protect all of us, equally. 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 activity motivated by such beliefs, provided those activities are not crimes punishable by imprisonment.

But the One Nation Bill doesn't protect all people of faith equally. This factsheet addresses some specific issues for people of faith. You can also read our general concerns on the Bill [here](#).

## EXISTING PROTECTIONS

NSW currently prohibits publicly threatening or inciting violence towards others based on their religious belief or affiliation. This crime, punishable by fines and/or up to 3 years' imprisonment, covers all religions equally.

Many employers are also prohibited from terminating someone's employment because of their religion.

NSW also prohibits discrimination and vilification (meaning, inciting hatred towards, serious contempt for, or severe ridicule of others) based on ethno-religious origin. This protects some religious groups (such as Jews and Sikhs) but not others (such as Muslims and Christians).

This means that there is a gap in NSW law, which could be filled by balanced and fair protections for people of faith. But, for the following reasons, the One Nation Bill fails to fill that gap properly.

## UNEQUAL PROTECTIONS

### RELIGIOUS DRESS

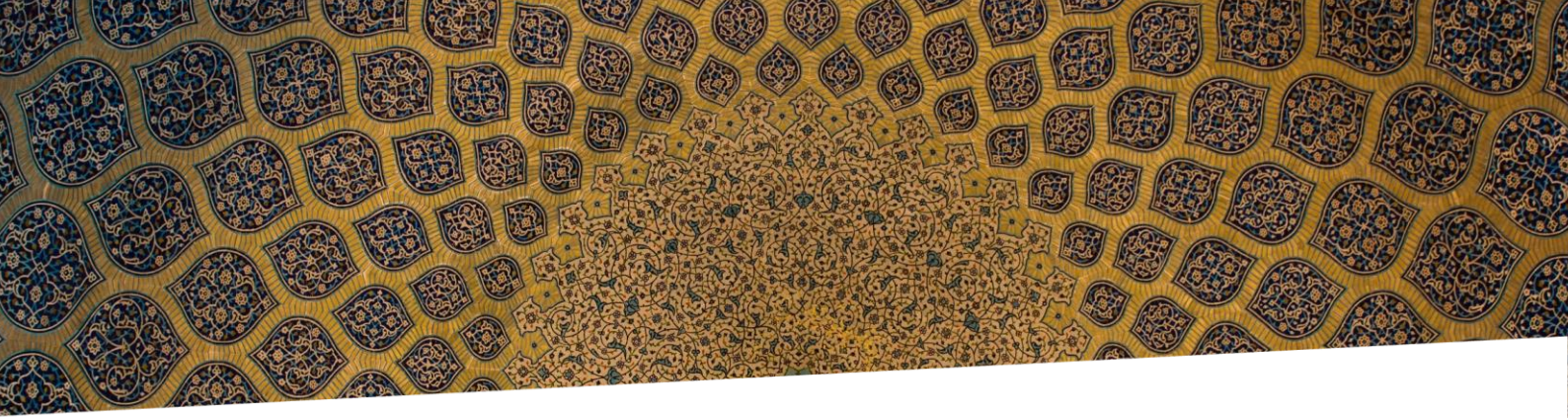
The proposed law allows employers to prohibit the wearing of religious symbols and clothing during work hours where this is reasonable, having regard to workplace safety, productivity, communications and customer service requirements, and industry standards.

As an example, the explanatory note to the Bill says that there would be no discrimination if a Muslim woman who wore a full-face covering were refused a job as a bank teller.

This would be the first anti-discrimination law in Australia which requires decision-makers to have regard to 'productivity', 'communications and customer service requirements' and 'industry standards' to define what may be reasonable. This has the effect of reinforcing existing standards and ways of doing things, which may themselves be discriminatory.

### VILIFICATION PROTECTIONS

The Bill does not extend existing vilification provisions that protect ethno-religious groups,



such as Jews and Sikhs, to all religions. So, for example, a Muslim could not bring a vilification complaint if a person, by their conduct in public or online, incited hatred towards, serious contempt for, or severe ridicule of Muslims.

### **NO CONSEQUENCES FOR CONDUCT**

The proposed law will make it much harder for employers, educational institutions and qualifying bodies (which regulate or confer professional, trade or occupational qualifications or licences) to respond to inappropriate, offensive or discriminatory conduct by their employees, students or members, when that conduct is motivated by religious belief and occurs outside of occupational and educational settings.

It does not matter if that conduct criticises or attacks others (such as customers, colleagues or peers), so long as it does not criticise the organisation itself or cause it [certain](#) forms of 'direct and material financial detriment'.

These provisions could prevent government and non-government employers, educational institutions, and qualifying bodies from responding to behaviour, which is motivated by one set of religious beliefs, that is inappropriate, offensive or discriminatory towards people with different beliefs.

For example, NSW Police or the Department of Education may not be able to discipline a Christian or atheist teacher or police officer who expresses, off duty or during a break, offensive views about Muslims or Jews, even when the expression of those beliefs destroys public confidence in their ability to perform their role impartially or appropriately.

### **FAITH-BASED ORGANISATIONS**

Faith-based schools, charities and bodies will continue to enjoy broad exemptions under the *Anti-Discrimination Act 1977* (NSW). These will be added to and expanded to allow these organisations to discriminate on the grounds of religion in areas such as employment, education, and service delivery.

Rather than providing exemptions only where religion is relevant to a role, to meet religious needs, and/or to redress historic disadvantage, these broad exemptions leave people of faith with largely no religious discrimination protections when they are employed by, interact with, or rely on services provided by faith-based schools, charities or bodies with different religious beliefs to their own.

For example:

- a Christian school could fire a teacher who married a Muslim, or refuse to accommodate Muslim or Jewish religious dress or holidays in its uniform or exam policies;
- an Anglican charity could refuse to hire Baptists, Mormons, Jews or Muslims, or provide them its services, even when it receives public funding.

### **WHAT YOU CAN DO**

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

**Donate** to support our work ensuring equality for LGBTIQ+ people, including LGBTIQ+ people of faith, [here](#).

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