

ACTION ALERT AA 21-4: RELIGIOUS DISCRIMINATION BILL

As Quakers we seek a world without war. We seek a sustainable and just community. We have a vision of an Australia that upholds human rights and builds peace internationally, with particular focus on our region. In our approach to government we will promote the importance of dialogue, of listening and of seeking that of God in every person. We aim to work for justice and to take away the occasion for war.

December 2021

For the third time, the Federal Government is seeking to pass legislation on religious discrimination. Quakers have previously made submissions and comments on earlier drafts. The new draft is drawn to your attention as of concern also.

The draft bill seeks to ensure that people of all religious beliefs (or none) have equal rights, and has the following features:

- It is unlawful to discriminate against any person on the ground of religious belief or activity in public life, including work, education, access to premises, and provision of goods and services.
- Certain conduct is not discrimination, such as the conduct by religious bodies and statements of belief in line with the provisions of the bill.
- Complaints can be made to the Australian Human Rights Commission, and to the newly planned Religious Discrimination Commissioner.

Points of Concern

Luke Beck (Constitutional Law, Monash University) has explained (*The Conversation*, 23 November 2021) that previous drafts were criticised from different groups for weakening other human rights protections, or not giving adequate protection to people of faith. The first part of the new bill is straightforward in adding 'religious discrimination' to the existing range of race, sex, disability and age discrimination laws. The second part of the bill is more controversial because it includes provisions overriding existing federal, state and territory anti-discrimination laws.

This applies especially to 'statements of belief' which are genuinely held because of the teachings of a particular religion, or of not holding such belief. The constraint to be applied is that a statement must not be malicious, intimidating, harassing or vilifying. The unusual effect of the bill is that it departs from the standard practice of not overriding state and territory laws. Including in allowing employers (e.g., schools, hospitals) to give preference to people of particular religious beliefs.

The other point of concern is that international human rights law indicates that religious freedom cannot be used to interfere with other rights, which is what some parts of the bill do. Further, existing state/territory tribunals that deal with anti-discrimination cases cannot consider federal laws, and this will add complexity when cases may involve a federal aspect.

Quaker Concerns

There are several principles of importance. They are as follows:

1. The core of our concern arises from the consequences of privileging religious freedom above other freedoms.
2. The revised legislation is more about freedom *to* discriminate than the right to freedom *from* discrimination.
3. 'Statements of belief' can create the potential for serious harm to vulnerable individuals and groups, and should be subject to existing anti-discrimination legislation.
4. The legislation is unnecessary and divisive. There should be a commitment to developing a comprehensive charter of human rights for Australia, to cover religious freedom along with others.

What Friends can do: make a submission, complete an online survey, public hearings in Canberra

The Parliamentary Joint Committee on Human Rights is considering the Bill.

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Religious_Discrimination

Submissions can be made up until 5pm on 21 December 2021. Further guidance on making a submission can be found on the Senate's *How to make a submission* webpage and at <https://www.quakersaustralia.info/peace-action-resources/raise-your-voice/writing-submission>

The Committee's online survey – to allow members of the public to fully express their views on the religious discrimination legislative package (this survey will close at 5pm (AEDT), 21 December 2021). The link to the survey is embedded in the text under Submissions via the above link.

The committee has resolved that it will carefully consider all correspondence received (including from individuals), but in order to administratively manage the volume of correspondence it will only publish as submissions correspondence from organisations and academics.

Public hearings - The committee intends to hold public hearings in Canberra on **21 December 2021 and 13 and 14 January 2022**.

For all inquiries please contact the secretariat on 02 6277 3701 or religionbills@aph.gov.au

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