

## Submission to the Parliamentary Joint Committee on Human Rights

### Religious Discrimination Bill 2021 (Cth)

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#### Key points

- This bill is a modest contribution that enshrines Australia's obligations under international human rights law and in particular protects the right to manifest one's faith and prevents discrimination based upon religious belief.
- The debate surrounding this Bill has been poorly served by specious statements, hypothetical examples not grounded in reality, and a misunderstanding of religion. (Pages 2-5)
- Claims that the Bill is unique among anti-discrimination laws in that it facilitates and protects discrimination are wrong. (Page 2)
- The claims that this Bill will allow disrespect and abuse to flourish in society is plainly misleading as there are no examples of this occurring in state jurisdictions where there are no sanctions against it. (Pages 3-5)
- There is a growing anti-religious bias at both government and societal levels that necessitates the need to protect the rights of religious people (Page 5-6)
- Religious schools should have the right to choose who they employ based upon behaviour as this is necessary to foster moral communities. Rejecting this right would be a dangerous step towards the government determining religious doctrine and breaking a long tradition of the separation of church and state. (Pages 6-10)
- Assessing the merits of this Bill requires appreciating the tremendous benefits individuals and society gain from religion. It is important to contextualise the feared harm to the LGBTI community, which is diminishingly small, relative to the growing risk to individuals of faith and the cost this will have on society. (Pages 10-13)

- We should not allow the perfect to be the enemy of the good. Progressively contributing to the body of legislated rights is better than, as some would prefer, waiting for a comprehensive Bill of Rights. (Page 13-14)

### **1. *Dispelling the myth that the Religious Discrimination Bill is unique among anti-discrimination acts in allowing discrimination against others***

Other state and federal anti-discrimination acts have discriminatory clauses.

Section 8 of the Racial Discrimination Act allows discrimination against a particular race, colour or national or ethnic origin if the act is for the purpose of conferring benefits for charitable purposes.

Section 30 of the Sex Discrimination Act has a long list of exceptions in which discrimination based upon sex is acceptable including discriminating for the purposes of selling underwear or the performing arts.

Victoria's Equal Opportunity Act allows someone to set up a club based upon a particular culture (read ethnicity), insurance companies to discriminate on a wide range of attributes and gyms to be exclusively for women. The same law allows for people who need a carer to discriminate based upon gender. If you're a photographer, you can choose a model based on certain physical attributes. If you are Darebin Council in Melbourne you can get an exemption to advertise<sup>1</sup> for the position of street sweeper by explicitly excluding males and stating that applicants must be women, non-binary or gender non-conforming people.

The Victorian Equal Opportunity and Human Rights Commission sums up this approach succinctly when it states, 'The law recognises that discrimination may be justified in certain circumstances.'<sup>2</sup>

Each of these laws and exceptions provide protection not only by preventing the relevant groups from being discriminated against, but also by allowing them some latitude in seeking to carve out a space for themselves. This is important because **governments rightly want groups protected by antidiscrimination laws to also thrive**. Hence the Race Discrimination Act allows discrimination based upon race so that other races can thrive.

To allow discrimination to occur in favour of the above listed groups in an effort to help them thrive, but selectively exclude religious believers despite international human rights law explicitly providing for it, is itself discriminatory against believers.

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<sup>1</sup> <https://7news.com.au/news/melbourne/melbournes-darebin-council-bans-men-from-applying-for-street-sweeper-job-in-bid-to-recruit-women-non-binary-and-gender-non-conforming-people--c-3903794>

<sup>2</sup> <https://www.humanrights.vic.gov.au/for-organisations/exceptions/>

Most sections of this Bill seek to prevent discrimination bar a few that support a religious body to establish a religious community so that they can thrive. This should not be controversial and should be treated no differently to similar sections in other antidiscrimination legislation.

## **2. *The drummed-up fear that this Bill will lead to a torrent of abuse is wrong***

A common and widely reported argument against this Bill has been that it will allow for abuse of vulnerable people. An example of this specious reporting can be found in *The Age* (Explainer: What's the proposed religious discrimination law about? Where did the idea for the bill come from? How would it work? And what happens next? 30/11/2021):

Most controversial are the provisions that override all other federal, state and territory anti-discrimination laws so that "statements of belief" are immune from legal action. For example, a childcare provider could tell a single mother that childbirth out of marriage is evil, a doctor could tell a patient that their disability is punishment for sin, a boss or colleague could tell a gay employee that they will go to hell for their sexuality.

None of these hypotheticals breach existing laws in Australia's major jurisdictions. Despite this being the case, there aren't any actual examples that critics of the Bill can refer to. Instead, they are dependent upon hypotheticals.

The same approach of identifying obscure hypothetical scenarios to undermine proposed protections could have been applied to other antidiscrimination laws. Take for example the above-mentioned section 8 in the Racial Discrimination Act. The list of hypotheticals that would be contrary to the intent of this Act is long, for example, charities could focus on white people or descendants of British settlers. But legislators foresaw that on balance the construction of the provision could not be further restricted without undesirable and unintended outcomes. These legislators were on the right side of history. Despite the multiple hypotheticals that could have been printed in the media and used to destroy it, the Act has seen individuals and charities use it to focus on underprivileged groups despite it also allowing discrimination to privileged groups.

Hypothetical situations can always be found to undermine any anti-discrimination law. I recommend that this Committee not put much weight on such arguments.

Even were the hypotheticals not hypothetical, this Bill has extensive fail-safes including that any statement of belief is not malicious and does not 'threaten, intimidate, harass or vilify a person or group.' (see: s 12(2))

This Bill offers more protection to vulnerable groups than currently exists under state laws that protect against vilification. For example, NSW and ACT have a threshold that the speech will incite hatred, serious contempt or severe ridicule, which is a higher bar than is being proposed in the RDA.<sup>3</sup>

The reason that hypothetical scenarios are necessary to undermine confidence in the bill is that real world situations are non-existent. Western Australia, Victoria, Northern Territory and South Australia do not have any protections against the hypothetical situations listed above and yet we have not seen concerns raised about this type of speech.

To reinforce this point, in considering an earlier iteration of the Religious Discrimination Bill the Victorian parliamentary 'Inquiry into Anti-vilification protections' comprising of government members, reporting in March 2021 expressed no concerns with the then draft Religious Discrimination Bill's protections of statements of belief.<sup>4</sup>

*The Committee is aware, however, that this provision would not override the [Racial and Religious Tolerance Act 2001], as statements of belief are not protected if they are malicious, or are likely to harass, threaten, seriously intimidate or vilify a person or group of persons. In these circumstances, federal, state or territory protections against harassment, vilification and incitement would apply.*

The wording considered by the Committee then has not changed in the current draft.

Noteworthy and representative of the current cultural bias against religion is that while many media outlets, academics, commentators and activists were highlighting hypothetical examples as represented by *The Age* article above, none noted that the same clauses relating to the protection of a statement of belief applies equally to someone who professes a statement of non-belief (see s 5). In other words, the following scenarios will be protected under the proposed law:

[A] childcare provider could tell a single mother that *inculcating a childbirth out-of-marriage into a faith* is evil, a doctor could tell a patient that their disability is punishment for *sin believing in a religion*, a boss or colleague could tell a *gay religious* employee that they will go to hell for their *sexuality beliefs*.

I suspect that the second set of hypotheticals is more likely to occur than the first, yet few speak out to protect religious believers from such opinions.

In response to these two sets of hypotheticals, one option is to ban all comments.

Alternatively, and the better way to moderate people's conduct without breaching other

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<sup>3</sup> Anti-Discrimination Act 1977 (NSW) and Discrimination Act 1991 (ACT)

<sup>4</sup> [https://parliament.vic.gov.au/images/stories/committees/lric-LA/Inquiry\\_into\\_Anti-Vilification\\_Protections\\_/Report/Inquiry\\_into\\_Anti-vilification\\_Protections\\_002.pdf](https://parliament.vic.gov.au/images/stories/committees/lric-LA/Inquiry_into_Anti-Vilification_Protections_/Report/Inquiry_into_Anti-vilification_Protections_002.pdf) at p11

international human rights such as freedom of expression is allowing some ideas, even if they are unwelcome, to be voiced and leave it to society to provide a steadying hand. As a society we need to accept that not all speech can or should be policed.

The fear of many who have voiced concern over this bill, that somehow this Bill will unleash a torrent of disrespectful conversations is not only plainly wrong, as it hasn't to date, but is counter to what history has taught us about how to best manage tolerance in a liberal democracy.

***3. There is a growing anti-religious bias that necessitates the need to protect the international human right to manifest a religious belief***

If protection for statements of belief haven't been available to date, why is it necessary now?

The issue facing people of faith is a growing distrust of all religions and even an anti-religious bias driven particularly by cultural, educational, media and corporate elites.

I spent twenty years living abroad including in countries that have a zeal to see religion shape every aspect of life. **In Australia today, we oppose religion with the same zeal that they impose it.**

In NSW cafes and restaurants can have signs banning Muslims from entry. In Tasmania the Catholic Archbishop was required to spend close to a year attending conciliation meetings for the reason of benignly defending traditional marriage. In Queensland religious hospitals that were established to save lives, despite strident objections must now facilitate the taking of lives. And in Victoria there is a risk of jail for a religious believer who is asked by another adult to pray to God to give him strength to manage his same sex attraction because his priority is to faithful to his wife and keep his family together.

In addition to a growing list of legislated anti-religious action there is a rising number of instances of societal discrimination against people of faith. For further information see [www.australiawatch.com.au](http://www.australiawatch.com.au), annual antisemitism reports compiled by the Executive Council of Australian Jewry, the Islamophobia register and the submission to this Committee by Human Rights Law Alliance.

This cultural shift against religion and religious believers is leading to competing values in the public square, which is an inherent part of a liberal democracy and should be accepted and even celebrated. But what should not be accepted but what we are seeing is discrimination against religious voices.

This clash of different world views between cultural elites and people of faith will increase as migration from communities of faith continues to grow.

In anticipation of this growing rift, the right course of action is to adopt a middle road approach where religious rights are recognised on par with other human rights. The accompanying *Human Rights Legislation Amendment Bill 2021* introduces into all other federal antidiscrimination laws the sensible language reminding courts and tribunals of, ‘the indivisibility and universality of human rights, and their equal status in international law; and the principle that every person is free and equal in dignity and rights.’ This approach ensures that when competing rights clash, as they inevitably will in liberal democracies, then they are treated appropriately. It is simply wrong, as some persist to suggest that this Bill gives religion some sort of elevated status among other anti-discrimination laws.

This parity that the accompanying legislation will provide remedies the current scenario in which those few rights relating to religious belief and practice that exist in federal law are treated as secondary rights by being provided through exceptions. In addition, some states have no protections against religious discrimination at all (SA and NSW) and others are actively eviscerating the relevant international human rights that protect religious believers when they practice their faith (VIC).

#### ***4. Why giving religious schools leeway to choose who they employ is important and how we can resolve the different views***

The tension that has emerged between advocates of religious schools maintaining exceptions in the Sex Discrimination Act (SDA) and those who want them removed are two competing and irreconcilable views. While the current system works well (over a million students are educated each year in religious schools with only a small number of teachers dismissed by way of the exceptions), if the Committee determines that it is necessary to remove the exceptions then the best option is one that affects the least number of religious schools on the one hand while minimising the number of individuals who may feel discriminated against on the other.

Currently, on one side, exceptions that allow religious educational institutions to discriminate based upon attributes protected under the Sex Discrimination Act are seen as being counter to liberal values. People’s attributes such as lesbian, transgender or female are inherent to who they are and should not be a basis upon which people are treated differently. Why should one group receive exceptions from a norm that should be applied across all of society?

The alternative view is that exceptions allow for religious schools to form **moral communities** and were not intended or needed to allow discrimination based upon inherent characteristics. This is a nuanced but important difference that sets aside identity and

instead focuses on personal choices. To be clear, when referring to choices that people make this does not refer to sexual orientation or gender identity, but rather the choice someone makes in how they respond to temptations arising from sexual desires. Every individual has a choice on how to respond and many choose to follow the teachings of a religious faith and live amongst others who make the same choice in likeminded moral communities. It is not uncommon to see non-believers send children to religious schools or for example, Muslims to send their children to Catholic schools.

To fully understand this view, it is important to appreciate that major religions are universal, which means that they welcome all people regardless of their inherent characteristics, but they expect members of the faith to aspire to certain moral practices across a range of human activities. This is because most religions see the purpose of life as a test or a challenge to overcome. The Quran repeatedly refers to humanity being tested (see for example 16:92, 18:7, 20:15, 20:131, 29:2), Buddhism teaches a detachment from the temptations of this world and Christianity begins with God loving all people and then focuses on individual salvation with each denomination offering guidance on the right choices that will, loosely speaking, separate those destined for heaven from those destined for hell.<sup>5</sup>

These two competing views over the exceptions in the SDA arose following the 2013 amendments introduced by the then Labor government. These amendments expanded the list of protected attributes to sexual orientation, gender identity and intersex status but left the exceptions for religious educational bodies intact.

The 2013 explanatory memorandum accompanying the Bill specifically reaffirmed the need for exceptions for religious educational bodies. In its discussion of the importance of retaining the exceptions available to religious educational bodies (s 38 of the SDA) the explanatory memorandum distinguished sexual orientation and gender identity from intersex status. The difference it notes, is that 'as a physical characteristic, intersex status is seen [by religious groups] as conceptually different.'

This difference, identified in the memorandum between a physical characteristic and what is not, was not further explained in the memorandum distributed on behalf of the then Attorney General Mark Dreyfus QC but is relevant in today's debate.

The distinction that was made in the 2013 explanatory memorandum and is relevant now is one between identity and choice. In 2013 Labor drafters of the bill and religious groups either accepted or were silent on the distinction that intersex was inherent and sexual orientation and gender identity was a choice.

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<sup>5</sup> In the Catholic tradition see Catechism of the Catholic Church, The Moral Law, at [1950]

Those wanting to eliminate the exception would argue that over the past nine years society has accepted that sexual orientation and gender identity are also inherent and as such the distinction no longer has a basis. They want the exceptions in s 38, which allow schools to refuse employment based upon being LGBTQI, or more broadly, 'sex, sexual orientation, gender identity, marital or relationship status or pregnancy' removed.

Conversely, the proposed Religious Discrimination Bill at s 11 seeks to override any state and territory laws that would limit a school's exceptions but importantly, based upon 'religious belief or activity' and not identity. In other words, the RDB focuses on the choices people make. Despite it not distinguishing based on inherent characteristics it has been supported by religious groups.

Anyone, regardless of sexual orientation or gender identity has a choice as to how they respond to sexual desires. They can choose to live celibate, monogamous, polyamorous or any other type of life. But if they want to be a part of a religious moral community then they need to choose to align with the beliefs of that community. The construction adopted by the RDB at s 11 is **inclusive to all, meets international human rights obligations and gives sufficient leeway to religious schools to create moral communities.**

The additional caveats present in s 11 of the RDB, requiring any distinction in hiring to be in good faith and in accordance with a publicly available policy are additional protections to people who may be concerned about the clause being used inappropriately. Vice versa it will allow schools to have public policies that ensure members of their moral community adhere to policies beyond the school gates just as companies have recourse to limit certain behaviours outside of the workplace.

**Recommendation: Preferably through the ALRC process or alternatively in immediate legislative amendments Parliament embrace a move away from exceptions based upon inherent characteristics or identity and build upon the wording of the RDB language of 'belief and activities' and focus on an individual's opportunity to choose to behave in ways aligned with a religious moral community.**

For those who want to deny religious educational bodies any right to build moral communities that may exclude members based upon choices, I note that this would severely infringe upon another international human right and that is freedom of association. Allowing other groups such as men's clubs and women's gyms to discriminate based upon inherent characteristics but not allowing religious schools to discriminate on choices individuals make is back to front, problematic and would have far reaching negative consequences. It is also discriminatory against religion.

Furthermore, for those who see a distinction with schools being government funded bodies, I would suggest that the correct approach is to lobby to stop government funding of religious schools but not to withdraw fundamental rights of freedom of association<sup>6</sup>, a parent's right 'to ensure the religious and moral education of their children'<sup>7</sup> and a child's right to a religious education.<sup>8</sup>

Lastly, I will add that the Religious Freedom Review led by former Minister Philip Ruddock and included on its panel Emeritus Professor Rosalind Croucher, President of the Australian Human Rights Commission, concluded that under international human rights law faith-based schools should have some discretion to discriminate in the hiring of **teachers and other staff** on the basis of religious belief, sexual orientation and gender identity.<sup>9</sup> This is an important conclusion that aligns with Labor's explanatory memorandum of 2013 and one that should not be ignored.

Specifically, the Ruddock Review recommendation was:

*Recommendation 5 The Commonwealth should amend the Sex Discrimination Act 1984 to provide that **religious schools can discriminate** in relation to the employment of staff, and the engagement of contractors, on the basis of sexual orientation, gender identity or relationship status provided that: (a) the discrimination is founded in the precepts of the religion (b) the school has a publicly available policy outlining its position in relation to the matter and explaining how the policy will be enforced, and (c) the school provides a copy of the policy in writing to employees and contractors.*

International human rights are those that the community of nations agree are fundamental to all humans including people of faith. Ignoring religious rights, as is the preference of some, can send a strong message to others that international human rights can be overridden by cultural preferences. This is wrong and would be a dangerous direction for Australia to pursue.

### **5. The risk of governments interfering in religious doctrine**

In liberal societies there is a loose separation of church and state. For centuries religious bodies have not anointed leaders and similarly the state has not interfered in religious doctrine. By targeting religious schools in determining who they can and cannot employ in

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<sup>6</sup> International Covenant on Civil and Political Rights Article 22(1)

<sup>7</sup> International Covenant on Civil and Political Rights Article 18(4), International Covenant on Economic, Social and Cultural Rights 13(3)

<sup>8</sup> An overview of this can be found at Schweitzer F. (2016) The Child's Right to Religion. Religious Education as a Human Right?. In: Pirner M., Lähnemann J., Bielefeldt H. (eds) Human Rights and Religion in Educational Contexts. Interdisciplinary Studies in Human Rights, vol 1. Springer, Cham.

<sup>9</sup> 'Religious Freedom Review: Report of the Expert Panel', 2018 at [1.246]

the name of equality but not applying the same concern of equality to others such as political groups who can discriminate in employment on the basis of political opinion or female gyms who can discriminate in membership based upon gender is itself discriminatory. Because it is a discriminatory approach that targets religious groups it is a dangerous precedent of the state interfering in religious doctrine and cannot be explained away as a law that has a general application.

Advocates who want to remove these clauses need to answer the question, if the government is intervening in choosing who a religious group can hire in their community from which its members learn about their faith in the name of equality, why should it not also intervene in the name of equality to remove barriers to female imams or different caste Hindu priests? There is no logical reason to draw the line at one and not the other. Is this where we want the government to go? Determining what religious doctrine is and imposing it on religious groups.

What history has taught us about the fluidity of religious doctrine is that state coercion does not lead to the intended consequences. Religions constantly shift in their interpretations of God's will. We see this in how religions are divided into schools, sects and denominations. Revisiting and re-interpreting scripture or beliefs is common to all religions, but probably best known in Australia is the Catholic Church and its phrase of reading the 'signs of the times'. **For those who want religions to be more open to the changes we are seeing in society, the best way forward is to avoid the state imposing its will upon a religion and dictating doctrine.**

#### ***6. Appreciating the benefits of religion to Australia***

Nearly all public commentary on the RDB has focused on individual articles within the Bill and what they would allow or not allow Australians to do as discussed above. But such examinations of the Bill are incomplete. The other question that needs to be asked is, what is the cost to individuals and society of not acting to protect discrimination against religious believers and more broadly provide protection for faith to flourish. The greater the cost to society the more justification there is for the Bill to provide robust protections against religious discrimination and for religious freedom, and vice versa, the lower the cost the less justification.

Religion has been and continues to be central to who we are as humans as it has shaped and continues to shape our understanding of ourselves, our purpose in this world, what is right and what is wrong and how we interact with each other including how society should be structured. Actively seeking to sideline religious communities and relegating them to some

sort of equivalency with sporting associations or other voluntary community groups is misunderstanding the importance of religion and religious bodies to our multicultural society.

In the following section I review some of the research on the benefits of religion to individuals and society. The data is collated from research undertaken over the past several decades.

The following has been compiled in the *Oxford Handbook of Religion and Health* (2<sup>nd</sup> edition).<sup>10</sup>

Religious people are less likely to experience negative emotions and emotional disorders including loneliness, depression, suicide, anxiety, alcohol abuse and drug abuse.

- Of 443 studies looking at the relationship between depression and religion 61% reported less depression, faster remission or reduced symptoms in response to religious intervention.
- Examining the relationship between religion and suicide 75% of 141 studies reported less suicide, fewer suicide attempts and more negative attitudes toward suicide.
- The relationship between religion and alcohol abuse was examined in 278 studies of which 86% found there to be less alcohol use and abuse with religious involvement.
- Drug abuse and religion were considered in 278 studies of which 84% reported less drug abuse among the more religious.
- There are 135 studies that look at the relationship between religion and cigarette smoking of which 90% found less smoking among the religious.

Religion leads to stronger social connections at a societal level.

- A common religious background and marital stability was considered in 79 studies of which 86% found that there was a positive relationship leading to marital satisfaction, marital commitment, relationship cohesion, marital sexual fidelity, divorce, spousal abuse, couple's problem solving and forgiveness in marriage.
- Of 14 studies that looked at social capital and religion 79% found significant positive associations.
- Antisocial behaviours including crime and delinquency were considered in 104 studies of which 79% found an inverse relationship with religion.
- School performance was considered in 11 studies of which 100% found a significant positive relationship.

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<sup>10</sup> Harold G. Koenig and Michael McCullough, *Oxford Handbook of Religion and Health*, Oxford University Press, Oxford, 2012

Professor Rodney Stark in his book *America's Blessings: How Religion Benefits Everyone Including Atheists*<sup>11</sup> estimated that the United States economy saves a total of US\$2.6 trillion per year due to its religiosity, driven in large part by lower crime rates.

There is no reason to doubt that a similar ratio of benefit to population would be accurate for Australia.

Among adult prisoners a 2018 research paper found religiosity was related to a sense of meaning and purpose in life, which in turn tended to be inversely associated with the offenders' negative emotional states and intended aggression. It concluded by saying, 'Unless offenders find self-transcendent reasons for being hopeful and optimistic about their future (e.g., God still loves them and has purpose for their lives) and become self-motivated for change, rehabilitation efforts will remain an ongoing challenge for correctional authorities.'<sup>12</sup>

Beyond social factors, a study by academics Ilan Alon, Shaomin Li and Jun Wu found that religious freedom itself has a positive impact on economic performance. They conclude that, 'Tolerance, including toward religion, is a cultural value with an economic advantage. The absence of social hostility toward religion is a valuable social (and economic) asset.'<sup>13</sup>

Supporting this, a recent report in Australia revealed that those who found religion later in life became more generous, giving 1.5 times more to charities and volunteering 1.7 times more often.<sup>14</sup>

Hugh McKay notes that 88 percent of non-Church going Australians believe the presence of a church is good for a community.<sup>15</sup>

One of the world's leading scholars on the role of religious freedom writes:

Religious freedom instantiates and strengthens liberal democracy and its freedoms through the kinds of activities that it allows. Several of these activities overlap with other freedoms and civil rights. Religious freedom unleashes religious organizations to engage in democratic debate; to gather both for worship and for political advocacy; to engage in political processes through lobbying, elections, and sometimes even forming a political party, as with Christian Democracy; and to promote civil society through schools, universities, hospitals, homes for the elderly,

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<sup>11</sup> Rodney Stark, *America's Blessings: How Religion Benefits Everyone Including Atheists*, Templeton Press, West Conshohock, 2012

<sup>12</sup> Jang, SJ, Johnson, BR, Hays, J, Hallett, M & Duwe, G n.d., 'Existential and Virtuous Effects of Religiosity on Mental Health and Aggressiveness among Offenders', RELIGIONS, 2018 vol. 9, no. 6

<sup>13</sup> Alon, I., Li, S., & Wu, J. (2017). An Institutional Perspective on Religious Freedom and Economic Growth. *Politics and Religion*, 10(3), 689-716

<sup>14</sup> Deloitte Access Economics, 'Donating and volunteering behaviour associated with religiosity', 2017 <https://www2.deloitte.com/au/en/pages/economics/articles/donating-volunteering-behaviour-associated-with-religiosity.html>

<sup>15</sup> Hugh Mackay, *Beyond Belief: How we find meaning with or without religion*, Macmillan Publishers, 2016

orphanages, and other sectors of society that exist apart from and serve as a check upon state power.<sup>16</sup>

This review of the benefits of religion to society shows an overwhelmingly positive role that could be costly both financially and in terms of societal well-being were it to diminish.

**Without adequate protections against religious discrimination and without proactive protections to allow religious groups to manifest their faith religious groups will retreat inward. Such a retreat will have far reaching consequences to all Australians, not only those of faith, but also those without faith who benefit from a society with believers.**

On the other hand, what has repeatedly been presented as a reason to diminish the rights due to believers is that the LGBTI community faces discrimination. While the media has identified individual cases of religious schools clashing with employees who will not abide by the school's teachings on sexual orientation and gender identity, this should be put into context. Close to a third of all schools are affiliated with a religion and approximately one million students are taught in religious schools. The rate of discrimination that is preventing the application of protections for millions of people of faith being legislated is extremely small. It is also diminishing as religious schools are voluntarily shifting away from confrontation on this issue and instead seek accommodation.

### ***7. Perfect not the enemy of the good***

Some advocates of human rights, including the submission to this Committee by Prof. George Williams, are against this bill as it does not provide a comprehensive representation of international human rights.

By that same logic the Race Discrimination Act would not have been legislated in 1975 because there was no protection for discrimination against Sex which was legislated in 1984. But that too should not have been legislated under this same logic because there was no protection for those discriminated against because of disabilities which was protected in 1992 and so forth.

The nature of Australia's rights regime is the gradual legislation of rights. We should be careful not to prevent progress in some naïve hope that more than the three years of consultations, tens of thousands of submissions and several inquiries would somehow lead to a better outcome than what is before this Committee now.

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<sup>16</sup> <https://www.religiousfreedominstitute.org/cornerstone/2016/6/28/religion-a-friend-to-democracy>