



GPO Box 1555, Melbourne, VIC 3001
Website: vichumanist.org.au
Email: secretary@vichumanist.org.au
19 December 2021

The Secretary
Joint Committee on Human Rights
Parliament of Australia
Canberra, A.C.T.
human.rights@aph.gov.au

Dear Sir or Madam,

Religious Discrimination Bill 2021

The following submission is made on behalf of Humanists Victoria, a secular organization fostering an ethical and reasoned life-stance, supporting human rights, democratic processes, and just and inclusive governance.

1. General remarks

- 1.1. We object to religious privilege and respectfully oppose this Bill, in that it goes beyond standard discrimination law to permit people of faith to discriminate against others.
- 1.2. The Bill defines the term 'religious body' in terms of a particular religion, while 'religious belief' is defined to include no religious belief (§ 5). That implies that neither an inter-faith society nor a secular governmental body can be regarded as a religious body although each upholds so-defined religious belief. This looks like confusion.

2. Protecting individuals from adverse discrimination

- 2.1. Most Australian jurisdictions already have laws prohibiting religious discrimination. Most discrimination actions are brought under State law. In this Bill the overriding of State laws governing religious educational institutions (§ 11) would compromise the authority of the State tribunals. This would force claims of discrimination to go through the courts, at an exorbitant waste of time and money.
- 2.2. The Religious Discrimination Commissioner which is to be created (§ 52) is a misnomer: considering relevant international convention, it would be better to nominate a Freedom of Conscience Commissioner.

3. Allowing adverse discrimination against individuals

- 3.1. The Bill grants collective rights to religious bodies, on the basis of avoiding 'injury to the religious susceptibilities' of the adherents of the religion. Thus a religious school can mandate its religious practice on all staff and students, once it has a publicly available policy (§ 7), despite having a public

Humanists Victoria (Humanist Society of Victoria Inc. Reg. No. A0020272M)

Humanists Victoria strive for a society in which all individuals can attain their full potential through promoting an ethical, reasoned and compassionate approach to life.



duty as a licensed educational institution. Humanists consider that religious bodies deserve no more freedom than other bodies, and we question whether corporations can be accorded rights apart from those of its individual members. Giving preference to persons of the same religion risks fracturing society into mutually uncomprehending ghettos.

3.2. Section 9 of the Bill deals with religious hospitals, aged care facilities, accommodation providers and disability service providers, operating under a published policy and in accordance with the tenets of a particular religion. Their conduct is not deemed discrimination, so long as they aim ‘to preserve a religious ethos’ amongst its staff by making faith-based decisions in relation to employment. This would give *carte blanche* to discriminatory practices and even undermine the productive economy by limiting employment opportunities.

3.3. Humanists favour vigorous discussion in the public sphere. When statements of belief are made that are taken to be insufficiently moderate, participants should not have to fear legal sanctions or loss of livelihood. The Notes in § 12(2) and § 15(3), which concede the right to ‘moderately expressed’ statements of belief, are too weak. Freer expression demands that vigorous discussion, short of inciting hatred or violence, be allowed.

3.4. The Bill is accompanied by the Human Rights Legislation Amendment Bill 2021, which seeks to amend the *Sex Discrimination Act 1984* and *Marriage Act 1961*. While it is acknowledged that the *Sex Discrimination Act* needs to be changed to stop religious educational institutions expelling LGBTQIA students, this Bill ought to ensure that those institutions receiving government funding do not apply religious criteria to their non-religious staff. In the *Marriage Act*, such institutions should not be allowed to refuse wedding services because of their religious beliefs. The reason is the same in both cases: the greater public duty, being secular, should prevail over the particular values of the institution.

This concludes the submission.

Yours faithfully,

Jennie Stuart
President, Humanists Victoria

[HV JCHR]