



**SUBMISSION TO THE SENATE STANDING COMMITTEE ON LEGAL AND
CONSTITUTIONAL AFFAIRS**

RELIGIOUS DISCRIMINATION BILL 2021 AND RELATED BILLS

7 January 2022

Dear Chair,

The [#DontDivideUs campaign](#) is a coalition of 11 freethought organisations representing thousands of pro-secular and non-religious Australians. The coalition consists of the Rationalist Society of Australia, the Atheist Foundation of Australia, the NSW Rationalist Association, Humanists Victoria, Sydney Atheists, Humanists Australia, the National Secular Lobby, the Australian Skeptics, the Australian Skeptics (Victoria branch), the Queensland Parents for Secular State Schools and Go Gentle Australia.

The #DontDivideUs campaign welcomes the opportunity to have input into the review of the Religious Discrimination Bill 2021 and related bills being conducted by the Senate Standing Committee on Legal and Constitutional Affairs.

The Religious Discrimination Bill, in its current form, will create enormous division in Australian society. After two years of dealing with the current pandemic and, before that, the trauma of widespread bushfires, Australians need healing and unity. This Bill will unnecessarily divide Australians and allow discrimination along religious lines.

Our campaign has repeatedly said we would not be opposed to a Religious Discrimination Bill that protected people *from* discrimination based on religious belief or non-belief. We would support legislation that provided a *shield* from discrimination.

However, the new version of the Religious Discrimination Bill goes significantly beyond other anti-discrimination laws. It privileges religion, enabling religious people and institutions to discriminate against other Australians – not only non-religious people but people of different religions and even people of the same religion who have a different interpretation of the doctrine. It provides a *sword* enabling further discrimination.

If passed into law, this Bill will create silos emphasising differences and, thus, divide Australia into micro-societies. The great strides Australia has made towards inclusiveness and tolerance achieved by adopting internationally accepted equal opportunity and anti-discrimination principles will be reversed.

Our key concerns include:

1) Religious freedom v religious discrimination

We are concerned that the Bill, as reflected in the 'Objects of the Act' (Part 1, 3), emphasises 'freedom' rather than 'discrimination'.

The sequencing of the Bill reflects a strong focus on what is not discrimination, rather than what is discrimination. Part 2 (*Conduct etc. that is not discrimination*), precedes the parts that define discrimination (Part 3) and what constitutes discrimination (Part 4).

Part 4 (*Unlawful discrimination*) seems largely reasonable but for the significant scope of exemptions and exceptions listed in (2), (3) and (4) of Section 18, and the broad sweep of circumstances that do not constitute discrimination (Part 2). This reflects an emphasis on 'religious freedom', or religious privilege, rather than protection from discrimination.

The weight of content is firmly in favour of conduct that allows discrimination in the name of protection of religious belief.

2) Overriding existing state-based anti-discrimination laws

We are concerned that the Bill overrides existing state and territory anti-discrimination laws in a significant departure from the typical approach to federal discrimination laws. Usually, federal discrimination law is careful not to clash with state/territory anti-discrimination and equal opportunity laws.

Section 11 overrides state and territory human rights protections to permit religious schools to discriminate against teachers and other staff.

The only acceptable form of discrimination in the employment practices of a faith-based school is for roles that have an inherent religious requirement. Thus, we support Victoria's new legislation that prevents schools from firing any of their staff for reasons including marital or relationship status, sexual identity, accessing IVF treatment or becoming pregnant outside marriage.

Section 12 authorises forms of speech that would constitute unlawful discrimination on the grounds of race, sex, sexuality, gender identity, marital status and disability under current federal or state/territory legislation.

This 'statements of belief' section will result in non-religious people, people with disabilities, women, LGBTQIA+ people and other minority groups becoming the target of demeaning and harmful comments from religious people and organisations. The victims of these comments will have no legal recourse available.

3) Elevating statements of religious belief above all other statements of belief

We are in favour of freedom of religion and belief but not of institutionalising the primacy of statements of religious belief over all other statements of belief.

The 'statements of belief' provisions will divide Australian society into several discrete segments, each of which is permitted to reinforce its own prejudices while legally discriminating against those who have a different view. As mentioned above, many Australians will face discrimination on a daily basis if this Bill becomes law.

We are also concerned that the Bill will prevent local councils from introducing by-laws that protect public order, especially from aggressive street evangelists who harangue and harass citizens in public spaces.

The requirement that such statements be made "in good faith" is problematic, with this concept being highly subjective. It provides a wide scope for harmful and damaging statements to be justified as made "in good faith".

4) Rights of religious bodies to hire and fire on religious grounds

We are concerned that religious bodies such as schools and hospitals will be able to mandate that a particular interpretation of the faith must be adhered to by all staff.

Such religious bodies receive significant taxpayer funding and make up large swathes of the employment market. This is particularly significant in rural and remote settings, where they may provide a significant portion of local employment opportunities.

Such preferencing will have a detrimental impact on not only non-religious people but also religious people who vary from or disagree with stated doctrines. These people will

potentially be blocked from filling any role in the organisation, regardless of the degree to which doctrinal views are relevant to the work being undertaken.

People of faith who hold different views on social issues to the hierarchy of an organisation can potentially be fired or excluded from opportunities for which they may otherwise be eminently well qualified, simply because they are not perceived to be aligned with a school's or hospital's doctrines of faith. As reported in the [Religiosity in Australia](#) (2021) series, polls consistently show that large majorities of religious people in Australia support social reforms on issues such as abortion, same-sex marriage, and voluntary assisted dying, while their own faith leaders remain firmly opposed.

In modern Australia, it is simply unacceptable for people to be fired or prevented from obtaining roles which do not have an inherent religious component for reasons including religious or non-religious belief, marital or relationship status, sexual identity, accessing IVF treatment or pregnancy outside marriage.

5) Corporate bodies may have the right to sue

We are concerned that the Bill allows religious organisations to sue. Anti-discrimination laws usually apply only to individuals. As the word 'person' is not defined in the Bill, the Acts Interpretation Act 1901 definition applies – with the meaning of 'person' referring to both natural and legal persons. This will enable religious organisations to sue individuals, resulting in legal proceedings characterised by significant power imbalances between the parties. This will lead to a further entrenching of the privilege that such organisations enjoy to the detriment of others.

6) Religion not an inherent characteristic

Religion is not an inherent attribute of a person. An individual can change their religious beliefs just as they can change their political or other world views. No one religion can be more "right" than another, and a person's religion deserves no more or less protection than political or other world views.

7) Protection afforded dangerous organisations

The religious Discrimination Bill would empower religious cults and would carry the risk of protecting them from scrutiny and procedural investigation.

Human rights authorities concerned the Bill will cause harm and division

We note that, in submission to the inquiry by the Parliamentary Joint Committee on Human Rights, Australia's peak human rights bodies have voiced their opposition to the Bill, arguing that it will cause division and harm along religious lines.

The Australian Council of Human Rights Authorities says the Bill does not strike the appropriate balance between protecting religious belief and safeguarding other rights, including the right to be free from discrimination. "The Bill introduces novel and expansive provisions that elevate and privilege religious belief and activity in a way that is likely to undermine existing anti-discrimination laws," it said.

The Australian Human Rights Commission says the Bill provides protection to religious belief or activity at the expense of other rights and warns that the explicit overriding of discrimination laws "is not warranted" and "sets and alaming precedent".

Mainstream religious groups concerned the Bill will cause harm and division

A number of mainstream religious groups also argue the Bill goes too far in empowering harmful discriminatory behaviour and will have unintended consequences for vulnerable people.

The Public Affairs Commission of the Anglican Church of Australia says: "We believe the RDB still gives too much unnecessary scope and encouragement for harmful discriminatory behaviour in the name of religion in a manner that unfairly overrides other equally important human rights to be free from discrimination"

The Uniting Church in Australia Assembly says provisions in the Bill will increase the likelihood of discrimination against people of minority faiths and vulnerable groups, permitting statements and actions that "demean and unjustly diminish the rights of others on religious grounds". It says the Bill will privilege "powerful religious voices at the expense of minority and vulnerable voices in society".

St Vincent de Paul Society, a Catholic charity, says: "People will be hurt, potentially on many levels, and will have no legal remedy." Sacred Heart Mission, another Catholic charity, says: "We believe it will exclude people from accessing essential services, such as health care and social services; and cause harm and distress to people who are already vulnerable within our society."

Minority faith groups are also concerned about the potential for division. The Buddhist Council of NSW says the Bill will negatively impact minority religions and minority groups, including LGBTQIA+ people, including by reducing access to employment and certain services for minorities. It says the Bill will “create social disharmony through offensive and humiliating statements that target specific groups.”

Conclusion

The coalition of freethought groups behind the #DontDivideUs campaign does not support the Religious Discrimination Bill in its current form.

If enacted into law, the Bill will cause significant division throughout communities across Australia. Such division, based along religious lines, is completely unnecessary and unwanted, especially at a time when Australians are seeking to strengthen communities and rebuild a sense of unity following the trauma of the pandemic and bushfires in recent years.

The Bill further privileges the rights of religious people and religious groups at the expense of other Australians.

We urge the committee to reject the Bill as currently drafted.

Yours sincerely,

Rationalist Society of Australia
Atheist Foundation of Australia
NSW Secular Association
Humanists Victoria
Humanists Australia
Sydney Atheists
National Secular Lobby
Australian Skeptics
Australian Skeptics (Victoria branch)
Queensland Parents for Secular State Schools
Go Gentle Australia