



Hon Nick Goiran MLC

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Hon Peter Foster MLC
Chair, Standing Committee on Environment and Public Affairs
Harvest Terrace, Parliament House
PERTH WA 6000

By email: env@parliament.wa.gov.au

Dear Peter,

PETITION NO. 084 – RELIGIOUS FREEDOM

I refer to your letter dated 30 March 2023 requesting a written submission regarding this petition tabled on 28 March 2023.

As outlined in this petition, it has been distressing to see people of Christian faith referred to as “Bible-bashers”, “happy-clappers” and “God-botherers”. This petition is concerned with how the public use of such repugnant descriptors impact the fundamental freedom of religion, thought and conscience.

Fundamental Freedom of Religion, Thought and Conscience

Freedom of religion is commonly considered as being a fundamental human right and has been formally recognised in various international instruments, including:

1. Article 18 of the Universal Declaration of Human Rights;
2. Article 18 of the International Covenant on Civil and Political Rights;
3. Article 5 of the Convention on the Elimination of All Forms of Racial Discrimination; and
4. Article 14 of the Convention on the Rights of the Child.

The above instruments, of which Australia is a party, protect the rights of individuals to think freely and to entertain ideas and hold positions based on conscientious or religious or other beliefs. To preserve this right, our Federal Government recognises that it has both positive and negative duties. For example, the Government may not impose restrictions on the ability to hold

positions based on religious beliefs and may also be obliged to take steps to protect this right by preventing offensive attacks on religious beliefs.¹

Likewise, State Governments also have a role to play in protecting this freedom and as a consequence the *Equal Opportunity Act 1984 (WA)* (**the Act**) makes it unlawful to discriminate against a person due to their religious conviction.² However, the Law Reform Commission of Western Australia recently noted in its review of the Act that this religious freedom is not adequately protected and recommended that the Act also protect against vilification on the basis of religious conviction.³

Freedom of Speech vs Freedom of Religion

Freedom of speech is a crucial freedom worthy of defence. However, it must also be recognised that completely unrestricted freedom of speech may lead to the infringement of the rights of others. The fact that freedom of speech cannot be absolute is already reflected in domestic laws which prohibit or render unlawful speech in many contexts, such as laws regarding obscenity and defamation. The recently assented to *Road Traffic (Vehicles) Amendment (Offensive Advertising) Act 2023 (WA)* provides an example whereby freedom of speech is limited to protect Western Australians from unwanted exposure to degrading, obscene or insensitive advertisements on vehicles.

While freedom of speech and freedom of religion are both fundamental freedoms in any modern democracy, both come with responsibilities. One freedom should not be used to inhibit the freedom of another. The recent use of repugnant descriptors such as “Bible-bashers”, “happy-clappers” and “God-botherers” in reference to people of the Christian faith is an example of free speech being used to harass and silence people of faith. It is important that freedom of religion is not merely an afterthought and is instead carefully balanced with corresponding freedoms. As noted above, the Law Reform Commission of Western Australia has expressly identified the need to limit freedom of speech to prevent vilification on the basis of religious conviction.

It ought to be indisputable that no one in Western Australia should be subjected to harassment because of their faith. All individuals have the responsibility to ensure their speech does not infringe on the ability of others to freely express their faith.

Conclusion

There is a considerable public interest in this matter given the importance of freedom of religion, thought and conscience and the potential outcomes that can arise from the use of repugnant terms against faith-based groups in the media.

¹ Attorney-General’s Department (Cth), ‘Right to freedom of thought, conscience and religion or belief’ (Public sector guidance sheet < <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-freedom-thought-conscience-and-religion-or-belief>>).

² *Equal Opportunity Act 1984 (WA)* s 53.

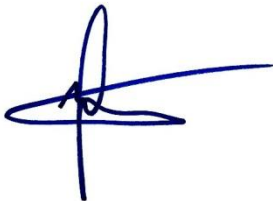
³ Law Reform Commission of Western Australia, *Review of the Equal Opportunity Act 1984 (WA)*, Project 111 Final Report (2022) 230.

As such, I urge the Committee to:

1. Write to the Government to establish whether it supports freedom of religion, thought and conscience;
2. Ascertain what legislation the Government is committed to prioritising that better protects that freedom and what legislation it is willing to abandon that undermines that freedom; and
3. Examine the adequacy of existing remedies available to those who are subjected to attacks on this fundamental freedom and how these can be enhanced.

Thank you for the opportunity to lodge this submission and I look forward to the outcomes of the Committee's inquiry into this petition.

Yours sincerely,

A handwritten signature in blue ink, consisting of a stylized 'N' and 'G' with a horizontal line extending to the right.

Hon Nick Goiran MLC