

14 February 2018

Religious Freedom Review

Via email: religiousfreedom@pmc.gov.au

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The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA develops policy and promotes issues on behalf of its constituency to government and the broader community. FECCA strives to ensure that the needs and aspirations of Australians from cultural and linguistically diverse backgrounds are given proper recognition in public policy.

FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion, and are formulated with the common good of all Australians in mind.

FECCA welcomes the invitation from the Religious Freedom Review Panel to make a submission on Australia's Freedom of Religion. If any questions arise from this submission we would encourage you to contact the Senior Policy and Project Officer, Dr Alia Imtoul at alia@fecca.org.au and the Director, Dr Emma Campbell at emma@fecca.org.au or on 02 62825755.

Religious Freedom and Same Sex Marriage Legislation

In the wake of the overwhelming public support for the legalisation of same-sex marriage, and the subsequent passing of legislation enabling this, there has been discussion about whether or not the right for all Australians to marry their partner of choice (irrespective of their gender) impinges on the religious freedom of other Australians.

FECCA is the peak national body with 23 members from all states and territories and many regional areas. These members represent over 1000 grass roots community organisations and more than 200 ethnic or language groups. FECCA represents the interests of CALD Australians and does not represent religious interests although it recognises that religion is an important part of many Australian's cultural diversity. FECCA takes a human rights based approach which opposes discrimination of any kind including on the basis of race, preferred language, gender, religion, ethnicity, sexual orientation, age or dis/ability. FECCA, with the full support of its Board, was supportive of the proposal to legalise same-sex marriage.

FECCA's members include a very diverse range of views on many issues, just as there is a diversity of views within religious communities, ethnic communities, and across generations or cohorts based on other characteristics. Many individuals in the communities that FECCA represents identify as LGBTIQ¹, and many identify as both religious and LGBTIQ².

FECCA has not received feedback which suggests that marriage equality in Australia impinges on the religious or cultural freedom of the communities whose interests we represent. The concerns which FECCA's members *do* hold with regards to curtailment of religious freedom are in the areas of end of life care, healthcare, employment, construction of places of worship, and housing.

End of life care is particularly fraught for CALD Australians of diverse faith backgrounds because the right to die with dignity in a culturally and linguistically appropriate setting is often denied to them through the lack of availability of appropriate care. In many locations, publically funded, high quality, non-hospital based end of life care in a palliative care centre or hospice which provides care appropriate to consumers who come from CALD backgrounds of different faith traditions is unavailable because the only centres/hospices available are sectarian (eg run by the Catholic Church, or the Uniting Church, or the Baptist Church via their healthcare business arms).

Whilst FECCA is aware that these sectarian religious institutions are obliged to attend to consumers irrespective of their faith traditions, there is a lack of awareness that for many devout consumers who do not share the specific faith tradition of the end of life care provider organisation, dying in a context where there is an overwhelming preference given to the images, rituals and daily courtesies of a faith they don't share, can be deeply alienating. A commitment to religious freedom in health care must ensure that all faith traditions are catered for appropriately and according to the wishes of individuals and their families without the onus of educating the service provider on what that looks like falling upon the shoulders of dying patients and their families. Equitable access for all Australians regardless of their cultural, linguistic or religious heritage must ensure the same high quality, nuanced and culturally competent care.

Protections for religious freedom

As a signatory to the International Covenant on Civil and Political Rights, (ICCPR) Australia has made a commitment to the international community to protect the right to freedom of religious practice.

Prior to being a signatory to ICCPR the Australian Constitution enshrined the right to freedom of religion. Section 116 states "The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion...". From its inception as a nation Australia has always understood the fundamental need for the state to protect the rights of individuals and communities to engage in worship free from persecution.

Increasingly, religious freedom is under threat from a small, vocal, but growing, sector of the Australian populace. These threats include attempts to legislate for the prohibition of wearing of various forms or religious attire, most notably as it relates to women of Islamic faith but also as it relates to headdress worn by Sikh men. Such threats also relate to fears concerning the sale of food that complies with religious custom, most notably as it relates to halal certification. Additionally there have been disputes about the establishment of buildings and other sites that provide for religious observance, most notably as they relate to mosques, Islamic schools and

¹ <https://www.agmc.org.au/>

² <http://www.equalitycampaign.org.au/faithforum>

Islamic cemeteries. Also affected have been Australia's Jewish communities who faced a marked increase in attacks³.

The reported incidents of religious discrimination and racism in Australia have risen over past few years. There have been instances where children were discriminated against due to lack of flexibility in relation to school uniforms,⁴ women targeted because of their attire, particularly those wearing head covers such as hijabs or niqab⁵ and a rise in attacks against the Australian Jewish community⁶.

FECCA represents many communities who have experienced discrimination and racism on the basis of their cultural, religious, and linguistic backgrounds. Many CALD Australians have experienced difficulties in finding employment because many job service providers or employers are reluctant to provide opportunities to those with 'difficult' names, 'heavy' accents, or religious attire. The vast majority of individuals with these experiences do not pursue complaints or make accusations of discrimination, often because they do not have the resources or the knowledge to pursue them, and because they lack trust in the systems and mechanisms in place to deal with these kinds of incidents.

FECCA has evidence that significant numbers of CALD Australians seek advice from community legal centres regarding discrimination and racism with regards to access to appropriate housing, particularly rental properties.

FECCA would like to see greater government resources devoted to ensuring religious freedom and equitable access to culturally, linguistically and religiously appropriate healthcare, housing, employment, and to all publicly funded services.

³ Scanlon Foundation, Mapping Social Cohesion Report, 2017

⁴ SBS, Sikh Student refused school enrolment for wearing Turban, 19 January 2017, accessible at: <http://www.sbs.com.au/news/article/2017/01/19/sikh-student-refused-school-enrolment-wearing-turban>

⁵ Islamophobia in Australia 2014-2016, (Ed) Derya Iner, 2017

⁶ Scanlon Foundation, Mapping Social Cohesion Report, 2017