

NSW Greens' Human Rights Bill

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Freedom For Faith

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(Our full submission has been lodged and will be available once published by the Committee)

The *Human Rights Bill 2025* is a private member's bill introduced by Greens MP Jenny Leong MP that would establish a statutory human rights framework for New South Wales. It would require legislation to be interpreted consistently with the rights set out in the Bill, impose human rights obligations on public authorities, create new complaint and litigation pathways, and establish a NSW Human Rights Commission with broad oversight, investigative and conciliation functions.

The Bill is currently subject to an enquiry by

Whether or not a Human Rights Act might ever be appropriate for New South Wales, this particular Bill should not proceed.

A central problem is that the Bill does not faithfully reproduce Australia's obligations under ratified international treaties. It alters the wording and structure of established rights, introduces novel or developing rights drawn from non-binding declarations and resolutions, and omits important treaty protections, including the rights of parents in relation to the religious and moral education of their children. It also elevates non-discrimination rights in a way that may place them above other fundamental freedoms, while adopting broad and uncertain concepts such as a right to dignified treatment and protection from degrading treatment.

The treatment of religious freedom is particularly defective. Although clause 22 purports to protect freedom of thought, conscience and religion, the Bill weakens the protection provided by Article 18 of the ICCPR. It excludes bodies corporate from holding human rights, despite the fact that religion is ordinarily exercised through churches, schools, charities and other institutions. It also applies a general limitations clause to all rights and adds a special note to religious freedom which appears to permit limitation of the freedom to have or adopt a belief, even though international law allows restrictions only on the manifestation of religion or belief and protects the internal freedom of belief unconditionally.

The Bill would also impose substantial new burdens on faith-based organisations. Its broad definition of "public authority" may capture religious schools, hospitals, aged-care

providers, disability services and other charities that receive public funding or perform functions regarded as public in nature. Those organisations would be required to give proper consideration to the Bill's contested set of rights in their ordinary decision-making, while being exposed to complaints, court proceedings and an asymmetrical costs regime. At the same time, the Bill would deny religious institutions the ability to rely upon human rights in their own corporate capacity.

These substantive problems are reinforced by an excessive enforcement regime. The proposed NSW Human Rights Commission would have broad powers to investigate religious organisations, compel documents from respondents and third parties, direct participation in conciliation, publish information about complaints and make adverse reports even where complaints remain unresolved. The complaints and conciliation processes are likely to be coercive, uneven and potentially punitive, while significant penalties and reputational consequences may arise before any breach has been established by a court. The Bill also gives the Attorney-General a broad power to intervene in proceedings concerning its interpretation, risking the politicisation of judicial decision-making.

Our submission concludes that the Bill is both inappropriate in content and premature in timing. Before considering a general Human Rights Act, Parliament should address the longstanding absence of protection against religious discrimination in the Anti-Discrimination Act 1977, review the effectiveness of the existing Legislation Review Committee, and identify any genuine gaps in the protection of rights under Australia's ratified treaties. Any future reform should faithfully preserve the wording and structure of those treaty obligations and provide clear and meaningful protection for freedom of religion, conscience and belief.