

LGBTQ+ non-discrimination and religious freedom in the context of government funded faith-based education, social welfare, health care, and aged care

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Abstract

Anti-discrimination laws around the world have explicitly protected LGBTQ+ people from discrimination with various levels of exceptions for religion. Some conservative religious organisations in Australia are advocating to be allowed to discriminate against LGBTQ+ people in certain organisations they manage. The political debate in Australia has focused on religiously affiliated organisations that provide services in education, social welfare, health care, and aged care. We argue that religious exceptions allowing discrimination should be narrow because they cause considerable harm, reinforce, disadvantage and because LGBTQ+ people are deserving of respect and rights. We draw on a national representative survey to demonstrate that the views of some conservative religious lobby groups do not represent the views of the majority of religious people in Australia or the views of the majority of Christian people.

Introduction

Anti-discrimination laws around the world have explicitly protected LGBTQ+ people from discrimination with various levels of exceptions for religion (Tebbe 2017). These exceptions are contentious, with some religious actors seeking to extend their ability to discriminate, and others seeking to minimise limitations on the right of LGBTQ+ people to non-discrimination. To the former, the Australian Federal Government has tabled (in 2021) a Religious Discrimination Bill and associated legislation (Attorney-General 2021) aimed at protecting ‘religious freedom’. Some conservative religious organisations in Australia are advocating to be allowed to discriminate against LGBTQ+ people in the context of certain organisations they manage, those which provide government funded education, social welfare, health care, and aged care to the general Australian population.¹

One of the justifications for the Religious Discrimination Bill and associated legislation is that exceptions that allow faith-based organisations to discriminate in the provision of public services is broadly supported by people of faith, and by Australians more generally. For example, reporting on a poll commissioned by the Australian Christian Lobby claimed that 60 per cent of respondents ‘supported [religious] schools’ rights to not employ staff “in conflict” with their religious beliefs’ (Ferguson 2021: 1). The research question that this paper addresses is whether Australians, and in particular religious Australians, support discriminatory practices in publicly funded faith-based organisations.

There are strong arguments against exceptions that allow faith-based organisations to discriminate in the provision of public services. We argue below that Australia’s international human rights commitments require that the Australian Government exclude discrimination in the delivery of government funded services by faith-based organisations. Doing so would be consistent with common international practice, as Gogarty et al (2018) show, very few of the international jurisdictions that permit same sex marriage allow religious bodies to discriminate when they provide services with government funding. Consistent with this, Nelson Tebbe (2017) argues that religious exceptions should be narrow because they cause considerable harm. Discrimination permitted under exceptions harms individuals, but, further, it reinforces “historical disadvantage ... [and contributes to] perpetuating that disadvantage” (Egan v. Canada 1995: 520). The proposed legislation could entrench and further the risk of discrimination against LGBTQ+ people working in education, social welfare, health care in Australia, where religiously affiliated organisations provide upward of one third of services (Rowe 2017; Oslington 2012). It is important to emphasise that there is no political debate about exceptions that allow religious people to discriminate in their churches, temples, synagogues, and mosques. Rather, the central dispute is the extent to which religious bodies should be exempted from a duty not to discriminate against LGBTQ+ people where those bodies provide services to the general Australian public with government funding. These LGBTQ+ people can be employees and/or people in receipt of services from these organisations. Beyond the prevention of harm, discrimination on religious grounds should be narrowly limited because LGBTQ+ people are “equally deserving of concern, respect, and consideration” (Egan v. Canada 1995: 520).

This paper focuses specifically on the issue of religious freedom and the right to non-discrimination of LGBTQ+ people in Australia. Previous research demonstrates that support for religious exceptions that allow discrimination is significantly lower than suggested by the results of the voluntary Marriage Law Postal Survey, where 38.4% voted No (ABS 2017). For example, Crowe (2018) reports the results of a Fairfax-Ipsos poll of 1200 Australians who were

asked: “Do you support or oppose laws to allow religious schools to select students and teachers based on their sexual orientation, gender identity or relationship status?” 21% supported the laws, and 74% opposed them. Karp (2018: 1) reports that a “YouGov Galaxy poll, conducted for the LGBTI rights lobby group Just Equal, found that ... 79% opposed the schools’ ability to fire teachers if they married a person of the same sex.” Similarly, Halafoff et. al. (2020: 9) report the Australian teens they interviewed were incredulous that LGBTQ+ teachers still suffered discrimination in religiously affiliated schools. This paper draws on a national representative sample of Australians who were asked whether they agree with the right of some religious people to discriminate against LGBTQ+ people in the context of organisations that provide services to the general Australian population. The results demonstrate that such discriminatory practices are opposed by a substantial majority of the Australian population *and* a majority of religious Australians. These statistics challenge the claim of some conservative Christian lobby groups to represent the views of Australian Christians, ‘religious’ people, and Australians more generally.

Religious Freedom and Same-Sex Marriage in Australia

The Australian Federal Government has released two drafts for public comment of the Religious Freedom Reform bills (Attorney-General 2019, 2020), and a third draft was tabled in parliament in November 2021 (Attorney-General 2021). The tabled bill would legalise a variety of forms of discrimination against LGBTQ+ people and other groups by religious individuals, religious bodies, and religiously affiliated organisations. The legislation was given impetus by the Commonwealth Government’s Religious Freedom Review (2018) which was commissioned to assuage concerns that some religious Australians had in response to the legalisation of same-sex marriage in Australia after the 2017 voluntary Marriage Law Postal Survey.

Though ‘religious freedom’ was not the most prominent issue of *public* debate in the push for marriage equality, there was some exploration by legislators of the religious “right to discriminate” in the context of LGBTQ+ rights. The *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cth) established the rights of two individuals to marry irrespective of gender. It also established the rights of “ministers of religion, religious marriage celebrants, chaplains and bodies established for religious purposes to *refuse* to solemnise or provide facilities, goods and services for marriages on religious grounds” (McKeown 2018: np, emphasis added). Some wanted this freedom-to-refuse to extend to the provision of services in non-religious contexts. For example, Senator James Paterson proposed an alternative Marriage Equality Bill which would have provided extended protections to “protect the freedoms of other individuals and businesses — for instance, florists, cake makers and photographers” (Collett 2017). However, Senator Paterson did not introduce this Bill.

Religious lobby groups have been major contributors to the public debate about the freedom of some religious people to refuse to employ and provide services to LGBTQ+ people in faith-based organisations that provide *government funded services* to the general population. This debate is about the extent of the right of religious bodies to engage in discriminatory practices that have a broad impact on other Australians.

Conservative Christian responses

Even though 52% of the Australian population identified as Christian in the 2016 Census (Bouma et al. 2021), Christian lobby groups depict themselves as “a minority who are under

threat from mainstream norms which give recognition to, and acceptance of, LGBT+ people” (Freedom for Faith 2018: 24). Following the ‘Yes’ vote in the Marriage Postal Survey, then federal Treasurer, Scott Morrison echoed this language. Morrison described the nearly five million ‘No’ voters as a new ‘minority’ whose ‘broader views and beliefs’ were now ‘under threat’ (Commonwealth of Australia 2017: 12347). This discourse of marginality is a common tactic utilised by conservative Christian lobby groups (McIvor 2020: 85).

Beyond this, in the debates about marriage equality and the Religious Freedom bills, influential and vocal religious groups claim to speak on behalf of most – or all – Christians. These Christian groups often describe discrimination exceptions as central to their religious freedom and advocate their retention and expansion.² Existing exceptions give broad discretion to religious bodies to discriminate, such as to dismiss a school teacher who comes out as gay, or to refuse welfare services based on a person’s gender identity. One of the most vocal advocates for exceptions is the Anglican diocese of Sydney. The Sydney diocese describes discrimination exceptions as necessary for Christian institutions to ‘participate in national life as Christians’, suggesting that without them Christian bodies could not ‘be’ Christian or be involved in public life (Anglican Church Diocese of Sydney 2018: 15). Similarly, the high profile Australian Christian Lobby and its sister organisation, the Human Rights Law Alliance (‘HRLA’), also purport to represent the ‘Christian constituency’, claiming to be the ‘voice of Christians...in the public square’ and to ‘bring a Christian perspective to policy makers’ in government (Australian Christian Lobby & Human Rights Law Alliance 2018: 1).

The Anglican diocese of Sydney has raised fears that reducing the scope of discrimination exceptions could interfere with faith-based conditions attached to its provision of welfare services, such as foster care. The Diocese submitted to the Religious Freedom Review (2018) that all its community services must be offered conditionally, consistently with its teaching that ‘heterosexual...marriage is both the norm and ideal’ (Anglican Church Diocese of Sydney 2018: 14). The HRLA made similar submissions with respect to commercial businesses operated by Christians, arguing that they should have a right to discriminate against LGBTQ+ clients and staff (Australian Christian Lobby & Human Rights Law Alliance 2018). In order to show what religious freedom in commercial settings would entail, HRLA gave examples of disputes it was involved with. These included supporting the refusal by an employer to use appropriate pronouns for transgender staff, refusals by medical practitioners to refer or provide certain health services, and a booking refusal by a commercial campsite due to the inquiring group’s support of same-sex attraction (Australian Christian Lobby & Human Rights Law Alliance 2018).

However, it is not clear to what extent the views of Christian lobby groups mirror those of the religious people they claim to represent. Our research is designed to address this question.

Service provision by faith-based organisations

Upwards of one third of the Australian workforce in sectors such as education, social welfare, health care, and aged care, are employed by organisations with religious affiliations (Rowe 2017; Oslington 2012). These organisations hire employees who may be LGBTQ+ or have LGBTQ+ affirming attitudes that may conflict with the employer’s exclusionary attitudes and practices toward LGBTQ+ people. Such exclusionary attitudes and practices are inconsistent with civic and governmental service goals, such as the aim to provide universal access to high quality education, social welfare support, health care and aged care.

The history of Catholic education in Australia provides a demonstrative example. Up until the 1970s, Catholic schools were attended almost entirely by Catholic students and received very little government funding. Catholic students experienced considerable socio-economic inequality (Gaffney 2014). The Menzies government gradually increased funding support to Catholic schools from 1965, and the Whitlam government introduced needs-based funding to Catholic Schools in 1972 (Warhurst 2012). These developments came after strong government lobbying by Catholics and a strike by Catholic school students. More recent growth of Australia's non-state education sector was a product of the "Howard Government's removal of the cap on new schools in 1997" and the government provision of "establishment grants" to new non-state schools (Cranston 2010:187). At the same time as the number of Catholic schools expanded, there was also a declining number of Catholics in the Australian population (Bouma et al. 2021). As a consequence, Catholic schools no longer provide education solely to Catholic students.

Religiously affiliated schools are becoming *less* a service provided by a religious organisation to its adherents, and increasingly *more* like a state-funded service provided to the general population but managed by a religious organisation. Within Catholic schools nationally, the proportion of students who are Catholic has declined from 74.4% in 2008 to 66% in 2018 (National Catholic Education Commission 2019: 14). Some states have even lower percentages, with Tasmanian Catholic schools having only 42.3% of students identifying as Catholic in 2018. Drawing on 2016 Census data, the Independent School Council of Australia (2018: 19) reports that non-Catholic independent schools have 46% of their students who are non-Catholic Christians, 28% with no religion, 15% Catholic students, and 11% from other religions. There are a small number of schools who restrict their students to those who identify with the religion of the school. For example, Moriah College (2018: 3) "only accepts enrolment of a child ... who is Jewish in accordance with halacha." However, enrolment restrictions such as this are not typical of most non-government schools.

A similar pattern can be observed in the provision of social welfare. Marion Maddox (2005) observes that a transfer of substantial portions of welfare services to the Churches occurred during early 2000s. For example, the federal Government outsourced a support program to assist unemployed people to find work, and outsourced programs for the provision of early intervention for children and families, so that religious institutions took over services that had previously been provided by government run agencies (Maddox 2005: 235). As a result of these government contracts many faith-based agencies have greatly increased in scale, and they have increasingly employed people from outside their related faith communities.

The harm caused by LGBTQ+ discrimination

In Australia, there is substantial evidence for the harm that discrimination causes LGBTQ+ people, both as employees, as students, and as health care and social welfare recipients. The Private Lives 3 (PL3) study shows that the overall mental and physical health of LGBTQ+ people is significantly lower than the general Australian population (Hill et al 2020). According to Rosenstreich (2013) these lower health outcomes are directly correlated to the experience of discrimination and exclusion. Meyer and Frost (2013: 252) suggest that social stressors such as "stigma, prejudice and discrimination" can cause a lower sense of general wellbeing in sexual and gender minorities. Horner (2013), in a survey of 415 LGBTQ+ respondents across Australia reported that 18% experienced some form of discrimination at work. More recently a survey of approximately 2500 found that 36% of respondents had witnessed homophobia at work in the last 12 months (GLEE 2018). The Diversity Council of

Australia's survey of LGBTQ+ people in the workplace found that 40% of respondents felt 'invisible' in their workplace, experiencing the workplace culture as 'don't ask, don't tell' (Brown et al 2018). Barrett, Lewis and Dwyer (2011) found that in Queensland in 2010, despite inclusive policies, 54% of survey participants experienced discrimination in the workplace. Ferfolja (2013) identifies that lesbian and gay teachers in NSW state schools experience marginalisation and silencing despite positive policy and anti-discrimination legislation protecting them. Conversely, inclusive and welcoming practices in the workplace enhance the mental health of LGBTIQ+ workers. For example, Brown et al (2018) found that being out at work improves health and performance outcomes of LGBTQ+ workers. Of the 1600 people surveyed, those who were out at work were twice as likely to feel happy than those who were not, and were 45% less likely to be dissatisfied in the workplace. Being out in the workplace is also beneficial to worker productivity, as less energy is expended in hiding their LGBTIQ+ status and more is invested in contributing to the workplace (Conway 2018).

The harm caused to LGBTQ+ people is particularly clear, for example, in the experience of LGBTQ+ students in Catholic schools in Australia. Peter Norden (2006: 25) from Jesuit Social Services heard stories of depression, isolation and discrimination in Catholic Schools: "A consequence of this discrimination for same sex attracted young people is that they have increased rates of homelessness, risk-taking behaviour, depression, suicide and episodes of self-harm compared to young heterosexuals."

At the heart of these debates is whether it is acceptable to provide publicly funded services to the general population conditionally on faith-based terms in order to ensure the integrity of the religious character of the organisation when such terms undermine the human rights to equality and dignity, and inflicts considerable harm on LGBTQ+ people?

Human rights and religious morality

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) sets out that States 'have the obligation to guarantee the enjoyment of [economic, social and cultural] rights to all without discrimination' (CESCR GC24; Jameson and Aubry 2020). Those economic, social and cultural rights encompass the right to work, and the right to services such as health, housing, food, water, and social security (CESCR GC24). States are under strong moral – if ultimately unenforceable – pressure to comply with and report on their voluntarily assumed international human rights obligations. A State does not avoid its non-discrimination obligations by contracting out its functions to private bodies (CESCR GC24).

Contracting out public services to faith-based organisations raises the risk that the fundamental right to non-discrimination could, in some circumstances, be at odds with the right of people in faith-based organisations to 'manifest one's religion or beliefs' in article 18(1) of the *International Covenant on Civil and Political Rights* (ICCPR). The conflict is resolved in international human rights law in the following way. Under article 18(1) of the ICCPR, the human right to manifest religious belief is recognised in relation to 'worship, observance, practice and teaching'; it is not recognised in relation to, say, the conduct of a business or the provision of a service. On that basis, the right to manifest religious belief does not extend to allowing faith-based organisations to give effect to discriminatory beliefs when providing contracted out public services. But even if the right to manifest religious belief extended to the conduct of a business, a State is permitted to limit the right to the extent that is 'necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others' (ICCPR art 18(3)). The right to equality and non-discrimination is one such fundamental right

(CCPR GC18). This means that the State *can* permissibly limit the right to manifest a religious belief to the extent that is necessary to protect the right to equality and non-discrimination. Thus, if a religious practice would mean less favourable treatment of people because of their LGBTQ+ status, a State can limit that religious practice to the extent necessary to ensure non-discrimination.

For consistency with its international human rights obligations, therefore, Australian governments could, when contracting out public services to faith-based organisations, require non-discrimination, despite any inconsistent religious belief. This is not, however, the practice in Australia, or what Australian law requires. While all workers and service recipients in Australia have the protection of anti-discrimination laws, there are exceptions to those laws that allow religious bodies to discriminate on the basis of a person's sexual orientation. The *Sex Discrimination Act* (SDA), for example, allows a 'body established for religious purposes' to engage in sexual orientation discrimination (except in the context of aged care) when doing so 'conforms to the doctrines, tenets or beliefs of that religion or is necessary to avoid injury to the religious susceptibilities of adherents of that religion' (SDA ss 37, 38).³

There are complexities in the detail of these exceptions across federal, state, and territory jurisdictions (Rees et al. 2018), but the central point is that faith-based organisations are currently allowed to discriminate on the basis of a person's sexual orientation. From a human rights perspective, such exceptions to anti-discrimination laws allowing public service providers to discriminate in their operations puts the government in breach of its international human rights obligations. A government does not, by contracting out its public services, avoid its non-discrimination obligations under the international human rights system.

Method

The Australian Survey of Social Attitudes (AuSSA) (McNeil et al. 2021) collected responses from February to June 2021 in a mail out questionnaire to individuals randomly selected from the electoral roll, with 1162 completed surveys and a 0.25 response rate (the cooperation rate was 0.7, refusal rate was 0.1). The data were weighted using the weight variable provided with the data that weight by age, sex, and highest education level, using the 2016 Census as the comparison (McNeil et al. 2021). Table 1 provides a comparison of the unweighted and weighted demographic characteristics. Younger respondents and those with only year 12 education are more heavily weighted. The regression analysis (Table 6) was also run with unweighted data and where this produced a difference in the significance of results, this is reported in the notes on the table.

Table X: Weighted and unweighted data demographics

Sex	Unweighted Frequency	Unweighted Percent	Weighted Frequency	Weighted Percent	Weighted /unweighted
Male	526	45	531	46	1.0
Female	599	52	568	49	0.9
Age					
18-29	79	7	187	16	2.4
30-39	99	9	156	13	1.6
40-49	142	12	193	17	1.4
50-59	185	16	162	14	0.9
60-69	278	24	198	17	0.7
70-99	317	27	175	15	0.6
Highest Education Qualification					

Below Year 12	221	19	247	21	1.1
Year 12	95	8	168	15	1.8
Certificate or diploma	345	30	373	32	1.1
Bachelors	211	18	184	16	0.9
Postgraduate	212	18	82	7	0.4

We included questions in the AuSSA that measure support for the right to discriminate, using the following statements with Likert scale response possibilities: ‘A conservative religious person working in a cake shop should be allowed to refuse to sell a wedding cake to a same-sex couple’ (abbreviated in the tables below as ‘LGBTQ+ wedding’); ‘Conservative Catholic, Anglican, Jewish, and Muslim schools should be allowed to refuse to employ a teacher because they are LGBTQ+’ (abbreviated as ‘LGBTQ+ teachers’)⁴; ‘A conservative religiously affiliated social welfare organisation providing accommodation for homeless people should be allowed to direct LGBTQ+ homeless people to seek welfare assistance from another organisation’ (abbreviated as ‘LGBTQ+ homeless’). These were all 5 point scales: strongly agree, agree, neither agree nor disagree, disagree, strongly disagree. In some of the analyses below the strongly agree and agree categories, and the strongly disagree and disagree categories have been combined.

Attitudes toward the separation of church and state were obtained with two questions. One asked: ‘The Australian Federal Government should advocate Christian values’ with a similar 5 point scale. Respondents were also asked: ‘The opening of Australian Federal Parliament includes the Christian Lord’s Prayer. What do you think of this?’ and were offered possible responses: The Lord’s Prayer should be used to open Parliament; Prayers from a variety of religions should open Parliament; There should be no religious prayers to open Parliament; Parliament should open with a minute of silence; Can’t choose. The AuSSA survey included a question about religious identity: ‘Do you belong to a religion and, if yes, which religion do you belong to?’, and attendance at religious services was indicated by the question: ‘Apart from such special occasions as weddings, funerals, etc., how often do you attend religious services?’.

Other questions asked about the environment: ‘Generally speaking, how concerned are you about environmental issues?’ (1 Not at all concerned to 5 Very concerned), years of education, personal income, and respondent age (measured in years); about immigration: ‘Australia should limit immigration in order to protect our national way of life’ (5 point Likert scale from strongly agree to strongly disagree); about political affiliation: ‘Do you usually think of yourself as close to any particular political party and, if yes, which party is that?’; and about freedom of speech, respondents were provided with a list that included ‘Protect freedom of speech’ and asked to indicate which they thought should be ‘Australia’s highest priority, the most important thing it should do?’.

Christian values in Federal Parliament

The AuSSA data show that Australians are divided relatively evenly into thirds on whether the Australian Federal Government should advocate Christian values (Table 2). Just over one third agree, just under one third disagree, and one third are unsure. Christians are more likely to agree with advocating Christian values (among Catholics and Anglicans 57% agree, other Christians 73% agree). Unsurprisingly, those with no religion (20%) or who follow a non-Christian religion (17%) are less likely to agree, while those who attend religious services

regularly are the most likely to agree (79%). The relatively low rates of attendance at religious services (12.8% attend at least monthly), may partially reflect the influence of Covid restrictions. In the 2018 AuSSA survey, 15.4% of the population attended at least monthly (Evans et al. 2018), a 17% drop in attendance that may be due to Covid. Those who identify with the Coalition (62%) are more likely to agree that the Federal Government should advocate Christian values, than are those who identify with Labor (29%); of those with no party affiliation, 31% agree, and those who identify with the Greens are least likely to agree (10%).

Table 2: The Australian Federal Government should advocate Christian values

	Agree (per cent)	Neither agree nor disagree (per cent)	Disagree (per cent)	N
All	37	32	30	1105
Religious identities				
No religion	20a	34a	46a	608
Catholic	57b	26b	17b	184
Anglican	57b	39a	4c	103
Christian Other	73c	21b	6c	156
Non-Christian	17a	57c	26b	54
Religious participation				
No religion	20a	34a	46a	608
Nominally religious	50b	35a	15b	361
Religious attenders	79c	16b	4c	134
Gender				
Men	37a	32a	32a	361
Women	38a	33a	29a	134
Political affiliation				
Labor	29a	37a	34a	235
Coalition	62b	25b	13b	263
Greens	10c	14c	76c	84
No party	31a	39a	30a	491

Question: The Australian Federal Government should advocate Christian values.

Each subscript letter denotes a category whose proportions within the categories of “Agree”, “Neither agree nor disagree” or “Disagree” do not differ significantly from each other at the .05 level for the Z test of proportions. Cells with low percentages or low numbers are not reliable for comparison purposes.

Religious identities: $X^2(8, N = 1105) = 267.110, p = .000$

Religious participation: $X^2(4, N = 1103) = 240.183, p = .000$

Gender: $X^2(2, N = 1081) = .824, p = .662$

Political affiliation: $X^2(6, N = 1073) = 175.672, p = .000$

“Religious attenders” is defined as both identifying as religious and attending services at least monthly.

“Nominally religious” is defined as identifying as religious and attending services less often than monthly.

Australians’ attitudes toward whether the Christian Lord’s prayer should open Parliament (Table 2), as is the current practice, mirrors the pattern of attitudes toward whether the Australian Federal Government should advocate Christian values. Approximately one third

(32%) say there should be no prayers in Parliament, 20% can't choose and 16% say that Parliament should open with a minute of silence. One third of people want religious prayers in Parliament, either the Christian Lord's prayer (25.7%), or prayers from a variety of religions (6.3%). Unsurprisingly, both nominal (36%) and attending (52%) religious people are more likely to think the Lord's prayer should be used to open parliament. A small minority of those with no religion want prayers in parliament (12%), and almost half think there should be no prayers (45%).

Table 3: Prayers in Parliament

	The Lord's Prayer should be used to open Parliament	Prayers from a variety of religions should open Parliament	There should be no religious prayers to open Parliament	Parliament should open with a minute of silence	Can't choose	N
All Per cent	26	6	33	16	19	1102
No religion Per cent	12a	4a	45a	20a	20a	607
Nominally religious Per cent	36b	5a	18b	15a	25a	362
Religious Per cent	52c	16b	16b	6b	11b	133
N	285	71	360	174	212	1102

Question: The opening of Australian Federal Parliament includes the Christian Lord's Prayer. What do you think of this?

$\chi^2(8, N = 1102) = 249.593, p = .000$

Each subscript letter denotes a category whose proportions among the categories of attitudes toward prayers in Parliament do not differ significantly from each other at the .05 level for the Z test of proportions.

Attitudes toward LGBTQ+ people among the Australian population

Less than one fifth of the Australian population support religious people being allowed to discriminate against LGBTQ+ people (Table 4). This is a considerably lower level of support than the one third of Australians who support the Federal Government advocating Christian values or opening Parliament with the Lord's Prayer. Three questions were asked about discrimination by a religious person and/or organisation: when selling a wedding cake, when employing a teacher in a religiously affiliated school, and when providing services to the homeless. Among the general Australian population, 77% disagree and 16% agree that a conservative religious person should be able to discriminate against same-sex couples whilst selling a wedding cake, 72% disagree and 19% agree that a conservative religious school should be allowed to refuse to employ an LGBTQ+ teacher, and 74% disagree and 16% agree that a conservative religious social welfare organisation should be allowed to redirect LGBTQ+ homeless people to other service providers. Women are less likely than are men to support this discrimination, particularly in relation to selling a wedding cake with 80% disagreeing and only 11% agreeing.

Table 4: Religious discrimination against LGBTQ+ people.

	LGBTQ+ wedding (per cent)			LGBTQ+ teacher (per cent)			LGBTQ+ homeless (per cent)			
	A	Ne	D	A	Ne	D	A	Ne	D	N
All respondents	16	8	76	19	8	73	16	11	74	1180
Respondents by religious identity										
No religion	13a	5a	82a	13a	6a	82a	12a	7a	82a	596
Catholic	16a	7a	76a,b	20b	10b,c	70b	19b	14b,c	67b,c	181
Anglican	16a,b	9a,b	75a,b	25b,c	7a,c	68b,c	17a,b	9a,c	74a,c	100
Other Christian	26b	15b	60c	35c	15b	49d	20b,c	19b	61b	150
Non-Christian	20a,b	17b	63b,c	30b,c	17b,c	53c,d	32c	23b	45d	53
Respondents by religious participation										
No religion	13a	5a	82a	13a	6a	82a	12a	7a	82a	596
Nominally religious	14a	9a	78a	21b	11a,b	68b	18b	15b	67b	353
Religious attenders	35b	16b	49b	41c	15c	44c	25b	16b	59c	130
Respondents by agreement with the Federal Government advocating Christian values										
Agree	22a	8a	69a	32a	11a	58a	23a	14a	63a	398
Neither	8b	11a	81b	10b	10a	80b	14b	13a	73b	352
Disagree	15c	4b	81b	14b	3b	83b	9c	4b	88c	335
Respondents by gender										
Women	11a	9a	80a	17a	7a	77a	16a	8a	76a	596
Men	21b	7a	72b	22b	10b	68b	16a	14b	70b	353

A: Agree or strongly agree. Ne: Neither agree nor disagree. D: Disagree or strongly disagree.

Each subscript letter denotes a category whose proportions within the categories of “Agree”, “Neither agree nor disagree” or “Disagree” do not differ significantly from each other at the .05 level for the Z test of proportions. Cells with low percentages or low numbers are not reliable for comparison purposes.

LGBTQ+ wedding & Religious identities: $X^2(8, N = 1083) = 43.669, p = .000$

LGBTQ+ wedding & Religious participation: $X^2(4, N = 1103) = 67.217, p = .000$

LGBTQ+ wedding & Christian values: $X^2(4, N = 1087) = 99.051, p = .000$

LGBTQ+ wedding & Gender: $X^2(2, N = 1057) = 9.167, p = .010$

LGBTQ+ teacher & Religious identities: $X^2(8, N = 1081) = 81.223, p = .000$

LGBTQ+ teacher & Religious participation: $X^2(4, N = 1079) = 86.548, p = .000$

LGBTQ+ teacher & Christian values: $X^2(4, N = 1087) = 40.699, p = .000$

LGBTQ+ teacher & Gender: $X^2(2, N = 1060) = 11.225, p = .004$

LGBTQ+ homeless & Religious identities: $X^2(8, N = 1076) = 44.096, p = .000$

LGBTQ+ homeless & Religious participation: $X^2(4, N = 1080) = 61.040, p = .000$

LGBTQ+ homeless & Christian values: $X^2(4, N = 1087) = 89.051, p = .000$

LGBTQ+ homeless & Gender: $X^2(2, N = 1061) = 20.284, p = .000$

While support for discrimination against LGBTQ+ people is higher among people who are nominally religious, the substantial majority of those people do not think that discrimination against LGBTQ+ people should be allowed in any of selling a wedding cake (78%), employing a teacher (68%) or providing homeless services (67%) (Table 4). Among Catholics and Anglicans, between two thirds and three quarters disagree that discrimination against LGBTQ+ people should be allowed. Among other Christians and those who follow religions such as Islam, Buddhism and Hinduism, between 45% and 61% disagree with such discrimination, although the percentages for non-Christians should be treated with caution because of the small numbers of respondents.

A minority of those who attend religious services at least monthly agree that discriminatory practices should be allowed in any of selling a wedding cake (35%), employing a teacher (41%) or providing homeless services (25%) (Table 4). Further, only one quarter to one third of those who agree that the Federal Government should advocate Christian values agree with discrimination against LGBTQ+ people in employment or service provision. Among those who agree with the Federal Government advocating Christian values, 22% agree that discriminatory practices should be allowed in selling a wedding cake, 32% agree for employing a teacher, and 23% agree for when providing homeless services (Table 4).

Political party identification

Among people who identify with the Coalition, between 22% and 26% agree that conservative religious people should be allowed to engage in discriminatory behaviour toward LGBTQ+ people in any of selling a wedding cake, employing a teacher or providing homeless services, and between 64% and 71% disagree (Table 5). Between 72% and 76% of those with no party affiliation disagree with such discrimination.

Table 5: Political identification

	LGBTQ+ wedding (per cent)			LGBTQ+ teacher (per cent)			LGBTQ+ homeless (per cent)			N
	A	Ne	D	A	Ne	D	A	Ne	D	
Labor	7a	12a	81a,b	14a	9a	77a	11a	11a	78a	227
Coalition	23b	5b	71c	26b	11a	64b	22b	10a	68b	256
Greens	10a,c	2b	88b	2c	2b	95c	1c	2b	96c	84
No party	15c	8a,b	76a,c	19a	8a,b	73a	16a	13a	72a,b	481

A: Agree or strongly agree. Ne: Neither agree nor disagree. D: Disagree or strongly disagree.

Question: Do you usually think of yourself as close to any particular political party and, if yes, which party is that?

Each subscript letter denotes a category whose proportions within the categories of “Agree”, “Neither agree nor disagree” or “Disagree” do not differ significantly from each other at the .05 level for the Z test of proportions. Cells with low percentages or low numbers are not reliable for comparison purposes.

LGBTQ+ wedding: $X^2(6, N = 1049) = 38.990, p = .000$

LGBTQ+ teacher: $X^2(6, N = 1048) = 36.489, p = .000$

LGBTQ+ homeless: $X^2(6, N = 1048) = 36.489, p = .000$

A regression model

Table 6 provides a regression model of the predictors of agreement with religious people’s right to discriminate against LGBTQ+ people. The dependent variable is a scale measuring agreement with religious people’s right to discriminate against LGBTQ+ people, with higher values indicating agreement. Those who agree with discrimination in religious contexts are more likely to be regular religious attendees, believe the Federal Government should advocate Christian values, be indifferent to environmental issues, be men, and think that Australia should prioritise freedom of speech. This set of factors is consistent with those observed as characteristic of conservative Christian lobby groups. Conservative Christian lobby groups emphasise freedom of speech and their engagement “on environmental matters appears to have been very limited” (Pepper and Leonard 2016: n.p.). It is also interesting that women are more likely than men to disagree with discrimination against LGBTQ+ people by religious people. This may reflect a broader gendered difference in responses to conservative Christian lobby groups who have strongly patriarchal attitudes toward women (Maddox 2014). Those who

disagree with discrimination in religious contexts are more likely to be nonreligious, concerned about the environment, see the Government as nonreligious, be women, and not list freedom of speech as an Australian priority. This does not mean that people who attend religious services are more likely to agree with LGBTQ+ discrimination. Only just over one third of people who regularly attend religious services agree with discrimination against LGBTQ+ people (Table 4). Rather, it means that those who agree that discrimination against LGBTQ+ people is acceptable are more likely to be people who attend religious services regularly.

It is noteworthy that both antipathy toward minorities and voting Green, while significant, are weaker predictors and only significant at the 0.05 level. Generalised antipathy toward minorities or 'others', as indicated by strongly agreeing that Australia should limit immigration is a weaker predictor than the other variables. Similarly, those identifying as Green voters are more likely to disagree, when compared to Labor voters, that religious people should be able to discriminate against LGBTQ+ people, however the effect is weaker than that of the other variables. Age and years of education are not statistically significant predictors. Income is also not significantly correlated with the discrimination scale, and was not a significant predictor when included in the regression model, but was excluded from the analysis due to the high number of missing cases.

In the regression model, there is no significant influence from identifying as a Coalition voter or having no party affiliation when compared to Labor voting. In the crosstabulation of Table 5, there are often significant differences in attitudes between Labour and Coalition identifying voters. The regression analysis suggests that this difference in attitudes is largely a product of the influence of conservative Christian lobby groups.

Table 6: Regression model of agreement with religious people's right to discriminate

	B	Std. Error	Beta
Attend religious services monthly or more often	-0.72**	0.09	-0.24
Agree the Government should advocate Christian values	-0.40**	0.07	-0.20
Australia should prioritise freedom of speech	-0.35**	0.06	-0.17
Concerned about environmental issues	0.31**	0.06	0.16
Sex: female	0.26**	0.06	0.13
Strongly Agree Australia should limit immigration	-0.20*	0.08	-0.08
Education, years	0.015	0.008	0.056
Age in years	0.001	0.002	0.018
Green identifying	0.25*	0.12	0.07
Coalition identifying	0.06	0.09	0.03
No Party identification	0.08	0.07	0.04
(Constant)	3.89**	0.17	

** $p < 0.01$. * $p < 0.05$.

R Square: 0.260, $F = 8.403$, $p < 0.01$, $N = 900$.

Dependent Variable: Scale measuring agreement with religious people's rights to discriminate against LGBTQ+ people (Cronbach's Alpha: 0.803). The scale was calculated by summing and dividing by 3, responses to the variables: LGBTQ+ wedding, LGBTQ+ teacher, and LGBTQ+ homeless. The scale

variable has a range from 1 (strong agreement with the right of religious people to discriminate against LGBTQ+ people) to 5 (strong disagreement).

The regression reported is with weighted data. Using unweighted data results in minor changes to beta values. All the significance levels remain the same, with the exception of 'Green identifying', which has a beta of 0.15 and is not significant with unweighted data.

Overall, this regression suggests that support for discrimination against LGBTQ+ people in religious contexts is primarily driven by factors common to politically activist conservative Christian lobby groups. It is not related to education, income, age, or affiliation to the two major political parties. Green party identification and antipathy toward immigrants are significant, but weaker influences.

The views of the conservative Christian lobby groups do not reflect the views of the majority of Christian Australians. Among those who agree that the Australian Federal Government should advocate Christians values, only one third (32%) agree that faith-based schools should be able to discriminate against LGBTQ+ teachers. Only 20% of Catholics, 25% of Anglicans, and 35% of other Christians agree, and 41% of those who regularly attend religious services agree (Table 4).

Conclusion

The AuSSA survey data demonstrates that the majority of Australians do not think that discriminating against LGBTQ+ people should be permitted in the provision of public services by faith-based organisations. Three quarters of Australians do not support religiously affiliated service providers discriminating against LGBTQ+ people, either as employees or as people in receipt of these services. This opposition is much higher than the one third of Australians who are opposed to the Federal Government advocating Christian values, or commencing parliament with the Lord's prayer. A similar majority of religiously identifying Australians also do not support such discriminatory practices. Among Australians who attend religious services regularly, support slightly increases, but is still in a minority, with the majority indicating they do not support religious service providers discriminating against LGBTQ+ people. Further, among Australians who think the Federal Government should advocate Christian values, only between 22% and 32% agree with discriminating against LGBTQ+ people in employment or service provision.

Conservative Christian lobby groups often claim their views are representative of all Christians (see for example Australian Christian Lobby & Human Rights Law Alliance 2018, Freedom for Faith 2018). Our research demonstrates that this is clearly not the case. The majority of Christians oppose discrimination against LGBTQ+ people in employment and the provision of services. It may be that many Christians do not support discriminatory practices against LGBTQ+ people because they feel that LGBTQ+ people have the right to be treated equally and with respect. Others may simply be resigned, as suggested by Méadhbh McIvor (2020: 113) who studied both a legal activist Christian organisation in London and a conservative Christian church. She argues that the public indignation of rights-based Christian activist organisations is often not shared by conservative Christians in the church pews who have accepted the different expectations of the nonreligious mainstream culture "as the inevitable result of secularisation ... [with a] resignation [that] suggests an acceptance of the inevitability of the status quo."

There is further research to be done into religious practices in the context of government funded religious schools in Australia that are associated with strict, orthodox or strongly conservative

religious traditions. For example, some schools restrict their students to those who identify with the religion of the school. This includes schools run by some smaller Christian traditions such as the Brethren and some strict Muslim schools (Coleman and White 2011), and schools run by ultra-orthodox Jews (Goss and Rutland 2014). Such schools raise a different set of potential issues and harms that may require a different set of considerations (Evans and Gaze 2011). Rizvi (2014: 588), for example, notes that for some strict Muslims in the UK “in the absence of [single sex Islamic] girls' schools, some parents preferred to send their daughters to their home countries or keep them un-schooled” (Rizvi 2014: 588).

Juan Marco Vaggione (2018: 27) argues that in Argentina, “the politicization of religious pluralism opens up the possibility that citizens, state officials, and legislators may support legal reforms because of (and not in spite of) their religious beliefs.” That is to say, national culture, religious ‘freedom’ and being ‘Christian’ are often conflated with resistance to progressive legislative responses to sexuality by conservative religious actors, such as the Catholic Church in Argentina and Christian lobby groups in Australia. Our data suggests that religious support for progressive sexual politics may be much more widespread than the political and media debate suggests.

A substantial proportion of education, social welfare, health care, and aged care services in Australia is provided to the general population by faith based organisations. The people who work in these organisations and the people who receive their services are often LGBTQ+ people. In these contexts, Australia has international human rights obligations to limit religious rights to the extent necessary to accommodate LGBTQ+ peoples’ right to non-discrimination. The government’s obligation to provide services without discrimination under international human rights law is not changed by the contracting out of service provision to faith-based providers. LGBTQ+ people are deserving of equality and respect, and this should not be eroded by discrimination in publicly funded contexts. Our research suggests that the majority of religious people in Australia do not support discriminatory practices in these contexts. The views of some religious lobby groups and some religious leaders do not represent the views of the majority of religious people in Australia. Similarly, the vast majority of Australians do not support discrimination against LGBTQ+ people in the context of faith-based service provision.

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¹ We use the term 'conservative' to describe those who resist the recognition of the rights of LGBTQ+ people and hold an image of the family as heterosexual and nuclear (Maddox 2005: 2; Jones 2021). Jones (2021: 318) notes that term 'conservative' is not 'embraced by conservative religious activists', but is nonetheless a useful term with broad intelligibility, if not entirely unproblematic.

² For example, in their submission to the Religious Freedom Review, the Australian Catholic Bishops Conference (2018: 14) said: “One of the principal ways religious freedom is recognised in Australia is in exceptions or exemptions to anti-discrimination law”

³ See also *Fair Work Act* 2009 (Cth) ss 153(2), 195(2), 351(2), 772(2).

⁴ The survey questions used the acronym “LGBT+” as indicated here. We have used the acronym LGBTQ+ in this article.