

# AUSTRALIA 2019 INTERNATIONAL RELIGIOUS FREEDOM REPORT

## Executive Summary

The constitution bars the federal government from making any law that imposes a state religion or religious observance, prohibits the free exercise of religion, or establishes a religious test for a federal public office. In August the government released draft religious freedom laws whose stated aim was to make it unlawful to discriminate on the basis of religious belief or activity in key areas of public life. Some religious groups criticized the legislation as inadequate for not explicitly recognizing a positive right to freedom of religion, and for providing inadequate protections for religious groups engaging in commercial activities, such as retirement villages or youth camps. Some civil society groups said the draft legislation would give too much weight to religious views and would weaken existing protections for lesbian, gay, bisexual, and transgender (LGBTI) people and those from diverse racial and cultural backgrounds. The government responded with a second draft in December, and invited further public comment. Pauline Hanson's One Nation Party, which had two senators in the federal parliament, called for a travel ban for certain countries until a solution can be found to "first, second, and third generation migrants who violently reject Australia's democratic values and institutions in the name of radical Islam" and for limits on some Islamic practices. The Catholic Church opposed state and territory laws requiring priests to report evidence of child abuse heard in confession.

In August a Muslim woman reported being assaulted while on public transportation in Melbourne, and in November another Muslim woman, who was in an advanced state of pregnancy, was attacked by a man who reportedly yelled anti-Muslim hate speech. Two incidents of anti-Semitic bullying at Melbourne-area schools received widespread media attention during the year. Four incidents of anti-Semitic graffiti appeared in east Melbourne during the year, as well as similar vandalism in other cities. Unknown perpetrators painted anti-Muslim graffiti on the car of a Muslim family in Western Australia days after the Christchurch, New Zealand mosque shootings.

The U.S. embassy and consulates general engaged government officials and a wide range of religious leaders, faith communities, and groups to promote religious freedom. This included well-publicized engagement with members of the country's Uighur community, some of whom have reported harassment by the Chinese Communist Party in the country.

## **Section I. Religious Demography**

The U.S. government estimates the total population at 23.7 million (midyear 2019 estimate). According to the 2016 census, 52.1 percent of residents are Christian, with Roman Catholics (22.6 percent of residents) and Anglicans (13.3 percent) comprising the two largest Christian groups. Muslims constitute 2.6 percent of the population, Buddhists 2.4 percent, Hindus 1.9 percent, Sikhs 0.5 percent, and Jews 0.4 percent. An additional 9.6 percent of the population either did not state a religious affiliation or stated affiliations such as “new age,” “not defined,” or “theism,” while 30.1 percent reported no religious affiliation.

Revised figures from the 2016 census indicate that indigenous persons constitute 3.3 percent of the population, and that there are broad similarities in the religious affiliation of indigenous and nonindigenous individuals. In 2016, less than 2 percent of the indigenous population reported adherence to traditional indigenous religions or beliefs. Fifty-four percent of indigenous respondents identify as Christian, and an estimated 36 percent report having no religious affiliation.

## **Section II. Status of Government Respect for Religious Freedom**

### **Legal Framework**

The constitution bars the federal government from making any law imposing a state religion or religious observance, prohibiting the free exercise of religion, or establishing a religious test for a federal public office.

The right to religious freedom may be limited only when deemed necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. Individuals who suffer religious discrimination may have recourse under federal or state and territory discrimination laws and bodies such as the Australian Human Rights Commission.

The state of Tasmania is the only state or territory whose constitution specifically provides citizens with the right to profess and practice their religion. In Queensland, Victoria, and the Australian Capital Territory, freedom of religion is protected in statutory human rights charters. The antidiscrimination laws of all states and territories, with the exception of New South Wales and South Australia, contain a prohibition against discrimination on the grounds of religious belief. New South Wales prohibits discrimination on the basis of “ethnoreligious origin” and South Australia protects individuals from discrimination in employment and

education on the grounds of religious dress. Complainants may seek redress through state and territory human rights bodies.

Religious groups are not required to register. To receive tax-exempt status for income or other benefits and an exemption from the goods and services tax (sales tax), however, nonprofit religious groups must apply to the Australian Taxation Office (ATO). Registration with the ATO has no effect on how religious groups are treated, apart from standard ATO compliance procedures. To receive tax-exempt status, an organization must be a nonprofit entity. An organization's activities, size, and permanence are some of the factors taken into account when determining its tax-exempt status.

State and territory governments share responsibility for education policy with the federal government, and generally permit religious education in public schools covering world faiths and belief structures. Instruction in the beliefs and practices of a specific religion may also be permitted, depending on the state or territory. In some jurisdictions this instruction must occur outside regular class time, while in others alternative arrangements are made for the children of parents who object to religious instruction. Thirty-five percent of students attend private schools and 94 percent of these schools are affiliated with a religious group.

The country is a party to the International Covenant on Civil and Political Rights.

### **Government Practices**

In August Attorney General Christian Porter released draft religious freedom legislation for public feedback. After receiving almost 6,000 written submissions, in December the government released a second draft for further consultation, with public submissions due by January 31, 2020. The government stated the purpose of the draft legislation was to prohibit discrimination on the ground of religious belief or activity in key areas of public life and create a new office of the Freedom of Religion Commissioner in the Australian Human Rights Commission.

The proposed legislation would implement several recommendations made by the Expert Panel on Religious Freedom and would be consistent with a pledge by Prime Minister Scott Morrison to enact religious freedom legislation. Media commentators linked this pledge, and the debate surrounding religious freedom issues, to pledges made during the passage of legislation legalizing same-sex marriage in 2017.

The government's draft legislation explicitly would not create a positive right to freedom of religion, and the attorney general described the laws as a "shield" to protect people being discriminated against, rather than a "sword" allowing discrimination against others. Religious freedom advocates expressed concern that the laws would not provide a positive right and would neither override current laws in state jurisdictions that they said infringe on religious freedom nor prevent doctors from being compelled to refer patients to receive abortions, contrary to their religious beliefs. Managing director of the Australian Christian Lobby, Martyn Iles, expressed concern there would be insufficient protection for religious speech, citing as an example a 2015 case in which Catholic Archbishop of Hobart Julian Porteous was referred to Tasmania's antidiscrimination tribunal over the publication of a booklet advocating the Church's position on same-sex marriage. In response, the revised draft released in December would protect religious institutions from discrimination claims when "engaging in good faith in conduct to avoid injury to the religious susceptibilities of adherents of the same religion..."

According to news reports, the Sydney Anglican diocese rejected the legislation as originally proposed, citing inadequate protections for religious entities engaging in commercial activities, such as retirement villages or youth camps, and warning of unintended consequences. The reports stated that in response, the government's revised draft proposed strengthening the ability of religious bodies (including hospitals, retirement homes, and accommodation providers) to give preference to persons who share their religion.

Some civil society groups criticized the draft for giving too much weight to religious views at the expense of other rights. Public submissions by the Australian Human Rights Commission and the Public Interest Advocacy Centre warned the laws could permit discrimination based on race, sexual orientation, and disability on the grounds of religion. LGBTI advocates raised concerns that the legislation would grant "religious exceptionalism" by giving new privileges to religious individuals while overriding existing protections from discrimination for others. Advocacy group Equality Australia CEO Anna Brown said the revised draft would "establish double standards in the law, allowing religious organizations the ability to discriminate against others with different or no belief."

The draft laws would ban large businesses with a turnover of more than 50 million Australian dollars (\$35.1 million) from setting codes of conduct that indirectly discriminate on the grounds of religion, unless the business can prove it would cause "unjustifiable financial hardship to the business." Attorney General Porter said these provisions would provide protection for individuals in circumstances

similar to those of Israel Folau – a well-known rugby player whose contract with Rugby Australia was terminated in May after he posted on social media that “hell awaits” for “drunks, homosexuals, adulterers, liars, fornicators, thieves, atheists, idolaters.” Many religious freedom advocates supported Folau, including the Australian Christian Lobby, which raised more than two million Australian dollars (\$1.4 million) to fund Folau’s legal defense. In December Folau and Rugby Australia reached a settlement, which media reported involved an apology and an eight million Australian dollar (\$5.6 million) payment to Folau.

In response to the pledge made in late 2018 by Prime Minister Morrison to remove religious schools’ ability to expel LGBTI students, in April Attorney General Porter tasked the Australian Law Reform Commission to conduct an inquiry into religious exemptions in antidiscrimination legislation. The commission is due to report its findings in December 2020.

Pauline Hanson’s One Nation Party had two senators in the federal parliament and maintained a platform calling for a travel ban for certain countries until a solution can be found to “first, second, and third generation migrants who violently reject Australia’s democratic values and institutions in the name of radical Islam.” They also called for limits on some Islamic practices. Senator Fraser Anning (originally elected as a member of Pauline Hanson’s One Nation Party before later founding his own Conservative National Party) lost his bid for reelection in May. Anning blamed immigration of “Muslim fanatics” for deadly attacks on New Zealand mosques by an Australian shooter in March. Following the shooting, Anning released a widely criticized statement saying that “while Muslims may have been victims today, usually they are the perpetrators” and said the attacks highlighted growing fear “of the increasing Muslim presence.” Fraser Anning’s Conservative National Party received 1.28 percent of the senate vote in his home state of Queensland in the May federal election.

In September the Victoria state parliament passed laws requiring priests to report suspicions of child abuse discovered through confession. The law carries a sentence of up to three years in prison if a mandatory reporter (including persons in religious ministries) fails to report abuse to authorities. Catholic leadership in Victoria indicated the Church would refuse compliance, with Archbishop of Melbourne Peter Comensoli saying he would rather go to jail than report admissions of child sexual abuse made during confession. Other priests and Catholic leaders made similar pledges to defy mandatory reporting laws. One Sydney parish priest reportedly said he expected “the church throughout [Australia] will simply not observe” the new laws. In September 2018, Catholic

leaders said they would not accept a recommendation by the Royal Commission into Institutional Responses to Child Sexual Abuse to lift the seal of confession regarding child sex abuse. The Church stated that the recommendation impinged on religious liberties and that it would not change its tradition of keeping confessions confidential. The laws in Victoria followed similar legislation introduced in South Australia (2017), Tasmania (2018), Western Australia (2019) and the Australian Capital Territory (2019).

In March Roman Catholic Cardinal George Pell was sentenced to six years in prison following his December 2018 conviction by a Melbourne court of five sexual offenses committed against two 13-year-old boys in 1996. Pell maintained his innocence. In August an appeals court dismissed his appeal. In September Pell sought to appeal to the country's highest national court. In November the court granted permission for Pell's appeal.

The Victoria State Equal Opportunity and Human Rights Commission received 56 complaints on the grounds of religion from 2018 to October 2019, a 21 percent increase from the previous year, and the highest number of complaints in three years. Complaints relating to employment under the Equal Opportunity Act and Racial Religious Tolerance Act increased from 22 in 2016/17, 23 in 2017/18, and 28 in 2018/19.

The government continued to provide funding for security installations – such as lighting, fencing, closed-circuit television cameras – and for the cost of employing security guards, in order to protect schools and preschools facing a risk of attack, harassment, or violence stemming from racial or religious intolerance. This funding was available at both government and nongovernment schools, including religious schools.

Due to what they stated was an increasing numbers of students in New South Wales (NSW) public schools who do not identify with a religion, some education groups advocated for the removal of Special Religious Education classes from high schools. The NSW Teachers Federation and the Secondary Principals Council stated that religious education was “a parenting responsibility, not an educational responsibility.” Government-approved Special Religious Education providers include representatives of Christian denominations, Islam, Judaism, Buddhism, and other religious groups. The NSW government requires schools to provide “meaningful alternatives” for students whose parents withdraw them from Special Religious Education, which may include education in ethics. As of the end of the year, Special Religious Education remained in place in NSW public schools.

The Australian Multicultural Council continued to provide guidance to the government on multicultural affairs policy and programs. The government's national multicultural policy, Multicultural Australia – United, Strong, Successful, continued to be based on a government-wide approach to maintaining social cohesion and included religious freedom as a component.

The government continued to begin each session of parliament with a recitation of a short prayer and then the Lord's Prayer, as has been the practice since 1901. Participation in the prayers remained optional. The Australian Greens and other groups continued to call for the practice to end.

### **Section III. Status of Societal Respect for Religious Freedom**

In November a man in Sydney punched and trod on a Muslim woman in an advanced stage of pregnancy in what was described as an unprovoked and "Islamophobic" attack by a leading Australian Islamic association. The man was arrested and charged with "assault occasioning actual bodily harm and affray" and denied bail. The Australian Federation of Islamic Councils said the man was heard "yelling anti-Islamic hate speech at the victim and her friends."

In August a Muslim woman reported being assaulted while on a train in Melbourne. She stated she saw an assailant harassing another Muslim woman when she stepped in to help. The assailant turned on her, tried to take off her hijab and continued to threaten her. The assailant was later charged with unlawful assault.

Two reports of anti-Semitic bullying received widespread coverage during the year. A photo circulated on social media that appeared to show a 12-year-old Jewish student being forced to kiss the shoes of a Muslim classmate at a school in Cheltenham, a suburb of Melbourne. A second incident occurred in a Melbourne primary school in which a five-year-old Jewish student was subjected to insults including "Jewish cockroach." The parents of both boys withdrew them from their respective schools, expressing disappointment at the lack of response to protect Jewish students on the part of school administrators.

In January in Melbourne, the neo-Nazi group Antipodean Resistance defaced an aged care home catering to Holocaust survivors with swastika stickers bearing the group's name. In July also in Melbourne, unknown perpetrators spray painted a Jewish-owned cafe with a swastika twice in one week. In both instances there was

also graffiti painted denying the Holocaust. Internet reviews of the cafe included anti-Semitic comments. The same month “Hitler Youth” and “Hitler was right!” was scrawled on walls in east Melbourne. In September fences on a walking trail in Melbourne were defaced with swastikas and two “anti-Jewish messages.” All four instances took place in Melbourne’s eastern suburbs. In February 20 swastikas were painted over a mural at Bondi Beach in Sydney.

Anti-Semitic vandalism appeared during the May federal election campaign. In Melbourne and Sydney, several Jewish candidates had their campaign posters defaced with swastikas and “Hitler moustaches.” In Sydney, a Jewish candidate was alerted to a letter being distributed opposing her candidacy and claiming Jews were spreading disease. Several non-Jewish candidates’ election posters were also defaced with swastikas.

In March West Australian police reportedly launched an investigation after anti-Muslim graffiti was painted on the car of a local Muslim family. The incident occurred within days of the Christchurch, New Zealand mosque shootings.

According to media sources, indigenous followers of a foreign-born Christian missionary in the Aboriginal community of Wangkatjungka set fire to indigenous artifacts considered sacred by many local elders. The missionary said she did not instruct the converts to burn the artifacts, but said she supported their actions.

A sample exam paper for Year 12 students in Victoria schools stated that Israel persecutes Arabs by demolishing their homes because “they don’t follow the Jewish religion.” The local Jewish community protested the statement saying it was false and could fuel anti-Israel sentiments. Although a school official initially defended the statement, the sample exam paper was later recalled and reissued without the statement.

The Executive Council of Australian Jewry reported 368 anti-Semitic incidents of threats or abuse during the year, compared with 366 the previous year. According to the council, there was a marked increase in more serious categories of incidents, including direct verbal abuse, harassment, and intimidation (114 in 2019, compared with 88 in 2018) and graffiti attacks (95 in 2019, compared with 46 in 2018).

Uighurs accused Chinese government authorities of harassing and intimidating members of their community in Australia. Members of the Uighur community told journalists they had been contacted by individuals claiming to be Chinese

government authorities demanding personal details. Community leaders said these calls began in March, following protests aimed at highlighting the plight of China's Uighurs. Uighurs in Adelaide told the Washington Post they believe their activism led to the imprisonment of relatives in China. An official from the country's Department of Foreign Affairs and Trade told the Australian Broadcasting Corporation that the Government was aware of "concerning reports" of Uighur residents being asked questions by the Chinese government and has raised the matter with Chinese authorities.

Prior to the federal election in May, Christian Schools Australia sent flyers to parents of students encouraging them to vote in the election. The flyer stated the election was "the most critical for religious freedom in living memory." The flyer did not tell parents for which candidate to vote.

Prior to the federal election in May, members of the Muslim community expressed concern about anti-Muslim sentiment among 10 political parties and urged people not to vote for those parties. They stated the parties supported policies that would regulate the country's mosques, ban Muslim immigration, and seek to end what they described as the "Islamization of Australia."

In July a judge convicted three ISIS supporters who set fire to a Shia mosque in 2016. Two of the men were sentenced to 22 years in prison while the other was sentenced to 16 years. The justice who sentenced the men said their crime was an attack on religious freedom that was "impossible to excuse."

#### **Section IV. U.S. Government Policy and Engagement**

Officers from the embassy and consulates general met with government officials from federal and state departments of social services and multicultural affairs to promote interfaith understanding and tolerance programs.

In March officers from the Consulate General in Melbourne initiated contact with Adelaide's Uighur community, the country's largest and most active Uighur diaspora group. Leaders from the East Turkistan Australian Association detailed Chinese Communist Party harassment of their families and the wider community in Australia.

In March officers from the Consulate General in Melbourne met with a group of young Assyrian Christian refugees recently resettled from Iraq and Syria, who

shared details of their persecution and trauma in their birthplaces, their experiences as refugees, and their relief at being welcomed to the country.

In April officers from the Consulate General in Melbourne took part in a roundtable with the Board of Imams Victoria organized by Mohammed Elrafahi, a former participant in a U.S. government exchange program. The Consul General underscored the importance of collaboration and continued community outreach in building cohesive communities.

Officers from the Consulate General in Perth highlighted the start of Ramadan on social media, which was reshared by the Australian Arab Association.

In July the embassy sponsored the participation of Rana Hussain in U.S. government exchange program aimed at leadership in a multicultural society.’

In August the Ambassador met with individuals from the Uighur community in Adelaide, and in a newspaper interview directly following the meeting, the Ambassador said, “I thought it was past time to meet with them face-to-face to express the support from the United States Government for the Uighur community, and to better understand their particular concerns, the pressures they’re under. Not only by the Chinese Government in China, but also by the Chinese Government in Australia.”

In August the Consulate General in Perth sponsored the visit of a U.S.-based Holocaust educator for a multiday program in Western Australia aimed at providing tools for young persons to become “upstanders” rather than bystanders in the face of discrimination and inequality.

In October the Ambassador took part in the federal parliament’s National Prayer Breakfast together with the governor-general, prime minister, and opposition leader. Religious tolerance and understanding were promoted at the breakfast.

In December the embassy and consulates general organized an outreach tour by a U.S. Uighur activist, who met with the country’s Uighur diaspora. In media interviews and meetings with government officials, the activist noted that the diaspora community reported ongoing Chinese Communist Party harassment in the country.