

Article

Three Discourses of Religious Freedom: How and Why Political Talk about Religious Freedom in Australia has Changed

Elenie Poulos 

Discipline of Politics and International Relations, Macquarie University, Sydney 2109, Australia;
elenie.poulos@mq.edu.au

Abstract: Since 2015, religious freedom has become a heated and divisive political and public policy issue in Australia. While rarely defined or interrogated, ‘religious freedom’ does not exist as a value-neutral principle with a single meaning. Rather, its discursive constructions are varied and serve to promote certain interests at the expense of others. Offering a new perspective on the politics of religious freedom, this paper draws together four separate studies of the public discourse of religious freedom in Australia (spanning 35 years from 1984 to 2019) to chart how its framing has changed over time and to explore the implications of these changes. This analysis reveals three major discourses of religious freedom emerging over three phases: ‘religious diversity’; ‘balancing rights’; and ‘freedom of belief’. This paper demonstrates how, once used to promote a progressive social agenda, religious freedom has become weaponised by the Christian Right and culture warriors in their battle to entrench in law the ongoing acceptability of discrimination against LGBTIQ+ people.

Keywords: religious freedom; religion and politics; LGBTIQ+ rights; discrimination; religious discourse; Australian politics; Christian Right



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1. Introduction

Religious freedom is a contentious political and public policy issue in Australia, the subject of frequent and divisive debates, but this has not always been the case. The first public inquiry report into religious freedom was published in 1984 (New South Wales Anti-Discrimination Board). At that time, religious freedom was a niche public policy issue, the concern of church leaders (when provoked), human rights advocates, those interested in constitutional law, a small number of policy makers and an even smaller number of sociologists of religion. By 2017, religious freedom had become the topic of numerous public inquiries and heated public debate, and by May 2019, the conservative Australian government led by Scott Morrison headed into a national election with a promise to better protect religious freedom through a religious anti-discrimination bill. The government won the election but failed to legislate the bill. It lost the following election in 2022, and while the Labor government of Anthony Albanese promised to proceed with a revised version of the bill, at the time of writing, it has yet to release draft legislation, and the issue remains politically fraught.

This article offers a new perspective on the politics of religious freedom in Australia by charting the changing public rhetoric of religious freedom. As Wenger concludes in her examination of the political history of religious freedom in the US, religious freedom is an ‘eminently malleable discourse’ (Wenger 2017, p. 234). In Australia, too, close examination of the rhetoric of religious freedom over time demonstrates its malleability. This article draws together four of the author’s previously published articles, each one having examined the public discourse of religious freedom in Australia by analysing a particular genre of public text. ‘Protecting freedom/protecting privilege: church responses to anti-discrimination law reform in Australia’ analysed official church submissions to a parliamentary inquiry in 2012 (Poulos 2018). The second, ‘Constructing the problem of

religious freedom: An analysis of Australian Government inquiries into religious freedom', examined all government and public inquiry reports on religious freedom from 1984 to 2019 (Poulos 2019). 'The power of belief: religious freedom in Australian parliamentary debates on same-sex marriage' analysed the rhetoric of religious freedom in all parliamentary speeches during debates on marriage legislation reform from 2004 to 2017 (Poulos 2020b). The final article, "'The bell was tolling": the framing of religious freedom in *The Australian* editorials 2015–2019', presented the results of an analysis of religious freedom editorials published in the national broadsheet, *The Australian* (Poulos 2021). Taken together, the texts analysed in the four articles span 35 years, from 1984 to 2019.

This article offers a synthesis of the research presented in those articles, drawing together the analysis and conclusions of each in the light of the other three to uncover common themes and changes over time. The results, presented here, reveal three major discourses of religious freedom in Australian public discourse emerging over three phases: 'religious diversity' (the dominant discourse from 1984–2010); 'balancing rights' (2011–2014); and 'freedom of belief' (2015–2019).¹ This article describes how each discursive shift evolved to promote certain interests at the expense of others. It also explores how 'religion' is represented in the discourses of religious freedom, an exercise in what Moberg refers to as 'the discursive sociology of religion', an approach to the sociology of religion which 'invites us to view both the category of "religion" and its study through the prism of discourse and discursive practice' (Moberg 2021, p. 4). No claim is being made about the value of religious freedom as a human right, and the article does not seek to answer whether the protection of religious freedom in Australian law is adequate or effective or in need of improvement.

2. The Politics of Religious Freedom

This article is an Australian contribution to an increasingly substantial body of work from scholars interrogating the concept and the politics of religious freedom out of diverse fields, including law, sociology, political science, international relations, philosophy and anthropology. It sits at the intersection of politics, the critical study of religion and discourse studies. This article examines the discourse of religious freedom in Australia in order to achieve what Wenger (2017) describes as the critical concerns of such studies of the politics of religious freedom—identifying who is appealing to religious freedom and for what reasons.²

In the introduction to the book *Politics of Religious Freedom*, the editors, Sullivan, Hurd, Mahmood and Danchin, pose a related question: 'What exactly is being promoted through the discourse of religious freedom, and what is not?' (Sullivan et al. 2015, p. 1). They argue that 'religious freedom has been naturalized in public discourse worldwide as an indispensable condition for peace in our time, advocated around the world and across the religious and political spectrum' (p. 1). The diverse essays they collected provide ample evidence, however, that 'religious liberty is not a single, stable principle existing outside of history or spatial geographies but is an inescapably context-bound, polyvalent concept unfolding within divergent histories in differing political orders' (Sullivan et al. 2015, p. 5). Religious freedom is, then, *not* a neutral category. It is, however, often treated as such in Australian public discourse, its meaning taken for granted, allowing particular understandings of religion, belief and religious freedom itself to become reified in public and policy discourse (Poulos 2019). This article interrogates and problematises religious freedom in the Australian context, thereby answering the questions posed by Wenger and Sullivan et al. It takes seriously Bob's understanding of human rights generally that 'the rhetoric of rights, violation, and victim—used by all sides—is itself a potent force' (Bob 2019, p. 23). In identifying the shifting discourses of religious freedom, this article exposes both the malleability of the discourse of religious freedom and its utilisation in political and ideological conflicts, shedding light on who is wielding power through these discourses and to what effect. It demonstrates how religious freedom has been used as a tool, even a weapon, in the service of political agendas (Bob 2019).

3. Background

3.1. Religion in Australia

Australia is a religiously diverse country—a result of successive waves of migration since the British invasion of the 18th century—but it is not a particularly ‘religious’ country. The 2021 census counted 3.2% of the population identifying as Muslim, a fast-growing Hindu population numbering 2.7% and 2.4% of people identifying as Buddhist. Nevertheless, over the last five decades, there has been a steady growth in the number of people who identify as having ‘no religion’—from 6.7% in the 1971 census to 38.9% in 2021. Christian identification dropped from 52.1% in 2016 to 43.9% in 2021.³

Australians are notoriously ambivalent about religion (Bouma 2006), as Maddox says, ‘historically . . . less antipathetic to religion than indifferent to it’ (Maddox 2011, pp. 290–91). This view is supported by Ezzy et al. who read the small number of people identifying specifically as atheist or agnostic as ‘suggesting that the vast majority of “nones” are not particularly anti-religious (Ezzy et al. 2020, p. 3). Perhaps also speaking to the sense of ambivalence, and despite the growing religious pluralism, there exists a ‘taken-for-granted mode of social coordination [that] was (and to an extent, still is) a Christian one’ (McLeay et al. 2023, p. 5)⁴, with references to the nation’s ‘Judeo-Christian heritage’ and ‘Christian values’ frequently made by politicians (Crabb 2009; Smith 2021). Fozdar describes this as ‘cultural hegemony for the Christian majority’ (Fozdar 2011, p. 624).

The place of religion, particularly Christianity, in Australia’s social and political life is further complicated by the country’s reliance on religious organisations to provide community services, including social welfare, healthcare, aged care, social housing and education. While there are other not-for-profit charities and for-profit entities delivering these services, religious organisations deliver the majority (see, for example, Bouma 2015; Howe and Howe 2012; Maddox 2005, 2011; Maddox and Smith 2019; McPhillips 2015; Oslington 2015). Economist Paul Oslington (2015) estimated that it amounted to over 50%, but it is notoriously difficult to quantify, even within individual sectors (Howe and Howe 2012). The issue of religious freedom in religiously provided services, especially in healthcare and education, has long been a matter of public debate in Australia, influenced by the significant amount of government funding received by religious providers and their perceived influence on government policy.⁵

3.2. Religious Freedom in Australian Law

Religious freedom is one of the few rights referred to in the Australian Constitution. Section 116 restricts the power of the Commonwealth to make laws that favour or disadvantage particular religions or religious traditions:

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, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

This is an anti-establishment clause; it limits the powers of the Commonwealth (not the states) to legislate in relation to religion; and it prohibits the Commonwealth from imposing a religious test for public office. As Evans points out, it does not ‘create a positive obligation on the Commonwealth Parliament to take action to protect religious freedom’ (Evans 2012, p. 73).

The only Western democracy without a comprehensive national charter or bill of human rights, in Australia, rights are protected at the federal (Commonwealth) level through anti-discrimination laws and the law that relates to Australia’s national human rights body, the Australian Human Rights Commission (AHRC, previously the Human Rights and Equal Opportunity Commission (HREOC)). These laws, at the time of writing, are the:

- *Racial Discrimination Act 1975* (Cth);
- *Sex Discrimination Act 1984* (Cth) (SDA);

- *Australian Human Rights Commission Act 1986* (Cth);
- *Disability Discrimination Act 1992* (Cth);
- *Age Discrimination Act 2004* (Cth) (ADA).

Religious organisations and institutions are exempt from certain aspects of anti-discrimination law, allowing them to lawfully discriminate under certain circumstances.⁶

In state and territory jurisdictions, laws relating to religious freedom and religious discrimination offer a confusing and incomplete patchwork of protections. Definitions of religious discrimination and the extent of protections vary around the country ([Australian Human Rights Commission 2018](#); [Evans 2012](#); [Ruddock et al. 2018](#)). With the exceptions of New South Wales (NSW) and South Australia (SA), Australian states and territories have anti-discrimination or equal opportunity laws that prohibit discrimination on the basis of religion in some circumstances. NSW does not protect religious discrimination other than on the basis of ‘ethno-religious origin’, and SA has protections against religious discrimination only on the basis of ‘religious appearance or dress’ in employment and education. The Australian Capital Territory (ACT), Victoria (Vic) and Queensland (Qld) also have human rights charters that protect religious freedom and protect against religious vilification. Tasmania is the only state which includes protection of religious freedom in its constitution and, additionally, its anti-discrimination law protects against discrimination on the basis of religious belief or affiliation and religious activity.

4. Methods and Analysis

This article synthesises the results of four of the author’s previous articles, all of which analysed the framing of religious freedom by public and policy actors in Australian public discourse:

1. ‘Protecting freedom/protecting privilege: church responses to anti-discrimination law reform in Australia’ utilised manual discourse coding to examine 14 public inquiry submissions from 24 institutional church bodies to a 2012 parliamentary inquiry into anti-discrimination law reform using manual discourse coding ([Poulos 2018](#)).
2. ‘Constructing the problem of religious freedom: An analysis of Australian Government inquiries into religious freedom’ used the critical public policy methodology ‘What’s the Problem Represented To Be?’ ([Bacchi 2009, 2012](#); [Bacchi and Goodwin 2016](#)) to describe the discursive construction of the ‘problem’ of religious freedom in 20 reports from public and parliamentary inquiries into religious freedom⁷ from 1984 to 2019 ([Poulos 2019](#)).
3. ‘The power of belief: religious freedom in Australian parliamentary debates on same-sex marriage’ used a corpus-assisted analysis (see, for example, [Baker 2006](#); [Baker and McEnery 2015](#)) on all 663 parliamentary speeches made during marriage legislation debates from 2004 to 2017 ([Poulos 2020b](#)).
4. “‘The bell was tolling’”: the framing of religious freedom in *The Australian* editorials 2015–2019’, presented a media-framing analysis ([Entman 2007](#); [Reese 2001](#)) of 40 editorials on religious freedom published by *The Australian* newspaper between 2015 and 2019 ([Poulos 2021](#)).

To synthesise the findings of the articles, the results of the four sets of analyses were mapped against each other by applying three key questions to the analysis and results articulated in each: What is the threat to religious freedom? Who or what needs protection? What is being freed? (to borrow from Webb [Keane \(2015\)](#)). The answers to these questions illuminated how religious freedom had been framed and identified the key contextual and/or policy ‘moments’ when the framing of religious freedom changed. The discussion and conclusion of each paper were also compared to identify any broad common themes and major differences. The results of this synthesis revealed three key discursive shifts in Australian public discourse. Using exemplar texts from across the four data sets, the three

distinct discourses were further examined and described in more detail by applying the following questions:

- How has religious freedom been used by policy actors in Australia?
- Whose interests are being served?
- What are the consequences and implications of the changing problematisations and discourses?

Common Threads

Across genres and time, the synthesis of the four articles highlights a number of common threads unrelated to partisan or political position. First, the assumption that religious freedom is inherently a good thing remains consistently free of challenge or interrogation. Almost never defined beyond its representation in international human rights law, religious freedom is understood as a core value of a liberal democratic society; a necessary condition of a peaceful and harmonious pluralistic society; essential for individuals as a matter of human dignity; and important for religious institutions, organisations and groups as locations where religious communities are formed and religious beliefs are expressed and lived out, especially in service of those in need ('good' religion (Hurd 2015)). The only exception is the occasional mention of 'bad' religion, usually in the context of ensuring that religious freedom protections do not provide a shield for religiously motivated terrorism or religiously framed practices such as child marriage.

A second assumption is that the religious freedom 'problem' in Australia is that it is not well protected in law, although whether and to what extent this needs to be fixed, either as a matter of principle or to improve the lives of certain groups of people, is contested.

Thirdly, while the meaning of the category 'religion' is largely taken for granted, rarely defined in the public discourse, different discourses of religious freedom expose different understandings of 'religion'. Woodhead's (2011) concepts of religion are employed to explore the assumptions carried in the discourses about the nature of religion and the implications of those understandings for the politics of religious freedom.

5. The Shifting Discourse of Religious Freedom

Over the course of 35 years, from 1984 to 2019, three distinct discourses of religious freedom can be identified in Australia, emerging over three phases:

- the 'religious diversity' discourse—1984–2010;
- the 'balancing rights' discourse—2011–2014;
- the 'freedom of belief' discourse—2015–2019.

All three discourses are present to varying degrees across the three phases and bleed into one another to some extent, particularly in and out of Phase 2, which functions almost like a transitional phase. However, one discourse clearly dominates in each phase. While policy makers led the earliest framing of religious freedom, it was conservative church leaders and the Christian Right (conservative Christian lobby groups, think tanks, politicians, media commentators, member-based associations) who set the terms of the debates during the following years and whose rhetoric was amplified by right-wing culture warriors, especially media commentators and politicians.

5.1. The 'Religious Diversity' Discourse

During the period 1984 to 2010, with increasing levels of migration, particularly from southeast Asia, Australia was rapidly transforming into a pluralistic society. Primarily focussed on the experiences of people from religious groups other than Christian, early discussions about religious freedom were largely driven by human rights institutions and policy makers in the context of the policies and politics of multiculturalism. The reports from early public inquiries described the harassment, vilification and discrimination suffered by people from religious minorities and new religious movements. People's rights to practice their religious traditions were threatened by religious prejudice and ignorance and compromised by the inadequate protection of religious freedom in law.

Australia is home to people who hold and practise a variety of beliefs and religions. However many of us fail to understand, appreciate and accept the diversity and values of the beliefs and religions of others. ([Human Rights and Equal Opportunity Commission 1998](#), p. 1)

In this framing of religious freedom, which I have called the 'religious diversity' discourse, the threat to the religious freedom of people from minority groups is itself understood as a threat to Australia's social 'cohesion' and a risk to the perceived success of Australian multiculturalism. Both social cohesion and religious minorities are cast as subjects in need of protection. Policy makers were concerned that the majority of the population lacked religious literacy beyond that gained by a nominal identification with, and a vague sense of, Christianity and Christian values:

Australians are generally apathetic about religion and consider it to be largely a private matter. They are suspicious of unfamiliar religions and their practices, because they seem to be foreign and different, especially if they are not Christian. Aboriginal beliefs are often not accepted as living realities in the modern world. ([New South Wales Anti-Discrimination Board 1984](#), p. 192)

Religious illiteracy was identified as a significant problem in the aftermath of 9/11, leaving Australian Muslims (and Arab Australians) vulnerable to prejudice, discrimination, vilification and physical attack:

We can do more to counter anti-Arab and anti-Muslim prejudice through education programs that promote positive awareness of cultural and religious diversity among Australians . . . Ensuring that both Arab and Muslim Australians have adequate legal protection from discrimination and vilification is also vital. ([Human Rights and Equal Opportunity Commission 2003](#), pp. iii, iv)

Receiving some, but far less, attention in this discourse of religious diversity were equality rights, especially LGBTIQ+ rights. This discourse sets the protection of religious freedom as one necessary feature of a diverse, inclusive and socially cohesive society. In relation to the protection of LGBTIQ+ people in such a society, the debate focussed on where the line should be drawn in limiting or accommodating religious freedom when it has the potential to cause harm, for example, in employment matters. The Sydney Diocese of the Anglican Church of Australia expressed concern about the lack of attention being paid to the 'balancing of conflicting rights' by the NSW Anti-Discrimination Commission in its 1984 report ([Anglican Church of Australia Diocese of Sydney 1984](#), p. ii). This language anticipates the development of a shift in the discourse of religious freedom. It is significant, however, that during the parliamentary debates on marriage legislation reform from 2004 to 2010, religious freedom was not raised by either opponents or supporters of same-sex marriage. Also, the newspaper which was to run a major campaign on religious freedom in relation to marriage equality *after 2015*, *The Australian*, published no editorials on the issue during this time.⁸ During this phase, religious freedom, understood as a problem associated with Australia's increasing religious diversity, rarely appeared in the public discourse on marriage equality, even during the later years of the phase when the campaign for marriage equality had picked up steam. One notable exception was Roman Catholic Cardinal George Pell (2010), who warned of the dangers of a 'secular agenda' driven by the 'anti-religious left', especially in relation to advocacy for marriage equality, and anti-discrimination law reforms for LGBTIQ+ people at the expense of freedom of religion and conscience.

Despite being addressed in *Discrimination and Religious Conviction* in 1984 (New South Wales Anti-Discrimination Board) and *Article 18: Freedom of Religion and Belief* in 1998 (Human Rights and Equal Opportunity Commission), issues related to the religious freedom rights of First Nations peoples were largely invisible, and remain so to this day. Most recently, for example, the *Religious Freedom Review: Report of the Expert Panel* concluded, 'The Panel did not consider that it had either the appropriate membership or expertise to explore this issue further, nor the time to give the issue due consideration, but thinks

there would be considerable value in gaining a better picture of Indigenous spirituality and religious life' (Ruddock et al. 2018, p. 83).

The conceptualisations of religion that underpin the religious diversity discourse are religion as culture (specifically religion as values) and religion as ritual and embodied practice (Woodhead 2011). Religion, understood as both normative (in terms of how values help shape a society) and embodied practice (for example, the gathering of communities to worship, or the wearing of religious symbols or clothes), becomes an expression of commitment to a pluralistic society in which acceptance of and toleration for religious minorities (although not without limit) is regarded as essential for social cohesion. In this discourse, where policy makers raise the voices and the experiences of people in minority religious groups, it is religion as it is manifested and embodied that is understood to require protection. Religious freedom, extended beyond the members of the majority religion to include the members of the minority religions in society, is one answer to how people might live together better in their religious and cultural diversity.

5.2. The 'Balancing Rights' Discourse

The years 2011 to 2014 saw the emergence and development of a second discourse. This was the period during which the [Australian Human Rights Commission \(2011\)](#) released a major report into discrimination on the basis of sexual orientation and gender identity, the Safe Schools Program was introduced to address the bullying of LGBTIQ+ students,⁹ polling was revealing majority public support for marriage equality, the ALP changed its party platform to support marriage equality and Freedom 4 Faith (now Freedom for Faith, a lobby group/think tank focussed on religious freedom) was formed out of the Australian Christian Lobby (ACL), which had grown in political influence since its formation in 1995. The ACT passed a marriage equality bill in 2013, which was successfully challenged by the Commonwealth in the High Court the following year.¹⁰ Also in 2013, after failing with its anti-discrimination law consolidation project (see below), the centre-left Australian Labor Party (ALP) government amended the SDA to include sexual orientation, gender identity and intersex status as protected attributes.

In 2011, the AHRC released a report from a major inquiry into religious freedom, *Freedom of Religion and Belief in 21st Century Australia* (Bouma et al. 2011). While the 'religious diversity' discourse is evident throughout the report, the analysis identifies a second major religious freedom discourse arising out of the responses (recorded in the report) from many individual Christians and the Christian Right. Appropriately balanced rights were perceived to be threatened by a secular agenda seeking excessive accommodations for religious and sexual minorities, thereby shifting the existing 'proper' balance between religious freedom and other rights. Christian Right responses expressed concern about changes and potential changes to anti-discrimination law and the development of anti-vilification laws which were regarded as a serious threat to freedom of religious speech—both in terms of the freedom to proselytise and to express beliefs about other religions:

The fear expressed was that minorities could rule the majority, because, it was felt, there is no balance in present policies, and this enables new communities to challenge some of the norms of their adopted society. Few specific examples of these fears were given; however the hijab was mentioned in this context, as was sharia law, equality in gender relations, and any concessions to the gay lobby. (Bouma et al. 2011, p. 24)

Some churches and Christian lobby groups argued that the expanding rights of minorities must be limited in order to maintain the more significant right to religious freedom. Bouma et al. record, for example, the response of FamilyVoice Australia, a conservative Christian lobby group:

FamilyVoice further argued that when human rights bodies talk about balancing rights, such as balancing the right to gender equality with the right to religious freedom, '... balanced in this context clearly means limited. It is disturbing

to have the body allegedly defending human rights in Australia proposing the curtailment of the right to religious freedom'. (Bouma et al. 2011, p. 33)

The year after the AHRC report, the Gillard Labor government released a draft bill that consolidated the existing anti-discrimination laws and added sexual orientation, gender identity and religious freedom as protected attributes. In submissions to the parliamentary inquiry into the Exposure Draft of the Human Rights and Anti-Discrimination Bill, churches and Christian lobby groups argued, often in explicit terms, that protecting religious freedom meant ensuring that religious bodies could lawfully discriminate against people on the grounds of gender, marital or relationship status, pregnancy or potential pregnancy, religion, sexual orientation and gender identity:

... parents choose Catholic schools for their children because they expect that this education will be provided by teachers in a manner consistent with the doctrines, beliefs and practices of the Catholic Church. If a teacher in a church school publicly argues against church teachings or lives in such a way to challenge those teachings, the school should have the freedom to refuse to employ that person. The Catholic Church does not impose its beliefs on anyone and no one is obliged to work for a church agency. The expectation that those working in a Catholic agency will support its mission applies to everyone without discrimination. (Australian Catholic Bishops Conference 2012, p. 6)

There was also significant opposition to the positive protection of religious freedom in law, including from the Catholic Church:

Listing religion as a new protected attribute would introduce uncertainty into the law, including the risk of legal actions hostile to religion. Religion has never itself been a justiciable ground of action under any Commonwealth legislation and so its addition is an untested addition to the law. (Australian Catholic Bishops Conference 2012, p. 4)

Many church submissions drew together freedom of religion and freedom of speech as intertwined rights, each dependent on the other. It is in this context that religious *belief* gains special currency—freedom of speech matters because it provides permission and protection for the expression of religious beliefs:

Many religious bodies hold to particular doctrines concerning matters of sexual practice (for instance) and it is possible for the exposition of such doctrines or even reading religious texts in public (such as in the workplace) to cause offence and give rise to a harassment claim. (Anglican Church Diocese of Sydney 2012, pp. 7–8)

In a letter to Christian leaders seeking support for its establishment, Freedom 4 Faith wrote:

The threats arise from an aggressive secular agenda which is increasingly becoming mainstream. Those who advocate for restrictions on religious freedom argue that Christians, and other people of faith, should not be exempted from the reach of anti-discrimination laws, or that any exemptions should be very limited ... Another threat is from laws against 'vilification' or 'hate speech' which can be used, and have been used, to silence the expression of opinions that others may find offensive. (Freedom 4 Faith 2012)

Lending weight and political firepower to religious freedom, freedom of speech was cast as its twin, effectively raising the status of 'belief' in religious freedom discourse, and largely replacing the manifestation of religion as what mattered.

In the balancing rights discourse, religion is conceptualised as 'identity-claim' (Woodhead 2011). A particular conservative Christian identity becomes normative of 'religion' in public discourse and set in opposition to both other religious identities (for example, Muslim) and other identity claims, especially those related to gender identity and sexual

orientation. Religion is conceptualised as ‘belief and meaning’ (Woodhead 2011)—it is what one ‘believes’ that identifies a person as belonging to a particular group. By naturalising both the idea of opposing identities and the weighing up of rights claims around religion, this discourse sets up religious identity as ‘the foundation of social order’ (Hurd 2015, p. 111) and lays the groundwork for the next phase of the politics of religious freedom in Australia.

5.3. The ‘Freedom of Belief’ Discourse

It was in 2015 that religious freedom became a major topic of public debate, and as already suggested, it was not by accident that it came hand in hand with the push for marriage equality. There were four public and parliamentary inquiry reports into LGBTIQ+ rights between 2008 and 2015 which problematised religious freedom within the balancing rights discourse and further entrenched the idea that religious freedom and equality rights were incompatible (Australian Human Rights Commission 2011, 2015; Senate Legal and Constitutional Affairs Legislation Committee 2013; Senate Standing Committee on Legal and Constitutional Affairs 2008). Religious institutions, organisations and individuals felt under threat because of their beliefs about marriage. The ground was set for another discursive shift in the public debate, even while policy makers continued to favour the balancing rights discourse.

In August 2015, after months of pressure and speculation, conservative Liberal-National Party Coalition (LNP) Prime Minister Tony Abbott announced that the government intended to hold a compulsory plebiscite on same-sex marriage.¹¹ *The Australian* began publishing what would be an unusually large number of editorials addressing religious freedom, including three over the course of that one week of Abbott’s announcement—the first one anticipating the announcement with the headline ‘Balancing rights and freedoms’ (8 August 2015). *The Australian*, owned by Rupert Murdoch’s News Corp Australia, is well known as a ‘campaigning’ newspaper and the source of significant conservative and hard-right commentary, including by staff writers and via its editorials. It is also widely regarded as the country’s most politically influential newspaper (Cryle 2008; Manne 2011; Taylor and Collins 2012; Waller and McCallum 2016). In *The Australian*, marriage equality was presented as a taken-for-granted threat to religious freedom. In an opinion piece with the leader ‘Catholic school curriculums may be under threat if same-sex weddings become legal’, regular columnist Angela Shanahan wrote:

Since when has teaching your children what you, and most of the world’s population, believe to be right been a thought crime? Since when have those *beliefs*, enshrined in the law of the land, and always seen as positive and good, suddenly been deemed harmful? (Shanahan 2015, emphasis added)

Freedom of speech and freedom of conscience were also cast as threatened by marriage equality (it is not just the ‘religious’ who *believe* that marriage equality is wrong) and intertwined with religious freedom. Ahead of the marriage postal vote, *The Australian* argued:

Freedom of religion is not just about what happens inside churches, synagogues or mosques. The free exercise of religion, a longstanding right valued by Australians, is about freedom of conscience, freedom of association and freedom of speech . . . Without adequate protection . . . many avenues of intimidation would be open against individuals and schools, charities, businesses and adoption agencies that continue to believe in the traditional definition of marriage. Consumer boycotts against businesses who oppose same-sex marriage could be promoted via social media. (‘Changing the Marriage Act’ 14 August 2017).

In editorials and commentary, *The Australian* reflected the concerns and the discourse of the Christian Right and conservative church leaders:

You can be pretty certain this historical challenge [marriage equality] will be messy, divisive and debilitating. The grim forebodings of the Catholic Church

were signalled by Archbishop Anthony Fisher in his 2015 lecture on Religion and Freedom . . . when he . . . speculated about an amended Marriage Act where references to man or woman had been removed; changes to other laws deleted references to mother and father; religious freedom was seriously limited so faith schools had to teach a gay-friendly state-imposed curriculum; teaching children the Christian view of marriage was outlawed and members of the clergy who defied the state risked imprisonment. (Kelly 2017)

In August 2017, the LNP Coalition government, under the leadership of Prime Minister Malcolm Turnbull, announced that should the legislation necessary for a plebiscite fail, which it did, they would hold a non-compulsory postal vote.¹² The postal vote results were released on 15 November 2017 (of the 79.5% of Australians who voted, 61.6% voted yes to changing the *Marriage Act*¹³), and by December, the parliament was debating the legislation. The debates centred on the nature and extent of religious freedom protections included in the bill. The centrality of religious freedom issues in the debate on marriage equality was well captured in the name of the bill—the *Marriage Amendment (Definition and Religious Freedoms) Bill 2017*.¹⁴ Conservatives across party lines were hopeful for significant amendments but failed to gain enough support, and the bill passed largely unamended.

During the marathon parliamentary debate on the bill, 386 speeches were made—over half of all 663 speeches made during marriage reform debates dating back to 2004 (Poulos 2020b). In the early debates, it was the institution of marriage often cited as in need of protection from progressive reform (Poulos 2020b). It was not until 2012 that the phrase ‘freedom of religion’ was used for the first time by the ALP member tabling the first marriage equality bill offered by the Labor Party:

Religion plays an important part in Australian life. We respect and celebrate our *freedom of religion* . . . In Australia, the separation of church and state extends to the law of marriage. Yes, it is an institution of religious import, but it is also a civil institution. Our marriage laws are governed by civil law but recognise and respect the role of religious bodies to practice their faith in accordance with that faith. (Jones 2012, p. 799, emphasis added)

By 2017, however, the objects of protection needs in the marriage debates were entirely matters religious. The progress of LGBTIQ+ rights in law and the gradual acceptance and inclusion of LGBTIQ+ people in society were seen by the Christian Right as symbols of the rising tide of aggressive secularism, most potently expressed in marriage equality. Religious freedom was weaponised in this fight to stem the advance of LGBTIQ+ rights. The Catholic Archbishop of Sydney wrote:

For all its putative open-mindedness and despite its profound debt to Judeo-Christianity for its laws and customs, our culture is less and less tolerant of such religion. Will people in parishes, church schools and other faith institutions, let alone in the more public square, be free in future to hold, speak and practise their beliefs? The recent change to the legal definition of marriage raised such concerns. (Fisher 2018)

This framing of freedom of religion as freedom of religious belief was often accompanied by the presentation of a small number of exemplars, almost always broadly and vaguely described, repeatedly used as evidence of the grave threats: religious organisations (especially charities) and schools forced to employ, teach or act in ways contrary to their beliefs and ethos; parents losing the right to educate their children according to their religious beliefs; and people forced to act against their conscience or facing abuse or discrimination claims by speaking of their belief in ‘traditional’ marriage and families or denying access to goods and services because of this belief. In a letter to congregants defending his decision to donate AUD 1 million to the ‘no’ campaign for marriage equality, the Anglican Archbishop of Sydney, Glenn Davies, wrote:

A legal recognition of same-sex marriage will significantly affect Anglican bodies who wish to maintain and promote a Christian understanding of marriage in opposition to the law of the land. Overseas experience indicates that same-sex marriage leads to government funding and recognition of charitable status being increasingly tied to “equality compliance”. Christian agencies overseas have been required by law to hire staff who do not support the Christian ethos of the organisation. (Davies 2017)

One of the leading conservative Catholic Liberal Party senators shared similar concerns in her argument for more expansive religious freedom protections in the marriage equality bill:

The legalisation of same-sex marriage without adequate protections for freedom of religion and conscience will have very real and very serious consequences. We have already seen some of these consequences overseas where same-sex marriage has been made legal . . . Heartbreakingly, a number of faith-based orphanages and adoption agencies in the UK and the US have been forced to close due to the incompatibility of their religious tenets and the provision of their services to gay adoptive parents. (Fierravanti-Wells 2017)

In this third discourse of religious freedom, ‘belief’ is the primary object of claims for religious freedom protections. Religion is framed almost solely in terms of belief and religious people are identified as those who hold to a particular set of moral and ethical beliefs—religion is confessional and religious communities are identified by their shared beliefs. In this way, in Australian public discourse, belief has been set free. It has been framed in law and human rights discourse as uniquely vulnerable and entirely solid—in need of protection and free from interrogation, a non-negotiable aspect of human identity (Sherwood 2015). This framing of religion corresponds with the sub-category of ‘belief and meaning’ in Woodhead’s first concept of religion as culture. Religion is conceptualised as personal claims of truth validated and supported by religious institutions and their leaders, traditions and sacred texts. Woodhead describes this concept of religion as a result of ‘the “confessionalization” of religion in the post-Reformation period’ sharpened by ‘many forms of evangelical and fundamentalist Protestantism . . . making assent to a set of propositions a test of orthodoxy’ (Woodhead 2011, p. 123). In the politics of religious freedom, this conception of religion renders dissenting and/or progressive theologies within religious traditions invisible and their beliefs beyond the scope of what religious freedom protections are meant to protect. As McPhillips points out:

The complexity of representing diverse or conflicting views of a faith tradition is not accounted for in state legislation processes, nor is there a commitment to a dynamic, broad understanding of religion . . . The state portrays the same ideal unified subject, which rights discourses are based on. (McPhillips 2015, p. 121)

6. Discussion and Conclusions: The Politics of Religious Freedom in Australia

While it has probably never garnered as much public attention as it has since 2015, religious freedom has been the occasional subject of debate since the European invasion and the establishment of British colonies, especially in relation to dissenting Christian traditions (Beck 2018) and, later, sectarianism. It emerged as significant during the constitutional debates of the late nineteenth century ahead of the drafting of the Australian Constitution and the federation of the Commonwealth in 1901. A key concern was the power of the future Commonwealth government to make laws that might restrict religious freedom, for example, legislating the Sunday Sabbath, which would adversely impact Seventh Day Adventists by restricting the days available for work (Barker 2019; Beck 2018). Later, Catholic–Protestant sectarianism was often tied to questions of religious freedom in Australia, especially through the nineteenth and twentieth centuries, but as Bouma warns, ‘the Protestant/Catholic divide was as much about class and ethnicity as anything religious’

(Bouma 2006, p. 46). It is also important to note, as Bouma further points out, that a focus on this sectarian conflict obscured the growing religious diversity of Australian society.

In the contemporary politics of religious freedom in Australia, much of the discourse of religious freedom is framed in the context of debates about the extent to which (government-funded) religiously provided social services and religious schools should be allowed to discriminate where it would otherwise be unlawful. There are a number of key political and policy developments and ‘moments’ that laid the groundwork for this. Maddox (2005) has demonstrated how a more religiously expressive, or at least more attentive, political class gained traction during the Prime Ministership of John Howard from 1996 to 2007 as he sought to prosecute a conservative political agenda. The Christian schools lobby burgeoned during these years as major policy reform by the Howard government saw ‘Bible-based’ schools become ‘the fastest-growing sector in the Australian school market’ (Maddox 2014b). In 2006, the Howard government started a national school chaplaincy program with funding available to any school to employ a chaplain, the majority of whom were Christian. The ALP government under the leadership of Julia Gillard extended the controversial program in 2012. Maddox has also charted the rise of the Australian Christian Lobby (ACL), which, throughout the 2000s, held conferences and pre-election forums that were attended by politicians from across the political spectrum (Maddox 2014a). As the spectre of marriage equality began to emerge from 2012 on, and in response to the development of anti-vilification laws and anti-discrimination law reform for the improved protection of LGBTIQ+ people, the Christian Right was well placed to take up the cause of religious freedom.

By 2012, the predominant topic of public conversation about the right to religious freedom in Australia had shifted away from the discrimination of people from minority religious groups, and, by 2015, the idea that equality rights needed to be ‘balanced’ against religious freedom was central to conversations about how to better protect LGBTIQ+ people (Poulos 2018, 2019, 2020a). By 2017, the understanding of LGBTIQ+ rights as a threat to religious freedom precisely because they were contrary to religious belief and an offence to the sensibilities of religious believers (a situation which the laws relating to religious exemptions had already determined should be guarded against)¹⁵ was well entrenched in public and policy discourse (Poulos 2019, 2020a, 2020b, 2021). Seeking to extend the legal protections that already allowed them to lawfully discriminate against LGBTIQ+ people, conservative church leaders and the Christian Right, supported by right-wing culture warriors through the pages of *The Australian*, have successfully recast the discourse of religious freedom as ‘freedom of belief’ (Poulos 2021).

This synthesis of the results of the author’s four separate analyses of the rhetoric of religious freedom in various genres of public and political discourse demonstrates that the answer to Keane’s (2015) question ‘what is being freed?’ in the quest for ever more expansive religious freedom protections in Australia is that discrimination and belief are being freed. ‘Belief’ itself has become sacralised in public discourse, an unassailable category of the human condition, and its centrality to what counts as ‘religion’ and to the very being of ‘the religious’ uncontested.

This ‘turn’ to belief in the discourse of religious freedom has significant consequences for how Australians perceive religion, ‘religious’ people and the relationship between religion and politics in Australian society. As demonstrated through the application of Woodhead’s (2011) concepts of religion, the analysis has shown that the freedom-of-belief discourse reflects a reductive understanding of the category ‘religion’ that elevates belief above other concepts of religion. In so doing, it privileges the Western Christian religious tradition and the patriarchal, colonialist institutions of the Christian church as the holders of the sacred texts and the authorising bodies for religious doctrine. Significantly, it divides people into ‘believers’ and ‘non-believers’. It has been critical in the weaponisation of religious freedom by the Christian Right, used against LGBTIQ+ people in an effort to entrench in law the ongoing acceptability of discrimination against them. It makes invisible the long history of significant progressive theologies and practices within religious

traditions and LGBTIQ+ people who live within, contribute to and lead communities in every religious tradition (McPhillips 2015). And while some conservative leaders from non-Christian religious traditions are often supportive of the Christian Right on matters of 'traditional' morality, it is discrimination *by* religious organisations, not discrimination *against* religious communities, that has become the singular, central concern of religious freedom in Australia. The ongoing prejudice, vilification and abuse suffered by people of minority religions is all too often a minor side issue in the public discourse about religious freedom, while the gravest abuses of religious freedom, those suffered by First Nations peoples, remain unaddressed and largely invisible in the public space.

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Notes

- ¹ More recent work has demonstrated that this remains the dominant religious freedom discourse in Australia (McLeay et al. 2023; Poulos 2023).
- ² This article is focussed on the public discourse of religious freedom, and while the law does influence public debates, social understandings and rights claims (Fokas 2019), this article does not make any comment on how the concept of religious freedom is defined, understood or used in Australian law, either constitutionally, in statutes or in jurisprudence.
- ³ See <https://www.abs.gov.au/articles/religious-affiliation-australia> (accessed on 6 March 2023).
- ⁴ This includes the political culture. Maddox lists the following examples: 'Most Australian parliaments, including the Federal Parliament, open with Christian prayers; the parliamentary year begins with a Christian church service; public institutions invoke God in oaths and in national mourning' (Maddox 2021, p. 7).
- ⁵ Schools, for example, are funded by both the federal government and the relevant state or territory government, determined by complex funding formulas. Over 30% of all schools are non-government, that is Catholic and 'independent' (mostly Christian), and are attended by more than 35% of all students (<https://www.abs.gov.au/statistics/people/education/schools/latest-release> (accessed on 6 March 2023)). Federal government funding from 2008/09 to 2019/20 for these schools has more than doubled but government schools are underfunded. (<https://www.theguardian.com/australia-news/2022/mar/14/victorian-public-schools-face-20bn-funding-shortfall-analysis-shows> (accessed on 6 March 2023)). This is a source of heated public debate that often spills over to issues of religious freedom and religiously based discrimination.
- ⁶ These exemptions are articulated in s 37 and s 38 of the SDA, and s 35 of the ADA. There are also a limited number of protections under the *Fair Work Act 2009* ensuring that employers cannot discriminate against employees or prospective employees on the basis of religion in taking 'adverse action' (s 351(1)), not paying the award wage (s 153(1)) and terminating employment (s 772(1)(f)). At the time of writing, the Australian Law Reform Commission (ALRC) was conducting a review into the legal exceptions that allow for lawful discrimination against LGBTIQ+ students and teachers in religious schools.
- ⁷ The 20 reports (from 1984 to 2017) include all nine religious freedom inquiries and 11 other human rights related inquiries which included substantial examination of religious freedom.
- ⁸ The search for editorials about religious freedom in Australia in *The Australian* uncovered a number of articles and comment and opinion pieces published between 1996 and 2014, most making only passing reference to religious freedom, many in the context of multiculturalism.
- ⁹ <https://www.vic.gov.au/safe-schools> (accessed on 28 February 2023).
- ¹⁰ https://www.abc.net.au/news/2013-12-13/fact-file-high-court-decision-on-act-same-sex-marriage/5155754?utm_campaign=abc_news_web&utm_content=link&utm_medium=content_shared&utm_source=abc_news_web (accessed on 28 February 2023).
- ¹¹ <https://www.smh.com.au/politics/federal/tony-abbott-flags-plebiscite-on-samesex-marriage-in-bid-to-defuse-anger-20150811-giwyg1.html> (accessed on 28 February 2023).

- ¹² <https://www.smh.com.au/politics/federal/turnbull-government-to-hold-public-vote-on-samesex-marriage-by-november-20170808-gxrgsv.html> (accessed on 28 February 2023).
- ¹³ <https://www.abs.gov.au/ausstats/abs@.nsf/mf/1800.0> (accessed on 6 March 2023).
- ¹⁴ <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fs1099%22> (accessed on 6 March 2023).
- ¹⁵ At the time of writing, the religious exception in s 38(3) of the *Sex Discrimination Act* allows educational institutions to lawfully discriminate in some situations when done in ‘good faith in order to avoid injury to the *religious susceptibilities* of the adherents of that religion or creed’ (emphasis added). <https://www.legislation.gov.au/Details/C2014C00002> (accessed on 21 March 2023).

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