

**PAPER:** Submission relating to the Trusted Identity Bill (TDIB)

**DATE:** Monday **10th October 2023**

This submission using a political/symbolic approach, presenting scientific knowledge in support of a political viewpoint, retrospectively too critique sections of the proposed, ‘Trusted Digital Identity Bill’ (TDIB), in opposition to components of the Bill currently being debated (Rock, 2010, p. 760). An attempt has been made, to provide a submission, demonstrating supportive evidence through research, providing recommendations that are supported by policy makers and agencies renown in the field for their expertise, as discussed by Uggen and Inderbitzin (2010, p. 732).

**THE AIM OF THIS SUBMISSION IS TO:** This Submission is (in accordance with the ‘Terms of Reference’), listed on the Submission Webpage, [AG \(2023\)](#), and aims to:

1. Maintain a concise paper that does not exceed the word/page limit,
2. Provides a brief introduction of the writer of the paper & the organisation of which he/she represents,
3. Emphasises the key points that the paper addresses,
4. Provides some recommendations for the key issues raised within the paper,
5. Provides related documentation, related to the issues raised (in this instance references and links to all documents have been provided, for easy access),
6. Includes only information, that the writer consent, to being made public, through the webpage,
7. This submission does not make any personal reference, to any person or organisation, directly.

## **1.0 SUBMISSION**

ORGANISATIONAL INFORMATION	Independent Policy Review
DATE	10.10.2023
TO:	Australian Government
FEEDBACK SUBMISSION	Trusted Digital Identity Bill 2023

## 2.0 SUBMISSION – OVERVIEW

As an independent Australian, and a student undertaking a Graduate studies, this submission is presented, to demonstrate a strong objection, to the “Trusted Digital Identity Bill 2021, which has undertaken two readings at this time, the second reading was undertaken on Wednesday 13 September 2023. At this time, the House of representatives proceeded with the speech regarding the Identity Verification Services (consequential Amendments) Bill 2023.

This paper is a submission for feedback into the ‘pending - Trusted Digital Identity Bill 2021, (TDIF)’, which is currently being debated within the Commonwealth Parliament. This paper firstly begins with discussing the Human Rights issues associated with this Bill. Secondly, this paper focuses on section (5.1) as discussed within the Guide – “Your guide to Digital Identity Legislation, Version 1801, p.8). Although the author, would like to respond in detail, to every item of the proposed Bill, this is not feasible, and this task, loose context, whereas, focusing on these two specific areas, focus is maintained with retrospect to, two critical issues, that deserve robust debate.

There is also the ‘Identity Verification Services Bill (2023)’, which is linked to this Bill, which raises just as many concerns for Australians, however, in this paper discussion is solely focused Human Rights and one section of the proposed ‘Trusted Identity Bill (2021), thus including.

- ✓ **4.0 HUMAN RIGHTS – RELATING TO THE TRUSTED DIGITSL IDENTITY BILL (2023).**
  
- ✓ **5.0 (5.1) - PROVIDING LEGISLATIVE AUTHORITY FOR EXPANSION.**  
(Your guide to Digital Identity legislation, Version 1801, p. 8).

## 3.0 INTRODUCTION

This submission begins, with firstly acknowledging, that the Digital World, of which we live, has rapidly expanded to be the largest economy to exist. Especially, when one considers enormity of platforms, of which Australians use, for business, social and personal purposes (Sander, 2022, p. 192). Therefore, this paper firstly begins by discussing how this such Bill impacts on the Human Rights of all Australians, in retrospect to both items highlighted previously (Human Rights and the Expansion of the Bill). Discussion will then focus

specifically on both sections, providing responses to these two items recognised within the TDIF (2023). This paper will briefly discuss recommendations and conclude with an overall summary of this submission.

#### 4.0 HUMAN RIGHTS CONCERNS

With respect to Human Rights, it is imperative that we concede the need, for there to be regulations in place, with respect to protecting individuals, their data, their financial assets, business, and personal/professional reputations. However, although, many would agree, safeguards, are indeed warranted, these protections, must be adequately balanced with respect for the individual's Democratic, Human, and Civil Rights (Sander, 2022, p. 192).

Unfortunately, within Australia, and undoubtedly, throughout democratic societies, across the globe, the pendulum has swung too far, in the quest of 'keeping you safe,' a 'quote' Australian's are hearing, in every political speech regarding new legislations, and impending legislative changes. Alongside, the ever-encroaching "*privatisation, commodification and datafication of the digital public sphere*" (p. 192). Furthermore, through the digitalised economy and associated legislation/s, Australians are experiencing the continued destruction of Human Rights Laws, through mechanisms of governance, which continue to restrain individual freedoms, through a multi-strategic approach, whilst mastering political power, one legislative move, at a time (p. 192). Meanwhile, legislative measures that 'speak loudly' about 'protecting one's data,' are in-fact, very discretely obtaining uninformed consent, for their data to be collected and stored, often without utterly understanding the complexities of this agreement. Thus, creating a fear of 'on-line harm' among the population, who often do not realise, they are consenting to 'digital surveillance (p. 192).

The [Universal Declaration of Human Rights, Article 12, \(1948\)](#) stipulates "*No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.*" Yet through the COVID Era, such measures previously mentioned, intruded upon the rights of all Australians, and QR Codes, Vaccination Certificates and Contact Tracing, along with government representatives verbally attacking individuals because of their personal choices. Thus demonstrating, that the clause, which is written into

all legislation, “*at the Minister’s direction,*” has the supremacy to over-write the Human Rights of all individuals.

As many would agree, this should not be permitted, and a view strongly supported by the Lawyers Network (2021), in their submission regarding the ‘Trusted Digital Identity Bill 2021 - exposure draft package dated 27<sup>th</sup> October 2021. Of which in this submission, Rigoli (2021), raises concerns relating to the lack of protection provided under the Australian Bill of Rights, drawing focus to concerns regarding the collection and use of biometric information, the invasion into private health information of Australians through Vaccine Certificates, through the MYGOV portal, along with the enforcement of mandates, resulting in individuals, being terminated from their employment, because of their medical choices (p. 15).

As was witnessed within the COVID Era, Australians experienced unprecedented government over-reach in retrospect to the creation of legislation that gave no regard for the Human Rights of individuals, though, the introduction of tracing and tracking individuals through QR Codes, Vaccination Certificates and Mandates. Further, many of these measures have had everlasting impacts on individuals and businesses throughout Australia, in particular the introduction of mandated vaccinations, which have resulted in many losing their rights to travel, work and interact within their communities, because they exercised their right to make their own medical decisions.

## **5.0 (5.1) - PROVIDING LEGISLATIVE AUTHORITY FOR EXPANSION.**

*(Your guide to Digital Identity legislation, Version 1801, p. 8)*

*“Providing legislative authority for expansion Right now, Australians can already use the Australian Government Digital Identity System to access eighty government services. However, legislative authority is required for the Australian Government to expand, maintain, and regulate this System. In particular, legislation will allow for the further expansion of the system to state and territory governments and the private sector. This will mean that more Australian businesses, community organisations, state and territory governments and individuals can all benefit from safe and secure identity services.”*

*(Your guide to Digital Identity legislation, Version 1801, p. 8)*

## **4.1 RESPONSE TO (5.1) – PROVIDING LEGISLATIVE AUTHORITY FOR EXPANSION**

According to the Australian Government – Office of the Australian Information Commissioner (OAIC, 27 October 2021), Trusted Digital Identity Bill legislative package: exposure draft consultation, document, OAIC has been engaged over several years, in the development on the Trusted Digital Identity Framework (TDIF) (p. 2).

This document also reveals that there is much scope, for this legislative package that is ‘enshrined in law,’ permitting it to be used to expand Digital Identity Systems (TDIS), and that this legislation is indeed, ‘laying the groundwork for other, future, digital identification systems. Of which, one must ask, what is the future anticipated scope of this legislation, as there are great risks in permitting an open legislation with no safeguards to protect personal data and information of the Australian public. Once enshrined in law, will Australians even be made aware of the parameters of this legislation and will the unsuspecting public, have countless public liberties removed at the flick of a pen (p. 2).

This document further quotes the OAIC (2020), Australian Community Attitudes to Privacy Survey, stating that Australians are concerned about “identity theft”, but interestingly, there is no available statistical data analysis available to the public, that determines, which segment of the community were surveyed and what the characteristics and demographics of those surveyed. We also recognise that OAIC are ‘Self-Regulatory,’ so who is reviewing their survey data, to ensure that it is an un-biased sample? (p. 2).

When one reviews this pending legislation, there are direct ties between this and the “Identity Verification Bill (2023)”. According to the [Parliament of Commonwealth of Australia - House of Representatives – Identity Verification Services \(Consequential Amendments\) Bill, \(2023\)](#), to be inserted after paragraph 46(d) (iii), “any other service specified, or of a kind specified, in the Minister’s determination; to share or match information relating to the identity of a person” (p. 3). Just this small statement, gives enormous supremacy, thus, to further intrude into an individual’s confidential information, with no limitations. This statement, does not stipulate, under what specific circumstances, this legislation will be expanded, and what protections individuals have, in relation to their Human Rights.

#### 4.1.1 The COVID Era

At this stage, the legislation stipulates that Digital Identity is voluntary, but from the experiences of Australians, through the COVID Era, just because it says it’s voluntary, does not stop it becoming mandatory, and all Australians should be very concerned about these open statements, with no over-arching monitoring, which provide profound government authority.

As experienced from the [Vaccine Mandates](#), Australians were confronted with having to make a choice, get vaccinated, or be unable to shop, socialise, work, earn an income and many had their employment terminated. Thus demonstrating, that the Commonwealth may say it is voluntary, but then, create mandates for companies and businesses, and once again, the Human Rights of individuals are again removed, without consequence, for breaching the Human Rights of the people of Australia.

Unfortunately, throughout the COVID era, we witnessed a total disregard, with respect to the Human Rights, of all Australians, where individuals were traced and tracked, where individuals were required to expose their medical status, to enter a shop, or buy a coffee. We saw the [QR code](#), used by Government, gathering much digital data on the Australian population. Thus, leading too many Australians, now probing the actions of the Australian Government, and questioning where their data is? We also saw [individuals punished for not taking the ‘mandatory injection’, locked out of society, shamed, and abused](#), according to Kampf (2021). Furthermore, many have also been unable to [maintain employment](#), according to Chang (2022), because of their democratic rights to choose bodily autonomy. One may start to question if the ‘keeping you safe’ marketing ploy, is ‘communism’ knocking at the doors of Australians. So, has this data been used to create the Australian Digital Identity Database? Where is the individual’s consent to this? This information has been taken and recorded without the knowledge of Australians, who only participated because they thought they were doing the right thing. Therefore, this information has been obtained and utilised unethically. During the COVID era, Human Rights, Article [2, 17,19 and 9](#), were totally ignored and continue to be, without any explanation to Australians. Finally, through the COVID era, digital data was also collected through [Health Records](#) and Employment Records, (Information and Privacy Commission NSW, March 2021). One may also question, when did employers, become arms of government, and encroach on the rights of their workers medical information, well, as we now understand, when the government amended the [Fair work legislation \(2020\)](#).

## 4.2 **OTHER INTERLINKING LEGISLATIONS**

### 4.2.1 Identity Verification Services Bill (2023)

Within the ‘[Identity Verification Services Bill 2023](#)’, [Identity Verification Services \(Consequential Amendments\) Bill, 2023](#), the Parliament of The Commonwealth of Australia, *of which, determines a new legislation, permitting facial recognition and verification of*

*identification biometrically.* Using a photograph and facial images of individuals “*with consent,*” against a Commonwealth, State or Territory Issues identification document, i.e.: passports and Driver Licences. Of which, this Bill, “*permits the matching of identifications, across States and Territories*” (p. 3).

One may question if this technology is already being utilised for purposes of which members of the community are unaware, as it appears this technology has already moved into this sphere, yet it can be assumed, that many would not be aware, nor would they have provided “*consent*” for the utilisation of such technology, encompassing their identity information within digitalised systems.

However, as can be seen within [The Identity Verification Services Bill 2023, Identity Verification Services \(Consequential Amendments\) Bill 2023](#), protections under the Australian and Human Rights Charter can be altered, within certain circumstances, a clause that is supported by the United Nations Human Rights Committee, when they deem it “*reasonable circumstances*” (p. 7). Therefore, as seen during and since COVID, because the “*UN decided,*” it was reasonable to expand COVID laws, even though, they encroached on human rights in Australia, they did. This issue should raise serious concerns to all Australians, as it highlights two factors, (1) that the International Human Rights Charter does not protect the Human Rights of Australians, and secondly, the UN determined this breach of Human Rights, upon the Australian population and the Australian Government proceeded with the order, against their own people.

#### 4.2.2 The NDLFRS Program

The [National Drivers Licence Facial Recognition Solution, \(NDLFRS\) Program, \(2019\)](#), of which, many Australians, would not have awareness of the term, let alone, understand that they are already in a National Facial Recognition Database. If so, where is the consent, because “*true consent,*” means that one should have both knowledge and an understanding of what he/she has agreed too. Individuals have not been given the option to either partake or decline partaking, in the digital facial recognition scheme. At what point in time, was one’s personal information collated into a central database and which legislation does this sit within and how much community consultation was undertaken, to ensure that individuals were provided enough information to make an informed decision. Furthermore, the document also uses very vague wording, for example, “*These facilities will relay electronic communications*

*between persons and bodies, for the purposes of requesting and providing identity verification services” (p. 4). One must question, which persons and bodies does this statement refer too?*

#### 4.2.3 The Australian Passports Act (2005)

There is also discussion about amendments to the ‘[Australian Passports Act \(2005\)](#)’, of which there has been no public promotion of these impending changes.

The discussions presented above, highlight a range of changes that have major impacts on the privacy of all Australians, and there appears, endless scope on the expansion of the Digital Identity System, which also encroaches on the Human Rights of all Australians. ([Australian Human Rights Commission Act, 1986](#)).

#### 4.2.4 Misinformation and Dis-information Bill (2023)

At current the Australian Government is also working tirelessly to bring in the [Communications Legislation Amendment \(Combating Misinformation and Disinformation\) Bill 2023](#). As with all bills, all have clauses within them, that permit expansions, specified with Ministerial determination, which raises concerns, as at this time, both proceeding bills are in relation to the Digital system, with the first being focused on setting up ‘Digital Ids, where much information is stored, about Australians, and now with the Digital Mis-information Bill, again, digital information will be collected and stored, relating to the Digital platforms, these same Australians utilise. Of which, both Legislation, and many others, are connected, are also storing immense data about the people of Australian. The political push to trace and track all Australians is being done through many mechanisms including, Passports, Driving Records, MyGov Account (encompassing Financial, Taxation, Business, Health, Superannuation, and Property information.

With the introduction of the [Misinformation Bill \(2023\)](#), data will now be collected on the social and political interests and opinions of all Australians. Many Australians now consider that these legislations are encroaching on civil liberties and democratic rights and freedoms. Not all Australians may currently be inking these various legislations together, but many are starting to see the over-reach of government, into their private lives. Hence, all these legislations, are indeed combining, to remove the democratic rights of all Australians.



## **5.0 RECOMMENDATIONS**

**5.1** A view discussed by Dror-Shpoliansky (2021), is that the Human Rights of all individuals, should be protected both offline and in the digital world. Henceforth, within this paper, a “*new digital human rights framework*” is presented. Although this paper recognises the concerns governments often raise, in retrospect to, harmful online practices including “*hate speech, and disinformation,*” the encroachment of “*intrusive government surveillance programs*” have also encroached on the basic Human Rights of those participating in the digital world, such as privacy, personal security and political debate (p. 1250). Therefore, within this paper, it is recommended that human rights must be up-held strategically, to ensure that they are not disregarded and violated, within the digital arena.

**5.2** A view presented by Rigoli (2021), suggests that Australia implement a similar system to that implemented in Switzerland, moving away from government over-reach into taking an approach that educates and empowers others to take control of their privacy, of which this system is named the ‘Self-Sovereign Identity’ (SSI). This sounds like an approach that empower people to have control over their own information, which would also support the human rights of all Australians (p. 13).

**5.3** A third suggestion that has also been raised by Rigoli (2021), is to cement the Bill of Rights into the Australian Constitution consisting of a Framework that fortifies the rights of all Australians, protecting all from government over-reach (pp. 4-5)

**5.4** The writer of this paper holds a Master of Adult Education and Graduate studies in Criminology and has worked extensively within communities throughout Australia, along with holding experience in Local and State Government and would recommend an extensive educational program within Schools, Universities, and Communities to provide educational opportunities for all Australians to understand the Australian political and legal system.

## **6.0 CONCLUSION**

In summary, this paper has discussed in-depth, the impact, the impending “Trusted Digital Identity Bill, 2023”, will have on the Human Rights and Liberties of all Australians. Much discussion within this paper, identifies the connection between this impending bill and other

forms of legislation, many already in place, and others, currently before Parliament, that together, create a 'digital prison,' of which all Australians are captured. There are several legislations, which have gained little attention of the people, of which, would appear intentional, which also explains why individual's have little, or no understanding as to, the government's ultimate mission.

This paper also examines a clause, which is within much of the legislation, "*providing legislative authority for expansion*" which provides unjust reasons, for the minister to expand and intensify legislations at his/her discretion, posing great concerns for Australians, as was experienced during the COVID Era. Finally, four recommendations have been presented, of which would remove the incredible and unwarranted intrusions into the privacy of all Australians.

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