



1 December 2021

Senator the Hon Michaelia Cash
Attorney-General and Minister for Industrial Relations
PO Box 1966
West Perth WA

By email: senator.cash@aph.gov.au

Dear Attorney-General,

Religious Discrimination Bill

We are writing to express our opposition to the latest version of the Religious Discrimination Bill, which was introduced to Parliament on 25 November 2021. The Bill maintains some of the worst features of the drafts, while also introducing new issues. We are deeply disappointed that the Government has failed to address extremely damaging aspects of the Bill, and returned with a Bill that will encourage discrimination and weaken human rights protections for people in Australia.

Kingsford Legal Centre is a community legal centre, providing free legal advice, casework and community legal education to people in south-east Sydney. We specialise in discrimination law and run a state-wide Discrimination Law Clinic. In 2020, we gave 297 discrimination advices and provided intensive assistance with 71 discrimination matters. This letter is also endorsed by Community Legal Centres Australia and Community Legal Centres NSW.

We wrote to you on 19 November 2021 to express our serious concerns based on drafts of the Bill. We remain concerned that the Bill will:

- Protect people who make discriminatory statements in the workplace, such as telling women that they should be at home caring for children, LGBTIQ+ people that they are going to hell, or people with a disability or health condition that they need religious intervention to 'cure' them;
- Interfere with the provision of vital social services, such as health care;
- Allow religious hospitals, aged care facilities and accommodation providers to hire a person because they have a particular religion, rather than because they are the best person for the job; and
- Increase legal complexity, making it a nightmare for employers and other organisation to understand and negotiate the law.

These are all serious flaws with the Bill that will negatively impact on the human rights of people in Australia. It is deeply disappointing that the Government has not taken the opportunity to address these issues.

Even worse, the Government has expanded the protection for people who make discriminatory statements at work, in schools, when providing goods and services and in other areas of public life. Unlike the previous draft, the Bill now protects statements that the person 'genuinely considers' to be in accordance with their religion. This may protect discriminatory statements that are not actually in accordance with any real-world religion, giving people a broad licence to discriminate with the



barest of justifications. This is not a fanciful concern when we consider, for example, the number of people who have recently argued that taking the COVID-19 vaccine is against their religion despite the fact that no major world religion endorses this view.

The Bill continues to interfere with vital social services, in particular, by preventing qualifying bodies from maintaining professional standards with respect to discrimination. Under the Bill, a qualifying body that attempts to maintain professional standards may itself be accused of religious discrimination. For example, qualifying bodies may be accused of religious discrimination if they take action against:

- A doctor who posts on social media that COVID-19 vaccinations are poison;
- A nurse who letterboxes flyers saying that HIV/AIDS is punishment for living a sinful lifestyle; or
- A psychologist who tells a friend that they should seek a religious cure for their child's mental ill health.

This could cost lives by misleading people about important matters of health and contribute to people experiencing marginalisation not feeling safe to seek appropriate professional support.

Several provisions of the Bill either explicitly or implicitly override existing federal, state and territory discrimination laws. This will undermine the jurisdiction of the state- and territory-based organisations that currently handle a huge number of discrimination complaints. For example, if a person who has experienced discrimination makes a complaint to Anti-Discrimination NSW (ADNSW), the respondent could invoke the Bill to deny jurisdiction to ADNSW. The matter would then have to be moved into the federal jurisdiction under a different set of laws in order to proceed. This will make matters more complicated, more expensive and more time-consuming for complainants and respondents alike. There is a real risk that people who do not have a legitimate point to raise under the Bill would abuse this process to exhaust the other party's resources or shop for the most favourable forum.

Religious discrimination laws must not enshrine new forms of discrimination or weaken existing discrimination protections. We urge you not to proceed with the Bill.

If you have any questions, please contact Emma Golledge at legal@unsw.edu.au.

Yours faithfully,

Emma Golledge
Director, Kingsford Legal Centre

Nassim Arrage
Chief Executive Officer, Community Legal Centres Australia

Tim Leach
Executive Director, Community Legal Centres NSW



1 December 2021

The Hon Mark Dreyfus QC, MP
Shadow Attorney-General
566 Main Street
Mordialloc VIC 3195

By email: mark.dreyfus.mp@aph.gov.au

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