



DiversityACT
COMMUNITY SERVICES

Diversity ACT Community Services
PO Box 101
Erindale Centre ACT 2903
Ph: 0419 964 948
E: info@diversityact.org.au

ABN: 95 478 146 869
www.diversityact.org.au

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

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RE: Religious Discrimination Bill (2021) and associated bills inquiry

I am writing to you on behalf of the members of Diversity ACT Community Services (Diversity ACT), an LGBTIAQ+ support agency with members in Queanbeyan, Goulburn and the greater ACT region, to express deep concern about the potential negative impact of the Religious Discrimination Bill 2021 (the Bill), and the associated amendments to other legislation.

Diversity ACT is committed to the right of every person to a robust freedom of religion as described in Article 18 of the International Covenant on Civil and Political Rights. Every person is equal before the law and any permission given to individuals or religious organisations that allows them to discriminate on the basis of religious belief must be carefully balanced against the rights of people to be free from discrimination.

Diversity ACT provided a submission on the second Exposure Draft of this bill. As we stated in that submission, we view the right to religious freedom as an important element in the protection of all human rights by law nationally. Our position remains that legislative provisions for religious freedom would best be made through the mechanism of a comprehensive Human Rights Act.

The third version of this Bill is an improvement on the first two, but overall, the Bill is still concerning. As it stands, the Bill will ensure that:

- Faith-based organisations (such as schools, charities and non-commercial bodies) will maintain the ability to discriminate against people with different or no religious beliefs in employment, education and certain service delivery (Religious Discrimination Bill, ss7-8, 40(2)-(6)).
- Australians lose discrimination protections at work, school and when accessing goods and services (e.g., healthcare) to accommodate the religious beliefs of people who may make discriminatory statements against them.
- Employees, students and people reliant on certain services provided by faith-based organisations have little protection if their beliefs differ from the organisation. (Religious Discrimination Bill, ss7-9).
- Corporate bodies, such as Christian lobby groups, have a right to sue.

Several of our members work in the community services sector: in aged or disability care, youth work, homelessness or drug and alcohol support. Their employers are often branches of religious organisations, such as Anglicare, CatholicCare and Uniting. Most of these members are rightfully concerned about the implications of the Bill on their employment and treatment at work. One member has refrained from applying for a position in a religious organisation they could provide significant value to, because of fears they will lose their job if the Bill passes.



In one example of the negative impacts of the proposed legislation, it could potentially protect a manager or colleague who makes statements like 'Trans people are sick' or 'gay people can't be Christians'. Although we acknowledge that statements which are malicious, that harass, threaten, intimidate or vilify, or which encourage serious offences, will not be protected (Religious Discrimination Bill, s12), these are not always objective tests. Where is the line between statements made 'in good faith' and those which are not? Where there are no objective tests, legislation can too easily be used for malicious purposes, especially from a dominant group targeting a minority group.

The Bill also prevents important public discourse and appropriate recourse required to refute discriminatory language and behaviours. As the Bill stands, bodies that confer qualifications necessary to practice medicine, law and similar professions will be prevented from appropriately responding to members who make offensive, uninformed, insulting, demeaning or damaging statements based in or about religion, outside of work contexts (Religious Discrimination Bill, s15). Such statements can and do cause harm to colleagues and clients and undermine public confidence in the profession.

Another point where the Bill does not provide sufficient definition is regarding religious conformity. The rather loose definition provided includes:

- allowing people to make certain statements they consider to be religiously based, even if no one else with the same religion agrees with their interpretation (Religious Discrimination Bill, s 5(1) (definition of statement of belief (a)(iii))
- allowing religious bodies to discriminate on the basis of religion without requiring that their conduct actually conform to a religious doctrine, belief or tenet (Religious Discrimination Bill, ss 7(2), 9(3)(c))
- allowing religious schools to simply prescribe their positions on religious matters in policies and prefer people for employment on that basis, overriding protections in state and territory law (Religious Discrimination Bill, s 11).

Again, this lack of concrete definitions runs risks of the Bill's impact expanding further than intended and being used for malicious purposes without recourse.

We note that two other Bills accompany the Religious Discrimination Bill. These bills:

- Deem charities promoting marriage as being only between a man and a woman as acting for 'the public benefit' (Human Rights Legislation Amendment Bill 2021 (Cth), proposed Charities Act 2013 (Cth), s 19)
- Enable religious schools to refuse their facilities, goods or services to same-sex couples wishing to marry (Human Rights Legislation Amendment Bill 2021 (Cth), proposed Charities Act 2013 (Cth), s 19, proposed Marriage Act 1961 (Cth), s47).

The first is particularly perplexing as, in effect, this is stating that charities contradicting Australian law in regards to traditional marriage are acting in the 'public benefit', where such promotion of contradiction to other elements of Australian law could risk the charity's registration.

Many of the concerns we raised in our submission on the second Exposure Draft regarding the issue of abuse of power, specifically in the preferencing of the religious rights of one group with more power over the human rights of other groups with less power, remain unaddressed.

Diversity ACT remains concerned that the Religious Discrimination Bill 2021 does not yet achieve the balance between religious freedoms and human rights that is required. We fear that vulnerable people such as women, single parents, LGBTIAQ+ people, people with a disability and ethnically and religiously diverse populations are likely to be adversely impacted should the bill be implemented in its current form.

We would welcome an opportunity to discuss our concerns with you in more detail.

Sincerely



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Megan Watts

President

Diversity ACT Community Services

References

Charities Act 2013 (Cth) (Austl.) <https://www.legislation.gov.au/Details/C2013A00100>

Human Rights Legislation Amendment Bill 2021 (Cth) (Austl.)
https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bId=r6820

Marriage Act 1961 (Cth) (Austl.) <https://www.legislation.gov.au/Details/C2018C00441>

Religious Discrimination Bill 2021 (Cth) (Austl.) <https://www.ag.gov.au/rights-and-protections/publications/religious-discrimination-bills-2021>