

## **Religious Freedom Bills: Talking Points**

Australia is a successful democracy where people are free to express political, philosophical and religious views and observe, practice and teach their faith. Indeed, the Government's own Religious Freedom Review concluded that 'by and large, Australians enjoy a high degree of religious freedom, and that basic protections are in place in Australian law'. However, if the Government believes that freedom of thought, conscience and religion need additional protections under the law, it should ideally be part of a comprehensive charter of rights that protects and balances all fundamental human rights. Rights need to be protected and balanced in a coherent legal framework.

These Religious Freedom Bills fail to protect religion in the same way as our existing discrimination law protect age, disability, sex and race. Rather, these Religious Freedom Bills privilege religious belief and activity over other beliefs and activities.

In particular, the Religious Discrimination Bill is novel and goes beyond what is provided for in our existing discrimination laws. It introduces special entitlements for people of faith and erodes anti-discrimination protections for others, including LGBTI people, women, people of colour and people with a disability. For example, a provision seemingly inspired by the Israel Falou case will make it harder for employers to create a safe and welcoming environment for LGBTI people. Another provision will allow doctors, nurses, pharmacists and other health practitioners to refuse to provide their services on the basis of their religious beliefs, such as abortion, contraception, and procedures for transgender patients.

The Religious Discrimination Bill also waters down protections in state laws. In another provision that is unique amongst Australia's anti-discrimination laws, it privileges religious belief by providing that a statement of belief made in good faith will not constitute discrimination under Commonwealth, state or territory discrimination law, unless the statement is malicious, or is likely to harass, vilify or incite hatred or violence against a person or group of persons, or advocates for the commission of a serious criminal offence. It also explicitly overrides subsection 17(1) of the Tasmanian *Anti-Discrimination Act 1998*, something the Attorney-General explicitly stated in July 2019 the Bill would not do. This Bill is the first and only time a federal discrimination law has been drafted to explicitly override other discrimination laws.

Even more importantly, the effect of this provision is that statements of religious belief made in good faith that offend, humiliate, insult or intimidate LGBTI people, women, people of colour, or people with a disability would be lawful, no matter what state or territory laws provide. Extraordinarily, the Explanatory Notes to the Bill indicates that Government seems to believe that the right to offend, humiliate, insult or intimidate LGBTI people, women, people of colour, or people with a disability is necessary to protect 'the freedom to express religious beliefs.

Finally, the three Religious Freedom Bills are unorthodox, complex pieces of legislation, the full implications of which will take some time fully understand. The Government has had 15 months since the Religious Freedom Review to draft these Bills yet is only giving the public five weeks to comment. Further, the complexity surrounding these Bills mean that even if enacted as is, there will be some uncertainty surrounding their interpretation and application, which has the potential to create a culture in workplaces, communities and within Government that privileges religious belief and activity to the detriment of LGBTI people, as well as women, people of colour and people with a disability.

Instead of trying to hand special privileges to conservative religious groups who want to attack and demonise LGBTI people, the Government should be crafting laws for the protection and benefit of the whole community. In 2017, the Australian people voted overwhelming for fairness and equality for LGBTI people. They did not vote for more discrimination.