

16 December 2020

Dear Joint Select Committee on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 (NSW)

RE: Responses to Additional Questions - Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 (NSW)

Thank you for your further questions in relation to the abovementioned bill. Women's Safety NSW will respond to the answers that sit within the scope of our expertise and functions.

- 1. Given the impact of section 54 of the NSW Anti-Discrimination Act 1977 do you acknowledge that, if enacted, the proposed Bill cannot render unlawful compliance with any other NSW Act, regulation or by-law, including the 2019 Abortion Act, existing health legislation, the COVID health orders, domestic violence laws, sexual abuse laws, NSW Crimes Act, the Local Government Act, business regulations, consumer protection, education statutes and industrial relations laws**

Our principal concern is that the Bill would allow religious persons or organisations to provide or withdraw services on the basis of their religious conviction, belief, opinion or affiliation, provided this was not in conflict with an *imprisonable* crime. Many of the obligations under the *Abortion Law Reform Act 2019* are of a civil nature, and would therefore likely be vulnerable to infringement in this way without recourse. This means that a woman's access to safe and affordable healthcare, including reproductive healthcare, and their right to autonomy would be compromised.

- 2. Do you agree with submissions from the Australian National Imams Council, the Anglican Archbishop of Sydney and the Catholic Archdiocese of Sydney that the Bill generally fits the structure and intent of the remainder of the NSW Anti-Discrimination Act? If not, what is the unacceptable point of difference you have identified?**

I refer you to the submissions of others, such as Women's Legal Service NSW who have pointed out that this Bill is not in keeping with the structure of the current Act. Some of these reasons included the fact that the Bill, if made law, would lead to a privileging of religious freedoms over the rights of others not to be discriminated against even where that discrimination may otherwise be unlawful (in the civil sense); that it would protect organisations and not just individuals who discriminate against others in accordance with their religious conviction, belief, opinion or affiliation; and that it would allow such organisations to in fact challenge government policies and contracts on this basis. These would be quite extraordinary powers.

- 3. Given that the Bill – unlike other parts of the Act for HIV/AIDS, Homosexual, Transgender and Racial Vilification – offers no protections for Religious Vilification, do you acknowledge that these other attributes are afforded stronger protections than those proposed in the Bill? If not, why?**

We would disagree with the premise of the question. The provisions in the Bill would go beyond the protections currently afforded to persons on the basis of race, gender, sexuality, and other status based factors currently covered by the Act.

- 4. Given that s22Z of the Bill is similar to the provisions for Sexual Harassment in the existing Act and non-government schools and charities are already exempted (re s.22M) and the existing Disability provisions cover 'Future Belief', how can your argument of 'special treatment' or a 'hierarchy of protections' for religion be sustained?**

This has been covered in our answer to Q2.

- 5. If not by the Siracusa Principles how can any clash of gay and religious rights be reconciled in an Act such as this?**

Article 26 of the International Covenant on Civil and Political Rights ('ICCPR') states that:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

With respect, as per Q2, the Bill, if made law, would privilege religious rights and protections over the rights and protections of others contra to Art 26 of the ICCPR.

- 6. Why has your submission/evidence to the Committee prioritised a concern about the beliefs and statements of born-again Christians that are integral to the spiritual faith and existence of these citizens? If all human rights are equal, as they should be, isn't it time for the gay-Left community to learn to tolerate the different beliefs, values and moral code of law-abiding born-again Christians and indeed where any illegality might exist, vice versa?**

We would dispute that we have made any reference to born-again Christians in our submission or evidence. Please advise. Our concerns are not with the beliefs and statements of anyone of a particular religion, only with the proposed laws which would see a privileging of the rights of a person or organisation of religious faith to so that they may discriminate against others. Our particular concern as a women's safety advocacy organisation is that the proposed laws would infringe upon women and girls rights and access to safe and affordable health care, including reproductive healthcare, and their rights and access to safe, trauma-informed counselling and allied health services. Access to each of these service types is critical for women and girls experiencing domestic, family and sexual violence seeking safety and recovery.

7. Would your organisation refuse employment to someone who: opposes same-sex marriage and supports traditional marriage? believes in the literal teachings of the Bible?

Women's Safety NSW does not discriminate in our employment processes on the basis of faith or culture. We do, however, require personnel employed and engaged to agree to a Code of Conduct in the carrying out of their functions and engaging with others. This includes the following:

- *“Promote a safe environment where workers, board members and clients of the service are treated with dignity and respect and feel free to express themselves without fear of discrimination, ridicule or judgement.*
- *Treat each other with friendliness, dignity and respect.*
- *Be fair, just and professional in feedback and when challenging beliefs or ideas.*
- *Enact and promote behaviour and attitudes which oppose sexism, racism, ageism, homophobia, cultural discrimination or any other discriminatory or judgmental action, deed or manner.*
- *Not use sexual or other derogatory language or behaviour which may demean or humiliate clients or each other.”*


8. Noting the serious potential physical injuries facing women competing against trans women (biological men) in women's sports, does Women's Safety New South Wales support the participation of trans women (biological men) in women's sports, both one-on-one and team?

This question was already asked of Women's Safety NSW when we gave evidence in a hearing by the Committee. As per our previous answer, Women's Safety NSW advocates for the safety, justice and wellbeing of women and their children in the context of domestic and family violence. We do not have a position in relation to sporting regulations, and would not utilise our finite resources to consult our membership on such a matter which is outside the scope of our purpose and objectives.

What we can advise, is that Women's Safety NSW advocates on behalf of all persons who identify as women, including both cis and trans-women in addition to non-binary persons, and we are committed to conduct which maintains the respect and dignity of all persons regardless of sex, race, ethnicity, gender, age, ability, sexuality, religion, culture or any other status.

We thank you for the opportunity to provide evidence to the Committee and for your consideration of our responses.

Sincerely,



Hayley Foster