

**Submission  
No 92**

## **ANTI-DISCRIMINATION AMENDMENT (RELIGIOUS FREEDOMS AND EQUALITY) BILL 2020**

**Organisation:** Fair Agenda

**Date Received:** 20 August 2020

**FAIR**  

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**AGENDA**

**Submission on the  
Anti-Discrimination Amendment  
(Religious Freedoms and Equality) Bill**

**August 2020**

## About Fair Agenda

Fair Agenda is an independent, not-for-profit community made up of more than 38,000 Australians campaigning for a fair and equal future for women.

We're working for a future in which all women can live safely, with economic security, and agency over their lives and bodies.

Fair Agenda members take action on issues that are important to them - whether championing measures to address gendered violence, protecting reproductive rights, or secure women's economic security – our community exists to advocate for improvements to law, policy and practice to bring us closer to a fair and equal future for women.

Further information about our work is available at [www.fairagenda.org](http://www.fairagenda.org)

### Contact

Renee Carr  
Executive Director



As an organisation dedicated to achieving fairness and equality for women, Fair Agenda supports protection from discrimination. We are aware that many women of faith, particularly women of colour, require protection from prejudice and discrimination based on their religion. We support approaches that provide all people with equal protection, whether or not they have a faith background. Fair Agenda is concerned that the proposed Bill does not do that, and would instead elevate religious expression above other human rights, allowing people to use religion to hurt others.

**Overall recommendation: The Bill should not be passed.**

### **Harmful conduct**

Fair Agenda are concerned that proposed sections 22N(3)-(5), 22S(2)-(4) and 22V(3)-(5) of the Bill will make it almost impossible for government and non-government employers, educators and professional and licencing bodies to foster inclusive cultures, or meet shareholder, customer or community expectations, when their employees or members use their religion privately to hurt others.

We are concerned that the Bill would make it difficult for employers to protect their staff and clients, even if they try to put in place policies to ensure equality. We are extremely concerned that the Bill will open avenues for attacks on women, people with disabilities, LGBTIQ+ people and members of minority faith communities, and undermine protections for equal dignity.

We are particularly concerned that the Bill will hamper the ability of professional bodies to respond appropriately if professionals make statements based on religion outside of work contexts which erode public trust in their profession.

For example, we note that health professionals are often a first point of contact for women seeking support to escape domestic violence. We are concerned that the proposed Bill could lead to an increase in conduct that might deter many women from feeling it is a safe and supportive place to seek assistance or disclose the violence they are experiencing.

### **Health access and obstruction**

Fair Agenda are particularly concerned that this Bill would leave it open to religious organisations and health professionals to argue that the obligation to refer or provide information to a patient in professional standards may be a form of unreasonable religious discrimination.

Fair Agenda are very concerned that this could increase levels of healthcare obstruction, and mean that women and other community members will find it harder to access non-judgemental

healthcare – particularly in the areas of sexual health, family planning, fertility, mental health and transgender health services.

When a patient encounters a health practitioner with a conscientious objection that obstructs their access to care, it can have serious ramifications for the patient's physical, mental, financial and social circumstances.

We are concerned that passage of this Bill may lead to an increase in barriers to healthcare access, and that such barriers could particularly harm:

- Women in rural and remote communities - whose healthcare options are already limited,
- Those who already face barriers and difficulties in accessing healthcare – including:
  - Women trying to escape abusive relationships who might be dealing with the control, surveillance and financial abuse of a partner,
  - Those for whom English is not their primary language; and
  - Women with disabilities,
- Those whose healthcare needs are particularly likely to be impacted by religious views, including: single women and mothers, women trying to escape abusive marriages, women with disabilities, and members of the LGBTIQ+ community.

Fair Agenda are extremely concerned that these provisions could be used to enable further instances of obstruction of reproductive healthcare access in particular.

We note that the accessibility of reproductive healthcare including contraceptives and emergency contraceptive can be particularly important in circumstances of family violence; given many abusers' use of reproductive coercion, and the barriers to access that are likely to be created by an abuser.

Specifically, we note that financial abuse by a perpetrator of family violence can make it extremely difficult for a woman to be able to get to, or afford to see, a health professional easily or quickly. Perpetrators of violence may also try to prevent a victim-survivor from attending an appointment by herself, and use physical and online surveillance to make her feel unable to get to a doctor or clinic without their knowledge, or further violence.

For women experiencing such abuse, the harm of a frontline healthcare professional obstructing their access to the care they need will be compounded, and in some cases may not be overcome.

It is vital that no further barriers to healthcare access are put in the way of those experiencing abuse and violence.

We also note that provision for increased obstruction of such healthcare access would be inconsistent with community attitudes, and that recent polling indicated strong community support in NSW for reproductive healthcare access unimpinged by religious belief. Specifically,

polling commissioned by Fair Agenda and the NSW Pro-Choice Alliance in September 2019 showed that 85% of NSW voters agreed that a patient should be provided with information about where they can receive unbiased advice and care about abortion, regardless of their doctor's moral beliefs on the matter, and 81% of respondents indicated they don't think one person's religious beliefs should impact on another person's access to abortion.<sup>[1]</sup>

### **Religion overriding government rules**

Fair Agenda are also concerned that under the proposed Bill faith-based organisations and even commercial bodies which define themselves as religious would be able to challenge NSW government programs, policies, contracts and decisions which contradict their particular religion.

### **Double standards in employment education and service delivery**

Fair Agenda note our additional concern that faith-based organisations would be allowed to discriminate on the grounds of religion in employment, education and service delivery, even when receiving public funding.

### **Religion above the law and other human rights**

Fair Agenda also note our concern that the Bill would give protection to religious activities which may be unlawful (such as religious activity that vilifies others or breaches civil obligations); and that freedom of religion will be prioritised above other rights and freedoms when applying NSW's anti-discrimination laws.

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<sup>[1]</sup> The survey involved 1,018 respondents across NSW, was undertaken by ORU released by Fair Agenda and the NSW Pro-Choice Alliance on 7 September 2019.