

## Position Statement

### **Impact of the Religious Discrimination Bills on health and workplace equality and existing discrimination protections for priority groups.**

Women's Health Queensland (WHQ) provides recovery support, and health and wellbeing services to women with experiences of violence. WHQ participates on national networks and works state-wide advocating for equality and the primary prevention of violence.

WHQ's CEO, Emma Iwinska, recently participated in the National Summit for Women's Safety. It is through the Summit the current federal government has made a commitment to women's safety and ending the scourge of domestic violence. Evidence shows actively promoting and achieving equality is the only clear and cost-effective method to achieving an end to gender-based violence.<sup>1</sup> The *Religious Discrimination Bills*<sup>2</sup> (the Bills) proposed by the same federal government wholly contradict protecting and promoting equality.

The Bills contain provisions which will undermine equality by:

- Contradicting and overriding existing discrimination protections/ legislation for women, people with a disability, LGBTIQ+ people and people with different or no religious beliefs,
- Allowing sex and gender discrimination in health care settings by protecting health professionals who prioritise personal religious beliefs over their duty of care and code of conduct<sup>3</sup>, and
- Increasing protection for individuals who make discriminatory statements based on religious beliefs in the workplace, education settings and provision of goods and services. Making it harder for employers, educators and, professional and licensing

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<sup>1</sup> Our Watch, (2015), *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia*, at <https://www.ourwatch.org.au/resource/change-the-story-a-shared-framework-for-the-primary-prevention-of-violence-against-women-and-their-children-in-australia/>.

<sup>2</sup> Attorney General's Department, (2021), *Religious Discrimination Bills 2021*, available at <https://www.ag.gov.au/rights-and-protections/consultations/religious-freedom-bills-second-exposure-drafts>

<sup>3</sup> Medical Board - Australian Health Practitioner and Regulation Agency, *Australian Good medical practice: a code of conduct for doctors in Australia*, at <https://www.medicalboard.gov.au/codes-guidelines-policies/code-of-conduct.aspx>.

bodies to promote inclusive cultures and provide protection against derogatory and discriminatory statements.

The expression of personal religious belief should under no circumstances adversely affect others.

## **Human rights and legal issues**

All people have the right to freedom, religion and belief, and all people have the right to be free from any religious discrimination.<sup>4</sup> The provisions in the Bills will contradict these basic rights. Australia is a signatory to the 1979 United Nations (UN) *Convention on the Elimination of all forms of Discrimination against Women* (CEDAW.) CEDAW ensures the rights and freedoms of women to be free from all forms of discrimination. In the eighth periodic report of Australia completed by the *Committee on the Elimination of Discrimination against Women* in 2018 Australia is commended for the introduction of the *Workplace Gender Equality Act 2012*, for amendments to the *Marriage Act 1961* which guarantee the right to marry for all couples regardless of gender, and to the *Sex Discrimination Act 1984* prohibiting discrimination on ground of sexual orientation, gender identity, and intersex status.<sup>5</sup> One point of recommendation made by the Committee on Australian constitutional and legal framework for gender equality, is to ensure the harmonization of anti-discrimination legislation. The Bills would contradict aforementioned anti-discrimination legislation. This would further deviate from the harmonization of Australian legislation in achieving equality and protection of freedom from discrimination for women and other priority groups. Of particular concern to our organisation is that the Bills would override Queensland's (Qld) *Human Rights Act 2019* which has importantly codified human rights in Qld and works to equally protect all Queenslanders from discrimination.

## **Equality in health settings**

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<sup>4</sup> United Nations (1948), *Universal Declaration of Human Rights*, Article 7 and 18 at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>5</sup> Committee on the Elimination of Discrimination against Women, (2018), *Concluding observations on eight periodic report of Australia*, at

WHQ is working to advance the health and wellbeing of women and to ensure all women have safe and inclusive communities in which they are resourced to live their best lives. WHQ is particularly concerned with what the Bills could mean for women accessing health services such as abortion care. Health professionals may have a right to conscientious objection in relation to certain health services in some jurisdictions in Australia. The UN is strict on the principle that conscientious objection may only be permissible, if at all, for individual medical providers and not whole health services.<sup>6</sup> In Qld a medical provider may conscientiously object to providing abortion care.<sup>7</sup> This provision which is already a barrier to equal access would be further extended by the protection under the Bills. It would allow for health professionals and whole health services to place personal religious beliefs over their duty of care to patients' health care needs.

The following example case study demonstrates how people currently accessing abortion health care services in Qld may be protected from religious discrimination. It then draws a comparison by applying the Bills which, as mentioned, would work to protect a medical provider making mildly offensive, intimidating or derogatory comments based on personal religious belief or lack of support for women's reproductive rights. Thus, elevating religious freedom above the right to equal access to basic health care services.

***Trigger Warning: The following case study raises experiences of violence.***

**Example Case Study:**

**Pseudonym:** Jolie

**Age:** 26

**Location:** Brisbane

**Children:** Female, 3 years old living with her

**Type of violence:**

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<sup>6</sup> Human Rights Council, (2020), *Agenda Item 3 promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, Gender-based violence and discrimination in the name of religion or belief: Report of the Special Rapporteur on freedom of religion or belief*, p 10, at <https://undocs.org/A/HRC/43/48>.

<sup>7</sup> *Termination of Pregnancy Act 2018* (Qld) s 8, at <https://www.legislation.qld.gov.au/view/html/asmade/act-2018-023#sec.8>.

- Physical abuse
- Sexual violence
- Reproductive coercion
- Social isolation abuse

**Case:**

Jolie's partner threw away her contraception and has sexually assaulted her repetitively so that she becomes pregnant. Jolie went to her general practitioner and found she was 4 weeks pregnant. The general practitioner congratulated her and told her the baby "is a blessing from God." Jolie then asked for information on abortion options and if she could access a medical abortion. She stated, "I do not want my partner to find out and I am scared of what he might do if he knows I have an abortion, so I would like to get it done soon." The general practitioner stated "abortions are the work of the Devil, and your partner has a right to be upset if you committed such a sin. All life is sacred." Jolie left the appointment immediately upset and scared.

After Jolie left her appointment she made complaint directly to the practice owner, about the general practitioner. The practice owner took Jolie's complaint with her consent to the Australian Health Practitioner and Regulation Agency and National Boards as they had already had concerns raised about this general practitioner and tried to address this with training. Through investigation it was also found that the general practitioner had made similar statements on his social media accounts under his professional title since 2018 when abortion care was legalised in Qld.

The general practitioner was investigated and referred to a performance and professional standards panel. The case was then referred to the Qld Civil and Administrative Tribunal. The tribunal ruled that the general practitioner's registration to be suspended.

If the Bills are enacted the general practitioner in this situation may have relied on the provisions to protect their right to make such comments based on personal religious belief. The Tribunal may not have had grounds to suspend the practitioner's registration. Therefore,

lawfully allowing the practitioner to continue to practice in such a manner that placed personal religious beliefs above the health care rights and needs of patients.

Through this case study it is clear the Bills may make lawful systemic violence against women and further the aims of those who use reproductive coercion to control women. The Bills do not protect rights equally and will allow further discrimination against priority groups and minority religions, placing religious freedom above basic rights such as health care. Furthermore, the Bills contradict current legislation protecting Australians from discrimination and international conventions ratified by Australia.

WHQ cannot support the Bills and implores the Government to reconsider their aim to pass them through parliament. WHQ would also like to highlight the statements by [Equality Australia](#) and [Australian Women's Health Network](#) which further emphasise the multiple negative impacts the Bills will have on women, LGBTIQ+ people and other marginalised groups.