



2 December 2021

Hon. A. Albanese MP
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Dear Anthony Albanese MP,

RE: Religious Discrimination Bill 2021

The New South Wales Council for Civil Liberties (NSWCCL) writes in relation to the recently announced Inquiry into the Religious Discrimination Bill 2021 (the Inquiry) and related bills by the Parliamentary Joint Committee on Human Rights (the committee) which is due to report to Parliament on 4 February 2022.

We write to call for your support in opposing the bills, at least until the Inquiry has concluded. Parliament's Inquiry process must be respected. Passing the bills through the House of Representatives before the committee has reported sets a dangerous precedent which disrespects parliamentary processes that play an important role in our democratic system.

Background

These bills have an important purpose, but in their current form they must be opposed.

The bills will allow conduct by religious persons which discriminates against LGBTIQ+ people, women, migrants, people living with disability, single parents and divorcees lawfully. This is the third iteration of bills which have been presented to the public for consultation. It is disappointing that the laws remain so deficient, and in some respects are a backward step from previous drafts. NSWCCL urges you to continue to oppose these bills which fail to strike the correct balance between protection from discrimination based on religious adherence, and the rights to discriminate against others because of religious adherence.

In his second reading speech the Prime Minister said, 'Nothing in this bill allows for any form of discrimination against a student on the basis of their sexuality or gender identity. You won't find anything of that nature in this bill.' This statement could not be further from the truth, as this bill will expressly allow such discrimination by religious people to continue. The bills do not even require a person to show a connection between discriminatory conduct and their religion. The bills just need the person to show that their statements of belief which underpin the conduct are 'genuine'. Statements of belief that are malicious, or that a reasonable person would consider would threaten, intimidate, harass or vilify a person or group or that would promote

conduct constituting a serious offence would not be allowed. Yet the provisions leave a great deal of room for harmful and discriminatory statements to be made with impunity if a person believes they are speaking on the basis of religious belief. This will allow our society to become nastier, more divided and more unsafe.

Another significant concern with the bills is that they will override existing state and territory laws, and council by-laws which may place certain obligations on professions or organisations which deliver essential public services such as healthcare, housing and education. This is unacceptable and must be opposed.

A further troubling aspect is the expansion of anti-discrimination law beyond natural persons to corporate entities, even where the corporate entity was not discriminated against per se but has an association (as loosely defined) with an individual who holds or does not hold a religious belief. NSWCCCL continues to oppose this radical change which could see large corporate entities which profess a religious character suing natural persons.

NSWCCCL continues its strong criticism of attempts to privilege religious belief over other categories of belief and over the safety and harmony of our society. The bills would produce substantial changes to Australian society and require appropriately keen scrutiny.

NSWCCCL continues to consider the best way to protect all human rights in Australia is for a Charter of Human Rights to be implemented at the Commonwealth level. This will ensure that a consistent approach is undertaken which covers all human rights, like freedom of religion, which require protection. Addressing human rights protection in a piecemeal fashion is counterproductive. Australia is the only liberal democracy without formal human rights legislation and this must be remedied immediately.

We call for your support in opposing the bills until the balance between protection from discrimination based on religious adherence, and the rights to discriminate against others because of religious adherence is better calibrated.

Inquiry

As mentioned above, the bills have been referred to an Inquiry. Submissions are due to the Inquiry on 21 December, public hearings will be held in January and the committee's report is due on 4 February 2022.

The short timeframe for the filing of submissions before the inquiry has left stakeholders only 22 days to draft and file submissions to the Inquiry and will require them to prepare their evidence over a period when many take summer holidays. The timeframe is inadequate in allowing enough time for stakeholders to properly consider the bills and draft careful submissions to assist the committee. Moreover, the extremely short time frame between the receipt of submissions and the public hearings, and then the public hearings and the release of the final report place unnecessary pressure on the parliamentarians involved in the Inquiry. We seriously doubt that the appointed timeframes will allow for the proper and serious scrutiny that these bills deserve.

Nonetheless, the short timeframes for the committee to report leave no reason for the bills to be rushed through the House of Representatives before the conclusion of this sitting of Parliament. The committee will report before the next sitting of Parliament.

To rush the bills through Parliament today, would subvert the very purpose of the Inquiry, to scrutinise bills and seek stakeholder feedback before the bills makes its way through Parliament. The review of bills by committees, particularly the Parliamentary Joint Committee on Human Rights, is a cornerstone of our Westminster system and ensuring that human rights and civil liberties are protected in all legislative instruments.

We strongly urge you to refrain from allowing the bills to pass through the House of Representatives until the Inquiry has delivered its report.

In due course we would like to meet with you to discuss the findings of the Inquiry and our opposition to the bills.

Yours sincerely,



Michelle Falstein
Secretary