Non-Government Women's Health Services
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21 August 2020

Joint Select Committee
Anti-discrimination Amendment (Religious Freedoms and Equality) Bill 2020
Email: ReligiousFreedomsBill@parliament.nsw.gov.au

Dear Joint Select Committee Members,

Inquiry into the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020

1. Thank you for the opportunity to submit our comments regarding the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 (The Bill).

2. Women's Health NSW (WHNSW) is the peak body for and the association of 21 non-government community women's health centres in NSW. We are proactive on priority issues relevant to women's health, advocating for improved health outcomes and a social model of healthcare to ensure care is delivered in a gender appropriate, affordable and accessible way designed to meet the health needs of women.

3. Women's Health Centres in NSW provide multidisciplinary, primary health care focusing on wellness, prevention, early intervention immediate and ongoing care including physical health/activity, chronic illness, emotional & mental health, reproductive and sexual health and the effects of violence against women.

4. WHNSW supports equality for all citizens; but one person's freedom must not and cannot be at the expense of others' basic human rights and freedoms. Legislation must not give preference to one group over another, nor endow one organised religion with the freedom to discriminate against another. If enacted, this will be the outcome of the Bill and the consequences will be particularly dire for women.

5. Recommendations:
   a. WHNSW recommends that the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 be rejected in its entirety.
   b. That the Joint Select Committee support a review of the Anti-Discrimination Act 1977 (NSW) to consider the introduction of protections from discrimination on the basis of religion and replacing or narrowing the current exceptions for religious organisations

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6. The starting point in any discussion about religious freedom in Australia is section 116 of the Australian Constitution:
   The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

7. One could argue that the development of the Bill is imposing religious observance upon all citizens as the Bill aims to construct the right of religious individuals and organisations at the expense of existing legislation and professional medical standards.

8. While religious persons and organisations should have the right to live and operate free from discrimination, there needs to be a balance. The Bill aims to enable religious individuals and organisations to apply a religious conviction, belief, opinion or affiliation at any time, in any circumstance or place and with public funds designed to deliver services. WHNSW does not believe that the Bill is balanced in these regards.

9. The Bill recreates a new category of ***religious ethos organisation*** to include any registered charity registered under the *Australian Charities and Not-For-Profit Commission Act 2012.* Many registered charities are owned by religious organisations but are not created for the priority purpose of providing religious activities. Many charities are registered to provide benevolent charity to those in need which is inspired by their religious beliefs. Some charities have combined both intentions (religious and service) and have been exempted under the Anti-Discrimination Act (ADA) 1977 (NSW). This exception applies to religious activities and private educational institutions. Other charities, some of which owned by religious organisations, accept money from government to provide care and services including education, healthcare, shelter, housing, food and welfare on behalf of the government. The Bill would allow religious organisations to provide or withdraw the services based on the religious conviction, belief, opinion or affiliation of the citizens seeking the service. This action would limit Australian citizens access to education, health, welfare and, to experience freedom of thought or movement. The Bill is not balanced in these regards.

10. In addition, the Bill also defines religious belief as *a religious belief if the person genuinely believes the belief* and, goes onto state that *a religious belief is a reference that the person is thought to hold or that a person held in the past or is thought to have held in the past or that a person will hold in the future"*. While the interpretation of religious belief is a personal spiritual belief system, individual belief systems should not dictate the legislation of the country and the rights of Australian citizens to access health, welfare and to experience freedom of thought or movement. The Bill is not balanced in these regards.

11. Of particular concern is that religious beliefs and religious organisations have a history of exclusion, control and violence. As stated by the Special Rapporteur on freedom of religion and belief in a report to the United Nations Human rights Council:
    "Countless examples demonstrate that violence in the name of religion usually displays a pronounced gender dimension. Many women and girls are victims of "honor" killings, acid attacks, amputations or floggings, sometimes pursuant to penal codes that are based on religious laws. Women and Girls also disproportionately suffer from sexual violence, such as rape, abduction, sexual enslavement, female genital mutilation, forced marriage, often in conjunction with forced conversion, or other cruelties".

12. An additional major concern is the effects the Bill would have on women and girls access to reproductive health care across the full range of identified health needs including access to contraception and termination of pregnancy. We support the work undertaken by the Australian Medical Association in developing professional standards that recognise and respect conscientious objection. We also note the efforts enacted into law by the NSW Parliament in recognition of conscientious objection in Section 9 of the Abortion Law Reform Act 2019 No 11.

13. WHNSW is concerned that the Bill would also allow for discrimination of homosexuals, bisexual and transgender persons who are also often the victims of organised abuse and exclusion.

14. WHNSW is concerned that some religious organisations and individuals hold beliefs that discriminate and punish people with disabilities.

15. For all the above reasons, Women's Health NSW does not support the Bill and recommends that it be rejected in its entirety as outlined in paragraph 5. a.

16. If you wish to discuss any aspect of this submission, please do not hesitate to contact me on 0414 780 417.

Yours faithfully,

Denele Crozier, AM
Chief Executive Officer
Women's Health NSW.