



AUSTRALIAN LAW STUDENTS' ASSOCIATION

MEDIA RELEASE

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ALSA COMMENTS ON THE 'RELIGIOUS DISCRIMINATION BILL 2021' TABLED IN PARLIAMENT

The Australian Law Students' Association (ALSA) is disappointed by the proposed 'Religious Discrimination Bill' in Parliament. ALSA firmly believes that all persons, without regard to their age, disability, sex, gender identity, intersex status, or sexual orientation should be protected from discrimination of any kind.¹ This includes public life, including education and employment. ALSA is proud to be the peak representative body for law students around Australia and believe that we find strength in the diversity of the students we represent.

The Bill that has been tabled by Prime Minister Scott Morrison purports to protect persons 'who have or adopt a religion or belief of their choice and the freedom to manifest that religion freely'.² ALSA supports religious freedom and believes that protecting a person's right to freely engage in their chosen religion or belief system is fundamental to Australian values and is enshrined in our *Constitution*.³ However, this Bill goes beyond protecting an individuals' right to engage in their chosen religion or belief system. It overrides other anti-discrimination laws to immunise religious institutions from the legal consequences of

¹ Attorney-General's Department, 'Australia's anti-discrimination law'.

² *Religious Discrimination Bill 2021* (Cth) s 3.

³ *Australian Constitution* s 116.

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discriminatory action.⁴ It opens up the possibility that religious institutions may make statements or policies which vilify a ‘protected attribute’ under the guise of a ‘statement of belief’, thereby exempting responsibility or liability for such action(s). This is particularly concerning for protected groups, including but not limited to the LGBTQIA+ community, women and persons with disabilities.

ALSA is particularly condemnatory of the Bill’s newly proposed amendments (see changes to s 38(3) of the *Sex Discrimination Act 1984* (Cth)) that leaves transgender students vulnerable and ill-protected, whilst the Australian Law Reform Commission has only been commissioned to advise whether the legislation requires further amendments once the *Religious Discrimination Act* has been in operation for 12 months. This consultation period is needed *prior* to the Bill passing, and is not something that can be expedited. It is not in the interests of a representative democracy to pass a law that *prima facie* discriminates against a group of individuals. This is compounded by the fact that there is no certainty that such legal reform will occur once the *Religious Discrimination Act* is in force.

If this Bill passes, it can affect the operation of the following Australian legislation:

- *Australian Human Rights Commission Act 1986* (Cth);
- *Racial Discrimination Act 1992* (Cth);
- *Disability Discrimination Act 1992* (Cth);
- *Sex Discrimination Act 1984* (Cth);
- *Age Discrimination Act 2004* (Cth);
- *Discrimination Act 1991* (ACT);
- *Human Rights Act 2004* (ACT);
- *Anti-Discrimination Act 1977* (NSW);
- *Anti-Discrimination Act 1992* (NT);
- *Anti-Discrimination Act 1991* (Qld);

⁴ Karinna Saxby, ‘The religious discrimination bill is not just words – it will make LGBTQIA+ Australians sick’, *The Conversation* (Article, 26 November 2021). <<https://theconversation.com/the-religious-discrimination-bill-is-not-just-words-it-will-make-lgbtqi-australians-sick-163649>>.

- *Human Rights Act 2019* (Qld);
- *Equal Opportunity Act 1984* (SA);
- *Anti-Discrimination Act 1998* (Tas);
- *Equal Opportunity Act 2010* (Vic);
- *Charter of Human Rights and Responsibilities Act 2006* (Vic); and
- *Equal Opportunity Act 1984* (WA).

On an international level, Australia was one of the 48 members of the United Nations who assisted in the drafting and passing of the *Universal Declaration of Human Rights*.⁵ It is disappointing to see the current Government undermine the purpose of such a critical instrument by placing the importance of some rights higher than others. ALSA firmly believes that the protection of human rights is a balancing act, which this legislation threatens to undermine.

[ENDS]

⁵ *Universal Declaration of Human Rights* (entered into force 23 March 1976)
<<https://humanrights.gov.au/our-work/commission-general/universal-declaration-human-rights-human-rights-your-fingertips-human>>.