



21 August 2020

**Kingsford Legal Centre**

**Submission to the inquiry into the *Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020***

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We thank the Committee for the invitation to make a submission to the inquiry into the *Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 (the Bill)*.<sup>1</sup>

**Summary of recommendations**

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Our recommendations are as follows:

1. The Bill, in its current form, should not be passed;
2. There should be a collaborative process to set up a consistent national framework for discrimination protection. The framework should have the highest standard of protection across all protected attributes and should include strong protections against religious discrimination;
3. Remove the reference to article 18(3) of the International Covenant on Civil and Political Rights (**ICCPR**) from the Bill and introduce a Human Rights Act to provide comprehensive protection for human rights, including the right to freedom of religion;
4. The definition of 'religious activities' should be narrowed and not include activities that are only 'motivated' by a religious belief;
5. Prohibit discrimination on the ground of criminal record in accordance with human rights principles;
6. The definition of 'religious ethos organisation' should not include organisations that get public money or provide services in areas of governmental responsibility;
7. Section 22M should be removed;
8. Remove the 'protected activity' test;

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<sup>1</sup> Email from the Hon. Gabrielle Upton MP to Emma Golledge, 10 July 2020.

9. Remove specific provisions for the wearing of religious symbols or religious clothing during work hours and address this issue in accordance with general discrimination law principles;
10. The 'genuine occupational requirement' exception in section 22U should apply only to the inherent requirements of a role. It should apply only to religious requirements, not 'ethical or moral requirements';
11. The registered clubs exception in section 22Y should be defined by reference to 'the principal object of the registered club';
12. The exception for religious ethos organisations from State laws and programs in section 22Z should be removed;
13. The amendment of section 126 should be removed;
14. A collaborative national process should consider a single Equality Act, providing unified protection for protected attributes across all Australian jurisdictions;
15. NSW law should not be modelled on the Commonwealth Bill. NSW should demonstrate a better approach to discrimination law;
16. Increase funding for the ADB so that it is adequately resourced to fulfil its functions; and
17. Increase funding to ensure that CLCs are adequately resourced to meet legal need during COVID-19 and beyond.

### **About Kingsford Legal Centre**

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Kingsford Legal Centre (**KLC**) provides free legal advice, casework and community legal education to our local community in south-east Sydney. We specialise in discrimination law and have a state-wide Discrimination Law Clinic. In 2019, we gave 248 discrimination law advices. We have extensive experience in providing legal help to people who have experienced religious discrimination and for whom there is presently no effective remedy in NSW.<sup>2</sup>

KLC also has a specialist Employment Law Clinic and is a provider of the Migrant Employment Legal Service (**MELS**), addressing the exploitation of migrant workers in NSW.<sup>3</sup>

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<sup>2</sup> The protections for 'ethno-religious' groups in the *Anti-Discrimination Act 1977* are limited and do not provide effective protection against religious discrimination.

<sup>3</sup> MELS is a joint initiative of the Inner City Legal Centre, Kingsford Legal Centre, Marrickville Legal Centre and Redfern Legal Centre.

We are part of the UNSW Sydney Law Faculty and provide clinical legal education to over 500 of its students each year. KLC has been part of the south-east Sydney community since July 1981.

### **General comments on the Bill**

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KLC has long supported the need for protection from religious discrimination for people of diverse religions and no religion.

We are disappointed that the Bill replicates many of the issues with the *Religious Discrimination Bill 2019* (Cth) (**the Commonwealth Bill**). It creates a complex, new legal regime that fails to appropriately address the problem of religious discrimination and is inconsistent with existing discrimination protections for diverse groups of marginalised people. The Bill selectively denies protection and creates a right to engage in religious discrimination, undermining its stated purpose. It is likely to have a negative overall impact on people who hold minority religious beliefs, especially in parts of NSW where job opportunities, educational opportunities and access to services are more limited. We are surprised that a Bill of this nature has been prioritised during the COVID-19 pandemic.

We have previously recommended that the NSW Government start a collaborative process with other jurisdictions to set up a consistent national framework for discrimination protection.<sup>4</sup> The framework should have the highest standard of discrimination protection across all protected attributes and should include strong protections against religious discrimination. The Bill, in its current form, should not be passed.

Our present submission draws on our previous submissions to the Australian Government's second exposure drafts of its legislative package on religious freedom (**Commonwealth Bill Submission**)<sup>5</sup> and the Australian Government's Expert Panel on Religious Freedom (**Religious Freedom Submission**) (**enclosed**).<sup>6</sup>

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<sup>4</sup> Kingsford Legal Centre, Submission to Portfolio Committee No. 5 – Legal Affairs, Parliament of NSW, *Inquiry into the Anti-Discrimination Amendment (Complaint Handling) Bill 2020*, 24 April 2020

<<https://www.klc.unsw.edu.au/sites/default/files/documents/Anti-Discrimination%20Amendment%20%28Complaint%20Handling%29%20Bill%202020%20-%20Submission%20-%20FINAL%20%28Redacted%29.pdf>>.

<sup>5</sup> Kingsford Legal Centre, Submission to the Attorney-General's Department, Australian Government, *Religious Freedom Bills – Second Exposure Drafts*, 31 January 2020 (**Commonwealth Bill Submission**) <<https://www.klc.unsw.edu.au/sites/default/files/documents/Submission%20to%20the%20Religious%20Freedom%20Bills%20-%20Second%20Exposure%20Drafts%20%28Final%29.pdf>>.

<sup>6</sup> Kingsford Legal Centre, Community Legal Centres NSW and National Association of Community Legal Centres, Submission to the Expert Panel on Religious Freedom, Australian Government, *Religious Freedom Review*, 13 February 2018 (**Religious Freedom Submission**) <<https://www.klc.unsw.edu.au/sites/default/files/documents/Religious%20freedom%20submission%20final.pdf>>.

**Jake's story<sup>7</sup>**

Jake is a student at a Catholic high school. He believes that he is being treated unfairly because he is not Catholic. Jake was not allowed to attend overseas trips with the school, and his nomination for the Student Representative Council was removed by the school. We advised Jake that a discrimination complaint would be unlikely to succeed, as religion is not a protected attribute in discrimination law.

**Ali's story**

Ali is a young Muslim man in prison. He was given external leave to undertake studies at an educational institution. At the educational institution, Ali regularly prayed in outdoor areas. He was told he was not allowed to pray there. When he continued to pray, Ali's education leave was cancelled, and he was not allowed to continue his studies. This caused significant distress to Ali and his family.

We advised Ali that he would not be able to successfully make a discrimination complaint, as the law does not protect a person from discrimination on the basis of their religion. The lack of legal protections in NSW and at the federal level meant that Ali couldn't access his right to education or freedom of religion.

**Recommendation 1: The Bill, in its current form, should not be passed.**

**Recommendation 2: There should be a collaborative process to set up a consistent national framework for discrimination protection. The framework should have the highest standard of protection across all protected attributes and should include strong protections against religious discrimination.**

**Objectives of the Bill**

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The Explanatory Note outlines 8 partly overlapping objects of the Bill. These form a complex statement of the Bill's objectives. It would be difficult to use these as a guide to interpreting the Bill, as required by general principles of legal interpretation.<sup>8</sup>

We consider the appropriateness of specific provisions of the Bill below. We have not commented on every provision or every issue with the Bill.

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<sup>7</sup> All client names have been changed for confidentiality.

<sup>8</sup> *Interpretation Act 1987* (NSW) s 33.

### Section 3 – Principles

Section 3 conflates the rights to freedom of religion and freedom from discrimination on the ground of religion.<sup>9</sup> Although the two rights are closely related, the distinction between them is important, as there are different legal principles for interpreting and applying the two rights. Conflating the two rights would limit the usefulness of existing legal guidance on how the two rights work in practice and introduce significant confusion into NSW discrimination law.

Australian jurisdictions with a Human Rights Act have distinct protections for the rights to freedom of religion and freedom from discrimination on the ground of religion.<sup>10</sup> That approach is more appropriate and has greater consistency with existing human rights principles. A Human Rights Act for NSW could provide comprehensive protection for human rights, including the right to freedom of religion. This would recognise the equal status of all human rights and provide an effective, unified framework for resolving the difficult questions that inevitably arise when there is a tension between rights.

**Recommendation 3: Remove the reference to article 18(3) of the ICCPR from the Bill and introduce a Human Rights Act to provide comprehensive protection for human rights, including the right to freedom of religion.**

### Section 22K – Definitions

The definition of 'religious activities' in section 22K includes activities 'motivated by a religious belief'. By focusing on the individual's motivation, rather than the religion itself, this test could be interpreted as giving discrimination protection to activities that are not in accordance with a religious belief. It could, for example, give protection to a person who claimed they were motivated by a religious belief to engage in hate speech towards co-workers or customers while at work. It is unclear what the boundaries of this test would be when applied to real world conduct, creating difficulties for both complainants and respondents in identifying their rights and responsibilities. It has the potential to create a significant amount of litigation, adding to the strain on under-resourced state courts.

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<sup>9</sup> The right to freedom of religion is mainly regulated by article 18 of the ICCPR, while the right to freedom from discrimination on the ground of religion is regulated by a number of articles, including articles 2 and 26 of the ICCPR.

<sup>10</sup> *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 14; *Equal Opportunity Act 2010* (Vic) s 6(n); *Human Rights Act 2004* (ACT) s 14; *Discrimination Act 1991* (ACT) s 7(u); *Human Rights Act 2019* (Qld) s 20; *Anti-Discrimination Act 1991* (Qld) s 7(i).

Section 22K implies that offences not punishable by imprisonment could be given discrimination protection as 'religious activities'. This is an incredible provision, setting religion up as a shield against the consequences of committing offences, unlike any other protected attribute under discrimination law. The courts would face significant difficulties in reconciling this extraordinary protection with other areas of law, including criminal law. Rather than treating some offences as 'religious activities', the NSW Government should prohibit discrimination on the ground of criminal record, in accordance with human rights principles.<sup>11</sup>

**Recommendation 4: The definition of 'religious activities' should be narrowed and not include activities that are only 'motivated' by a religious belief.**

**Recommendation 5: Prohibit discrimination on the ground of criminal record in accordance with human rights principles.**

The definition of 'religious ethos organisation' in section 22K would significantly increase the complexity of discrimination law by introducing a new legal test that differs from the existing test for 'religious bodies' in section 56 of the Act. It creates unique privileges on the basis of religion to a broad range of organisations, including businesses and service providers. Many such organisations get public money to provide essential services in areas of governmental responsibility, including health, education, aged care and housing. Community members have an interest in ensuring that such services are provided by the most qualified people, without discrimination in the employment of workers, and that public money is not spent in a discriminatory manner.

**Recommendation 6: The definition of 'religious ethos organisation' should not include organisations that get public money or provide services in areas of governmental responsibility.**

#### **Section 22KA – Determining when a belief is held**

The 'genuinely believes' test is inappropriate for determining who discrimination law should grant protection to, as it does not require that a belief is actually in accordance with a religion. People genuinely hold all sorts of beliefs that do not belong to any particular religion, including beliefs that are false, discriminatory or otherwise harmful. Further, it will

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<sup>11</sup> Australian Human Rights Commission, *Discrimination in Employment on the Basis of Criminal Record* (14 December 2012) [3.1] <<https://humanrights.gov.au/our-work/rights-and-freedoms/human-rights-discrimination-employment-basis-criminal-record#e13>>.

often be difficult or impossible to disprove that a person genuinely holds a belief, regardless whether that claim is true. A narrower test would help ensure that the overall level of discrimination protection is not weakened in NSW and that claims of religious discrimination are not spuriously invoked in defence of beliefs that do not belong to any particular religion.

### **Section 22M – Religious ethos organisations taken not to discriminate in certain circumstances**

As stated above, the definition of ‘religious ethos organisation’ is unjustifiably broad and conflicts with the existing definition of ‘religious bodies’ in section 56 of the Act. By providing that such organisations are taken not to discriminate in certain circumstances, section 22M would grant such organisations a broad licence to discriminate that is not shared by any other protected group under discrimination law.

Section 22M would allow religious ethos organisations to hire a person because they have a particular religion, rather than being the best person for the job – for example, a Christian aged care provider could give preference to Christian job applicants over all others. This is likely to reduce employment opportunities for qualified people, especially people who hold minority religious beliefs and live in parts of NSW where job opportunities are more limited. It is an especially unwelcome intervention during the COVID-19 pandemic, as unemployment is high and job opportunities are extremely limited relative to the large number of people looking for work.<sup>12</sup>

Section 22M would also allow religious ethos organisations to prioritise service delivery to a person because they have a particular religion, rather than because they are the person most in need or the person who would benefit most from the service. This would impact negatively on the quality and accessibility of services for diverse groups of marginalised people, especially in outer suburban and rural, regional and remote areas, where there are fewer service providers. It is, again, an especially unwelcome intervention during the COVID-19 pandemic, when the need for social and community services is exceptionally high.

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<sup>12</sup> Australian Bureau of Statistics, *Labour Force Commentary June 2020* (16 July 2020) <[https://www.acoss.org.au/media\\_release/1-job-for-every-13-looking-acoss-calls-on-government-to-have-peoples-backs-through-tough-times/](https://www.acoss.org.au/media_release/1-job-for-every-13-looking-acoss-calls-on-government-to-have-peoples-backs-through-tough-times/)>.

**Rohan's story**

Rohan was a temporary teacher at a Catholic school. He was not religious and did not attend mass. Other staff made negative comments about this. Rohan missed out on a permanent teaching opportunity. He believes this was due to religious discrimination. The school was enforcing policies, such as the dress code, very strictly against Rohan, while not enforcing the policies at all against other employees.

**Recommendation 7: Section 22M should be removed.**

**Section 22N – Discrimination against applicants and employees**

The 'protected activity' test is new and includes a further new test of 'direct and material financial detriment'. The introduction of new legal tests that apply only to religious discrimination undermines equality in the treatment of diverse protected attributes and adds to the complexity of discrimination law. A 'protected activity' is broadly defined. We are concerned that the 'protected activity' provisions would limit an employer's ability to take appropriate action to protect diverse groups of staff from conduct that is discriminatory or otherwise harmful.

Section 22N(6) creates a new legal regime for the wearing of religious symbols or religious clothing during work hours. The new regime is complex and involves a swathe of new legal tests. It is unclear to us why religious symbols and clothing would require their own legal regime.

**Recommendation 8: Remove the 'protected activity' test.**

**Recommendation 9: Remove specific provisions for the wearing of religious symbols or religious clothing during work hours and address this issue in accordance with general discrimination law principles.**

**Sections 22S and 22V – Qualifying bodies and education**

The 'protected activity' test presents similar issues in sections 22S and 22V of the Bill. It should be removed.



### **Section 22U – Genuine occupational requirement**

The definition of 'genuine occupational requirement' is too broad, encompassing activities that are not essential to a role, and extending beyond religious requirements to 'ethical or moral requirements'. Section 22U would allow an employer to engage in religious discrimination on the basis of tasks that have been arbitrarily included in a job description. We are again concerned that this would reduce job opportunities for qualified people, and impact negatively on the quality and accessibility of services, especially for marginalised people.

**Recommendation 10: The 'genuine occupational requirement' exception in section 22U should apply only to the inherent requirements of a role. It should apply only to religious requirements, not 'ethical or moral requirements'.**

### **Section 22Y – Registered clubs**

Section 22Y(3) would allow registered clubs to engage in religious discrimination 'if the objects of the registered club include providing benefits for persons with specified religious beliefs or religious activities'. This is broader than the registered clubs exception in equivalent provisions of the Act, which define the exception by reference to 'the principal object of the registered club',<sup>13</sup> rather than 'the objects' broadly. We note that registered clubs can play a significant role in the social life of a community, particularly in regional, rural and remote NSW. Given that section 22Y(3) is an exception from discrimination law, it is appropriate for it to be narrow.

**Recommendation 11: The registered clubs exception in section 22Y should be defined by reference to 'the principal object of the registered club'.**

### **Section 22Z – State laws and programs**

Section 22Z(2) grants religious ethos organisations an extraordinary exception from State laws and policies. Its implications extend well beyond discrimination law. As with section 22K, the courts are likely to face significant difficulties in reconciling this provision with other areas of law. It introduces significant uncertainty into the NSW legal system.

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<sup>13</sup> See, eg, *Anti-Discrimination Act 1977* (NSW) 20A(3).

**Recommendation 12: The exception for religious ethos organisations from State laws and programs in section 22Z should be removed.**

### **Section 126 – Granting of exceptions by the President**

Section 126 is a clear example of the Bill creating an exceptional regime for religious discrimination. Section 126 should apply to religious discrimination in the same way as all other forms of discrimination.

**Recommendation 13: The amendment of section 126 should be removed.**

### **Recommendations relevant to NSW from the Expert Panel Report: Religious Freedom Review (2018)**

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We have included comments on recommendations relevant to NSW from the Expert Panel Report: Religious Freedom Review (2018) (**Expert Panel Report**) in the table at **Annexure A** of the present submission.

### **Interaction between Commonwealth and NSW anti-discrimination laws**

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The interaction between Commonwealth and NSW anti-discrimination laws is extremely complex. There are significant overlaps and differences between the two bodies of law, such that the same conduct may be considered unlawful discrimination under one body of law, but not the other. Both bodies of law generally apply to people in NSW. Commonwealth and NSW anti-discrimination laws further interact with anti-discrimination laws in other States and Territories, and other areas of law, including employment law, tenancy law and consumer law. These interactions between laws create significant challenges for community members in identifying their rights and responsibilities. There would be significant benefits for all parties in simplifying and unifying discrimination law. A collaborative national process could produce a single Equality Act, providing unified protection for protected attributes across all Australian jurisdictions.

While there are benefits to consistency across jurisdictions, this should be appropriately implemented. In particular, consistency should provide the highest standard of protection across all protected attributes. It should not be used as a cover to weaken discrimination protection.

**Recommendation 14: A collaborative national process should consider a single Equality Act, providing unified protection for protected attributes across all Australian jurisdictions.**

#### **The draft *Religious Discrimination Bill 2019* (Cth)**

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As stated above, we have **enclosed** our submission to the Commonwealth Bill. Although we consider that the Australian Government should prohibit discrimination on the ground of religion, we are unable to support the Commonwealth Bill in its current form. The Commonwealth Bill fails to appropriately respond to the problem of religious discrimination, would weaken the overall level of discrimination protection in Australia and adopts a piecemeal reform approach that would significantly increase the complexity of discrimination law. We are disappointed that the Australian Government has rejected efforts to improve the Commonwealth Bill as part of a genuine consultation process.<sup>14</sup> We think the general benefit of consistency across jurisdictions is outweighed by the complex and harmful nature of the Commonwealth Bill.

It would further be premature to model NSW law on the Commonwealth Bill, as the Commonwealth Bill has not yet been finalised or passed into law. We continue to advocate for a better approach to discrimination law federally and would welcome State government leadership.

**Recommendation 15: NSW law should not be modelled on the Commonwealth Bill. NSW should demonstrate a better approach to discrimination law.**

#### **The Australian Law Reform Commission's reference into the Framework of Religious Exemptions in Anti-discrimination Legislation**

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The Australian Law Reform Commission's (**ALRC**) reference into the Framework of Religious Exemption in Anti-discrimination Legislation deals with matters relevant to the Bill and specifically requires the ALRC to consider State discrimination law.

The ALRC's reference has a deadline of 12 months from the date that the Commonwealth Bill is passed by the Australian Parliament. This assumes that the Australian Parliament will pass the Commonwealth Bill.

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<sup>14</sup> See further our Commonwealth Bill Submission.

We have 3 partly overlapping law reform processes proceeding in parallel, without proper coordination between them: the NSW Bill, the Commonwealth Bill and the ALRC inquiry. This is an inefficient approach to reform that drives further complexity and fragmentation in Australian discrimination law. Rather than governments in different jurisdictions undertaking multiple partly-overlapping reform processes, there should be a collaborative process to set up a consistent national framework for discrimination protection (as recommended above).

### **Funding for the Anti-Discrimination Board NSW**

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The creation of a complex, new legal regime for religious matters would significantly increase the workload of the Anti-Discrimination Board (**ADB**), which would have a key role in implementing the regime. It is critical to the health of NSW's discrimination law system that the ADB is adequately resourced to fulfill its functions, which include answering enquiries from community members, investigating and conciliating complaints, and conducting community education about discrimination.<sup>15</sup> Any addition to the ADB's workload, such as that contemplated by the Bill, must be matched by additional funding.

**Recommendation 16: Increase funding for the ADB so that it is adequately resourced to fulfil its functions.**

### **Funding for community legal centres**

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The NSW Government's review of NSW Government support for community legal centres (**CLCs**) in 2017 found that, although CLCs are 'extremely efficient', there is 'significant unmet demand for legal assistance services which cannot be met without additional funding'.<sup>16</sup> This is consistent with the Productivity Commission's recommendation that Australian governments provide the legal assistance sector with an interim funding injection of \$200 million each year to address the most pressing legal need.<sup>17</sup>

The COVID-19 pandemic has massively increased legal need in diverse areas of law, including discrimination law. CLCs have been on the frontlines of an explosion of legal

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<sup>15</sup> Anti-Discrimination NSW, *What We Do* (11 May 2020) <[https://www.antidiscrimination.justice.nsw.gov.au/Pages/adb1\\_aboutus/adb1\\_aboutus.aspx](https://www.antidiscrimination.justice.nsw.gov.au/Pages/adb1_aboutus/adb1_aboutus.aspx)>.

<sup>16</sup> Alan Cameron, Review of NSW Community Legal Services (Report, December 2018) 7 <<https://www.justice.nsw.gov.au/Documents/publications-research/Final-Report-CLC-Services.pdf>>.

<sup>17</sup> Productivity Commission, Australian Government, *Access to Justice Arrangements*, Inquiry Report No 72, vol 2 (5 September 2014) 738–9 <<https://www.pc.gov.au/inquiries/completed/access-justice/report/access-justice-volume2.pdf>>.

need,<sup>18</sup> which is worsening as support measures are cut. The recent commitment of \$15.6 million for NSW's legal assistance sector will be of great help in responding to the immediate legal need as a result of COVID-19.<sup>19</sup>

The Bill would significantly increase the number of people in need of legal help. This would include marginalised people defending themselves against new forms of discrimination enabled by the Bill, and people drawn into legal disputes as a result of the Bill's complexity and wide reach. The NSW Government would need to significantly increase funding to CLCs to respond to increased legal need as a result of the Bill.

**Recommendation 17: Increase funding to ensure that CLCs are adequately resourced to meet legal need during COVID-19 and beyond.**

## Conclusion

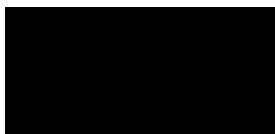
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Religious discrimination is a serious issue that requires an appropriate response. We have made recommendations for an alternative approach that would protect people from religious discrimination, without weakening the overall level of discrimination protection in NSW. The Bill should not proceed in its current form.

If you have any questions about this submission, please contact Emma Golledge at [legal@unsw.edu.au](mailto:legal@unsw.edu.au).

Yours Faithfully

KINGSFORD LEGAL CENTRE



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Director



Sean Bowes  
Law Reform Solicitor

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<sup>18</sup> Federation of Community Legal Centres Victoria, 'Legal Need and the COVID-19 Crisis' (Report, April 2020) <[https://d3n8a8pro7vymx.cloudfront.net/fclc/pages/743/attachments/original/1593647085/FCLC - COVID-19\\_bid - For tabling at PAEC - 19052020 - final.pdf?1593647085](https://d3n8a8pro7vymx.cloudfront.net/fclc/pages/743/attachments/original/1593647085/FCLC_-_COVID-19_bid_-_For_tabling_at_PAEC_-_19052020_-_final.pdf?1593647085)>.

<sup>19</sup> Department of Communities and Justice, NSW Government, 'Covid-19 \$15.6M boost to legal support services' (Media Release, 12 July 2020) <[https://www.dcj.nsw.gov.au/news-and-media/media-releases/covid-19-\\$15.6m-boost-to-legal-support-services](https://www.dcj.nsw.gov.au/news-and-media/media-releases/covid-19-$15.6m-boost-to-legal-support-services)>.

### Annexure A – Recommendations relevant to NSW from the Expert Panel Report

	Recommendation from the Expert Panel Report	Comments
1	Those jurisdictions that retain exceptions or exemptions in their anti-discrimination laws for religious bodies with respect to race, disability, pregnancy or intersex status should review them, having regard to community expectations.	The NSW Government should narrow the Act's exceptions or exemptions for religious bodies with respect to all protected attributes. <sup>20</sup>
2	Commonwealth, State and Territory governments should have regard to the <i>Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (Siracusa Principles)</i> when drafting laws that would limit the right to freedom of religion.	Governments should generally have regard to international human rights law when drafting laws. We note that the ICCPR has a higher status than the Siracusa Principles and that the Siracusa Principles apply to all rights in the ICCPR.
3	Commonwealth, State and Territory governments should consider the use of objects, purposes or other interpretive clauses in anti-discrimination legislation to reflect the equal status in international law of all human rights, including freedom of religion.	The words 'including freedom of religion' should generally be omitted from such clauses, as specifying only one right is inconsistent with reflecting the equal status of all human rights.
6	Jurisdictions should abolish any exceptions to anti-discrimination laws that provide for discrimination by religious schools in employment on the basis of race, disability, pregnancy or intersex	The NSW Government should abolish exceptions from discrimination law with respect to all protected attributes for religious schools. <sup>21</sup>

<sup>20</sup> See further Expert Panel Submission, 5–7.

<sup>21</sup> Ibid.

	status. Further, jurisdictions should ensure that any exceptions for religious schools do not permit discrimination against an existing employee solely on the basis that the employee has entered into a marriage.	
8	Jurisdictions should abolish any exceptions to anti-discrimination laws that provide for discrimination by religious schools with respect to students on the basis of race, disability, pregnancy or intersex status.	The NSW Government should abolish exceptions from discrimination law with respect to all protected attributes for religious schools. <sup>22</sup>
13	Those jurisdictions that have not abolished statutory or common law offences of blasphemy should do so.	The NSW Government should legislatively abolish the common law offence of blasphemy.
16	New South Wales and South Australia should amend their anti-discrimination laws to render it unlawful to discriminate on the basis of a person's 'religious belief or activity' including on the basis that a person does not hold any religious belief. In doing so, consideration should be given to providing for the appropriate exceptions and exemptions, including for religious bodies, religious schools and charities.	There should not be exceptions or exemptions from discrimination law for religious schools and charities. <sup>23</sup>
20	The Prime Minister and the Commonwealth Attorney-General should take leadership of the issues identified in this report with respect to the Commonwealth, and work with the States and	Although we do not agree with all the recommendations of the Expert Panel Report, we support the recommendation that there be a collaborative, national process for discrimination law reform. This process

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<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

Territories to ensure its implementation. While the Panel hopes it would not be necessary, consideration should be given to further Commonwealth legislative solutions if required.	should provide consistency across Australian jurisdictions and the highest level of discrimination protection across all protected attributes.
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31 January 2020

## **Kingsford Legal Centre**

### **Submission to the Religious Freedom Bills – Second Exposure Drafts**

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Kingsford Legal Centre (**KLC**) welcomes the opportunity to make this submission to the Australian Government's second exposure drafts of a package of legislation on religious freedom. This submission refers to KLC's submission to the first exposure drafts (**enclosed**).

### **Summary of Recommendations**

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This submission makes the following recommendations:

1. Remove clause 11 from the *Religious Discrimination Bill (the Bill)*
2. Alternatively, if clause 11 is to remain in the Bill, narrow clause 11 to align with section 37 of the *Sex Discrimination Act 1984 (Cth) (the SDA)*
3. Remove clauses 32(8)–(11) of the Bill
4. Remove clauses 33(2)–(5) of the Bill
5. Convert the notes on clauses 8(6)–(7) of the Bill into substantive provisions
6. If the Bill is to include provisions for conscientious objection, the Bill must also require health practitioners to disclose to patients when they are making a conscientious objection and give patients appropriate referrals
7. Adopt an Equality Act to provide a consistent national framework for discrimination protection
8. Adopt a Charter of Human Rights that comprehensively enshrines human rights protections
9. Increase funding for the Australian Human Rights Commission (**AHRC**)

## About Kingsford Legal Centre

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KLC is a community legal centre which has been providing legal advice and advocacy to people in need of legal assistance in the Randwick and Bayside Local Government areas since 1981. KLC provides general advice on a wide range of legal issues, including discrimination and other human rights issues.

KLC has a specialist discrimination law service (NSW wide), a specialist employment law service, and an Aboriginal Access Program. In addition to this work, KLC also undertakes law reform and policy work in areas where the operation and effectiveness of the law could be improved.

In 2019 KLC provided 248 advices in the area of discrimination, which was over 14% of all advice provided. We have extensive experience in providing legal help to people who have experienced religious discrimination and for whom there is presently no effective remedy in NSW.<sup>1</sup>

## General comments on the Bill

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It is disappointing that the Australian Government has not taken the opportunity to improve the Bill, but has instead released a second exposure draft that is even worse than the first.

The second exposure draft largely fails to address the concerns raised by KLC in response to the first exposure draft. The Bill maintains a piecemeal approach that increases the complexity of discrimination law, fails to appropriately respond to the problem of religious discrimination and weakens the overall level of discrimination protection in Australia. The second exposure draft has moved even further away from Australia's existing framework for discrimination protection than the first exposure draft, broadening already overbroad exceptions from discrimination law.

We reiterate our concerns in response to the first exposure draft. This submission addresses key changes in the second exposure draft.

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<sup>1</sup> The protections for "ethno-religious" groups in the *Anti-Discrimination Act 1977* (NSW) are limited in scope and do not provide effective protection against religious discrimination.

## Religious bodies

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KLC maintains that the government should make laws to protect people from religious discrimination without weakening existing discrimination protections for marginalised people. As clause 11 creates a right for religious bodies to discriminate against others, it should be removed. Alternatively, if clause 11 is to remain in the Bill, it should be narrowed to align with the more limited exceptions in section 37 of the SDA.

The definition of a "religious body" should not be expanded to specifically include registered public benevolent institutions in clause 11(5)(b). Public benevolent institutions that do not engage solely or primarily in commercial activities are already included in the definition of a religious body in clause 11(5)(c). Clause 11(5)(b) therefore creates a right to discriminate for public benevolent institutions that engage solely or primarily in commercial activities. This is distant from the Bill's purported object of eliminating religious discrimination and would significantly weaken the discrimination protection available to marginalised people. It would set up an arbitrary regulatory framework in a commercial setting by applying different regulations to religious and non-religious bodies, without clear justification.

### Recommendations:

1. Remove clause 11 of the Bill
2. Alternatively, if clause 11 is to remain in the Bill, narrow clause 11 to align with section 37 of the SDA

## Conduct to avoid injury to religious susceptibilities

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The reference to "conduct to avoid injury to the religious susceptibilities of adherents" in clause 11(3) of the Bill is broader than the equivalent reference in section 37 of the SDA. Clause 11(3) of the Bill requires that the conduct must be "in good faith". This is much broader than the requirement in section 37(1)(d) of the SDA that an act or practice must be "necessary" to avoid injury to the religious susceptibilities of adherents. Section 37(2) of the SDA further provides that the exception from sex discrimination law does not apply to certain acts or practices connected with Commonwealth-funded aged care.

Clause 11(3) is one of many ways in which the Bill increases the complexity of discrimination law by introducing different legal tests to those in existing discrimination law. If clause 11(3) is to remain in the Bill, it would be simpler and would achieve a better

balancing of rights if clause 11(3) were narrowed to align with the more limited exception in section 37 of the SDA. It would also better reflect human rights principles if exceptions from discrimination protection required consideration of reasonableness, necessity, proportionality and legitimacy of aims.

### **Religious hospitals, aged care and accommodation providers**

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It is unwelcome that clauses 32(8)–(11) of the Bill create broad work-related exceptions for religious hospitals, aged care facilities and accommodation providers. Unlike the inherent requirements exception in clause 32(2) of the Bill, the exceptions for religious hospitals, aged care facilities and accommodation providers permit discrimination against an employee or prospective employee who is able to carry out the inherent requirements of the job.

This will permit religious hospitals, aged care facilities and accommodation providers to hire a person because they have a particular religion, rather than because they are the best person for the job. It is likely to reduce employment opportunities for qualified people, who will be denied protection from discrimination on the basis of their religion. The Royal Commission into Aged Care Quality and Safety noted the need for qualified aged care workers.<sup>2</sup> It is contrary to this finding to deny protections to qualified people who seek to work in areas of great importance to the community. It is likely to negatively impact the quality and accessibility of services for vulnerable people if broad exceptions are maintained for religious hospitals, aged care facilities and accommodation providers.

The exceptions in clauses 32(8)–(11) of the Bill are especially concerning, as many religious hospitals, aged care facilities and accommodation providers receive public funding to provide social services in areas of governmental responsibility. Community members have an interest in ensuring that such services are provided by the most qualified people and that public money is not spent in a discriminatory manner.

**Recommendation:**

- 3. Remove clauses 32(8)–(11) of the Bill**

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<sup>2</sup> *Royal Commission into Aged Care Quality and Safety* (Interim Report: Neglect, 31 October 2019) vol 1, 222.

## Religious camps and conference sites

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KLC can identify no rational justification for the exceptions for religious camps and conference sites in clauses 33(2)–(5) of the Bill. These unique exceptions add unnecessarily to the complexity of discrimination law.

Hiring out religious camps and conference sites is often a commercial activity. It should be regulated accordingly. We are concerned that exceptions for religious camps and conference sites would impact disproportionately on marginalised people, particularly in regional, rural and remote Australia, where alternative venues may be limited.

**Recommendation:**

- 4. Remove clauses 33(2)–(5) of the Bill**

## Health practitioner conduct rules

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The key changes regarding health practitioner conduct rules are a step in the right direction. It is positive that clauses 8(6)–(7) of the Bill now include notes that the provisions do “not have the effect of allowing a health practitioner to decline to provide a particular kind of health service, or health services generally, to particular groups of people”. Given the importance of this principle for access to health services, KLC considers that it would be more appropriately stated as a substantive provision of the Bill, rather than as a note.

Despite some improvements, the Bill's provisions for conscientious objection remain excessively broad. The provisions continue to create avenues for discrimination and remain likely to restrict access to health services. They go much further than the provisions in existing federal discrimination law and are unwelcome in a Bill with the stated goal of increasing discrimination protection. We maintain that, if the Bill is to include provisions for conscientious objection, the Bill must also require health practitioners to disclose to patients when they are making a conscientious objection and give patients appropriate referrals.

**Recommendations:**

- 5. Convert the notes on clauses 8(6)–(7) of the Bill into substantive provisions**
- 6. If the Bill is to include provisions for conscientious objection, the Bill must also require health practitioners to disclose to patients when they**

are making a conscientious objection and give patients appropriate referrals

### Definition of "vilify"

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By defining "vilify" as meaning "incite hatred or violence towards the person or group", the Bill has introduced another new legal test, further fragmenting and complicating discrimination law. Rather than creating new legal tests for religious discrimination, it would be desirable to move towards a consistent national framework for discrimination protection. Accordingly, we repeat our recommendation that Australia adopt an Equality Act to harmonise discrimination protection.

#### Recommendation:

7. Adopt an Equality Act to provide a consistent national framework for discrimination protection

### Objects clause

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KLC supports the express statement in clause 3(2)(a) of the Bill that human rights have equal status in international law. It is disappointing that several substantive provisions of the Bill fail to implement this principle.

It remains the case that the objects of clause 3 would be better met by the adoption of a Charter of Human Rights that comprehensively enshrines human rights protections, including freedom from discrimination on the basis of religion.

#### Recommendation:

8. Adopt a Charter of Human Rights that comprehensively enshrines human rights protections

### Courts' role in matters of faith

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KLC submitted to the first exposure draft that what "may reasonably be regarded" as being in accordance with a religion was too broad for the purpose of establishing exceptions to discrimination law. The second exposure draft adopts the even broader test of "what a

person of the same religion ... could reasonably consider" to be in accordance with the religion.

This broader test worsens the problems that were present in the first exposure draft. It takes the test in the Bill further away from the test in section 37 of the Bill and further away from a requirement that conduct actually be in accordance with a given religion. The test is of an uncertain scope, creating difficulties for community members in knowing their rights and responsibilities. It is unclear how a person could get appropriate evidence of "what a person of the same religion ... could reasonably consider" to be in accordance with the religion. Such a broad and uncertain test has the potential to generate substantial litigation, increasing the workload of under resourced courts and adding to delays in the federal court system.

#### **Other matters: The Australian Human Rights Commission**

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KLC reiterates that the AHRC is critical to promoting human rights, including freedom from discrimination on the basis of religion. The Bill will significantly increase the workload of the AHRC, despite the fact that the AHRC has faced numerous budget cuts. The government has not made clear how it will adequately resource the AHRC to perform additional functions in this context and must increase funding to the AHRC.

**Recommendation:**

**9. Increase funding for the AHRC**

#### **Conclusion**

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KLC continues to support laws to protect people from religious discrimination, without weakening existing discrimination protections for marginalised people. The Bill fails to achieve this objective. We urge the government to continue consultation with a view to integrating protection against religious discrimination within a consistent national system for discrimination protection. Religious discrimination, and discrimination generally, are too important not to get right.

Yours sincerely,  
KINGSFORD LEGAL CENTRE



Emma Golledge  
Director



Sean Bowes  
Law Reform Solicitor





2 October 2019

## **Kingsford Legal Centre**

### **Submission to the Exposure Draft Religious Discrimination Bill 2019**

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Kingsford Legal Centre (**KLC**) welcomes the opportunity to make this submission to the Australian Government's package of legislative reforms on religious freedom.

#### **Summary of Recommendations**

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This submission recommends that:

1. Australia ensure protection from discrimination on the basis of religious belief in the form of a Human Rights Act
2. The Attorney-General extend the public consultation period on the Bill to allow further views from the public on the Bill
3. The Bill be re-drafted to reflect our recommendations particularly in relation to clause 10, clause 41 and clause 82(d)
4. Australia adopt an Equality Act, with harmonised tests across attributes;
5. In the alternative, clause 8 (2)(d) of the Bill be removed to ensure consistency with the SDA
6. Clause 10 should be removed;
7. In the alternative, clause 10 be redrafted to align with the exemptions in section 37(1)(a) - (c) of the *Sex Discrimination Act 1984 (Cth)*
8. The Bill should make it explicit that religious organisations that receive public funding or perform a service on behalf of government should not be exempt from anti-discrimination law and are not covered by Clause 10(2)(a)-(c)
9. Clause 41 of the Bill be removed
10. The employer conduct rule provisions that relate to relevant employers in clause 8(3) and clause 31(6) of the Bill be removed.
11. That clauses 8(5), 8(6) and 31(7) be removed from the Bill
12. That the Attorney-General's Department increase funding for the Australian Human Rights Commission

## About Kingsford Legal Centre

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KLC is a community legal centre which has been providing legal advice and advocacy to people in need of legal assistance in the Randwick and Botany Local Government areas since 1981. KLC provides general advice on a wide range of legal issues, including discrimination and other human rights issues.

KLC has a specialist discrimination law service (NSW wide), a specialist employment law service, and an Aboriginal Access Program. In addition to this work, KLC also undertakes law reform and policy work in areas where the operation and effectiveness of the law could be improved.

In 2018 KLC provided 297 advices in the area of discrimination, which was over 13% of all advice provided. We frequently are contacted by people who believe they have been discriminated against on the basis of religion.

## General Comments on the Bill

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KLC is strongly of the view that the aim of further legislation in this area should be to promote substantive equality within Australia and to enshrine Australia's international human rights obligations in Australian law. Any proposed legislation in this area should not reduce current protections in Australian discrimination law

KLC supports the recognition in Australian law of the right to freedom from religious discrimination. KLC supports that the objects of the Religious Discrimination Bill (**the Bill**) (clause 3) includes a statement about the indivisibility and universality of human rights. However, we believe that the current Bill erodes Australia's existing human rights protections rather than enhancing them. The Bill also further contributes to Australia's piecemeal approach to the domestic protection of international human rights and once again creates a new and separate legislative framework for this protection with significantly new legal tests. KLC believes that the objects of clause 3 would be better met with the adoption of a Human Rights Act that comprehensively enshrined human rights protections, including freedom from discrimination on the basis of religion.

### **Recommendation:**

- 1. Australia ensure protection from discrimination on the basis of religious belief in the form of a Human Rights Act.**

### **Maintaining the correct balance in discrimination law**

KLC has long advocated that there is inadequate protection for people who experience religious discrimination in Australia. This is exacerbated in NSW where there is insufficient coverage at the state level.<sup>1</sup> KLC has extensive experience providing legal advice to people who have experienced the detrimental impact of religious discrimination, which has significant impacts on their lives and for which there is currently no legal remedy.

#### **Case study: Jake**

*Jake is a student at a Catholic high school. He believes that he is being treated unfairly because he is not Catholic. Jake was not allowed to attend overseas trips with school, and his nomination for the Student Representative Council was removed by the school. We advised Jake that a discrimination complaint would be unlikely to succeed, as religion is not a protected attribute in discrimination law.*

#### **Case study – Ali**

*Ali is a young Muslim man in prison. He was given external leave to undertake studies at an educational institution. At the educational institution, Ali regularly prayed in outdoor areas. He was told that he was not allowed to pray there. When he continued to pray, Ali's education leave was cancelled, and he was not allowed to continue his studies. This caused significant distress to Ali and his family.*

*We advised Ali that he would not be able to successfully make a discrimination complaint, as the law does not protect a person from discrimination on the basis of their religion. The lack of legal protections in NSW and at the federal level meant that Ali couldn't access to his right to education nor freedom of religion.*

In KLC's view the Bill does not adequately or appropriately address the current gap in the law for protection from religious discrimination. We cannot support the Bill in its current form as does not achieve the correct balancing of rights essential in discrimination law and it permits discrimination if undertaken on the basis of religious belief. The International Covenant of Civil and Political Rights outlines that freedom to manifest one's religion or beliefs can be limited in to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.<sup>2</sup> The Bill opposes this, limiting the rights of others in favour of religious freedoms.

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<sup>1</sup> *Anti-Discrimination Act 1977* (NSW) s 4.

<sup>2</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 18(3).

The creation of broad exceptions has the effect of reducing discrimination protection in other areas and for groups vulnerable to discriminatory practices and conduct. KLC is particularly concerned about the potential of the Bill to permit conduct and speech that impacts on the enjoyment of the rights of groups in need of discrimination protection such as women, people who are not married and LGBTIQ+ people. This is antithetical to the purpose of discrimination law and runs counter to the international human rights law which the Commonwealth's ability to legislate derives from.

Given the broad scope of the Bill which goes beyond creating a new 'ground' or 'attribute' of protection to include a redrawing of the role of federal discrimination law in relation to state law and the intrusion of the Bill into matters of health care, KLC is strongly of the view that there needs to be wider public consultation on these aspects. We believe that the current consultation period is insufficient for members of the public to engage in this very important discussion, that in our view extends beyond enhancing discrimination law to include discrimination on the basis of religion.

**Recommendation:**

- 2. The Attorney-General extend the public consultation period on the Bill to allow further views from the public on the Bill**
- 3. The Bill be re-drafted to reflect our recommendations particularly in relation to clause 10, clause 41 and clause 82(d)**

**The Bill adds to the complexity of Discrimination Law**

The Bill in creating a standalone Act and new tests creates further complexity in discrimination law which in KLC's view reduces the accessibility and efficacy of discrimination law. The Bill further entrenches Australia's siloed approach to discrimination law and misses an opportunity to consider whether there should be greater harmony and consolidation of federal discrimination law. This siloed approach creates differing legal tests, exemptions and defences based on the type of discrimination experienced. This is undesirable in human rights legislation and creates real legal barriers in recognising the impact of intersectional discrimination.

KLC recommends that the Commonwealth consider the development of a single Equality Act which contains unified legal tests for discrimination and harmonises the current complex legislative framework of federal discrimination law. KLC strongly recommends that through this process the Commonwealth Government consider the evolution of discrimination law tests away from those replicated in the current legislation toward a more straightforward and accessible legal definition. In particular, that consideration be given to having one legal test for discrimination, removing the complexity of the 'direct' and

'indirect' tests, and an approach that does not segment areas of life by definitions such as 'goods and services' and 'accommodation'. This process would have significant cost benefits in reducing the complexity of the differing legal tests, would allow an opportunity to consult widely on the scope of discrimination law in Australia and to increase protection in areas such as religious discrimination, in a way which is consistent with other human rights protections to be free from discrimination. A streamlined definition of discrimination would allow for greater accessibility and understanding for both practitioners and the community.<sup>3</sup>

KLC also notes that this Bill differs in its legal tests and scope to other areas of federal discrimination law – significantly widening the purview of the legislation and creating new legal tests, once again increasing the complexity of the law in this area. For example, the Bill includes coverage for conscientious objections by health professionals and creates new tests of 'unjustifiable financial hardship' and 'unjustifiable adverse impact'.<sup>4</sup> It alters the test of reasonableness used in the *Sex Discrimination Act 1984* (Cth) ('SDA') by adding a subclause around employer conduct rules. This increases the complexity of the law and increases both the cost to employers and other groups in ensuring compliance with the law while reducing the accessibility of the law to individuals.

A more straightforward way to include religious discrimination as a ground of discrimination under federal law would be to amend the *Racial Discrimination Act 1975* (Cth) to include religion as a ground of discrimination. This would have the advantage of ensuring greater consistency across legal tests and would limit the purview of the legislation to the issues traditionally contained in discrimination law. It would allow the increased protection for groups vulnerable to religious discrimination to be dealt with immediately and potentially allow greater consultation on new, wide ranging proposals contained in the Religious Discrimination Bill that would impact on access to health care and would erode the role of state based discrimination law remedies.

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<sup>3</sup> KLC supports the definition of discrimination proposed by The National Association of Community Legal Centres 'Access to justice and systemic issues' March 2011 <http://www.klc.unsw.edu.au/sites/klc.unsw.edu.au/files/12%20sub%20NACLC%20-%20AGD%20-%20Discrimination%20Consolidation%20Project.pdf> and Discrimination Law Experts' Group, *Submission: Consolidation of Commonwealth Anti-Discrimination Law*, 13 December 2011, at 18, and Discrimination Law Experts Roundtable, *Report on recommendations for a consolidated federal anti-discrimination law in Australia*, 31 March 2011 and notes that there is a precedent for this type of test in the *Racial Discrimination Act 1975* (Cth).

<sup>4</sup> Clauses 8(5) and 8(6); Clause 8(3); Clause 8(6).

### **Recommendations:**

4. **Australia adopt an Equality Act, with harmonised tests across attributes;**
  
5. **In the alternative, clause 8 (2)(d) of the Bill be removed to ensure consistency with the SDA**

### **Definition of Religious Bodies – Clause 10**

KLC is very concerned by how broad clause 10 of the Bill is, as this clause operates as an exemption to a finding of discrimination. It is here that the Bill moves beyond simply protecting people of religion from discrimination to permit discrimination against other groups if it satisfies the test of clause 10. Our starting point is that this provision should not remain in the legislation but if there is to be an exemption this must be drafted more narrowly to ensure that it does not unnecessarily impinge on the human rights of other groups.

Clause 10 is much broader than existing exemptions, such as those in the SDA.<sup>5</sup> KLC is of the view that definition of 'religious bodies' at clause 10(2) is too broad and moves too far away from the current exemptions in the SDA by including educational institutions, registered charities or 'other bodies' conducted in accordance with the doctrines and beliefs of the religious organisation. As this provision acts to limit the applicability of discrimination law for other groups this does not strike the right balance. It is also unclear how broad the scope of clause 10(2) could be, providing a lack of clarity about the operation of the law.

KLC is also of the view that the use of the words "may reasonably be regarded"<sup>6</sup> is too broad and draws the exemption too widely. This definition also is wider than that in the SDA,<sup>7</sup> and therefore broadens the scope of conduct that will not be captured by discrimination law. As a result a practice may be exempt from discrimination law if it 'may reasonably be regarded' as being in accordance with doctrines, tenets, beliefs or teachings, rather than needing to be in accordance with these. This does not draw a close connection between the conduct and the religious belief. The legal test is also uncertain and could present real difficulties in individuals understanding whether the conduct falls within the definition.

As outlined above, there are already significant permanent exemptions in Commonwealth discrimination law for religious organisations around the protected

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<sup>5</sup> *Sex Discrimination Act 1984* (Cth), s 37.

<sup>6</sup> Clause 10(1).

<sup>7</sup> *Sex Discrimination Act 1984* (Cth), s 37.

attributes of age, sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding or family responsibilities. The exemptions permit religious organisations to discriminate against individuals where it is necessary to avoid injury to the sensitivities or susceptibilities of the adherents of a religion.<sup>8</sup>

The Bill widens the scope of the SDA exemption to include a range of 'other bodies' beyond those established for a religious purpose. Many religious organisations, including schools, receive public funding for performing a service on behalf of government. Religious organisations providing services in education, adoption, employment assistance and child welfare services are free to discriminate against prospective employees, employees and people accessing these services under the Bill.

KLC remains opposed to religious exemptions that remove protections against discrimination for a large number of people who access or are employed by government funded services. We remain opposed to the scope of the exemptions already in the SDA, but these compared to those proposed in this Bill are more measured and a better balancing of rights. Clause 10 of the proposed Bill is much broader than SDA provisions and cannot be supported. We also do not accept that clause 10 is necessary to protection religious freedom as it draws the permitted conduct too widely. These provisions are broad, blanket exemptions which require no analysis of reasonableness, necessity, proportionality or legitimacy of aims. One fundamental right (freedom of religion) should not be automatically privileged above other fundamental rights (right to non-discrimination and equality) by the granting of a permanent blanket exception. The Bill does not achieve the appropriate balancing of rights in the broadening of exemptions beyond bodies established for a religious purpose.

**Recommendation:**

6. **Clause 10 should be removed**
7. **In the alternative, clause 10 be redrafted to align with the exemptions in section 37(1)(a) - (c) of the *Sex Discrimination Act 1984 (Cth)***
8. **The Bill should make it explicit that religious organisations that receive public funding or perform a service on behalf of government should not be exempt from anti-discrimination law and are not covered by Clause 10(2)(a)-(c).**

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<sup>8</sup> *Age Discrimination Act 2004 (Cth)* s 35; *Sex Discrimination Act 1984 (Cth)* ss 37, 38.

### **Statements of Belief – Clause 41**

KLC believes that a starting point for addressing discrimination is that the Bill should not erode current discrimination law protections. However, the proposed Bill and clause 41 specifically outlines that it will override other State and Territory discrimination law protections. This is a very unwelcome and unnecessary move, which reduces the range of options for people who experience discrimination and will erode rather than increase discrimination protection overall. It has always been the case that individuals who have experienced discrimination have a range of state based and federal options, and this has been all the more important due to the lack of comprehensive discrimination law provisions at the federal level or Human Rights Act nationally. This Bill, in specifically overriding state discrimination laws, takes a new position that does not equate these multiple options as increasing human rights protections overall but sees these protections as incompatible with those in the Bill. It is a significant departure from the role of federal legislation in this area, and at the very least requires greater time to consult in relation to such a significant change. Once again this also creates greater complexity in the law, and makes it much harder for individuals to understand and know whether they have options under state or federal law, increasing the complexity of the law in this area.

The creation of legal protection for 'statements of belief' is extremely broad and creates a new way in which people could lawfully defend otherwise discriminatory conduct. For a 'statement of belief' to be not protected the Bill sets a very high bar, that in our view does not adequately balance the need to protect other vulnerable and marginalised groups from speech that is designed to offend, humiliate or intimidate. The necessity to show that the speech 'would or is likely to harass, vilify, or incite hatred or violence' sets the legal test extremely high.

### **Recommendation:**

- 9. Clause 41 of the Bill be removed**

### **Conduct Rules and Large Employers**

The creation of a new type of provision for large employers, with revenue exceeding \$50 million, further complicates the law and creates a lack of harmony in the applicability of discrimination law depending on the employer. In the creation of a new defence of 'unjustifiable financial hardship' for an employer who is impacted by an employee who speaks or acts contrary to conduct rules on the basis of religious belief, we have a new legal test that again adds complexity to discrimination law and has the potential to confuse the existing 'unjustifiable hardship' defence in other federal Acts. Furthermore, you would need to show a significant loss to satisfy an 'unjustifiable financial hardship'



for an employer exceeding \$50 million revenue. This is a high threshold for relevant employers to meet, and will restrict their ability to implement diversity and inclusion policies that prohibit statements of belief that would offend, insult, humiliate or intimidate, but fall short of 'harass, vilify or incite hatred or violence against'. This also sets the wrong message in relation to all employers about the importance of ensuring human rights protection through conduct rules and suggests that it is only acceptable to ensure vulnerable groups have protection when there is a huge financial impact for the employer.

**Recommendation:**

- 10. The employer conduct rule provisions that relate to relevant employers in clause 8(3) and clause 31(6) of the Bill be removed.**

**Conscientious objections and Health Practitioners**

KLC believes that the provisions around conscientious objections for health practitioners are particularly problematic and could impact negatively on the right to access health services. They allow another avenue for discriminatory conduct rather than increase protection from discrimination. This is particularly concerning for women, LGBTIQ+ people and those who live in remote and regional areas who have less choice and access to health services.

The Bill outlines that employer conduct rules that are inconsistent with State and Territory legislation on conscientious objection will be deemed not reasonable and constitute indirect discrimination. It is unclear how this will work in practice. State and Territory laws on conscientious objections are inconsistent, and often supplemented by policies and guidelines. For example, Queensland and the Northern Territory both require health practitioners to disclose their objection and provide referrals regarding abortions,<sup>9</sup> and New South Wales will soon follow suit when the *Abortion Law Reform Act 2019* (NSW) is assented to,<sup>10</sup> whereas the Australian Capital Territory is silent on these duties. The Bill will stop government policies and guidelines from reconciling these differences and protecting public health.

Where there is no State or Territory laws, a conduct rule will be deemed not reasonable if it has an 'unjustifiable adverse impact' on the ability to provide health services or on the health of a person being provided with these services. In the explanatory notes, unjustifiable adverse impact is described with the example of 'death or serious injury of

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<sup>9</sup> *Termination of Pregnancy Act 2018* (Qld) s 8; *Termination of Pregnancy Law Reform Act 2017* (NT) s 11.

<sup>10</sup> *Abortion Law Reform Act 2019* (NSW) s 9.

the person seeking the health service'. This standard is too high. It removes protections for people seeking health services that will not result in death or serious injury, such as abortions or contraceptives, and leaves room for discriminatory conduct against vulnerable groups, particularly women and LGBTIQ+ people.

The Bill will override conduct rules and policies, yet does not provide any guidance around the minimum standard for conscientious objections. Under the Bill, a health practitioner will be able to tell a patient that they cannot help them without explaining that it is due to their conscientious objection, or that the service would otherwise be available. The Bill needs to include provisions that outline if a conscientious objection is reasonable, the health practitioner must disclose their objection and provide immediate referrals, in line with international standards.<sup>11</sup>

**Recommendation:**

**11. That clauses 8(5), 8(6) and 31(7) be removed from the Bill**

**Increased funding for Australian Human Rights Commission**

KLC supports the work done by the Australian Human Rights Commission (AHRC). The core functions of complaint handling and education and public awareness raising are necessary in Australian society. They provide an avenue to address discrimination, improve public knowledge of human rights and help foster a societal culture that respects human rights. The AHRC already has a strained budget after facing numerous cuts.<sup>12</sup> The addition of a new Religious Freedom Commissioner must be met with additional funding from the Attorney General's Department. Their lack of funding hinders the AHRC from promoting human rights to its full ability as the national human rights institution. It also restricts their independence as they are forced to seek funding and partnerships from external bodies, which threatens their 'A Status' National Human

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<sup>11</sup> For example: *Committee on the Elimination of Discrimination against Women, General Recommendation No. 24: Article 12 of the Convention (women and health)*, CEDAW/GEC/4738/E (1999) 11; *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover – Addendum – Mission to Poland, A/HRC/14/20/Add.3* (20 May 2010) 50.

<sup>12</sup> See Australian NGO Coalition Submission "Australia's compliance with the Convention on All forms of Discrimination against Women" June 2018 <http://www.klc.unsw.edu.au/sites/klc.unsw.edu.au/files/CEDAW%20Shadow%20report%20-%20Final%2014.6.18.pdf> at 3

Rights Institute standing.<sup>13</sup> KLC notes that there are other significant areas of discrimination that do not have a standalone Commissioner function and we do not see the need within the context of current budgetary cuts to appoint a separate Religious Freedom Commissioner.

**Recommendation:**

- 12. That the Attorney-General's Department increase funding for the Australian Human Rights Commission**

Yours Sincerely,  
KINGSFORD LEGAL CENTRE



Emma Golledge  
Director



Eleanor Holden  
Solicitor

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<sup>13</sup> *Committee on the Elimination of Discrimination against Women, Concluding observations on the eighth periodic report of Australia*, UN Doc CEDAW/C/AUS/CO/8 (25 July 2018) 17.



13 February 2018

The Expert Panel on Religious Freedom  
C/O Department of the Prime Minister and Cabinet  
PO Box 6500  
Canberra ACT 2600

**By email: [religiousfreedom@pmc.gov.au](mailto:religiousfreedom@pmc.gov.au)**

Dear Panel Members,

### **Submission to the Religious Freedom Review**

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Kingsford Legal Centre (**KLC**), Community Legal Centres NSW (**CLCNSW**) and the National Association of Community Legal Centres (**NACLC**) welcome the opportunity to make this submission to the Religious Freedom Review.

### **Summary of recommendations**

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KLC, CLCNSW and NACLC recommend that:

1. Religion be a protected attribute under federal anti-discrimination law. Religion should be defined broadly to include both having a religion or belief and not having a religion or belief.
2. Protections against religious vilification be introduced at the federal level.
3. All religious exemptions (with the exception of sections 37(1)(a)-(c) of the *Sex Discrimination Act 1984* (Cth)) be removed from federal anti-discrimination law.
4. Religious organisations which receive public funding or perform a service on behalf of government should not be exempt from federal anti-discrimination laws.
5. Section 22 of the *Sex Discrimination Act 1984* (Cth), which prohibits discrimination on the basis of sexual orientation in the provision of goods, services and facilities be maintained.
6. The federal government introduce a Human Rights Act.

### **About KLC, CLCNSW and NACLC**

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#### Kingsford Legal Centre

KLC is a community legal centre which has been providing legal advice and advocacy to people in need of legal assistance in the Randwick and Botany Local Government areas since

1981. KLC provides general advice on a wide range of legal issues, including discrimination and other human rights issues.

KLC has a specialist discrimination law service (NSW wide), a specialist employment law service, and an Aboriginal Access Program. In addition to this work, KLC also undertakes law reform and policy work in areas where the operation and effectiveness of the law could be improved.

In 2016 KLC provided 215 advices in the area of discrimination, which was over 13% of all advice provided. These statistics indicate that discrimination remains prevalent among CLC clients. Of these advices, 4 were for discrimination on the basis of religion.

### Community Legal Centres NSW

Community Legal Centres NSW (CLCNSW) is the peak representative body for almost 40 community legal centres in NSW. Our team supports, represents and advocates for our members, and the legal assistance sector more broadly, with the aim of increasing access to justice for people in NSW.

Community legal centres (CLCs) are independent non-government organisations that provide free legal services to individuals and communities, at times when that help is needed most, and particularly to people facing economic hardship.

CLCNSW represents the views of community legal centres to the government and broader community, advocates on key law reform and policy issues, and supports community legal centres to improve the efficiency and quality of services they deliver to the community.

### National Association of Community Legal Centres

The National Association of Community Legal Centres (NACLC) is the peak national body for CLCs in Australia; NACLC's members are the state and territory peak bodies of Community Legal Centres. Together, these organisations represent around 200 centres in metropolitan, regional, rural and remote locations across Australia.

## **Freedom of religion under international human rights law**

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Freedom of religion is protected under Article 18(1) of the International Covenant on Civil and Political Rights (ICCPR):

*“Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”<sup>1</sup>*

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<sup>1</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 18 (1) ('ICCPR').

While freedom of religion or belief is a non-derogable right (a right that cannot be suspended, even in a state of emergency), the freedom to manifest one's religion may be subject to limits under Article 18(3) of the ICCPR:

*“Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”*

Article 20 of the ICCPR provides “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”.<sup>2</sup> However, Australia has a reservation to Article 20 to not introduce further laws on this issue.

## **Freedom of Religion under Australian Law**

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### Protections under the Constitution

Freedom of religion has limited protection under the Australian Constitution. Section 116 of the Constitution provides:

*“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 an office or public trust under the Commonwealth.”*

Section 116 essentially limits the Commonwealth Parliament from enacting laws that establish a ‘state religion’ or prohibit the free exercise of religion. However, this protection is limited as it only applies to the Commonwealth, not states and territories, and does not apply to all government action, but only to legislation or actions taken under legislation.

### Protections under anti-discrimination law

#### **Case study: Jake**

*Jake is a student at a Catholic high school. He believes that he is being treated unfairly because he is not Catholic. Jake was not allowed to attend overseas trips with school, and his nomination for the Student Representative Council was removed by the school.*

*We advised Jake that a discrimination complaint would be unlikely to succeed, as religion is not a protected attribute in discrimination law.*

We note there is no evidence to suggest that anti-discrimination laws encroach on religious freedom. We submit that religious freedom could be better protected under anti-discrimination law.

There is limited protection against discrimination on the basis of religion at the Commonwealth level. The *Fair Work Act 2009* (Cth) prohibits discrimination on the basis of

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<sup>2</sup> ICCPR art 20.

religion in modern awards, enterprise agreements, adverse action and termination.<sup>3</sup> While section 351 of the *Fair Work Act* prohibits discrimination on the basis of religion in employment, this law is only in effect where a state or territory law that prohibits religious discrimination is in place. This means in states such as NSW, where religion is not a protected attribute under state discrimination law, complainants who have suffered religious discrimination have no access to effective remedies.

***Case study: Ali***

*Ali is a young Muslim man in prison. He was given external leave to undertake studies at an educational institution. At the educational institution, Ali regularly prayed in outdoor areas. He was told that he was not allowed to pray there. When he continued to pray, Ali's education leave was cancelled, and he was not allowed to continue his studies. This caused significant distress to Ali and his family.*

*We advised Ali that he would not be able to successfully make a discrimination complaint, as the law does not protect a person from discrimination on the basis of their religion.*

The *Australian Human Rights Commission Act 1986* (Cth) only protects against religious discrimination if it has the effect of impairing equality of opportunity or treatment in employment or occupation.<sup>4</sup> However, there are no enforceable remedies for complainants under this scheme.

Being subject to discrimination has a negative impact on individuals' health and wellbeing. Research on the link between religious discrimination and health indicates that religious discrimination increases the risk of anxiety and depression.<sup>5</sup> Additionally, individuals experiencing discrimination in employment may suffer financial distress as a result of not being hired or dismissed.

KLC, CLCNSW and NACLC recommend that religion should be a standalone protected attribute in Commonwealth discrimination law, to increase protection of the right to freedom of religion. Religion should be defined broadly to include both having a religion or belief and not having a religion or belief.

**Recommendation:**

We recommend that:

Religion be a protected attribute under federal anti-discrimination law. Religion should be defined broadly to include both having a religion or belief and not having a religion or belief.

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<sup>3</sup> *Fair Work Act 2009* (Cth) ss 153, 195, 351, 772.

<sup>4</sup> *Australian Human Rights Commission Act 1986* (Cth) s 3(1).

<sup>5</sup> VicHealth, *How Does Freedom of Religion and Belief Affect Health and Wellbeing? Building Health by Supporting Diversity and Reducing Discrimination* (2011).

## Vilification on the ground of religion

Section 18C of the *Racial Discrimination Act 1975* (Cth) protects against vilification done because of race, colour or national or ethnic origin.<sup>6</sup> Religious groups that are found by the court to be a recognised 'racial' group can use section 18C to complain of religious vilification. For example, members of the Jewish faith, a recognised ethno-religious group, can use section 18C to complain about anti-Semitic comments or conduct. However, persons of other faiths that are not recognised ethno-religious groups, such as Christians, Muslims and Hindus, are not afforded any protection against religious vilification by federal anti-discrimination laws.

### **Case Study -Zeinab**

*Zeinab is Muslim and wears the hijab. One day, while waiting in line at a café, a fellow customer starting yelling at her. The customer said, "go back to your country, terrorist". When Zeinab went back to the café the following week, the same customer was there and yelled at her again, saying "If you love Islam...I'll fucking show you", calling Zeinab a "fucking murderer", saying "maybe you have a knife to kill me because Muslims kill people", and telling Zeinab to "fuck off".*

*Zeinab was very intimidated and shaken by this incident and reported it to the police. We advised Zeinab that she was unable to take action under section 18C, as it doesn't protect Muslims against religious vilification.*

Protections against religious vilification should be introduced at the federal level, in order to protect people from harm and distress caused by religious hatred.

### Recommendation:

We recommend that:

Protections against religious vilification be introduced at the federal level.

## **Balancing freedom of religion and the right to equality and non-discrimination**

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### Religious exemptions

Permanent exemptions from Commonwealth discrimination law exist for religious organisations for the protected attributes of age, sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding or family responsibilities. The exemptions permit religious organisations to

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<sup>6</sup> *Racial Discrimination Act 1975* (Cth) s 18C.



discriminate against individuals where it is necessary to avoid injury to the sensitivities or susceptibilities of the adherents of a religion.<sup>7</sup>

The *Sex Discrimination Act 1984* (Cth) ('**SDA**') permits religious bodies to discriminate against people on the basis of their sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy or breastfeeding in:

- the ordination or appointment of priests, ministers of religion or members of any religious order;
- the training or education of people seeking ordination or appointment as priests, ministers or of religion; and
- the training or education of people to participate in religious observance or practice.<sup>8</sup>

Section 37(1)(d) of the SDA permits bodies established for religious purposes to discriminate against people on the basis of their sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy or breastfeeding in relation to acts or practices that conform to the doctrines, tenets or beliefs of that religion; or are necessary to avoid injury to the religious susceptibilities of adherents of that religion.

Section 38 of the SDA permits educational institutions established for religious purposes to discriminate against employees and contract workers on the basis of sex, sexual orientation, gender identity, marital or relationship status or pregnancy, where:

- the educational institution is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed; and
- the person who discriminates does so in good faith to avoid injury to the religious susceptibilities of adherents of that religion or creed.

Many religious organisations, including schools, receive public funding for performing a service on behalf of government. A vast range of social and welfare services are managed by faith-based organisations. While the law prohibits religious organisations receiving public funding from discriminating in the provision of aged care, religious organisations providing services in education, adoption, employment assistance and child welfare services are free to discriminate against prospective employees, employees and people accessing these services.

Religious exemptions remove protections against discrimination for a large number of people who access or are employed by government funded services. For example, 1,324,133 students attended non-government schools in 2017.<sup>9</sup> Approximately 20% of all students attend Catholic schools<sup>10</sup>, and between 2018 and 2027 the Federal government will invest

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<sup>7</sup> *Age Discrimination Act 2004* (Cth) s 35; *Sex Discrimination Act 1984* (Cth) ss 37, 38.

<sup>8</sup> *Sex Discrimination Act 1984* (Cth) s 37.

<sup>9</sup> Australian Bureau of Statistics, *4221.0 Schools, Australia 2017 – Summary of Findings* (2 February 2018) <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4221.0main+features22017>>.

<sup>10</sup> ABC News, *Here's how Australia's Schools are Funded – and we promise not to mention Gonski* (30 May 2017) <<http://www.abc.net.au/news/2017-05-30/school-funding-explained-without-mentioning-gonski/8555276>>.

\$145.3 billion in funding for non-government schools.<sup>11</sup> Religious educational institutions are also a significant employer in Australia. For example, the Catholic Education Office employs more than 10,000 people in the Sydney Archdiocese,<sup>12</sup> while the Sydney Anglican School Corporation employs 1,350 staff.<sup>13</sup>

Religious organisations which receive public funding or perform a service on behalf of government should not be exempt from anti-discrimination laws. These exemptions send a message that discrimination is acceptable in our community, which contributes to the entrenchment of systemic discrimination against vulnerable groups of people. It allows the right to freedom of religion to prevail over other rights protected by international human rights law, including the right to live free from discrimination.

KLC, CLCNSW and NACLC accept the religious exemptions in sections 37(1)(a)-(c) of the SDA. However, our view is that the religious exemptions in section 37(1)(d) and section 38 of the SDA should be removed. These blanket exemptions are broad, and require no analysis of reasonableness, necessity, proportionality or legitimacy of aims. One fundamental right (freedom of religion) should not be automatically privileged above other fundamental rights (right to non-discrimination and equality) by the granting of a permanent blanket exception.

Removing these religious exemptions and introducing religion as a protected attribute would ensure that freedom of religion is not privileged over and above other rights, yet is still adequately protected.

**Recommendation:**

We recommend that:

All religious exemptions (with the exception of section 37(1)(a)-(c) of the *Sex Discrimination Act 1984* (Cth)) be removed from federal anti-discrimination law.

Religious organisations which receive public funding or perform a service on behalf of government should not be exempt from anti-discrimination laws.

**The prohibition on discrimination in the provision of goods, services and facilities should be maintained**

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KLC, CLCNSW and NACLC strongly oppose any exemptions for the provision of goods and services to same-sex couples on the basis of religion. Current discrimination legislation already prohibits the denial of goods and services to people on the basis of their sexual orientation. Section 22 of the SDA makes it unlawful to discriminate against a person on the basis of their sexual orientation in the provision of goods, services and facilities. As

<sup>11</sup> Department of Education and Training, *School Funding*, <<https://www.education.gov.au/funding-schools>>.

<sup>12</sup> Catholic Education Office, *Employment* (2018) <<https://sydcatholicschools.nsw.edu.au/employment/>>.

<sup>13</sup> The Anglican Schools Corporation, *Report 2017*, 6 <[http://www.tasc.nsw.edu.au/resources/PDFs/Publications/%202017\\_Synod\\_Report.pdf](http://www.tasc.nsw.edu.au/resources/PDFs/Publications/%202017_Synod_Report.pdf)>.

discrimination law provides a major basis for legislative protection of human rights in Australia, it is essential that the Expert Panel give significant weight to the rights that it safeguards.

**Recommendation:**

We recommend that:

Section 22 of the *Sex Discrimination Act 1984* (Cth), which prohibits discrimination on the basis of sexual orientation in the provision of goods, services and facilities be maintained.

**Promoting freedom of religion and other rights in a national Human Rights Act**

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Australia is party to the key international human rights conventions, and has an obligation to adopt laws and other measures to give effect to the human rights enshrined in these treaties in domestic law. However, Australia is yet to give comprehensive protection to human rights in domestic law. Currently, human rights in Australia are protected through a myriad of federal, state and territory laws, policies and practices, and through the common law. KLC, CLCNSW and NALC are concerned that the current legal framework makes it difficult for ordinary Australians to identify their rights and freedoms, and to understand the extent to which their rights are recognised at law. The complex interactions of the various sources of law also make it difficult to concisely articulate how these legal rights work. This hinders the promotion of respect for fundamental human rights.

KLC, CLCNSW and NALC believe that it would assist ordinary Australians' understanding of their rights and responsibilities to set these out in one single document.

Moreover, Australian law currently adopts a bottom-up approach, addressing the protection of each right individually. This is an unsatisfactory approach in which some fundamental rights are adequately protected whilst others are not protected at all. KLC and CLCNSW believe that this creates too much ambiguity and leaves too many gaps. KLC, CLC NSW and NALC recommend that the most appropriate way to ensure freedom of religion is protected under Australian law is for the enactment of a national human rights act.

Enacting a national Human Rights Act would allow more concise classification and better protection of human rights and freedoms, including freedom of religion. A national Human Rights Act would also recognise that human rights are indivisible, and would not privilege some rights over others.

Additionally, we note that there is broad support for a national Human Rights Act. The National Human Rights Consultation in 2009 found that the majority of those attending community roundtables favoured a Human Rights Act, and 87% of those who presented

submissions to the Committee expressing a view on the question were in support of such an Act.

Recommendation:

We recommend that:

The federal government introduce a Human Rights Act.

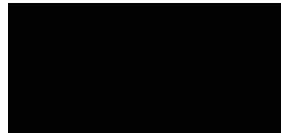
If you wish to discuss our submission, please contact us at [legal@unsw.edu.au](mailto:legal@unsw.edu.au); [clcnsw@clcnsw.org.au](mailto:clcnsw@clcnsw.org.au) or [amanda\\_alford@clc.net.au](mailto:amanda_alford@clc.net.au) .

Yours faithfully,

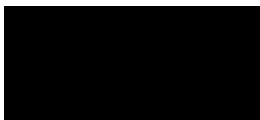
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