

31 January 2020

Australian Government Attorney-General's Department

Robert Garran Offices

3-5 National Circuit BARTON ACT 2600

By email: ForConsultation@ag.gov.au

Dear Consultation Committee

Re: Consultation into the second exposure draft of the Religious Discrimination Bill 2019

We oppose the Bill

We welcome the opportunity to comment on the second Exposure Draft of the Religious Discrimination Bill 2019 (the Bill). As the national centre of excellence in health justice partnership, we work to address the multiple, intersecting legal and social problems in people's lives that effect their health. These health-harming legal needs include the impact of discrimination, which effects people directly by causing stress and anxiety; and indirectly, for example by denying people access to services for which they are entitled or by making their workplaces unsafe and therefore their employment untenable. We oppose this Bill because, despite its stated intention of providing protection from discrimination for people of religious belief or activity, it increases the likelihood that people will be discriminated against.

About Health Justice Australia

Health Justice Australia is the national centre of excellence for health justice partnership. Across Australia, health justice partnerships embed legal help in healthcare services and teams. Health justice partnerships aim to improve health and wellbeing for:

- individuals, through direct service provision in places that they access
- people and communities vulnerable to complex need, by integrating service responses around client needs and capability
- vulnerable populations through advocacy for systemic change to policies and practices which affect the social determinants of health which embed legal help into healthcare services and teams to improve health and wellbeing.

Health justice partnerships support populations that are particularly at risk of poor health and unmet legal need, like people experiencing family violence, people at risk of elder abuse, Aboriginal and Torres Strait Islander people, culturally and linguistically diverse communities and people experiencing poverty. These partnerships provide legal support across a wide range of needs, such as:

- Advocating for public housing tenants needing repairs to address untreated mould, or having handrails and other aids installed so that people with mobility impairments can continue living independently in their own homes
- Assisting people with accumulated fines or debt that cause stress or act as a barrier to meeting health costs like filling prescriptions
- Advising on options for people experiencing family violence or elder abuse; and supporting their healthcare professionals to respond appropriately when they identify these needs among their patients.

The impact of this Bill on health-harming legal need

The social determinants of health play a significant role in how likely individuals and communities are to stay healthy or to become ill. These determinants are the many non-medical factors that shape or effect our health and well-being. They reside in our everyday living and working conditions—the circumstances in which we grow, live, work and age. Discrimination and social exclusion are key among the social determinants described by the World Health Organisation. Discrimination can limit people’s opportunity and participation. It can cause psychological damage and harm people’s health through long-term stress and anxiety. Social exclusion can damage relationships; and it can increase the risk of disability, illness and social isolation.¹ The longer that people live in stressful conditions, the greater their physiological wear and tear and the less likely they are to age healthily.²

Health Justice Australia is opposed to the Bill because it has the potential to increase discrimination and social exclusion in Australia, particularly among groups who are already vulnerable to or experiencing discrimination and social exclusion. This includes lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) people; and people living with disability, including those with a lived experience of mental ill-health. Health justice partnerships support people from these groups every day. They see first-hand the health-harming effects of discrimination and social exclusion; effects that are likely to be heightened by this Bill.

One example comes from the health justice partnership between St Kilda Legal Service (SKLS) and Thorne Harbour Health (Melbourne, Victoria). In their submission to the first Exposure Draft of the Religious Discrimination Bill 2019,³ SKLS provide an example about a transgender woman whose co-worker regularly sent humiliating and intimidating tweets about transgender people upsetting the natural order that God created. Under the Bill the transgender woman in this scenario would have little recourse to stop this intimidation. Her human resources department would be unable to prevent the co-worker from tweeting, as the comments would be considered a ‘statement of belief.’ Nor would she be able to take disciplinary action against her co-worker. She would be left to feel unsafe and unsupported in her workplace, detrimentally effecting her mental health and threatening her employment and therefore her income security. In addition, if

1 Hayes A, Gray M & Edwards B 2008. Social inclusion—origin, concepts and key themes. Canberra: Australian Institute of Family Studies

2 Richard Wilkinson and Michael Marmot (eds) “Social Determinants of Health: The Solid Facts” (World Health Organisation Europe, 2nd ed, 2003) 10.

3 Davis. A, Elkin S, Winter-Peters C, St Kilda Legal Service, Submission to the Attorney-General’s first Exposure Draft of the Religious Discrimination Bill 2019 <http://www.skls.org.au/wp-content/uploads/2019/10/20191002-religious-discrimination-FINAL-SUBMISSION-St-Kilda-Legal-Service.pdf>

the transgender woman were to report this discrimination she could also face an accusation of discrimination, which would likely escalate her own anxiety and stress.

A disproportionate number of LGBTIQ+ people in Australia experience worse health outcomes than their non-LGBTI peers in a range of areas, in particular mental health and suicidality.⁴ LGBTIQ+ people already live with high levels of discrimination and social exclusion and there is evidence that this contributes to a significantly elevated risk of mental ill-health and suicidality among those communities. Of particular concern is the fact that LGBTIQ+ young people aged 16 to 27 are five times more likely, and transgender people aged 18 and over are nearly eleven times more likely, to attempt suicide in their lifetime.⁵ This elevated risk is not due to sexuality, sex or gender identity in and of themselves, but rather to discrimination and social exclusion.⁶ In providing protection to those who discriminate on the basis of their religious belief or activity, this Bill increases the risk of this poor mental health and suicidality.

Another health-harming effect of this Bill is that it allows health professionals to deny access to services that people have the right to receive. For example, a doctor or nurse may deny access to sexual health, family planning or fertility based on their religious beliefs. While this is a risk to anyone, it may exacerbate the risk to populations that are already vulnerable to stigma and discrimination such as people living with disability, including people with a lived experience of mental ill-health. We know from the evidence, and the practice of health justice partnerships that this is a group that is vulnerable to discrimination and social exclusion already. In creating this environment for discrimination there is a risk of further entrenching the vulnerability of people living with disability.

Health justice partnerships see first-hand the impact of discriminatory and excluding practices on people's legal rights and on their health. The Bill privileges the religious views of some over the fundamental rights of people to be protected from discrimination and social exclusion. It is unjust, has the potential to be harmful to people's health, and is detrimental to our social cohesion as a nation. We oppose the Bill and urge the Government not to proceed with the Bill.

Yours sincerely,



Dr Tessa Boyd-Caine, CEO

4 Rosenstreich, G. (2013) LGBTI People Mental Health and Suicide. Revised 2nd Edition. National LGBTI Health Alliance. Sydney

5 <https://lgbtihealth.org.au/wp-content/uploads/2016/07/SNAPSHOT-Mental-Health-and-Suicide-Prevention-Outcomes-for-LGBTI-people-and-communities.pdf>

6 Wilkinson, R. and M. Marmot (eds)(2003) Social Determinants of Health – The Solid Facts. World Health Organisation. Geneva.

