



**ASU Submission**  
**Parliamentary Joint Committee on**  
**Human Rights**

Religious Discrimination Bill 2021 and related bills

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## The ASU

The Australian Services Union ('ASU') is one of Australia's largest unions, representing approximately 135,000 members. ASU members work in a wide variety of industries and occupations in both the private and public sector.

ASU members work for religious organisations providing community, disability and private health services.

## Executive summary and recommendations

The Religious Discrimination Bill 2021 and related bills ('the Bills') should not be enacted.

The ASU opposes discrimination of any kind. However, the rights of one community cannot come at the expense of other communities. It is contrary to the basic principles of human rights law to privilege religious rights over other rights. Our laws should protect all of us, equally.

The ASU supports anti-discrimination laws to protect people of faith from discrimination. However, we do not support laws that would give organisations the right to discriminate against others. The ASU opposes any law which weakens existing anti-discrimination protections for women, people with disabilities, LGBTIQ+ people, single parents, people from culturally and linguistically diverse backgrounds and people with different or no religious beliefs.

The ASU's members have genuine concerns about the impact of these laws on both their employment and their ability to serve their communities.

### Recommendations

1. The Bills should not be enacted.
2. Employers/Service Providers should not be given the right to discriminate against a person because they were established for a religious purpose.
3. The one exception to this rule should be where a holding religious belief is part of the inherent requirements of the job (e.g. a minister of religion).
4. The Religious Discrimination Act should give religious people protections in the same way that other anti-discrimination laws protect people with other attributes. That is, religious people should be protected, but religious organisations should not be given the right to discriminate against others.

## The ASU's members at religious organisations

Many ASU members work at religious organisations providing social and community services, disability services and private health. These organisations, for the most part, provide their services on the open market, under contract with the government, or through government funding schemes (such as the NDIS). Charitable organisations, providing services funded solely by private contributions, only provide a small proportion of these services. These religious organisations provide services in every part of Australia, from major cities to remote and rural areas. In many locations, religious organisations are the only provider of these services. Many ASU members who work at religious organisations share the organisation's social mission but do not share the organisation's faith. The majority of employees at religious health and social service organisations will have been hired for their professional skills and experience without concern for their faith.

These organisations deliver essential services to our communities and it is vital workers feel safe at their workplace. Their religion, race, gender or sexuality should have nothing to do with their employment.

We are concerned that people will lose discrimination protections at work to accommodate the religious beliefs of people who wish to discriminate against them and that large private employers, and professional bodies, will find it harder to enforce standards which make their organisations and professions inclusive and safe places for everyone.

## Impact on ASU members

We are concerned that the proposed legislation will take away existing anti-discrimination protections, including on the grounds of race, religion, sex, marital status, disability, sexual orientation, gender identity or intersex status.

Employees may not be protected under existing anti-discrimination laws where an employer or colleague makes offensive, uninformed or damaging statements based on religious beliefs.

For example, the proposed laws may protect an employer, supervisor, or a colleague who says to other employees:

- 'homosexuality is a sin'
- HIV is God's punishment of sinners'
- 'disability is a punishment by God'
- 'every child should have a mother and a father who are married'
- 'God made only men and women'
- 'The place of married women is beside their husband and even a bad husband is better than none'

Statements which are malicious, likely to harass, threaten, seriously intimidate or vilify, or which encourage serious offences, will not be protected. It is still unclear where the line will be drawn between statements that are allowed and those which are not.

The ASU requested feedback from our members as to how they felt the drafted Religious Freedom Bills would impact on their work and lives.

ASU members are concerned that the Bills would give employers the right to discriminate against them for their beliefs or identity, even where these beliefs have no significance or relevance to their job. Even where they do not believe the laws will impact them directly, many are concerned that their friends, family and colleagues may be subject to discrimination.

*[The Bills won't impact me] directly. But there has been much work to create equity and access for employees and clients to services and jobs and I would hate to see people become more marginalised because of how these new laws can be interpreted.*

Notably, our religious members expressed a concern that they would discriminate against where their religious beliefs differ from that of their employer.

*I attend church and may not have the freedom to worship how I want when these laws are passed.*

The proposed Bills fail to strike a fair balance between freedom of religion and the rights of other people, privileging those of faith over other human rights. The Federal Government should protect the principle that no worker should be discriminated against because of their religion, or the religion of their employer.

## ASU members are concerned for LGBTIQ+ workers and consumers

The feedback that reoccurred the most from our members was a deep concern from LGBTIQ+ workers as to the implications of this Bill for their career prospects and future job security.

*My employer is already legally allowed to discriminate, but I am concerned that these laws will create a general climate of impunity for religious employers, that will mean I will be subjected to more frequent 'casual' negative speech and actions, and I will feel more anxiety and stress about the kinds of interactions I will experience, knowing that I won't have even the recourse I have at the moment of expectations of common civility and discretion that means people don't say the worst discriminatory things because it's not socially acceptable. My fear is that the normative effect of this legislation will shift the window of what's acceptable and remove the baseline social understanding that "you can't say that" - potentially exposing me to a lot more hate speech.*

The ASU heard from members who flagged that they had serious reservations about the impact that these changes would have on their ability to do their work free from harassment or discrimination. It was raised that this may have the unintended consequence of driving workers from LGBTIQ+ communities out, or making them less likely to seek employment with religiously funded employers.

*I am worried about my gender identity and sexuality being used to justify discrimination against me. It will impact not only my ability to obtain work, but also retain it and proudly be who I am within it. I am a good worker, and I do not want my inherent identity being used to erase and disregard that. I do not want to constantly live in fear of losing my livelihood or not being accepted again.*

Also raised was a potential future inability to take action regarding discriminatory language used in a workplace, if it can be proven to be a result of genuine religious belief, and the potential inability of employers to support workers who have been bullied or harassed as a result of such belief.

*We have at the moment expectations of common civility and discretion that means people don't say the worst discriminatory things to me because it's not socially acceptable. My fear is that the normative effect of this legislation will shift the window of what's acceptable and remove the baseline social understanding that "you can't say that" - potentially exposing me to a lot more hate speech.*

A number of our members expressed concerns particularly for LGBTIQ+ clients who may be in need of the services they provide, but uncomfortable accessing them if organisations or workers feel empowered by law to express discriminatory views in the workplace.

*Many of the social support programs are run by church/religious based organisations and the changes in laws could affect the level of care offered by discriminating against both employees and users of the services.*

*Religious organisations make up a large part of charity and donations, and my clients (who are trans or gay or queer and vulnerable) may be turned away and have the help they need denied them simply because of who they are. They do not need this threat from a government that is meant to support them*

Some members expressed concerns that they would not be able to work in their chosen field if employers if the bill were made law. For example, in regional Australia a major religious social and community services employer may be the only service provider in that area, effectively locking that worker out of their line of work.

*They [The Bills] stop me being a counsellor for Christian or religious employers who state you have to be a Christian to work there.*

## ASU members are worried about the impact on service provision

Many faith-based organisations, such as refugees, women's services, family violence supports, out of home care, emergency care providers, child protection organisations, providers of homelessness services, aged care, and disability services will have the ability to discriminate against employees with different or no beliefs, including by terminating their employment.

There are no adequate protections for these employees. For example, where:

- their beliefs have little relevance to their role
- their role is government-funded, (which is the case for most of our members in the community and disability sectors) or
- the organisation is large and/or a major employer in the area.

We believe that discriminatory statements have no place in Australian workplaces. It should not matter whether these statements are motivated by religion or not.

All Australians should be able to express themselves outside of their workplace, irrespective of their religious beliefs.

Alongside the specific issues raised by ASU members identifying as LGBTIQ+, the feedback received by the ASU contained significant reservations about the limitations future consumers may have in accessing the services they need.

*These laws risk creating the perception for some highly marginalised clients that services delivered by church-affiliated agencies may not be safe to access.*

Sectors such as the social and community services, disability and aged care are currently experiencing a skill shortage. Members highlighted how these laws could impact a sectors ability to attract and retain experienced workers.

*I am concerned it may close off employment options for me or make work in the community sector even less desirable than currently. We already have a skill storage. These laws could significantly impact the sectors ability to attract and retain experienced workers.*

Many members expressed they did not hold concerns about their current employer but they are concerned about the impacts of these laws for those working in sectors that are dominated by religious-affiliated employers.

*I am really concerned for people in other kinds of service provision, eg there are so many staff working for the major Christian religious providers in aged care, disability support etc, who are from minority faith backgrounds, and I'm concerned that this legislation will leave them exposed to inappropriate proselytisation attempts (eg employers requiring them to attend staff Bible studies or devotions as a condition of continued employment) or inappropriate regulation of their religious dress or practices. The big Christian employers represent a huge share of these jobs and it's unfair that workers will be forced to choose between much needed employment and the freedom to retain their own religious practices and be safe from proselytisation and adverse speech denigrating the workers' religions.*

Driving marginalised people away from support services will only serve to entrench disadvantage and division in society, and decrease the likelihood of early intervention.

Other members expressed concern that they would be discriminated against if they sought to access services from a religious organisation.

*I could go to a service for support with my baby, and they could preach to me about my "lifestyle", tell me I have abused my child by having a baby with my same sex partner - I can be discriminated with because of who I am*

Many services offered by social and community service organisations are delivered by peer workforces, which are an important part of program delivery. Peer workers value comes from their ability to reflect on lived experience and share their experiences with purpose and intention. For example, a domestic violence support service many employ a woman with lived experience or violence who has been divorced or has had children out of marriage. It is crucial that such workers are supported and not feel threatened by the introduction of these Bills.

*"I am a single/separated parent. This could well effect me as I work for a religious organisation."*

The ASU calls for a restriction on workers making 'statements of belief' in the workplace, to protect those that may be adversely affected by the making of such statements (even when said without malicious intent). The proposed Bills wind back important protections that have been established for LGBTQIA+ persons, women, people with disabilities and even people of faith. No worker should be subjected to offensive, demeaning or damaging 'statements of belief' that are based on religion.

*"Every worker deserves the right to a safe and respectful workplace, regardless of their religion, sexual orientation, sex, gender identity, disability, or other personal attribute."*

Whilst many organisations will not utilise this new legislation, in passing the Bills the government is sending a strong message to workers about their value as well as creating a barrier for workers to be open about themselves and who they really in, in case their employer changes their approach in the future or they seek alternative employment down the track.

*"I am a queer woman who is openly proud of my sexuality and often presents my gender fluidly. I don't have any immediate concerns from this employer however it is still a concern for my future at other organisations."*

Every Australian, is entitled to live free from discrimination. Religious protections can be implemented without enabling lawful discrimination against others.

## Conclusion

The ASU considers that the Bill in its current form should be rejected. We respect the deeply held beliefs of our membership, and supports the rights of all workers to do their jobs free from harassment or discrimination. The Bill will not deliver this aim as drafted.

There is very little to be gained from the proposed legislation and a great deal at risk as people of any faith effectively become privileged to use their own adherence to a particular faith to attack others who do not share that faith.

Of particular concern is the Federal Government's commitment to overriding State anti-discrimination and workplace legislation. It is difficult to understand what benefit there can be to anyone in the community to dispense with this right to protection.

We urge the Government to legislate to protect religious freedom without removing protections from those who need it. Our laws should protect all of us, equally.