

## **Sex and Gender Education (SAGE) (Australia)**

### **Australian Proposed Religious Discrimination Bill – Exposure Draft**

#### **SAGE’s Response to The First Draft (Exposure draft released 29 August, 2019) of The Proposed Australian Religious Discrimination Bill, Released by the Attorney General Christian Porter**

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Since 2001 SAGE has campaigned for the human and legal rights and dignity of sex and/or gender diverse groups of people who may have atypical sex characteristics, be intersex, sex non-specific, transsexed, transsexual, transgendered, cross-dressers, androgynous, bigendered, gender fluid, without sex and/or gender identity, and people with sex and gender culturally specific differences. Sex and/or gender diverse groups of people is an inclusive phrase and excludes no one who may be sex and/or gender diverse in any way.

This document is an analysis of the first exposure draft of the proposed Australian Religious Discrimination Bill, along with comments and requested changes put forward by our members who derive from a wide selection of sex and/or gender diverse groups. This document can be read in tandem to the First Draft (exposure draft releases 29 August, 2019) of the Proposed Australian Religious Discrimination Bill.

### **Analysis of the Exposure Bill**

#### **Part 1—Preliminary**

#### **3. Objects of this Act**

*“1. (C). to ensure that people can, consistently with Australia’s obligations with respect to freedom of religion and freedom of expression, and subject to specified limits, make statements of belief.”*

This does not specify what is meant by “freedom of expression, and subject to specified limits, make statements of belief,” thereby leaving open the ability for the persecution of others by religious groups of people.

*“2) (B) the principle that every person is free and equal in dignity and rights.”*

The proposed bill in actual fact indicates that this will not be true. If the law protected every person’s right to dignity, it would not allow religious people to publicly propagate hate speech based on another person’s identity regarding their sex and/or gender identity.

#### **4. Simplified outline of this Act**

*“Statements of belief do not generally constitute discrimination [...].”*

This statement is incorrect. For example, Hitler believed and publicly stated that Jews, homosexuals and persons of colour were inferior and evil, which constituted discrimination, manipulating, creating and allowing legal discrimination.

## **Part 2—Concept of discrimination on the ground of religious belief or activity**

### **7. Discrimination on the ground of religious belief or activity—direct discrimination**

*“(b) to ensure, as far as practicable, that everyone has the same rights to equality before the law, regardless of*

This gives rise to a double standard whereby religious people can treat people who are from sex and/or gender diverse groups differently to ordinary persons. It elevates the right for religious people to discriminate against others protected in law whilst simultaneously discrimination against them is unlawful.

### **8. Discrimination on the ground of religious belief or activity—indirect discrimination**

*“Considerations relating to reasonableness*

*(2) Subject to subsections (3), (5) and (6), whether a condition, requirement or practice is reasonable depends on all the relevant circumstances of the case, including the following:*

*[...]*

*(d) if the condition, requirement or practice is an employer conduct rule—the extent to which the rule would limit the ability of an employee of the employer to have or engage in the employee’s religious belief or activity.”*

Business, organisations, charities and government departments have equality and fairness policies by which employees or members are contracted to abide. This includes the regulation of language, treatment of others and comments, both in the workplace and in public, about other employees or members and the public in general. This not only creates a safe workplace or environment for all but also protects the body’s public image and public trust in it.

Guarding against hate speech and harassment requires regulation of the behaviour and comments of those involved according to the body’s guidelines or principles. No religious person or body should be exempted from these guidelines due to their private religious beliefs for any reason. Neither should the law hold non-religious people to different legal standards than religious people.

Protecting religious people’s use of hate speech, discrimination and harassment in Australia raise the status of those religions to state-approved religions and state-approved discrimination. It no longer separates state and religion.

*“Conditions that are not reasonable relating to statements of belief*

*(3) For the purposes of paragraph (1)(c), an employer conduct rule that:*

*[...]*

*(a) would have the effect of restricting or preventing an employee of the employer from making a statement of belief at a time other than when the employee is performing work on behalf of the employer;*

*is not reasonable unless compliance with the rule by employees is necessary to avoid unjustifiable financial hardship to the employer.”*

The public behaviour of an employee reflects upon an employer, in terms of their business image and the ability of that entity to carry out their business unimpeded by unnecessary controversy or interference. When an employee flagrantly engages in religious hate speech and religious harassment against sex and/or gender diverse groups in the public space, it may be contrary to the ethos of fair human rights treatment that the business promotes, thus damaging the business.

Religious hate speech also contradicts the United Nation’s human rights directive—of which Australia is a signatory—which states that all sex and/or gender diverse people should be treated with dignity and equality.

If this bill was passed, an employee working in an organisation that has a fair treatment policy for sex and/or gender diverse people, could publicly state they religiously believe that such people are “wrong,” “evil,” “a blight upon society,” and that they should be “eliminated, discriminated against, treated unfairly, have their legal rights reduced, shamed, shunned, violently attacked, refused service, housing, accommodation, and murdered”; and the employer would not be able to dismiss them. Many employees are required to sign contracts that agree not to bring their employer or company into disrepute through hate speech and harassment. This part of the bill would render those contracts null and void.

*“Conditions that are not reasonable relating to conscientious objections by health practitioners*

*(5) For the purposes of paragraph (1)(c), if a law of a State or Territory allows a health practitioner to conscientiously object to providing a health service because of a religious belief or activity held or engaged in by the health practitioner, a health practitioner conduct rule that is not consistent with that law is not reasonable.”*

Health practitioners, registered or unregistered, take on special roles in society, which set their profession apart. Their role is of preventing death and disease; patients presenting themselves to health practitioners are in special need. Healthcare professionals conduct rules and guidelines prevent practitioners from discriminating against patients who might come from sex and/or gender diverse groups as an extension of the principles of the Hippocratic oath.

Refusing to treat someone because they are from a sex and/or gender diverse groups is not reasonable and causes harm. Discrimination demeans a patient and psychologically harms them. Therefore, no health practitioner should have the right to veto that patient’s right to service.

## **10 Religious bodies may act in accordance with their faith**

*“(1) A religious body does not discriminate against a person under this act by engaging, in good faith, in conduct that may reasonably be regarded as being in accordance with the doctrines, tenets, beliefs or teachings of the religion in relation to which the religious body is conducted.”*

Australia presently does not have an official religion. However, when a law protects religious people or groups, separate from other members of society, so they may discriminate in employment, this positions those religions as being part of the Australian Government. It has no public mandate to do so.

If someone of the same faith, but from a sex and/or gender diverse group, applies for employment to a religious body and is then refused because of their sex and gender status, that can be said to be a faith-based refusal. It is now well recognised that, for many people who are sex and/or gender diverse, there is a biological basis to their presentation. To refuse them employment would plainly be an act of sex and gender discrimination, not religious preference, making a mockery of the Sex Discrimination Act.

## **11 Conduct that is not *discrimination*—reasonable conduct intended to meet a need or reduce a disadvantage**

*(1) “A person does not discriminate against another person under this Act by engaging in conduct that: [...]*

*(b) either:*

*(i) is intended to meet a need arising out of a religious belief or activity of a person or group of persons; [...]”*

It is clear this phrase permits religious people and bodies to discriminate against sex and/or gender diverse people. Religions are described in Australian laws as being bodies believing in the supernatural; there are no tangible, factual, scientific bases to their claims. Therefore, saying that a need is “arising out of religious belief” is factually unprovable and could not reasonably be a defence in law that relies on facts, not superstition.

This is basically the ‘alien defence’. A person bars another person from using their services or employment because they believe that aliens are controlling that person, so they discriminate against them. In a discrimination case brought by the person being discriminated against, the respondent claims they were protecting their services against alien invasion. Since this is unprovable, the court has no choice but to label their evidence as delusional and unreliable. As religious beliefs are subjective and variant within the same religious orders, and do not rely on hard facts but mythology only, then any defence that relies on ‘religious belief’ is factually unprovable.

## **Part 3—Unlawful discrimination**

### **Division 2—Discrimination in work**

#### **13 Employment**

*“Discrimination in relation to hiring etc.*

*[...]*

*(2) It is unlawful for an employer to discriminate against an employee on the ground of the employee’s religious belief or activity:*

*(a) in the terms or conditions of employment that the employer affords the employee; or*

*(b) by denying the employee access, or limiting the employee’s access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment; or*

*(c) by dismissing the employee;*

*[...]*

*Discrimination in relation to terms and conditions of employment etc.*

*(2) It is unlawful for an employer to discriminate against an employee on the ground of the employee’s religious belief or activity:*

*[...]*

*(d) by subjecting the employee to any other detriment.”*

This is where the bill becomes completely unworkable. For instance, the Catholic Church and parts of the Anglican Church in Australia have been openly hostile towards sex and/or gender diverse groups of people, discriminating against them, and refusing them service and respect. However, the religious beliefs of the Gosford Anglican Church, New South Wales, branches of the Uniting Church, Jewish faith, Buddhists, parts of the Muslim faith, and the Hindu religious belief systems, embrace sex and/or gender diverse groups, seeing them as part of nature’s diversity.

Therefore, being from a sex and/or gender diverse groups would be a valid religious belief for someone from those religions; if the Catholic Church or the greater Anglican Church refused such a person services or employment, for example, that would be discrimination based on their religious belief.

### **Division 3—Discrimination in other areas**

#### **18 Education**

*“(1) It is unlawful for an educational institution to discriminate against a person on the ground of the person’s religious belief or activity:*

- (a) by refusing or failing to accept the person's application for admission as a student;*
- or*
- (b) in the terms or conditions on which it is prepared to admit the person as a student.*

*(2) It is unlawful for an educational institution to discriminate against a student on the ground of the student's religious belief or activity:*

- (a) by denying the student access, or limiting the student's access, to any benefit provided by the educational institution; or*
- (b) by expelling the student; or*
- (c) by subjecting the student to any other detriment."*

Here the proposed bill seeks to create double social and legal standards by protecting against discrimination on the ground of supposed religious beliefs but allowing discrimination against sex and/or gender diverse groups on the ground of the discriminatory perpetrator's supposed religious beliefs.

## **19 Access to premises**

*"It is unlawful for a person to discriminate against another person on the ground of the other person's religious belief or activity:*

- (a) by refusing to allow the other person access to, or the use of, any premises that the public or a section of the public is entitled or allowed to enter or use (whether for payment or not); or*
- (b) in the terms or conditions on which the person is prepared to allow the other person access to, or the use of, any such premises; or*
- (c) by refusing to allow the other person the use of any facilities in such premises that the public or a section of the public is entitled or allowed to use (whether for payment or not);*
- (d) in the terms or conditions on which the person is prepared to allow the other person the use of any such facilities; or*
- (e) by requiring the other person to leave such premises or cease to use such facilities."*

Here the proposed bill seeks to create double social and legal standards by protecting against discrimination on the ground of supposed religious beliefs but allowing discrimination, via an exemption to religious people or organisations, against sex and/or gender diverse groups on the ground of the discriminatory perpetrator's supposed religious beliefs.

## **21 Goods, services and facilities**

*"It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's religious belief or activity*

- (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person; or*
- (b) in the terms or conditions on which the person provides the other person with those goods or services or makes those facilities available to the other person; or*
- (c) in the manner in which the person provides the other person with those goods or services or makes those facilities available to the other person.”*

Here the proposed bill seeks to create double social and legal standards by protecting against discrimination on the ground of supposed religious beliefs but allowing discrimination against sex and/or gender diverse groups on the ground of the discriminatory perpetrator’s supposed religious beliefs.

## **20 Accommodation**

*“(1) It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground of the other person’s religious belief or activity:*

- (a) by refusing the other person’s application for accommodation; or*
- (b) in the terms or conditions on which the accommodation is offered to the other person; or*
- (c) by deferring the other person’s application for accommodation or according to the other person a lower order of precedence in any list of applicants for that accommodation.*

*(2) It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground of the other person’s religious belief or activity [...]”*

This gives rise to considerable incongruity in the Act because it prohibits discrimination against people of religion in matters of accommodation, however—through a loophole of religious exemption—allows religious people to discriminate against people from sex and/or gender diverse groups to refuse them accommodation.

## **22 Land**

The same principles as section 20 apply to land.

## **23 Sport**

*“It is unlawful for a person to discriminate against another person on the ground of the other person’s religious belief or activity by excluding that other person from participation in a sporting activity (including umpiring, coaching and administration of sporting activities).”*

Whilst sport should be a multi-cultural and multi-faith event, there are often attempts to exclude people from sex and/or gender diverse groups based on myth and unscientific information. This is a complex area best left to sporting bodies. There are many medical and biological factors to

determine whether someone should be allowed to compete in an event, which is outside a faith-based decision.

The Act should make clear that decisions to exclude someone from a sport because they are from a sex and/or gender diverse group should never be faith-based.

## **24 Clubs**

*“(1) It is unlawful for a club, the committee of management of a club or a member of the committee of management of a club to discriminate against a person who is not a member of the club on the ground of the person’s religious belief or activity:*

- (a) by refusing or failing to accept the person’s application for membership; or*
- (b) in the terms or conditions on which the club is prepared to admit the person to membership.*

*(2) It is unlawful for a club, the committee of management of a club or a member of the committee of management of a club to discriminate against a person who is a member of the club on the ground of the member’s religious belief or activity:*

- (a) in the terms or conditions of membership that are afforded to the member; or*
- (b) by refusing or failing to accept the member’s application for a particular class or type of membership; or*
- (c) by denying the member access, or limiting the member’s access to any benefit provided by the club; or*
- (d) by depriving the member of membership or varying the terms of membership; or*
- (e) by subjecting the member to any other detriment.”*

Clubs are gatherings of people with common interests and some of these clubs may be religion-based. Therefore, it is unrealistic to expect, for example, a Catholic club to accept someone as a member if they have not declared themselves Catholic. However, it would also be unreasonable and discriminatory to disadvantage someone from membership if they are from a sex and/or gender diverse group and also a Catholic.

## **Division 4—Exceptions and exemptions**

### **Subdivision A—General exceptions**

## **28 Registered charities**

*“Nothing in Division 2 or 3:*

- (a) affects a provision of the governing rules (within the meaning of the Australian Charities and Not-for-profits Commission 2 Act 2012) of a registered charity, if the provision:*
  - (i) confers benefits for charitable purposes; or*

- (ii) enables charitable benefits to be conferred; wholly or in part on persons who have or engage in a particular religious belief or activity; or*  
*(b) makes unlawful any conduct engaged in to give effect to such a provision.”*

At the moment, many charities, including faith-based charities, and even not-for-profit organisations, operate discriminatory policies against sex and /or gender diverse groups of people. The discrimination may be direct or indirect and is frequently justified by an action directed by faith-based policies. All laws, formed or being formed, including the Charities Act, need to be formed or amended to prevent discrimination, harassment and hate speech against people from sex and/or gender diverse groups. Any of these organisations engaging in such discrimination against sex and/or gender diverse groups of people, for religious reasons, should experience legal sanction and have their charitable status reviewed.

### **Subdivision B—Specific exceptions relating to particular areas of public life**

#### **31 Exceptions relating to work**

*“Exception—inherent requirements*

*[...]*

*(6) If an employer conduct rule:*

- (a) is imposed, or proposed to be imposed, by a relevant employer; and*  
*(b) would have the effect of restricting or preventing an employee of the employer from making a statement of belief [...]*”

An employer has a legal duty to ensure a work environment is a safe space. An employee’s public behaviour has a bearing on how safe other people at work may feel around them. For instance, an employee who says publicly or at work that their religious beliefs are that “there is nothing wrong with women being raped”, “gay people should be bashed to death”, “hiding and not reporting child molestation is OK” and “people from sex and/or gender diverse groups will go to hell”, unquestioningly causes other employees to suffer trauma in their workplace.

Further, the employer’s insurance will become null and void, leaving the business unprotected, unless they remove the offending person from the workplace. Their insurance company would see inaction as not taking reasonable action to remove a danger to other employees. Some religious people refuse not to use offensive hate speech about other people and refuse to be re-educated or tempered in their threatening public attitudes towards sex and/or gender diverse people.

The employer, above all else, has a legal duty to maintain a safe working environment where all people do not feel threatened. There should be no exemption to an employee being suspended and even having their employment terminated after propagating such discrimination and threatening statements, whether at work or in public, even when that may be their religious beliefs.

Employers also need to prevent such harassment by extremist religious people in the workplace in the first place. Using employment contracts to prevent employees make threatening public statements that would reflect upon other employees' sense of safety in the workplace should be fully legal.

## **Part 8—Application and constitutional provisions**

### **57 Main constitutional basis of this Act**

*“This Act gives effect to Australia’s obligations under one or more of the following international instruments, as amended and in force for Australia from time to time:  
[...]*

*(a) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23);*

Per this obligation, **Article 2** (United Nations, International Covenant on Civil and Political Rights, 1966) states:

*“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”*

Therefore, the proposed bill fails to uphold Australia’s commitment to human rights in the International Covenant on Civil and Political Rights. By allowing an exemption loophole for religious people to publicly engage in hate speech and harassment of sex and/or gender diverse groups of people, Australia will renege on its obligations to ensure the dignity and safety of all within its territory. There is a difference between freedom of speech and action, and inciting public disorder.

When a sex and/or gender diverse child, simply for a religious reason, is excluded from education due to an innate biological, psychological or social trait that harms no one else, it is child abuse. If a homeless person is turned away from a shelter because they do not fit an unrealistic religious heteronormative model, it is discrimination. When it becomes known that someone is intersex and they are sacked from their employment because that cannot present as male or female, to fit a religious model, it is physiological discrimination and sexism.

## **Discussion**

A set of historical laws that are similar to the present proposed religious discrimination bill, were initiated in Nazi Germany from 1933 onwards. The Restoration of the Professional Civil Service of April 7, 1933, made it legal to discriminate against Jewish people (Stackelberg & Winkle, 2013). These laws crept into German society, allowing discrimination against a minority, which

led to violence against them and, eventually, the Holocaust. Over time, additional laws also allowed state-protected discrimination against homosexuals, trans people and persons of colour. This also led to Nazi students publicly burning books on sex, gender and sexuality diversity by the great sexologist Magnus Hirschfeld (United States Holocaust Memorial Museum).

Further, an anti-Tutsi education movement that created a sense in school children that Tutsis were less than human fuelled the 1994 Rwandan genocide. This denigration and publicly promoted discrimination of this group of people led to a genocide frequently backed by members of the Catholic church and its teachings in that region (Prunier, 1997.)

In recent times in Chechnya, gay people, trans and intersex people have been arrested and tortured, with a number being killed. Russian President Putin has failed to intervene to keep the peace and an escalating climate of fear pervades sex and gender diverse peoples' lives (ABC News, 2019).

The reports of people being hanged in Iran for being gay clearly demonstrates the ultimate progression that arises from permitted extremist religious hate speech that allows discrimination (Weinthal, 2019), resulting in up to 6,000 executions under the present religious regime. Since the revolution in 1979, being transsexual in Iran has been legal. However, after transition, transsexual people find it very difficult to get work, housing, are discriminated against and encounter violence, with reports of extraordinary levels of depression due to constant exposure to oppression.

When governments allow discrimination of any kind by any sector of society, particularly by religious and extreme fascist groups, it always leads to marginalisation, inequality, victimisation and, eventually, violence against those victims, including people from sex and/or gender diverse groups. It also leads to mental health issues, in both children and adults, stress, post-traumatic stress disorder, depression and an increase in suicidal thought and actions (VOAnews, 2018). Legal discrimination always leads to social isolation and, in many cases murder, of those discriminated against.

White Hughto, Reisner and Pachankis (2015) found that stigma of any kind against people who come from sex and/or gender diverse groups limits opportunities in education and employment, societally and economically, which leads to reduced health outcomes. In children and youth, it amounts to nothing less than child abuse and abuse of power by any perpetrators and ruling parties.

Protecting religious people's use of hate speech, discrimination and harassment against sex and/or gender diverse groups of people is not anti-discrimination law and does not exist in any other anti-discrimination law in Australia, except the Sex discrimination Act (1984), from which it also should be removed. The present proposed religious discrimination bill, unfortunately, legalises and sanctioned discrimination against sex and/or gender diverse groups of people. It is not just a religious anti-discrimination bill; rather, it is legalisation of religious discrimination against other members of society, including people from sex and/or gender diverse groups.

Much of the public religious speech against the rights of sex and/or gender diverse groups' right to exist and have full human rights can clearly be classified as hate speech. This is a daily reality. It leads to exclusion of these vulnerable groups from society, restrictions on access to services available to other members of society, harassment and physical violence. Studies and history clearly show that hate speech and laws allowing discrimination lead to individual and societal violence, and increase suicide in the victim groups.

“God made me do it” can never be an excuse or mitigating circumstances in law when it comes to discrimination within a civilised democracy. Such testimony in a court of law would be deemed delusional and unreliable. Therefore, allowing a loophole in this bill to allow religious people to discriminate against people from sex and/or gender diverse groups in public is not tenable. Australia's values, such as “a fair go for everyone”, demonstrate its commitment to the United Nations' Charter of Human Rights, to which Australia is a signatory, which requires the equal treatment of all citizens.

People from sex and/or gender diverse groups suffer invasive and aggressive discrimination throughout their daily lives. Much of the origin of that constant abuse comes from persons with extremist religious views and by religious organisations in Australia and the world. The abuse takes the form of public religious hate speech that belittles their existence and promotes their exclusion from families, the workplace and public spaces, education, accommodation, medical facilities and economic security. Not only does this kind of malicious misinformation severely affect adults but it also terrifies children.

This constant battle for human rights and dignity for sex and gender diverse people causes poor health outcomes, high levels of mental distress and the highest recorded level of suicidal thoughts and actions for any population in Australia. Sex and gender diverse people are also faced with religious people's obsessed belief that they can somehow be 'fixed', 'saved' or 'repent' from their so-called 'evil ways'. This level of ignorance and harassment can only be abated by responsible governments creating laws to allow people from sex and/or gender diverse groups to live their lives in peace like every other Australian citizen as part of society.

The proposed religious anti-discrimination Act, in its present form, does the opposite. It creates more opportunities for abuse against people from sex and/or gender diverse groups. It allows religious people and organisations to use all manner of harassment to demean people from sex and/or gender diverse groups and ostracise them, under the guise of a religious exemption. The federal government would create a two-tier class system, where religious people are privileged and exempt from fair and reasonable discrimination laws. It would create a sex and gender apartheid.

Hate laws in different states may cover vilification on the grounds of colour, ethnicity, national origin, race, disability, gender identity, HIV/AIDS status or sexual orientation. The proposed religious discrimination bill, with exemptions for religious people, in its present form, will render such hate laws inoperable for victims from sex and/or gender diverse groups.

In 2019 Health Minister Greg Hunt addressed the National Press Club in Canberra, focusing on the Morrison Government's long-term vision for improved mental health. It is, therefore,

confusing and contradictory that the proposed religious discrimination bills will allow religious people to abuse sex and/or gender diverse groups of people, causing serious mental distress for generations to come.

### **Comments, recommendations and requested changes to the bill.**

1. The bill does not define religious beliefs, a religious person, a religious organisation or a person of faith, which will make it difficult to bring cases, as there will be an onus on the religious person or organisation to prove the validity of their self-claimed identity.
2. The bill cannot define which religious beliefs are recognised in law and which are not because then the federal government would be sanctioning certain religions and not actually producing religious freedom. This would further turn Australia into a religious country, a change for which the federal government has no public mandate or legal power.
3. What beliefs and practices people have in their own home are not within the scope of this Act, as it is presumed that people can practice their religious views in private and choose who they invite into their homes and who they do not, without the interference of the state, if the person is law-abiding.
4. At the moment, the loophole in the proposed religious discrimination bill introduces the right for people and organisations of religious faith to discriminate against people from sex and/or gender diverse groups, based on their religious beliefs. Therefore, rather than being a bill to protect religious freedom, it becomes a bill to allow religious people to discriminate. This ability for religious people to discriminate against people from sex and/or gender diverse groups, in a way they would not be permitted to other groups of people, needs to be removed.
5. The proposed bill suggests it will federally supersede all present state anti-discrimination laws. This will give rise to a state and federal battle for those states that have anti-discrimination laws protecting sex and/or gender diverse people. States will not want such laws eliminated, so the bill could be partly unenforceable in its present draft in many states. Whilst the exposure draft states both laws can exist side-by-side, in many cases, the laws are contrary and in conflict.
6. Protection of religious people from discrimination is important, even though the government has presented little public evidence there is a problem. SAGE supports that in law but not at the expense of allowing discrimination of people for sex and/or gender diverse groups.
7. Such a bill, however, must clearly differentiate between privately held beliefs and public prognostications and unsolicited hate speech that incites discriminate against

sex and/or gender diverse groups. Sections that state all religious people are exempt from prohibitions to publicly denigrating sex and/or gender diverse groups of people should be removed.

8. There should be no protection or exemption for health professionals refusing service to people from sex and/or gender diverse groups on the basis of the professional's religious beliefs.
9. There should be no protection for religious persons or groups to refuse goods or services to people from sex and/or gender diverse groups, on religious grounds, that may be publicly offered to other members or sectors of society.
10. There should be no religious exemptions allowing organisations or private landlords, outside of the landlord's home, to disadvantage an applicant for accommodation or to refuse accommodation to someone on the basis of their sex and/or gender diversity.
11. There should be no religious exemptions allowing clubs or charities to disadvantage a member or potential member on the grounds of them being from sex and/or gender diverse group.
12. No child or person in education should be excluded for religious reasons from education in any institution because they are from a sex and/or gender diverse group.
13. No religious educational institution should be allowed to dismiss a child or adult because they are from a sex and/or gender diverse group.
14. All children in religious education should have the right to a scientific, factual education around sex and gender diversity upon the request of their parent or guardians, without religious objection.
15. No religious educational institution receiving federal or state funds should be allowed, for religious reasons, to in any way to discriminate against the needs of sex and/or gender diverse children, without legal sanctions and punitive funding loss.
16. No religious institution or educational establishment should be allowed, for faith-based reasons, to disallow persons from using a bathroom suited to their daily self-identified gender presentation.
17. Exclusion from a sport based on a person's sex or gender, should not be made on a faith basis.
18. There should be no exemption allowing religious persons, establishments or bodies to discriminate, harass or exclude relatives, partners or closely associated persons to

someone from a sex and/or gender diverse group.

19. No one should be excluded from work, on religious grounds, because they are from a sex and/or gender diverse group.
20. Businesses and corporations should have the right to preserve their codes of conduct for employees regardless of the employee's religion. Any employee's abusive conduct, harassment, discrimination or hate speech, at work or in public, against people from sex and/or gender diverse groups, can have serious ramifications for that business and its employees and damage its brand. It is within reasons for businesses to ask employees to sign, as part of their employment contract, a code of conduct stating that they will refrain from such behaviours, under sanction of employment review status. The employer, above all else, has a legal duty to maintain a safe working environment where all people do not feel threatened. There should be no exemption to an employee being suspended and even having their employment terminated after, at work in or public, propagating threatening statements, hate speech, harassment or violence against sex and/or gender diverse groups of people, even when that may be their religious beliefs.
21. The exemption in the Sex Discrimination Act allowing religious people to discriminate against people from sex and/or gender diverse groups needs to be removed to fulfil Australia's international human rights commitments.
22. Australia, which is a signatory of the United Nation Human Rights Charter, is obliged to make laws that do not disadvantage sex and/or gender diverse people on the grounds of unproven supernatural beliefs or superstition.
23. The proposed bill, in its present draft, will be unproductive, in that many employers will actually choose not to employ people from certain religious beliefs because they might be fearful that they cannot dismiss them if they engage in public hate speech, harassment or discrimination against sex and/or gender diverse groups. The bill would make it cheaper for them to pay a fine or employ people offshore rather than publicly be associated with discrimination that could damage their brand. Employers need to be able to make contracts that prohibit employees from engaging in religious hate speech or harassment. In many circumstances, the proposed bill would increase discrimination against religious people, due to their views being seen as unreasonable.
24. The federal government needs to commission an open public impact study to assess potential damage to minority groups, including sex and/or gender diverse groups of people, due to the impact of such a bill.

## References

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