

Submission on Government's Human Rights and Anti-Discrimination Bill

To put it plain and simply, I feel threatened by some of the amendments proposed by the Government's Human Rights and Anti-Discrimination Bill. As a young Christian woman with strong beliefs and a black-and-white view of many issues, I am concerned that some of the new amendments will cause more discrimination than it will supposedly prevent. I agree with Former NSW Chief Justice James Spigelman who believes the new laws could threaten true freedom of speech and freedom of religion in Australia.

I strongly believe that laws should restrict hate speech and protect people's dignity against assault and group-directed attacks but I don't think it is right to extend this over protecting people's feelings against mere 'offence'. We cannot all have the same view about every issue and to say that some cannot voice their own opinions for fear of causing "offence" is to curb the freedom our country tries hard to protect.

As mentioned in Spigelman's speech, unlike existing s 18C (or its replacement by the new s 51), there is no element of objectivity, as found in the words "reasonably likely to offend". The new Bill, therefore, appears to contain a subjective test of being offended.

None of Australia's international treaty obligations require us to protect any person or group from being offended. We are, however, obliged to protect freedom of speech. We should take care not to put ourselves in a position where others could reasonably assert that we are in breach of our international treaty obligations to protect freedom of speech.

Take for example my views on homosexuality as a Christian. I try hard to express my views in a sensitive manner although I strongly believe homosexual relations are wrong. Although I do not condone hate speech at all, I still believe I have a right to express my opinions without fear of offending someone and therefore being prosecuted by the law. As outlined by ACL, and in agreeing with them, if discrimination is defined to include behaviour that "offends or insults" it will invariably increase the likelihood of vexatious claims. It also moves the onus of proving there was no unlawful discrimination to the respondent if a complainant establishes prima facie a case, leading to concerns of nuisance claims.

Some amendments fail to outline the importance of balancing the right to non-discrimination with other human rights including religious freedom and freedom of association. Many churches and other religious organisations are small and poorly equipped to deal with an increase of regulation and complaints, which may come with the new Bill.

Please consider my concerns, which are probably better articulated by James Spigelman and ACL, and the negative impact that these amendments may have to other important values including freedom of speech and freedom of religion – as they are all interwoven.