



Women  
With  
Disabilities  
Australia  
(WWDA)

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Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
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Att: Senator the Hon Michaelia Cash  
Attorney General  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Sent by email: [senator.cash@aph.gov.au](mailto:senator.cash@aph.gov.au)

21 December 2021

To Senator the Hon Michaelia Cash

We thank you for the opportunity to provide this response to the proposed Religious Discrimination Bill 2021, Religious Discrimination (Consequential Amendments) Bill 2021, and the Human Rights Legislation Amendment Bill 2021. This letter is informed by our extensive research base on women, feminine identifying and non-binary people with disability, as well as feedback from our national membership.

As you may be aware, WWDA is the national Disabled People's Organisation (DPO)<sup>i</sup> and National Women's Alliance (NWA)<sup>ii</sup> for women, girls, feminine identifying, and non-binary people with all types of disability in Australia; and uses the term 'women and girls' to refer to our members. WWDA is managed and run by women and non-binary people with disability and represents more than two million disabled women and girls in Australia. WWDA has affiliate organisations and networks of women with disability in most states and territories of Australia and is recognised domestically and internationally for our leadership in advancing the rights and freedoms of women and girls with disability.

**Women With Disabilities Australia (WWDA)**

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*WWDA has Special Consultative Status with the Economic and Social Council of the United Nations*



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While WWDA understands and agrees with supporting the right to religious expression, we hold deep concerns about the ability of the proposed bill to wind back important protections for women and girls with disability under existing federal, state and territory anti-discrimination legislation. This is particularly concerning for women with disability, when considering that complaints about disability discrimination already account for over 44% all complaints received by the Australian Human Rights Commission, with complaints about sex or gender discrimination accounting for 37%.<sup>iii</sup>

Despite the existence of protections such as the *Disability Discrimination Act 1992* and the *Sex Discrimination Act 1984*, as well as state and territory anti-discrimination legislation; the devaluing of people with disability, commonly referred to as 'ableism,' combined with sexist and paternalistic attitudes towards women and girls, continues to exacerbate inequality and discrimination against women with disability. The intersection of ableism and sexism with other forms of oppression, such as racism, ageism and cis-heterosexism also results in unique and specific experiences of inequality and discrimination for different groups of people with disability, such as women, children, older persons, First Nations people, those from culturally and linguistically diverse (CALD) backgrounds, those from low socio-economic backgrounds and those from LGBTIQ+ communities.<sup>iv</sup>

In particular, WWDA draws attention to the compounded discrimination the draft bill may enable, overriding protections under the *Racial Discrimination Act 1975* and significantly impacting women with disabilities from First Nations and culturally and linguistically diverse communities. Historically within settler-colonial Australia, it has been First Nations communities and other racialised minority faith groups who have had their religious and spiritual freedoms curtailed, yet this history and context is not accounted for within the scope of the bill. Specifically, Australia has a long history of enacting cultural and spiritual genocide against First Nations people, perpetrating



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many forms of violence to prevent Aboriginal and/or Torres Strait Islander people from practicing their cultural and spiritual beliefs<sup>v</sup>, and access to country. With First Nations women and migrant and refugee women with disabilities already facing multiple structural barriers when accessing disability supports and healthcare, it is of great concern the draft bill may facilitate discrimination on the basis of race, privileging Anglo-Australian religious communities and providing protections for those who may perpetrate racism in the name of religion.

While the purpose of the proposed Religious Discrimination Bill 2021 and associated amendments may not have been drafted with intended impacts on women with disability, there is significant evidence to suggest that the proposed Religious Discrimination Bill 2021 and associated amendments, would exacerbate rates of disability and gender discrimination by providing a loophole for individuals to make discriminatory statements and act in discriminatory ways as long as those actions align with their religious values. In practical terms, this could mean that a religious individual, organisation or community group could say or act in a way that supports views like, 'women should not exercise authority over a man,' 'prayer can fix disability', 'mental illness is a spiritual sickness', 'menstruating women are unclean' or 'disability is an act of God';<sup>vi</sup> which are all statements that have been reported by women with disability.<sup>vii</sup>

In a recent interview with the ABC for example, WWDA member and Tasmanian disability advocate, Fiona Strahan, explained that as a child she had been told that her short stature was a "punishment from god." Ms Strahan stated that "The imposition of these views upon people with disability fly in the face of the intent of the disability discrimination act and all other anti-discrimination legislation."<sup>viii</sup>



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While religious individuals already hold the right to hold these beliefs, it is essential that these freedoms remain within the current parameters of anti-discrimination legislation which prevents individuals, organisations and groups from expressing their religion in any way that discriminates against individuals based on attributes such as sex, gender, disability, race, cultural identity, sexuality, marital or relationship status. To allow legislation to override these protections would not only be detrimental to the progression of equality for multiple marginalised groups; but would sit in contravention with Australia's obligations as a signatory to multiple international human rights instruments, including the Universal Declaration of Human Rights, the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

One key area of concern for women and girls with disabilities is how the proposed bill and amendments could impact access to services, including healthcare and sexual and reproductive rights services. Under the proposed bill, religious schools, hospitals, healthcare providers, aged care facilities, disability service providers, social service organisations and more would be able to choose to only offer services and supports which align with their religious values. In practice this means for example that:

- charities or religious organisations supporting individuals experiencing homelessness could use this to deny emergency accommodation or supports to women escaping domestic and family violence, based on the view that women should remain with their partner;
- charities, religious organisations or faith-based social service organisations providing support for family violence could support the religious belief that 'the family should stay together', and instead of supporting women experiencing violence to access safety or leaving the relationship, could encourage reconciliation, which may further place them at physical and psychological harm, and serious injury or death.



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- hospitals, healthcare practitioners and community services could refuse to offer contraception or termination services based on religious views that promote pro-life ideologies;
- charities or organisations offering health services could deny health services to people with disability based on the view that their disability or mental health condition is a creation of God or could be healed through prayer.

As women and girls with disability already face a multitude of barriers to accessing services, the ability of the proposed bill to allow essential supports to be denied on the basis of religion is extremely concerning. For example, despite the fact that women and girls with disability experience higher rates of gender-based violence than almost any other cohort,<sup>x</sup> there are currently very few domestic and family violence services, including emergency accommodation services, that are equipped to support individuals with disability.<sup>x</sup> In many cases, the only support available to disabled women and their children escaping violence may be obtaining emergency payments from religious charities such as Red Cross or Uniting Care, who were recently contracted by the Federal Government to distribute the new 'Escaping Family Violence Payment.'<sup>xi</sup> If charities providing essential services like these are able to deny support to individuals based on religious belief, this would only further limit the already sparse supports available to women with disability; a situation which is even worse for women with disability who are First Nations, LGBTIQ+, from CaLD backgrounds and from rural, regional and remote communities.

In rural regional and remote communities in particular, further limiting access to services by allowing organisations and practitioners to choose what type of services they provide and who to, could be disastrous for women and girls with disability. In many rural, regional and remote towns or communities across Australia, there may only be one hospital, one doctor's surgery, one crisis accommodation facility and so on; many of which are run or funded by churches, religious charities or practitioners.



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Even without the impact of the proposed religious discrimination, this situation is extremely difficult to navigate for women with disability who already face high rates of discrimination in healthcare settings.

When it comes to sexual and reproductive health care for example, women and girls with disability often miss out on essential information, education and support due to sexist and ableist attitudes that view disabled women as child-like, asexual, burdens of care, passive and genderless.<sup>xii</sup> For many women and girls with disability, this results in having very little understanding about their sexual and reproductive health and rights and a lack of autonomy over decisions about things like contraception, menstruation, being sexually active and having children.

Crucially, this denial of bodily autonomy is often exacerbated by medical practitioners and services which encourage the use of long-acting reversible contraceptives (LARC's) for the purpose of suppressing menstruation and preventing pregnancy, and, in some cases, the sterilisation of women and girls with disability without their consent. These practices all continue to be legal in Australia, despite the United Nations treaty monitoring bodies, the UN General Assembly, UN Special Procedures, and international medical bodies categorically confirming that forced sterilisation of children (and of adult women with disability without their prior, full and informed consent) is a clear breach of some of the most fundamental human rights – including the right to freedom from violence.<sup>xiii</sup>

Given that the proposed *Religious Discrimination Bill* would allow practitioners and service providers to provide services informed by religious belief, WWDA is extremely concerned that this would exacerbate the number of practitioners administering forced contraception or forced sterilisation on the basis of religious views that 'menstruation is unclean' or that 'disabled women should not reproduce.' For women



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with disability seeking contraception or reproductive services for health reasons, the application of the bill could have dire consequences. For example, if a woman with endometriosis requested a prescription for the contraceptive-pill to manage pain<sup>xiv</sup> or a woman with severe chronic health conditions requested a termination, a GP or practitioner could refuse based on the religious view that 'it is always intrinsically wrong to use contraception to prevent new human beings from coming into existence.' Regardless of the specific situation or needs of the individual, WWDA would like to draw attention to the fact that legislating the proposed *Religious Discrimination Bill* would further deny women and girls with disability the right to make choices about their sexual and reproductive health and their overall wellbeing.

Additionally, WWDA is concerned that religious organisations such as schools, hospitals and disability services could use loopholes within the *Religious Discrimination Bill* to further restrict the provision of information about sexual and reproductive health and rights to young women and girls with disability. Across Australia, it is already well-known that religious schools often provide extremely limited sex education to students on the basis of views such as 'sex should not occur before marriage' and 'contraception is a sin.' While nationally consistent modules and resources around sex education are gradually being developed to combat the school system's inconsistency in sex education – largely as a result of campaigns run by organisations such as Our Watch and Fair Agenda – the *Religious Discrimination Bill* would effectively exempt religious schools from their implementation if the resources did not align with their ideologies. While this is concerning for all students, it is extremely dangerous for young women and girls with disability who often do not receive education about their sexual and reproductive health from any other source.

The *Religious Discrimination Bill* could also impact the provision of information, supports and resources for trans and gender-diverse children and young people



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within schools due to the religious belief 'there are only two genders – male and female'. This has the potential to severely impact autistic and neurodiverse people with disability, who research has shown have significant rates of gender diversity<sup>xv</sup>, higher rates of self-harm and suicide<sup>xvi</sup>, and need adequate supports and affirmation of gender to support mental and psychological wellbeing.

In summary, WWDA is extremely concerned that the proposed Religious Discrimination Bill would wind back important protections for women and girls with disability under existing federal, state and territory anti-discrimination legislation and further exacerbate already high rates of disadvantage, exclusion and discrimination. In particular, WWDA draws attention to the dangerous consequences of the draft bill that risk further denying women and girls with disability the right to make choices about their sexual and reproductive health. WWDA recommends that the Australian Federal Government shelve the proposed legislation on this basis, acknowledging that protections for the freedom of religious expression are already in existence.

Thank you again for the opportunity to provide this response.

Yours sincerely

Carolyn Frohmader  
Executive Director  
Women With Disabilities Australia





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## Endnotes

- <sup>i</sup> DPOs are organisations made up and governed by people with disability for people with disability.
- <sup>ii</sup> The National Women's Alliances (NWA) are a group of national women's organisations that make the views, voices and issues of Australian women heard by the government and the community. There are currently six National Women's Alliances in Australia, which Women With Disabilities Australia is one of.
- <sup>iii</sup> Australian Human Rights Commission (2019) [Disability discrimination tops Commission Complaints](#), Australian Human Rights Commission, Sydney; Australian Human Rights Commission (2019) [2018 – 2019 Complaint Statistics](#), Human Rights Commission, Sydney.
- <sup>iv</sup> Women with Disabilities Australia (WWDA) and the Disability Innovation Institute at the University of NSW (DIIU) (2021) '[Response to the Rights and Attitudes Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#),' WWDA: Hobart, Tasmania.
- <sup>v</sup> Democracy in Colour (2019), [New Religious Discrimination Bill Will Not Protect Against Hate Crimes and Vilification](#).
- <sup>vi</sup> Equality rights Alliance (2021) *Fact Sheet: Religious Discrimination Bill 2021*
- <sup>vii</sup> See, E.g. Myers, E (2021) '[Disability advocates worried religious discrimination bill will lead to more discrimination in Australia, not less](#),' ABC News, online; Equality Australia (2019) '[Religious Discrimination Bill 2019 – In Focus: Disability, Mental Health and Wellness](#),' Equality Australia, NSW.
- <sup>viii</sup> Myers, E (2021) '[Disability advocates worried religious discrimination bill will lead to more discrimination in Australia, not less](#),' ABC News, online
- <sup>ix</sup> Rates of violence WGWD
- <sup>x</sup> No supports available to WGWD escaping violence
- <sup>xi</sup> Uniting Care Australia (2021) '[UnitingCare Australia Consortium selected to deliver new program to help people escape family violence](#),' Uniting Care Australia,' ACT.
- <sup>xii</sup> See e.g., Disabled People's Organisations Australia and the National Women's Alliances (2019) '[The Status of Women and Girls with Disability in Australia – Position Paper to the Commission on the Status of Women \(CSW\) Twenty-Fifth Anniversary of the Fourth World Conference and The Beijing Declaration and Platform For Action \(1995\)](#).'
- <sup>xiii</sup> See for eg: CRPD/C/AUS/QPR/2-3; E/C.12/AUS/CO/5; A/C.3/72/L.18/Rev.1; A/HRC/38/47/ Add.1; CCPR/C/AUS/CO/6; CEDAW/C/AUS/CO/8; CRC/C/15/Add.268; CRC/C/AUS/ CO/4; A/HRC/17/10; CEDAW/C/AUL/CO/7; CAT/C/AUS/CO/4-5; A/HRC/WG.6/10/L.8; CRPD/C/AUS/CO/1; A/HRC/31/14; A/HRC/22/53; CCPR/C/AUS/Q/6; See also: World Medical Association (WMA) in conjunction with the International Federation of Health and Human Rights Organizations (IFHHRO) (2011) '[Global Bodies call for end to Forced Sterilization: Press Release](#),' 5 September 2011.



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<sup>xiv</sup> Equality Australia (2019) '[Religious Discrimination Bill 2019 – In Focus: Disability, Mental Health and Wellness](#),' Equality Australia, NSW.

<sup>xv</sup> Warrier et al (2020) '[Elevated rates of autism, other neurodevelopmental and psychiatric diagnoses, and autistic traits in transgender and gender-diverse individuals](#)'

<sup>xvi</sup> Hill et al (2021), '[Writing Themselves In 4: The health and wellbeing of LGBTIQ+ young people in Australia](#)'.