

## Policy brief

# The impact of religious discrimination bills on women's health

### The Right to Health

All people have the right to freedom, religion, and belief.<sup>1</sup> The Right to Health includes access to healthcare free from any discrimination, including sex discrimination and religious discrimination.<sup>2</sup> AWHN does not condone religious discrimination. Addressing all aspects of discrimination, including religious discrimination, is essential to achieving health and gender equity.

### The issue of religious discrimination bills

In recent years numerous religious discrimination bills have been proposed in Australia. Not only have proposed versions been inadequate for addressing religious discrimination, they include problematic clauses which enable space for sex and gender discrimination in healthcare settings.

Religious Discrimination Laws are a departure from conventional discrimination laws that provide for women's health rights in relation to sexual and reproductive health services. Those include contraception and abortion, relationships and sexuality education, respectful relationships education and responses to abuse, including institutional child sexual abuse and exploitation.

Proposed Religious Discrimination laws allow medical professionals to conscientiously object to providing health services to women, and do not include provisions obligating medical professionals to refer women to an alternative provider, thus avoiding their duty of care<sup>3</sup> and despite a legal obligation to do so.<sup>4</sup>

Religious Discrimination Laws propose to protect health providers when they make offensive, intimidating, and derogatory statements to women who consult with them, based on the provider's religious beliefs, or lack of support for women's reproductive rights. These protections can do harm to women who consult with health providers and place their trust in the providers' responsibilities to do no harm and their duty of care.

The United Nations (UN) recognises the ways in which religion can be misused around the world to deny women and girls their health care and social rights. Conscientious objection is a barrier to access and is often cited by whole health services. The UN makes clear that conscientious objection should only be permitted for individual medical providers if at all, and not for or by, whole health services.<sup>5</sup>

---

<sup>1</sup> United Nations (1948), Universal Declaration of Human Rights, Article 18 at <https://www.un.org/en/about-us/universal-declaration-of-human-rights> and United Nations (2021) International standards on freedom of religion or belief. <https://www.ohchr.org/en/issues/freedomreligion/pages/standards.aspx>

<sup>2</sup> CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12) CESCR (Committee on Economic, Social, and Cultural Rights). 2000). 11 August. Doc. E/C.12/2000/4. At <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJ2c7ey6PAz2qaojTzDJmC0y%2B9t%2BsAtGDNzdEqA6SuP2r0w%2F6sVBGTpvTSCbiOr4XVFTqhQY65auTFbQRPWNDxL>

<sup>3</sup> Australian Human Rights Institute. 2019. *Four ways the Religious Discrimination Bill impacts on women's reproductive rights*. <https://www.humanrights.unsw.edu.au/news/four-ways-religious-discrimination-bill-impacts-womens-reproductive-rights>

<sup>4</sup> Keogh, L.A., Gillam, L., Bismark, M. *et al.* Conscientious objection to abortion, the law and its implementation in Victoria, Australia: perspectives of abortion service providers. *BMC Med Ethics* 20, 11 (2019). <https://doi.org/10.1186/s12910-019-0346-1>

<sup>5</sup> United Nations General Assembly. Human Rights Council Forty-third session, 24 February–20 March 2020. Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. A/HRC/43/48: Gender-based violence and discrimination in the name of religion or belief: Report of the Special Rapporteur on freedom of religion or belief Clause 43. Available: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/217/76/PDF/G2021776.pdf?OpenElement>

## Policy and legal implications

Human rights frameworks of the United Nations set out the responsibilities of nation states for the rights and freedoms of their people which are supported by core legal obligations set out in Conventions. The 1979 United Nations *Convention on the Elimination of all forms of Discrimination against Women* (known as CEDAW) to which Australia is a signatory establishes the rights and freedoms of women to be free from all forms of discrimination. Being a signatory to these instruments means that Australian governments are obliged to ensure that women's health rights are protected under law, and in policy and practice. Signatory parties to CEDAW, including Australia, 'shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.'<sup>6</sup>

The harms that proposed Religious Discrimination Laws protect are many because they propose to:

- elevate the right to religious freedom above all other rights
- remove protections against discrimination for women, LGBTIQ people and other marginalised groups
- allow discriminatory statements to be made to women on the basis of the provider's religion
- privilege health practitioners' religious views over patient health needs
- protect child sex offenders within religious organisations
- pave the way for institutional conscientious objection to abortion
- allow providers of government-funded services to discriminate against people with different or no religious beliefs
- limit the ability of schools to provide health education including relationships and sexuality education and respectful relationships education
- limit the ability of employers to foster safe and inclusive workplaces and services.

## Conclusions

Women's rights to health means that care is free from discrimination and prejudice. All health professionals have a duty of care to provide safe, quality, affordable and accessible health care to all women. Health professionals are also bound to do no harm which can occur if professionals are provided with freedoms under Religious Discrimination Laws that condone sex and gender discrimination in healthcare.

The health care and equality of women should not be over-ridden by religious beliefs. In order to achieve health equity and gender equity, we must end all practices that perpetuate health discrimination. Religious Discrimination Laws are a mechanism for doing just that.

## About us

The Australian Women's Health Network provides a national voice on women's health. It provides a woman-centred analysis of all models of health and medical care and research understanding that women's health is a key social, cultural, environmental, and political issue.

## Contact us

Enquiries: [info@awhn.org.au](mailto:info@awhn.org.au) / [www.awhn.org.au](http://www.awhn.org.au)

Media enquiries: AWHN Deputy Chair 0412853202.

---

<sup>6</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Article 12, cited by the Australian Human Rights Commission (AHRC). Right to Health. Available: <https://humanrights.gov.au/our-work/rights-and-freedoms/right-health>