



Coalition of Activist Lesbians Inc Australia (CoAL)

Submission to

The Senate Legal and Constitutional Affairs Committee

**Religious Discrimination Bill 2021 [Provisions]; Religious
Discrimination (Consequential Amendments) Bill 2021 [Provisions]
and Human Rights Legislation Amendment Bill 2021 [Provisions]**

7 January, 2022

About CoAL

The Coalition of Activist Lesbians Australia Inc (CoAL) is a national not-for-profit, community-based organisation, being the only one that advocates solely on behalf of Australian lesbians, on many issues, to all levels of government.

CoAL has been defending the human rights of lesbians whose *sexual orientation* is towards other natal women since before we became the first lesbian-specific NGO to achieve UN ECOSOC accreditation in 1994.

In Beijing, language protecting our human rights was allegedly included in the original wording of the *Platform for Action* in 1995 but was replaced by girls' rights and stripped out of the document at the last moment due to the actions of an international coalition of religious leaders.

We successfully lobbied, with other organisations, for the Australian Government to sign the Optional Protocol to the *Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)* in 2009.

CoAL operates within a human rights-based, women-centric, socio-ecological framework to protect lesbian human rights, and to support all Australian lesbians to participate in activities for positive social change.

We aspire to be part of a society that shares respect for differences, the rule of law, the dignity of all humans, and of human rights practices.

CoAL's Recommendation Concerning the Religious Discrimination Bill 2021, Religious Discrimination (Consequential Amendments) Bill 2021 and Human Rights Legislation Amendment Bill 2021.

CoAL believes that nothing positive can come out of passing these Bills regarding a correct balance between the human rights of one group against those of others.

Therefore, we urge the Senate Legal and Constitutional Affairs Committee to reject these Bills and recommend that they *not be passed* by the Commonwealth Government.

Why is CoAL Concerned About the Religious Discrimination Bills?

If this Committee can bear with CoAL for four paragraphs, we will then try to explain how passage of this type of legislation affects our lives, robbing us of our

privacy, our livelihoods, our mental health, and our freedom of expression, i.e. some of those rights that are guaranteed us by the Universal Declaration of Human Rights.

We argue that social institutions, which may, at first glance, appear to be unrelated to health *do* affect it intimately:

Legal scholars in public health, including those in the health and human rights movement, have contended that human rights, laws, and legal practices are powerfully linked to health.... Epidemiology has marshaled considerable evidence that social structures are broadly related to the level and distribution of health in a society [but] the mechanisms through which social structures actually influence health [need to be comprehended] (Burris, Kawachi et al 2002).

Many people do not seem to know that social determinants of health are *not* the *starting point* of understanding this interaction, because not only do we need to know how social structures are formed, but we also need to be aware of how multiple layers of discrimination, or disadvantage, interact with each other to affect someone's life.

One example, in lesbians' lives, might be confusion as to whether one is being discriminated against because one is a woman, or because one is a lesbian—or both—and this, as Szymanski points out, can affect a lesbian's mental health:

heterosexism, sexism, and internalized heterosexism are uniquely related to psychological distress in lesbians. Furthermore, the results suggest that the interaction of heterosexist and sexist events accounts for variance in psychological distress above and beyond main effects. This suggests that the experience of multiple forms of oppression can have a profound effect on mental health. (Szymanski, 2005:359).

As Cook, Purdie-Vaughns et al (2014) argue, discrimination at a *structural* level—for instance that enacted in national legislation—interacts within and between two other levels of stigmatization, namely *interpersonal* and *intra-personal*.

If a law, such as the *Religious Discrimination Bill*, which privileges the viewpoints of a particular set of people, is to be passed, things do not stop there. The attitudes, behavior, and speech *enabled and facilitated* by that legislation find circulation in society, affecting not only those privileged by the legislative changes but also,

potentially, those with whom they may disagree. And, if enough of those attitudes, speech and behaviours are directed at their targets, this may have a devastating effect on the *intra-personal* self-concept of those affected by that legislation. With predictable outcomes.

After much activism by lesbians around 2009, including submissions being made to the Scrutiny of Acts and Regulations Committee, *Exceptions and Exemptions in the Equal Opportunity Act 1995*, the Committee decided to retain the religious exceptions and exemptions (*structural*), which allowed church-run organisations to fire teachers on the basis of their sexual orientation (*structural and inter-personal*) and also allowed religiously-run hospitals, welfare agencies and aged care organisations to continue to discriminate against people on the basis of their sexuality (*structural and inter-personal*).

We will provide some real life, concrete examples to show how this might operate if this legislation were to be passed. As our expertise lies mainly within the health sphere, we will use health-related examples, such as of religiously run hospitals and aged care facilities.

Clarke's (2015) PhD research identified the following attitudes and behaviours towards lesbians in two different scenarios.

Scenario 1:

Lesbian academic who lives in the country, but works in the city, falls gravely ill, with blood pressure 'in the red zone'. Doctor at the university refuses to check blood pressure (*inter-personal*). Nurse goes against doctor, sending the lesbian straight to hospital (not in an ambulance, but with a work colleague met for the first time that day) (*interpersonal and structural*). Lesbian patient signs intake form, naming lesbian partner as her next-of-kin. Hospital performs two major operations two days apart, involving two general anaesthetics on consecutive days—one wonders whether they obtained proper Informed Consent. (*Structurally very risky approach to medical procedures*. What is the motivation? This is *not explained* to the patient.) Due to her own ill health, the partner is unable to drive down from the country to be with her sick partner. She rings the hospital to find out her partner's condition. Hospital worker refuses to supply information, despite the partner being named as next-of-kin on their intake form. The day after the two major operations, the sick lesbian is discharged from the hospital, with no enquiry as to how she will go to her home far out in the country, nor if there is anyone who can care for her. (*Structural and inter-personal*. This is such extraordinary

behaviour that the lesbian patient concludes that it is based on lesbophobia, therefore, *intra-personal*).

Scenario 2:

Butch lesbian admitted to residential aged care is told ‘You’re our first one!’ (i.e. lesbian resident)—although other residents subsequently ‘come out’ and there is a lesbian member of staff who does not feel safe to ‘come out’, since she could be fired. That lesbian and her friend (the lesbian equivalent of next-of-kin) are not offered cultural safety, or sensitivity, during that lesbian’s dying process, nor privacy from the heterosexual woman who shares her room (*structural and inter-personal*).

Matrix Guild’s research has provided another example. Aged care workers from a particular cultural background complain that a lesbian resident is watching pornography (*inter-personal and structural*). The lesbian resident is called before Management and asked to explain herself (*structural and inter-personal*). It turns out she was watching an episode of *Queer as Folk*—in her own room.

Conclusion

CoAL regards section 15 of the *Religious Discrimination Bill* as harmful to lesbians since it will allow religious organizations to discriminate against us with impunity.

CoAl’s view is that, if a Religious Discrimination Commissioner were to be appointed, it would be just that (in a negative way, for us). So, we do not support such an appointment.

CoAl perceives there to be a serious lack of natural justice when lesbian taxpayers’ compulsory taxes are used to fund organizations which discriminate against us.

References

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