



Verity Firth
Executive Director,
Social Justice
UTS Centre for Social Justice & Inclusion
15 Broadway, Ultimo NSW 2007

T: +61 2 9514 0000
equity@uts.edu.au

PO Box 123
Broadway
NSW 2007 Australia
www.uts.edu.au

UTS CRICOS PROVIDER CODE 00099F

Consultation on the Religious Freedom Bills
Attorney-General's Department
CANBERRA CITY ACT 2600

By email: FoRConsultation@ag.gov.au

31 January 2020

RE: SUBMISSION ON THE RELIGIOUS FREEDOM BILLS – SECOND EXPOSURE DRAFTS

I am writing on behalf of the Centre for Social Justice and Inclusion at the University of Technology Sydney ('the Centre') to offer our feedback on the second exposure drafts of the package of legislation on religious freedom.

At UTS, social justice is at the heart of our mission and role in the community – we are committed to driving positive social change through our stakeholders and in the world beyond our campus. This commitment is reflected by a diverse set of institution-wide social justice initiatives that have expanded in scope and depth since UTS was established.

Our key aims, articulated through our UTS Social Impact Framework, are to:

- contribute to increased public good, social mobility and equity;
- support the creation of enabling environments for communities to thrive; and
- positively influence and impact the public, the individual, and the systemic forces that shape justice.

These are ambitious goals, reflecting our belief that universities have a significant role to play in driving change through education, research and practice.

Our university has both an academic and organisational interest in issues of human rights for all people. Our students and staff represent many cultural and faith backgrounds, with students from more than 120 countries accepted to study at UTS last year. Recent staff surveys indicate a similar diversity among our staff in relation to cultural identity, gender and sexual orientation. We pride ourselves on our diversity and on being an organisation deeply committed to inclusion.

The right to non-discrimination is a fundamental human right and 'a basic and general principle relating to the protection of human rights' (Human Rights Committee, General Comment No. 18: Non-discrimination). This right is protected through Federal, State and Territory statutes.

The Centre supports UTS's desire to meet our university's legal and ethical obligations under the State and Commonwealth discrimination law to provide an equitable workplace and educational environment for staff, students and visitors to our campuses.

In addition to our statutory obligations, as education providers we are required to comply with the TEQSA Higher Education Standards Framework (Threshold Standards) 2015 (HES Framework) which refer broadly to the creation of equivalent opportunities for access and success in Australian higher education for historically disadvantaged or underrepresented student populations, groups protected in equal opportunity and anti-discrimination legislation, and those covered by the Higher Education Participation and Partnerships Program (HEPPP).

In relation to the need for protection from discrimination on the grounds of religious belief, the Centre is concerned that under federal anti-discrimination law no protection is afforded on the grounds of religious belief. While the attribute of religion is covered by the Fair Work Act, specifically in relation to employment, and in a number of State and Territory statutes, given our role as an education provider and provider of goods and services, the Centre is of the view that such protections should be extended to federal anti-discrimination law.

We would encourage the Commonwealth to work with the State and Territory Governments to harmonise anti-discrimination legislation to ensure consistency across jurisdictions in relation to racial and religious discrimination, vilification and the incitement of racial or religious hatred.

But the Centre is strongly of the view that protections for people of religious faith must be balanced against the human right to non-discrimination for all. In striking this balance, we support limiting religious exemptions to anti-discrimination laws, on any grounds, to those where there is a specific religious element to employment or the provision of goods and services and believe that the package of legislation as currently drafted is unnecessary. We assert that this is entirely consistent with the spirit of current anti-discrimination law as expressed in the concepts of inherent requirements and genuine occupational qualifications.

For example, the Centre is comfortable supporting continued exceptions in anti-discrimination law where a religious body employs a person for a specific religious

purpose such as a priest, minister of religion or member of a religious order. Similarly, if a religious school employs a teacher of religion it would appear reasonable for that person to be required to adhere to the relevant religion and its tenets.

At the same time, we do not support general exceptions for religious bodies for any and all acts and practices. We would encourage the Government to narrow the focus of existing religious exceptions to bring them into line with the approach to exceptions for all other employers.

The Centre is further of the view that the Government should expressly amend anti-discrimination legislation to prohibit religious organisations and associated religious institutions (including health, welfare and educational institutions) in receipt of public funding, or providing services on behalf of the government, from discriminating in the provision of those services in ways that would otherwise be unlawful.

We firmly believe that there should be no extension of existing laws to permit individuals to claim exceptions or exemptions from anti-discrimination law on the basis of faith or religious belief.

Please feel free to contact me on 02 9514-1084 if you would like any clarification on this matter or we can provide you with any further information.

Yours sincerely,

Verity Firth

Executive Director, Social Justice

Centre for Social Justice and Inclusion