



Submission cover sheet

Inquiry into the Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025

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Submission re *Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025*

I am writing in support for the *Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025*. I would like to suggest some consequential amendments to the *Discrimination Act 1991* that would be consistent with the proposed bill's recognition that faith workers (i.e. priests, ministers, pastors, etc.) are 'akin to employees'.

It is vitally important that churches and other organisations cannot evade compensating victim-survivors of abuse through a loophole of faith workers' ambiguous employment status. However, **the ambiguous employment status of faith workers has not only made it difficult for survivors to claim compensation, but it also hampers the ability of churches to be safe environments for everyone.**

I am a Senior Lecturer in History at the ANU. My research focuses on the history of Christian missions to First Nations people. In the course of my research, I have learned from victim-survivors and their descendants of experiences of abuse and come to understand the institutional contexts in which abusers thrive. Too often, what was happening was known by others (especially by women) who were unable to speak up due to their precarious or subordinate position in their religious body.

Although practically, faith workers are employees of their church organisation (they receive payslips, superannuation etc.), **legally they are more often considered 'office holders'. As a result, they have few of the basic workplace protections of other Australian workers** (such as from unfair dismissal etc.).

On a territory level, they are also exempt from the normal provisions that protect workers from discrimination under the Discrimination Act. They have no protection from disability discrimination or racial discrimination, for instance. **That is, they are subject to discrimination that has nothing to do with the religious convictions of their organisation** (and in fact would be directly contrary to what their faith would teach).

Likewise, faith workers are **not covered under the definition of 'employee' that would protect them from workplace sexual harassment.**

The precarity of faith workers, along with a culture of self-sacrifice, means that it is very difficult to speak up about what is happening in their workplaces. Nonetheless, many faith workers are seeking for these disparities around their employment status to be addressed and it is an important goal of their union, the Faith Workers Alliance (FWA). I have been working with the FWA on these issues.

Of course, religious bodies have legitimate religious reasons to discriminate in some circumstances. It is important that there remain exemptions for religious bodies to enable them to teach and practice their faith. We would not, for instance, expect Eastern Orthodox churches to ordain women.

In other cases, however, religious bodies discriminate against their clergy *despite* their theological convictions. On the question of gender, in the Anglican Church in the Canberra-Goulburn Diocese, there are no religious grounds for discrimination on the basis of sex. Nevertheless, women clergy report significant and ongoing experiences of discrimination, including wide discrepancies in pay and conditions, for which they have no legal recourse (see *Addressing Disparity*, 2024). The presence of women in leadership is a protective factor against abuse, but gaps in discrimination legislation make it needlessly difficult for women to flourish in religious bodies.

Unfortunately, we are aware of many cases of what would normally be recognised as workplace discrimination against faith workers, including here in Canberra. For example, I am personally aware of cases where faith workers:

- have been rejected from positions due to disability;
- have received different pay and conditions due to their Indigeneity or gender;
- have been subject to workplace sexual harassment (in a 2014 survey of the Anglican Church in Australia 67.2% of female clergy reported experiencing bullying and 25.2% reported sexual harassment);
- have lost their position due to their wife's infertility.

We are looking to address these issues around discrimination, both in the interests of the **safety and rights of faith workers, but also in the interests of making faith communities safer for everyone**. We see an opportunity with the proposed legislation, not simply to expand the scope of vicarious liability, but to recognise more broadly that faith workers are 'akin to employees'.

Recognising that faith workers are 'akin to employees' under discrimination legislation would make churches safer for everyone. Under the current arrangement, it is very **difficult for would-be whistleblowers who work for churches to speak up about bad behaviour (including abuse) because they have no protections from discrimination or unfair dismissal**. Addressing issues of discrimination will help **undercut cultures of hierarchy, control and intimidation in church spaces**. That is, it will help address and reform the cultures in which abuses of various kinds thrive.

Please see attached (below) suggested consequential amendments to the Discrimination Act, in light of the proposed *Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025*.

Dr Laura Rademaker

DISCRIMINATION ACT 1991

SECT 32 - Religious bodies

(1) Part 3 does not make it unlawful for a religious body to [discriminate](#) against a person in relation to the following:

(a) the ordination or appointment, by the body, of priests, ministers of religion or members of an order —

(i) the discrimination—

(A) is on the ground of religious conviction only; and

(B) conforms to the doctrines, tenets or beliefs of the body's religion; and

(C) is necessary to avoid injury to the religious susceptibilities of adherents of the religion; and

(ii) the body has published its policy in relation to the ordination or appointment, by the body, of priests, ministers of religion or members of an order; and

(iii) the policy is readily accessible to the public;

(b) the training or education of people seeking ordination or appointment, by the body, as priests, ministers of religion or members of an order —

(i) the discrimination—

(A) is on the ground of religious conviction only; and

(B) conforms to the doctrines, tenets or beliefs of the body's religion; and

(C) is necessary to avoid injury to the religious susceptibilities of adherents of the religion; and

(ii) the body has published its policy in relation to the training or education of people seeking ordination or appointment, by the body, as priests, ministers of religion or members of an order; and

(iii) the policy is readily accessible to the public;

(c) the selection or appointment of people to exercise functions for, or in relation to, any religious observance or practice by the body—

(i) the discrimination—

(A) is on the ground of religious conviction only; and

(B) conforms to the doctrines, tenets or beliefs of the body's religion; and

(C) is necessary to avoid injury to the religious susceptibilities of adherents of the religion; and

(ii) the body has published its policy in relation to the selection or appointment of people to exercise functions for, or in relation to, any religious observance or practice by the body; and

(iii) the policy is readily accessible to the public;

(d) the provision by the body of goods, services or facilities to the public if—

(i) the discrimination—

(A) is on the ground of religious conviction only; and

(B) conforms to the doctrines, tenets or beliefs of the body's religion; and

(C) is necessary to avoid injury to the religious susceptibilities of adherents of the religion; and

(ii) the body has published its policy in relation to the provision of goods, services or facilities; and

(iii) the policy is readily accessible to the public;

(e) employment by the body if—

(i) the discrimination—

(A) is on the ground of religious conviction only; and

(B) conforms to the doctrines, tenets or beliefs of the body's religion; and

(C) is necessary to avoid injury to the religious susceptibilities of adherents of the religion; and

(ii) the body has published its policy in relation to employment with the body; and

(iii) the policy is readily accessible to the public;

(f) the provision by the body of accommodation for members of a relevant class of people;

(g) any other act or practice of the body that—

(i) conforms to the doctrines, tenets or beliefs of the body's religion; and

(ii) is necessary to avoid injury to the religious susceptibilities of adherents of the religion.

(2) Subsection (1) (d) to (g) does not apply to discrimination in relation to—

- (a) employment of a person at an educational institution; or
- (b) admission, treatment or continued enrolment of a person as a student at an educational institution.
- (3) Subsection (1) does not apply to a religious body whose sole or main purpose is a commercial purpose.

SECT 59 -Employment etc

- (1) It is unlawful for an employer to subject an employee, or a person seeking employment, to [sexual harassment](#).
- (2) It is unlawful for an employee to subject a fellow employee, or a person seeking employment with the same employer, to [sexual harassment](#).
- (3) It is unlawful for a principal to subject a commission agent or contract worker, or a person seeking to become his or her commission agent or contract worker, to [sexual harassment](#).
- (4) It is unlawful for a commission agent or contract worker to subject a fellow commission agent or contract worker to [sexual harassment](#).
- (5) It is unlawful for a partner in a partnership to subject another partner in the partnership, or a person seeking to become a partner in the partnership, to [sexual harassment](#).
- (6) It is unlawful for a [workplace participant](#) to subject another [workplace participant](#), or a person seeking to become a [workplace participant](#) at that [workplace](#), to [sexual harassment](#) at a [place](#) that is a [workplace](#), or potential [workplace](#), as the case requires, of both of those people.
- (7) In this section:

"place" includes a ship, aircraft or vehicle.

"workplace" means a [place](#) at which a [workplace participant](#) works or otherwise carries out functions in connection with being a [workplace participant](#).

"workplace participant" means any of the following:

- (a) an employer or employee;
- (b) a commission agent or contract worker;
- (c) a partner in a partnership;

(d) an individual akin to an employee;(e) an individual associated with an organisation.

In this section an individual is “akin to an employee” if the individual carries out activities that are:

- i. part of the ordinary activities carried out by the organisation;
- ii. For the benefit of the organisation.

In this section an individual *associated* with an organisation includes: _

- i. An office holder, owner, volunteer or contractor for or of an organisation;
- ii. If the organisation is a religious organisation – a religious leader, such as a priest or minister, or other member of the personnel of the organisation, whether or not the individual is ordained; and
- iii. An individual, or an individual belonging to a class of individuals, prescribed by regulation.