

DOMESTIC  
VIOLENCE  
VICTORIA

Religious Freedom Bills – Second  
Exposure Drafts

Submission

January 2020

## Introduction

Domestic Violence Victoria (DV Vic) appreciates the opportunity to provide this submission on the second exposure drafts of the *Religious Freedom Bill 2019*, *Religious Discrimination (Consequential Amendments) Bill 2019*, and the *Human Rights Legislation Amendment (Freedom of Rights) Bill 2019* ('the Religious Freedom Bills'). DV Vic supports the right of all to freedom of thought and belief, including the freedom of religion, without discrimination. DV Vic also supports the right for all people to live free from discrimination, oppression and violence. While the draft Religious Freedom Bills introduce important protections from discrimination based on religious beliefs and represent some progress towards protection from religious vilification, DV Vic considers **they also permit harmful discrimination against, and exclusion of, already marginalised and oppressed groups** and therefore fail to strike an ethical balance between freedom of religion and the protection of the fundamental human rights of others. DV Vic does not support the position expressed in the proposed reforms that the right to religious freedom is absolute where the manifestation of the right to religious freedom violates other fundamental rights and is harmful to others.

DV Vic endorses other submissions made on the proposed religious freedom reforms – to both the first and second exposure drafts - that have highlighted the harmful impact the legislation will have on certain groups, and calls for the removal of any clauses that allow for any form of discrimination against or exclusion of women, girls and lesbian, gay, bisexual, transgender and intersex (LGBTI) communities based on religious belief, specifically the submissions made by Equality Australia, the Australian Human Rights Commission, the Victorian Equal Opportunity and Human Rights Commission, Amnesty International, and the Australian Women Against Violence Alliance (AWAVA). Considering these endorsements, DV Vic will use this submission **to focus exclusively on the risks these reforms pose to survivors of family violence**, arising from the potential for the absolute right to religious belief to permit direct and indirect discriminations against others based on sex, gender, marital status, disability, sexuality, race, and religion.

## About Domestic Violence Victoria

DV Vic is the peak body for specialist victim-survivor family violence response services in Victoria. As such, DV Vic is recognised as the statewide voice of SFVSs responding to victims-survivors. DV Vic is a membership-based organisation and is accountable to its members, who also comprise its Board of Governance. However, the organisation is ultimately accountable to victims-survivors of family violence and works in their best interests. Its core membership comprises statewide and regional specialist agencies working with victims-survivors of family violence across Victoria. It is an independent, non-government organisation that leads, organises, advocates for, and acts on behalf of its members utilising an intersectional feminist approach.

DV Vic's work is focused on advocating for, supporting, and building capacity of specialist family violence practice and service delivery for victims-survivors; system reform; and research, policy development and law reform. DV Vic analyses the views and experiences of member organisations, the evidence on family violence, and the lived experience of victims-survivors, and translates this into innovative and contemporary policy, practice, and advocacy.

DV Vic holds a central position in the Victorian family violence system and its strategic governance and is one of the key agencies with responsibility for providing family violence subject matter expertise, technical assistance, capacity building, and policy and practice advice to the sector, government and other partners and stakeholders.

## Understanding Family Violence

According to the *Family Violence Protection Act 2008* (Vic)<sup>1</sup>, family violence is defined as any behaviour that occurs in family, domestic or intimate relationships that is physically or sexually abusive; emotionally or psychologically abusive; economically abusive; threatening or coercive; or is in any other way controlling, that causes a person to live in fear for their safety or wellbeing or for that of another person. Family violence is also defined as behaviour by any person that causes a child to hear or witness or otherwise be exposed to the effects of the above behaviour. When referring more specifically to domestic violence, the *National Plan to Reduce Violence Against Women and their Children* (the National Plan) adds that ‘the central element of domestic violence is an ongoing pattern of behaviour aimed at controlling a partner through fear,’ highlighting the patterned nature of family violence.

Family violence can occur in a range of relationships, including between current and former spouses or partners, parent/carer-child relationships, and relationships between siblings and other relatives, such as grandparents or extended family members. It also includes ‘family-like’ relationships such as paid or unpaid carers for people with disability, families of choice for LGBTIQ people, and cultural kinship networks in multicultural and Aboriginal communities. Because of the different relationships and contexts in which family violence occurs, the concept of family violence is considered to be an umbrella term and includes other related terms such as intimate partner violence, elder abuse, child abuse and adolescent family violence.

There are many different categories of family violence that are broadly described as physical, sexual, verbal, emotional, psychological, economic, cultural, spiritual, social, systemic, and technology-facilitated. There are also family violence behaviours that are relevant to intersectional experience, such as gender-based oppression, homophobia, transphobia, ageism, racism, ableism, migration-status, geographic location, and more.

## Potential for Harm to Survivors of Family Violence

As outlined in submissions from Equality Australia, the proposed Religious Freedom Bills will privilege the right to religious freedom over existing protections from discrimination based on sex, gender, marital status, sexuality, disability, race, and religion. By extension, this means the Religious Freedom Bills will enable discrimination against survivors of family violence.

By permitting healthcare professionals including nurses, doctors and psychologists to refuse to provide certain healthcare services as a result of their conscientious objection based on their own religious beliefs,

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such as abortion and contraception, **these bills may facilitate harm to survivors of family violence who have or are experiencing sexual assault and who require access to these forms of healthcare – sometimes urgently**, such as women and girls and LGBTIQ people. When considering the final draft of the Bills, DV Vic urges the Federal Government to take into consideration [recent evidence on reproductive coercion in Australia](#) and commit to upholding the principle that **everyone has the right to control their reproductive choices**. Allowing conscientious objection to gender-affirming healthcare based on religious belief will contribute to the experience of family violence by people who identify as transgender or gender non-binary. In both these examples, the reforms proposed by the Religious Freedom Bills have the **potential to collude with the perpetration of family violence**.

It is also submitted by others that the Religious Freedoms Bills will empower people to make discriminatory statements towards women based on religious beliefs regarding gender hierarchies and towards people who identify as LGBTI regarding gender identity and sexuality. DV Vic submits that these provisions will **incite and collude with the perpetration of family violence and increase community tolerance of all forms of family violence in all types of relationships**. Both these possibilities are incongruent with the Federal Government's position on family violence outlined in the *National Plan*. For example, based on their religious beliefs someone in a professional role may say to a woman experiencing family violence perpetrated by her husband that 'wives should submit to their husbands', and not face any professional consequences for this. This may embolden perpetrators of family violence and expose women to increased risk and harm.

Further, **DV Vic opposes provisions in the draft legislation that would enable an employee to refuse to participate in mandatory training or accreditation processes based on their religious beliefs**. For example, a case worker working in a family violence service who refuses to participate in mandatory training as part of Rainbow Tick accreditation should not be exempt from employment policies that prohibit discrimination in the workplace and within service delivery.

Provisions in the Religious Freedoms Bills that protect people who make discriminatory statements towards people living with disability **similarly risk colluding with and/or inciting family violence perpetrated against women and others living with disability**. For example, a carer perpetrating family violence by restricting their partner from using a guide dog as a tactic of family violence, will feel empowered to continue doing so by greater freedoms for professionals, such as support workers, to make statements like 'you deserve to have a disability because you are a sinner' or 'guide dogs are dirty and unclean.'

Alarming, exemptions within the Religious Freedoms Bills will allow faith-based organisations to discriminate against others with different religious beliefs, even where those organisations are recipients of government funding. This effectively allows faith-based organisations who provide family violence services to deny those services to women; girls; people who are migrants, asylum-seekers or refugees; and people who identify as LGBTI, where they do not share the religious-based beliefs of the faith-based organisation. For example, a survivor of family violence who identifies as Christian but is transwoman and is married to a man may be denied services from a family violence service being delivered by a Christian charity where that organisation does not support diverse gender identities and relationships. **The discriminations allowed by these provisions could limit family violence help-seeking, create barriers to accessing family violence services and could ultimately result in an increase in family violence-related deaths**. Given the proliferation of faith-

based organisations providing family violence crisis, outreach, counselling and accommodation services in Australia, particularly in rural and regional areas, **DV Vic finds the potential for this type of exclusion and discrimination against survivors of family violence resulting from the Religious Freedom Bills unacceptable.**

Finally, DV Vic would also like clarity in the legislation of how it will interact with state-based human rights legislation and other state laws. For instance, in response to the recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse, Victoria has introduced legislation that compels priests to report child abuse. **DV Vic recommends that the proposed Religious Freedom Bills in no way dilute this legislation.**

## Conclusion

Protection of religious freedoms cannot come at the cost of the protection of survivors of family violence, no matter the type of family violence or the nature of relationship the violence occurs in. DV Vic recommends the removal of all sections of the proposed legislation that privileges the right to religious belief over the rights of survivors of family violence. This includes the rights of all members of the LGBTI community, people with disabilities, and women, and children who are subject to family violence. DV Vic further recommends that the Federal government take a victim-centred, trauma-informed approach to the religious freedom reforms that is consistent with other Federal policy related to family violence, particularly that *National Plan*, and other state and international human rights instruments.