




Speech By  
**Cynthia Lui**

**MEMBER FOR COOK**

---

Record of Proceedings, 10 September 2024

## **RESPECT AT WORK AND OTHER MATTERS AMENDMENT BILL; CRIMINAL JUSTICE LEGISLATION (SEXUAL VIOLENCE AND OTHER MATTERS) AMENDMENT BILL**

 **Ms LUI** (Cook—ALP) (7.34 pm): I rise to speak on the Respect at Work and Other Matters Amendment Bill 2024 and the sexual violence bill. In my contribution I will focus on the Respect at Work and Other Matters Amendment Bill. Discrimination and vilification have no place in a free, democratic society, and this bill sets out to prevent discrimination and vilification of vulnerable groups in our community where they are confronted with barriers that prevent them fully taking part in society purely because they are identifiable as members of a particular group. People should never be made to feel less deserving of opportunities because they belong to a particular group. A robust, workable anti-discrimination framework protects such groups and provides a process for recourse in the event of any contraventions.

The Australian Bureau of Statistics highlights that recent data from the Scanlon institute's *Mapping social cohesion* report shows that in 2023 almost one in five—that is, 18 per cent—of people had experienced discrimination based on their skin colour, ethnic origin or religion over the last 12 months. The Australian Human Rights Commission reported that in 2021-22 some 3,736 complaints were received, which is up from 3,113 complaints received the year before—a 20 per cent increase.

Based on the statistics provided, there is definitely a need to protect individual rights. I want to acknowledge the work of the Attorney-General and members of the Community Safety and Legal Affairs Committee for their work to bring this important bill to parliament. I note that several inquiries and reviews have informed the development of the bill. The most significant of these include: the Australian Human Rights Commission's report *Respect@Work: national inquiry into sexual harassment in Australian workplaces*, published in 2020; two inquiries conducted by this committee's precursor, the Legal Affairs and Safety Committee, on vilification and hate crimes—the inquiry into serious vilification and hate crimes reported on in 2022 and the inquiry into the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023; and the Queensland Human Rights Commission's review of the Anti-Discrimination Act 1991 and its report *Building belonging: review of Queensland's Anti-Discrimination Act 1991*.

The *Respect@Work* report that was published in March 2020 found that workplace sexual harassment remained prevalent in that the current system for addressing sexual harassment was complex and confusing for victims and employers to understand. The report recommended that several changes were needed to the Sex Discrimination Act 1994 to address these concerns. Although the recommendations made in the *Respect@Work* report were addressed to the Australian government and focused on changes to Commonwealth legislation, they are relevant to the states and territories which have legislation that overlaps with the Sex Discrimination Act. In Queensland that takes the form of the Anti-Discrimination Act, which is the focus of this bill.

The main objectives of the bill are to promote respect at work, including by prohibiting sex-based harassment and subjecting a person to a work environment that is hostile on the basis of sex and imposing a positive duty to eliminate discrimination, sexual harassment and victimisation, and to strengthen protection against vilification. The bill's objectives also include clarifying the scope of judicial immunity in inferior courts, providing magistrates with an entitlement to unpaid parental leave, protecting workers from violent offences and aligning legislative requirements with modern court practices.

When it comes to promoting respect in workplaces across Queensland, the bill proposes amending the Anti-Discrimination Act to: update its objectives; expand and update the attributes it protects; clarify the kinds of behaviour that it prohibits; create a new positive duty to prevent discrimination, sexual harassment and other behaviour prohibited by the AD Act; provide the QHRC with strengthened powers to investigate and enforce compliance, including with the new positive duty; and make certain improvements to the complaints process, including in relation to representative complaints.

With regard to the new prohibitions relating to sex-based discrimination and harassment, the committee report states that the Anti-Discrimination Act already prohibits discrimination on the basis of sex as well as sexual harassment. Despite the existence of such prohibitions, the AHRC found that sexual harassment in the workplace remained prevalent across Australia. It suggested this was partly due to a disconnect between the existing prohibitions and the general public's understanding of them. To respond to this problem, the AHRC recommended the express prohibition of sex-based harassment and creating or facilitating an intimidating, hostile, humiliating or offensive environment on the basis of sex.

The bill proposes amending chapter 3 of the AD Act to include a new prohibition of harassment on the basis of sex. The new prohibition would only apply in relation to work or work related areas. As the explanatory notes state, the bill provides that harassment on the basis of sex happens if a person: engages in unwelcome conduct of a demeaning nature in relation to another person; engages in the conduct on the basis of the sex of the person harassed; and engages in the conduct with the intention of offending, humiliating or intimidating the other person or in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct. The proposed amendments will go a long way to address any complexity and confusion that the current bill holds.

At present, the AD Act places the burden of enforcing the right to equality on the person who has been the subject of unlawful conduct through making a complaint. As the explanatory notes detail, the *Respect@Work* report recommended amending the SD Act to introduce a positive duty on all employers to take reasonable and proportionate measures to eliminate sex discrimination, sexual harassment and victimisation as far as possible. This recommendation has now been implemented at the federal level.

The *Building belonging* report made a similar recommendation. However, it suggested the introduction of a positive duty with broader scope, requiring action to prevent all forms of discrimination prohibited by the AD Act, not just discrimination on the basis of sex. To address this issue, the bill proposes inserting a new chapter 5C into the AD Act which will establish a positive duty 'to eliminate, as far as possible, discrimination, sexual harassment, harassment on the basis of sex and certain other objectionable conduct'.

What constitutes 'reasonable and proportionate measures' will depend on a variety of factors including the size, nature and circumstances of a business or undertaking; a person's resources, including their financial resources; the practicability and costs of different measures; or a person's business and operational priorities.

The proposed amendments in this bill are much needed. I am supportive of the proposed amendments providing more clarity and security for people experiencing discrimination and vilification in the workplace. It is the right thing to do. I commend the bill to the House.