




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

 **Mr BERKMAN** (Maiwar—Grn) (7.24 pm): In my contribution to the cognate debate, I will focus primarily on the Respect at Work and Other Matters Amendment Bill. The Greens will be supporting this bill. In a moment I will speak to some of the reasons why, but I cannot do that without saying at the outset what a betrayal this watered down legislation feels like after Labor caved to pressure from the conservative Christian lobby and ditched some of the most crucial elements of the initial draft legislation.

Stakeholders have been engaged in consultation on these reforms for around four years, as I understand it. As of February this year, they provided input on a version of the bill that was fundamentally different from the one that the government ultimately introduced. They then had only nine days to respond, much of that over the school holiday period. We have ended up with a bill that tinkers at the edges to improve protections for some people from some discrimination and vilification while others have been completely abandoned.

Thanks to Labor's backflip, religious institutions, including schools, are exempt from laws that prohibit discrimination in other settings. Thanks to Labor's cowardice, a teacher can be fired or refused employment because she lives with a boyfriend or gets pregnant before marriage. A doctor who wants to provide terminations can be fired from a Catholic hospital for professing that view. A religious accommodation provider can refuse to house someone because they are gay.

We are staring down the barrel of an LNP government which could mean an incredibly difficult four years for women, queer people and other marginalised groups. Instead of taking the opportunity to be bold and introduce real, transformative cultural shifts to protect them, Labor have done what they do best apparently and caved to their opponents rather than stand by whatever supposed principles they have left.

We have a bill that is a shadow of what it could have been, but I do want to put on the record my support for some of the positives that remain. The bill introduces new and updated protected attributes—that is, the list of things for which someone can be protected from discrimination. It is absolutely consistent with modern, social expectations that no-one should be subject to discrimination for being homeless, for being a victim-survivor of domestic and family violence, for their physical appearance, for potentially being pregnant or because of an expunged conviction or irrelevant criminal record.

I am also pleased to see the various changes in this bill that respond to the *Respect@Work* report, including a new prohibition of harassment on the basis of sex or creating a hostile workplace environment on that basis. Although this is primarily a clarification of existing protections against sexual harassment and discrimination on the basis of sex, it sets clear standards that I hope will at least help women feel safer and more comfortable at work, where too many women still do not.

The bill also imposes a positive duty on employers to take reasonable and proportionate measures to eliminate discrimination, sexual harassment, harassment on the basis of sex and other objectionable conduct as far as possible. This is an important change to shift the burden from the person experiencing discrimination and harassment to the people who are empowered to prevent it from occurring. It is no longer enough to just respond or punish when discrimination or harassment occurs. It should be incumbent on every workplace to do everything it can to prevent it from happening at all and to stamp it out when it does.

I understand that these new duties will be supported by the Human Rights Commission, which will create guidelines about how to comply with the positive duty. The commissioner will also be able to conduct investigations into compliance with the new positive duty and other contraventions of protections on the basis of sex in the workplace.

These are good changes. But the question arises: why are they not extended to all protected attributes beyond sex? I understand there is some correlation between the hostile work environment provisions and protections against indirect discrimination, but this still does not explain why workplace protections are being extended on the basis of sex but not on things like disability, race or any other protected provisions. As the Caxton Legal Centre said in its submission—

In reality ... disrespect towards women rarely occurs on the basis of sex alone. Women with disabilities, LGBTIQ+ women, mothers and other female carers, culturally and linguistically diverse women, women of faith, pregnant women, Aboriginal and Torres Strait Islander women, and many others experience discrimination, mistreatment, hostility, and harassment on the basis of their particular manifestation of womanhood.

Intersectionality is, unfortunately, missing from the bill. Without it, the list of protected attributes becomes more like a cage. We are forced to isolate parts of a person's experience rather than addressing it holistically. As QAI reflected in their submission, splitting the reforms from the *Building belonging* report out from this bill has elevated protections for one attribute over others, taking us even further from an intersectional approach.

We had solutions to improve the law. They were in the draft legislation that went through years of consultation before Labor ditched them—for example, amending the definitions of direct and indirect discrimination so that hypothetical comparisons and complex statistical comparisons are no longer required. It should be more than enough for a person to show that they have been treated unfavourably because of their sex, gender identity, irrelevant criminal history, parental status and other protected attributes. A person should not need to point to some other hypothetical person without their attribute who is treated more favourably. The current regime, which Labor retains in this bill, creates a complex, multistep and unwieldy process.

The bill is also missing desperately needed reforms to the carve-outs in the Corrective Services Act that significantly restrict a prisoner's ability to seek redress for discrimination where others can. While I support the changes in the bill to expand and update the list of protected attributes for both criminal and civil vilification offences and to allow unions to make a representative complaint for work related matters, it is disappointing that sex workers were not included. Submissions from Basic Rights and Working Women Queensland pointed this out when they stated—

Since antiquity, sex workers have received social, moral, and religious judgement, scorn, and isolation. The barrier of the law, stigma and prejudice has meant many sex workers have experienced profound barriers to accommodation, health services, legal assistance and discrimination protections.

...

... vilification and hate speech occurs against sex workers frequently, and many people felt emboldened to do so given that the law did not offer protection to sex workers.

Now that Queensland is finally decriminalising sex work, I see no reason why this historical and ongoing vilification of sex workers has not been recognised among the new protections that are put forward in this bill.

In concluding on the first of the two bills, I reiterate that I support the new protections and the small steps forward that this bill takes, but I lament the loss of what could have been if Labor was not too scared to, in its own words, pick a fight with the churches ahead of the election. I cannot believe we still need to remind them of this, but some fights are worth picking. The human rights of teachers are worth fighting for. Intersectional protection from hate and discrimination are worth fighting for. If you are willing to throw teachers and nurses under the bus to appease the Australian Christian Lobby, those opposite should really ask themselves why they are here in the first place.

In terms of the criminal justice legislation, the government's decision to, once again, squeeze two bills into a cognate debate means I have to cut short my comments on the second bill, but I can say that the Greens support this bill and the recommendations of the committee which appear to be

addressed in the amendments circulated by Attorney-General. I table a copy of some of the comments I would like to have made if we were not being procedurally gagged again.

Tabled paper: Document, undated, titled 'Criminal Justice Legislation (Sexual Violence and Other Matters) Amendment Bill 2024—MP for Maiwar Second Reading Speech' [1781](#).

These are important changes, but they do not properly reflect the scale of the problem, which extends to how our economy and society are structured and how this affects people's vulnerability to victimisation and their ability to survive and recover from violence.

We need proper investment in social housing. We need to raise social security rates, invest in a properly funded public health system and social services and address the cost-of-living crisis. Victim-survivors are kept vulnerable by a system that fails to provide for everyday people so those in the government can prop up the interests of their corporate donors.

In the moment I have left, I take the opportunity to sincerely thank the committee secretariat—Lynda Pretty, Andrew Lilley and Kerri Swaine—for all of the work they have put into supporting us on the Community Support and Services Committee this term. They do exceptional work and we would be lost without them.