30 September 2019

RE: Religious Discrimination Bill 2019

The Wimmera Pride Project stands against religious discrimination but we do not stand with this legislation. This legislation seeks to embolden religious belief into law as opposed to protecting someone from holding a religious belief. There is a big difference between allowing someone to do or say whatever they want in the name of their religion as opposed to protecting them for holding a religious belief.

There are three components of the legislation that we feel pose risk to LGBTQI+ individuals which is why we think this legislation needs more work. These are listed below with a related question to ask yourself.

1. Health Service Practitioner exemptions

The first is the clause that allows medical practitioners the right to refuse service if it goes against their religious belief. When our region is already suffering from a doctor shortage we may be lucky even to be able to find a local GP. If we do find one to think we could be denied the treatment we need because of a doctors religion is appalling.

While this was clearly a reaction to the debate surrounding the decriminalisation of abortion in NSW, we do fear of the unintended impact to sexually and gender diverse people. What if a gay man went to see a GP to get a sexual health check and the doctor refused to treat him because their own religious beliefs? Homosexual couples being turned away from IVF services because they don’t fit a religious definition of marriage would be perfectly legal.

For a transgender person finding a doctor that is knowledgeable and understanding of the treatment associated with transitioning is already hard enough. Under this legislation doctors could simply refuse treatment and reject the patient. For people already suffering and at risk, this rejection from someone they went to seeking care, could have disastrous impacts.

This doesn’t just affect LGBTQI+ people, it could affect women accessing reproductive healthcare such as getting a subscription for the pill. It could also allow a health service provider to refuse treatment or service to people of a different religion to them. So in effect could enable religious discrimination.

Ask yourself: Would this clause have been included if it was not for Christians campaigning against decriminalising abortion in NSW?
2. The ‘No Consequences’ clause

The second concern with the legislation is the clause that does not allow employer to place conditions on an employment contract that would restrict an employee’s expression of their religious belief unless the employer can show it would cause financial harm to the business.

This is clearly a reaction to the Israel Folau case. One point we would like to raise here was Israel was not fired for his belief or his religion. His conduct was vilifying a marginalised section of the community that Rugby Australia had publically stated they would support. Another important point to raise is Israel interpretation of the bible is not supported by all Christians and many disagree with him.

While we believe no one should be fired for sharing their religious belief, so much of this legislation is broad and unknown. Religion is not defined by the bill and how one individual interprets the teachings of their faith may be different to someone who practices the same faith.

The focus should not be on what people of faith are allowed to do or say as people should not be able to conduct themselves with no consequences. The focus should be on what an employer should be allowed to reasonably require of its employee. For example; it would be unreasonable to fire someone because they expressed their religious view that marriage is between a man and a woman. However, what if an employee was actively discriminating against LGBTIQ+ people and saying that, “All the gay people getting married is causing God’s wrath, therefore the gay people are to blame for the deaths from these natural disasters” If this discrimination continued to the point to the point when a homosexual employee felt unsafe or unwelcome, the employer should be allowed to protect the homosexual employee. Under this legislation it is unclear if they would be able to if the offending employee claimed they were just sharing their religious view.

It is also unclear how employers would be able to settle disputes between people of different religions.

Ask yourself: Would this clause have been put in if Israel was Muslim and was trying to argue an Islamic belief that was homophobic?

3. Over-ruling state legislation

The third problem with the legislation is that it can over-ride state laws. This is a result of a case in Tasmania, where a complaint was launched against the Catholic Church and the Archbishop for sharing material that was vilifying and deliberately misleading of LGBTIQ+ people during the Marriage equality debate.

Closer to home Fiona Patten has introduced legislation to Victorian Parliament to extend protections in the Racial and Religious Tolerance Act to stop people engaging conduct that would hatred, serious contempt, revulsion or severe ridicule to people based on sexuality, gender identity, gender and disability. This is a positive change for the Victoria legislation but there is fear that this federal legislation could simply over-rule it.

Ask yourself: Would this clause have been put in if the case in Tasmania was against a Sikh instead of a Bishop?
Putting aside these arguments I think proponents for this bill are failing to acknowledge the imbalance in discrimination in our society between white Christian Australians and other minority groups. If you answered no to the three questions above, then you can see that Christian based religions still hold significant privilege in Australian society. We do not deny that there are Christians that are discriminated against. However, they do not face the same level of discrimination than any other religion in this country does. They do not face discrimination at the same level that LGBTIQ+ individuals do.

When someone says something homophobic to you at a bar, you spend the rest of the night checking over your shoulder worried they might come back with a group of friends when you are alone. Has this ever occurred to anyone because they were wearing a crucifix? This is why this type of legislation and the debate that goes along with it is making LGBTIQ+ people scared. The people that do want to physically and verbally harm us are emboldened this legislation. Instead of discouraging this behaviour, in their minds, our politicians are condoning it. That’s why we are scared.

Anne Webster promised us before the election that she would represent everyone. She has not made any time to meet with our group or shown any interest in talking to our followers that have very real cause for concern over this legislation. Dr Webster campaigned on a platform of improving healthcare in the electorate. This legislation threatens the already limited access Trans individuals have to medical professionals in the region and will allow medical practitioners to discriminate against LGBTIQ+ patients. If Anne Webster wants to hold true to her promise to represent EVERYONE she needs to be taking these concerns to her colleagues rather than relying on us to make a submission to the Attorney-General. You represent the electorate and our best interests not the interests of your party Dr Webster. Please remember that.

This legislation isn’t about stopping discrimination, it is about maintaining privilege. If the focus was on stopping discrimination we would support this as we are tired of the religion versus LGBTIQ+ debate. Our opponents want to structure the debate in this way and label us the one with an agenda. This is not the case we want freedom, we want love and we want equality. We don’t want hate.