31 January 2020

Christian Porter, MP
Attorney General

Via: FoRConsultation@ag.gov.au

Dear Minister Porter,

RE: RELIGIOUS FREEDOMS BILL SECOND EXPOSURE DRAFT CONSULTATION

Victorian Trades Hall Council (VTHC) welcomes the opportunity to make a submission in regards to the Religious Freedoms Bill Second Exposure Draft.

VTHC is the peak body for unions in Victoria, and represents over 40 unions and more than 430,000 workers in the state. VTHC has had a long history of fighting for and defending the rights of working people in Victoria, and will continue to campaign tirelessly for the rights, entitlements and protections of workers, no matter their gender, sexuality, workplace or employment status.

VTHC has reviewed the submission of the Australian Council of Trades Unions (ACTU) to this consultation. VTHC’s submission supports the position of the ACTU, and affirms that plans to introduce reforms to ensure workers are able to exercise their freedom of religion is important. However, the Religious Freedoms Bill (hereafter the bill) represents a problematic attempt that will instead make it easier to penalise women, LGBTIQ workers, and other marginalised communities by subjecting them to gendered violence or other forms of discrimination under the guise of religious expression.

VTHC urges that the bill be abandoned and protections for freedom of religion be instead included as a protected attribute in existing federal anti-discrimination laws.

Our affiliate unions have identified that workers are facing wage theft, mass insecurity and casualisation, flatlining wages growth, and risks to health and safety at work. We know that it is migrant workers, women, LGBTIQ, and young workers who are most likely to be exposed to these kinds of risks. This bill is likely to make it harder for workers to address these issues on the basis that discrimination against them may become protected under this legislation.

Workers have the right to form unions and act collectively to make changes in their workplace. Evidence shows that when workers act together in union, they are safer.¹ This bill elevates individual concerns above the ability to make collective change. There is a genuine danger that workers will be placed at risk because of this bill.

The bill requires that employers provide a greater level of protection for individual workers to make statements in line with their beliefs. As with all rights and responsibilities, the freedom to exercise religion must be balanced against other rights and corresponding obligations, including the right to be safe at work, and the right to be free from discrimination. VTHC has a real concern that this component of the bill will require employers to do nothing in the case that an individual worker threatens or harasses another worker based on their religious beliefs.

¹ Research conducted by the Trade Union Congress (TUC) in the United Kingdom, “How Unions Make a Difference on Health and Safety: The Union Effect”, found that where workplaces were unionised there were fewer safety breaches at work, including in some workplaces a reduction of incidents by up to 70%
At the same time, it gives employers who fall into the category of ‘religious body’ the right to discriminate against their workforce, and again prohibits the ability of workers to seek recourse with their union. It provides higher protection for employers to discriminate against their workforce at all points of employment, including in the process of hiring, providing training, or in deciding who will receive promotions. This is regardless of whether it would be for a purpose connected with the nature of the work. VTHC finds this concept outrageous.

VTHC research shows that women workers and workers who identify as LGBTIQ are subjected to gendered violence, and harassment related to their gender or sexual orientation. In Victoria alone, 64% of women workers surveyed by the VTHC report having been subjected to gendered violence. Violence in the workplace is a health and safety risk, and should be tackled through a work healthy safety (WHS) approach.

This bill will directly interfere with work being done by unions and women workers to address the issue. It will put women and workers who identify as LGBTIQ at risk of being the target of harassment, and force employers to protect the perpetrators. For this reason, VTHC cannot support this bill, and recommends any plans for its implementation be withdrawn.

VTHC emphasises the concerns raised by the ACTU, that if enacted, these laws will be used as a ‘cloak’ to discriminate against workers who raise complaints, seek assistances from their union, or take another action in their workplace to stand up for their rights.

Protecting the right to express religion is important and worthy, particularly in the workplace. But the way this bill is drafted will result in unacceptable discrimination and harassment particularly for women workers and workers who identify as LGBTIQ.

VTHC reiterates its support of the submission of the ACTU, and calls for the bill to be scrapped.

Thank you for your consideration.

Yours sincerely,

Wil Stracke
Assistant Secretary

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For further detail on gendered violence, see Stop Gendered Violence Report: Women’s Rights at Work Report (2016) Victorian Trades Hall Council