

Women's Health Tasmania Inc.

Submission to the
Religious Freedom Review

February 13, 2018



Women's Health Tasmania

About Women's Health Tasmania

Women's Health Tasmania (WHT) is a universal service, available to all women in Tasmania. It seeks to increase the range of services, and its reach, to women vulnerable to inequitable health outcomes due to social or economic determinants. WHT acknowledges the impact of societal influences such as income, education, gender, sexual orientation, ethnicity, disability and isolation on health outcomes, and seeks to reduce the negative effects of these factors on individual women.

WHT is part of a national network of women's health centres. It is a health promotion charity funded by the Tasmanian Department of Health and Human Services, guided by the World Health Organisation's definition of health – "Health is a state of complete physical, mental and social wellbeing, not merely the absence of disease or infirmity".

WHT provides a safe, supportive environment for women. It is run by women, for women, and aims to promote positive health outcomes by providing a diverse range of services, taking a holistic approach. This perspective on women's health has seen WHT at the forefront of preventive health in Tasmania.

WHT's vision is for Tasmanian women to be informed, supported and active decision makers in their own health and wellbeing. As a result, WHT has also been a key advocate on issues such as a woman's right to make informed choices about her health. Our leadership has been evident in a wide range of health policy, in social justice and gender equity. WHT consistently advocates on behalf of women with both State and Commonwealth governments, on a range of legislation and policies impacting on women's health.

In recent years, WHT has broadened its service delivery component by undertaking outreach activities, offering a state-wide information telephone line and using electronic technologies. It currently provides services to women from 74 different postcode areas.

WHT continues to provide direct services to individual women and to advocate for, and promote, the health and wellbeing of all Tasmanian women. Our knowledge and expertise is based on 29 years' experience working with, and for, the women of this state.

We welcome the opportunity to provide a submission to the Religious Freedom Review.

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Introduction

WHT is pleased to have the opportunity to contribute to the Religious Freedom Review.

Over the past 29 years, Women's Health Tasmania has provided counselling, support and facilitated groups, for diverse groups of women. Over the years, WHT has had the opportunity to see and hear firsthand from individual women, about how discrimination and lack of legal recognition has impacted adversely upon their lives and health. Likewise, since the introduction of state Anti-Discrimination legislation, we have witnessed a shift away from fear to confidence and positive changes to the culture of Tasmania. Naturally, benefits to health flow as a result.

WHT Opinion

Religious freedom is indeed an important right in any just society and enhances the health and well-being of believers. It means, of course, no-one should be coerced into a religious belief or practice they do not hold, or disadvantaged because of a belief they do hold.

WHT believes religious freedom is adequately protected in Tasmania, both by the relevant section of our Constitution Act and through those provisions of the Anti-Discrimination Act prohibiting religious discrimination. WHT believe religious freedom, along with all other rights and freedoms, could be better enshrined in an Australian Charter of Rights.

If freedom of religion is enshrined in Australian law, it should be accompanied by the caveats existing in the International Covenant on Civil and Political Rights, namely:

- "No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice."; and
- "Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others."

Historical Context

Not surprisingly, the same-sex attracted, sex and gender diverse women we have contact with are still deeply affected by the words and actions of public figures, politicians, religious leaders, strangers in the street and service providers regarding sex, sexuality and gender diversity - both positive and negative. It is WHT's belief the health and wellbeing of same-sex attracted, sex and gender diverse Tasmanian, and Australian, women will be improved now all couples are able to access the same right to marry as opposite-sex couples; to feel their relationships are regarded as equal.

The Tasmanian Anti-Discrimination Act was enacted more than twenty years ago. In all that time, religious leaders and their parishioners did not raise any concerns about the provisions of the Act impacting on their freedom of religion, not until the very tail end of the long marriage equality debate.

During the public discussion about a national marriage equality plebiscite, and then the postal survey, some religious leaders and conservative politicians were calling for the watering down of Tasmania's Anti-Discrimination legislation and the introduction of Freedom of Religion legislation so they felt able to freely and publicly voice their opposition to marriage equality based on their faith.

The reason cited for their fear to speak freely and publicly was the complaint taken by Ms Martine Delaney against the Australian Catholic Bishops Conference, over the 2015 publication and distribution of a booklet entitled, "Don't Mess with Marriage". Throughout both the national marriage equality postal survey debate and the Parliamentary debate on amending the Marriage Act, the complaint was repeatedly cited - in all forms of media, and most Houses of State and Federal Parliaments - as evidence of the need to grant greater protection of religious freedoms.

Sadly, Delaney's complaint was often misrepresented by the media, politicians and religious leaders to illustrate the mistaken view marriage equality and anti-discrimination law somehow violate religious freedoms. We understand the Delaney complaint was indeed cited as one reason for this Inquiry. Delaney frequently attempted to correct the misunderstandings about her complaint, by explaining precisely why she took it and what it was about.

Delaney has always fully supported the Catholic Church's right to express its beliefs about marriage and opposition to marriage equality. What Delaney and many thousands of other lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) Australians, their children, family and friends were offended and insulted by was the way in which the booklet was worded. The text made it hard to be sure when the Church was making a statement of doctrine, belief, and when it was arguing against marriage equality on the basis of scientific research. It is worth noting the methodology of most of the research cited in the booklet has been queried, or roundly discredited, by well-regarded social scientists. The booklet presented statements of Catholic doctrine as though they were statements of fact.

There were a number of concerning statements in the publication; statements claiming same-sex partners could not be "whole", clearly suggesting they could never be considered equal to heterosexual partners, that same-sex parenting damaged children and was, somehow, "messaging with kids". As discussed above, these were presented as though they were factual, not doctrinal, statements.

Delaney was keen to discuss ways of resolving the issue with Archbishop Porteous and the Catholic Church and so instigated referral of her complaint to a conciliation process. At conciliation, Delaney presented the Archbishop with revised text for the booklet. The text presented still included the messages of the offensive statements, but they were amended to be less harmful and evidently statements of belief. Other changes made ensured the booklet was clearly a matter of Catholic doctrine, and could not be misinterpreted as a statement of general fact. The amended booklet did not remove any doctrinal statements; it purely tried to make it clear they were doctrinal, and to ensure their delivery was less likely to harm or offend.

Unfortunately, the Catholic Bishops chose not to proceed with Delaney's revised version of the booklet nor to consider her offer to work with them on any alternative revisions.

Last year, the Tasmanian State Government, in response to complaints about Delaney's case, moved legislation to weaken the Anti-Discrimination Act by permitting incitement to hatred and offensive conduct if it was done in the name of religion. An independent Upper House member also moved to water down the offensive conduct provision. Both proposed amendments to the Act were made in the name of religious freedom. The amendments both failed in the conservative Tasmanian Upper House.

The amendments failed for two reasons. Firstly, Upper House members were informed of the facts of Delaney's case and secondly, they were aware the overwhelming majority of complaints under the incitement to hatred and offensive conduct sections are from people living with a disability.

Some religious beliefs and practices have been, and continue to be, used to control and oppress women. Legislating for the right to religious freedom must not compromise in any way the gains made in women's rights and the continued progress to true equality for all women.

The failed amendments to Tasmania's Anti Discrimination Act would have allowed harmful conduct, not tolerated in our schools, to be justified in the name of religion. Any legislation designed to provide and protect the right to religious freedom must not legitimise discrimination against LGBTIQ people, religious minorities, people living with a disability, women or people of colour.

WHT urges the Panel not to recommend or endorse any attempt by the State or Commonwealth Governments to weaken our Tasmanian Anti-Discrimination Act.

Conclusion

WHT believes there are adequate protections for freedom of religion in this country, particularly in Tasmania. In fact, we encourage the Panel to consider recommending all states and the Commonwealth conform to the anti-discrimination, incitement-to-hatred and offensive language standards set by Tasmania. Not surprisingly, WHT urges the Panel not to recommend or endorse any attempt by the State or Commonwealth Governments to weaken our Tasmanian Anti-Discrimination Act.

The panel could also consider if religious freedom along with all other rights and freedoms might be better enshrined in an Australian Charter of Rights.

If Religious Freedom legislation was introduced to the Federal Parliament, WHT urges the panel to ensure any rights enshrined in legislation do not impinge on the rights or freedoms of any other. To also remember with any right ought to follow an equal responsibility not to harm others in the exercising of that right.

References

Article 18, International Covenant on Civil and Political Rights