

OPEN LETTER

Federal Labor: Do not vote for the “Bigots’ Charter”

7 Feb 2021



Dear Alicia, Andrew, David, and Katy:

I am writing to you in a personal capacity – as a proud Canberran, gay man, and Labor member – and in my capacity as the convenor of Rainbow Labor ACT, a local network of LGBTIQ+ Labor supporters. I write specifically to urge that you prevent the passage of the *Religious Discrimination Bills* by voting them down in Caucus and urging your federal caucus colleagues to do the same. Although Rainbow Labor does not oppose the introduction of a religious discrimination bill, we do not support *the* particular Bills that are currently before the Parliament.

The Australian queer community, myself and RLACT included, are deeply concerned that the Bills will act as a *bigots’ charter*: a law which enables further discrimination rather than reducing it. In particular, we are concerned that it will enable discrimination in employment in entirely secular jobs where an employer happens to hold religious beliefs about people of sexual orientations, gender identities, races, or different religions. We are also concerned about the Bills’ protections of enrolment discrimination of queer students at private religious schools. Other people and organisations, whose concerns I share, have written (or will imminently write) to you about the Bill’s negative consequences in these and other areas, particularly health and aged care.¹

I note that the Bill imposes a malice test on the protection of *statements of belief*, however we saw at the Citipointe last week how one can seriously vilify a class of people and cause significant hurt in a community without holding malicious intent. In the Citipointe example, the school frequently – despite explicit language to describe queer people in their enrolment contract – professed that they did not intend to cause harm and that they were merely being “transparent” about their beliefs. Citipointe’s contract is almost certainly unlawful in Queensland and is currently before the Queensland Human Rights Commission. If the Bills were to pass, the Commission would very likely be forced to drop complaints about the contract even though it is plainly evident that the contract has caused significant harm to that school’s community.

People of faith, queer or otherwise, are also terrified that the Bills will be used to force them to convert or, for queer people, go back into the closet. In Sydney, two lesbian teachers have been fired from an Anglican and Baptist school (respectively) despite being active members of their churches who had minor disagreements with clergy on theological issues. In other words, these teachers were chased out of their own communities.

¹ I also wish to draw your attention to the [open letter](#) sent to Victorian Labor’s federal MPs by the Victorian Rainbow Labor Network. I understand that the National Co-convenors of Rainbow Labor are also imminently due to send their own open letter to MPs.

Rainbow Labor ACT

 LABOR AND PROUD

Unlike the ACT, New South Wales does not have a law which would prevent teachers of secular subjects from being fired on religious grounds. The ACT's legislation prohibiting terminations of this kind would be explicitly overridden by the Bills.

Meanwhile, representatives of minority religions, such as the Hindu Council of Australia have expressed their distress over the Bill before the Senate Legal and Constitutional Committee (excerpts attached). The Hindu Council believes the Bills would expose Hindu and migrant workers working in secular support roles in aged care, health, and similar industries would face "unsaid pressure" to conform to the beliefs of their largely Christian employers. This would, of course, denying them their own religious freedom in the workplace. The Bills do not make clear whose faith would be protected in this circumstance – the employees' or employer's.

Enrolment discrimination against queer and minority students by religiously run private schools is also a major concern for RLACT and the queer community. Much of the arguments in support of the Bills have simply told queer students to "go to another school" but the reality is that students rarely get a choice, and parents choose religious schools for a variety of reasons. Many queer people have religious parents who want their children to grow up in their religious community. My family, who are not religious, had poor experiences at the local public school moved to the local private school – which happened to be run by a religious institution. Few families are aware their child is queer at the time of enrolment into a school. Even if a child did know they were queer, they may also be a person of faith: much of the discourse on this subject has baselessly placed these characteristics into opposition with each other.

Being queer in these environments is hard enough. Many can tell you of vilification they suffered on campus, both from students and (at some schools) even faculty. People unable to bring their partners to their Year 12 formal, either at all or without signing an embarrassing contract insisting that their partner is "just a friend". Religious school administrations are already able in most states to discriminate against queer people in these and more serious ways. The Bills, as drafted, would only make this worse. The constant threat of expulsion post-admission which would be enabled by the Bills is unacceptable and could only be deleterious to students' mental health. Queer bullying victims may feel unable to come forward for fear of negative treatment, especially if the school has a public policy of expelling queer students. Other students, conversely, may feel empowered to participate in this bullying. School boards who short-sightedly adopt such policies will be placed into legally precarious positions of having to choose whether to go against the "ethos" to protect vulnerable children or endorsing harassment.

I note that the Prime Minister has (again) announced amendments to repeal a section in the Sex Discrimination Act allowing enrolment discrimination at the time of admissions, but many are concerned that this amendment will be of no effect if the Bills are passed. Clause 11 effectively re-enacts a much broader exception in the federal anti-discrimination scheme, potentially allowing expulsion on discriminatory grounds rather than just admissions, and both clauses 11 and 12 bar the states and territories from prohibiting it in their own anti-discrimination schemes.

Rainbow Labor ACT

 LABOR AND PROUD

I also note, as Labor's committee members did in the parliamentary inquiries into the Bills, that none of the three pieces of legislation before parliament includes explicit remedies for religious vilification (unlike the ACT's comparable statutes). This strongly indicates that this Bill is not about preventing religious discrimination – vilification being the most obvious form of direct discrimination.

There is simply not enough time before the election to draft, debate, vote on, and pass the amendments that would be required to bring this package to a state in which it protects religious communities from discrimination without opening other communities to vilification. It is clear a new package is required. One which is drafted in consultation with communities and the states and territories, and which does not seek to deny these jurisdictions the power to protect their citizens. This package is being forced through parliament in a form that will severely harm queer and minority communities.

For the reasons discussed above – which are, in sum, that the Bills enable more religious discrimination rather than ameliorating it – the Bills must be blocked. I strongly urge you to work to block the Bills by voting against them in Caucus and advocating that your Labor colleagues do the same.

Please do not hesitate to contact me, or the National Co-Convenors of Rainbow Labor, if you wish to discuss these matters further.²

Regards,


Joey Mann (*He/him*)

Acting Convenor, Rainbow Labor ACT

E: 

P: 

Rainbow Labor ACT is an association of LGBTIQ+ Labor Party members devoted to promoting equality and diversity within the ALP, advancing the rights of LGBTIQ+ people and building networks with the broader LGBTIQ+ community in the ACT. We are not affiliated with, or a branch of, the ACT Labor Party.

² The ARLN co-convenors, Ruby Leonard and Josh McFarlane can be contacted by email at 

Excerpts from the testimony of Surinder Jain from the Hindu Council of Australia in hearings before the Senate Legal and Constitutional Affairs Committee [emphasis added]

“We think this religious freedom bill is a good step, but it's going too far. I will echo the same statements that have been said by my Buddhist brother [from the Buddhist Council of New South Wales], that **this bill may actually reduce religious freedom of minority religions who do not have their own institutions** like schools, hospitals et cetera.”

[...]

“I would like to add to what [a representative from the Australian Sangha Association] has said. **We have a lot of Hindus who work in aged-care services and disability services, predominantly being run by religious organisations. We have doctors working in private hospitals. We have IT people. Their jobs would be questionable. There is another category of people who are new migrants, who come here and who are desperately looking for a job and they find a job in a religious organisation. There is unsaid pressure on them that they should adapt to the religion of the organisation that they are in. This way this religious freedom would actually be taking away their freedom of ideology and religion in declaring their faith and practising their faith and in not being pressured into adopting another faith.**”

[Hansard, 20 Jan 2022](#)