

Freedom of belief affected

“Ideologies, particularly ideologies that are winning ultimately do not tolerate or enshrine dissident institutions.”

Paul Kellyⁱ

Despite the push for marriage redefinition being framed in the language of “tolerance,” it is apparent that those seeking this change will not “tolerate” differing beliefs for very long. Commentator Paul Kelly observed that the comparison by advocates of same-sex marriage to the elimination of racial discrimination indicated that there would eventually be no “halfway house” permitted when it comes to acceptance of same-sex marriageⁱⁱ - despite assurances that accommodations will be made for freedom of belief.

A similar sentiment was expressed in a submission made by the NSW Gay and Lesbian Rights Lobby to a 2017 Senate Select Committee hearing into religious freedom protections contained within proposed anti-discrimination laws. Quoting one of their supporters, the lobby group’s submission read:

“If we can get legalisation of same-sex marriage as Doo (sic) as possible once it’s in place it will be easier to get rid of discriminatory exemptions.”ⁱⁱⁱ

In addition to this and similar comments expressed, there have already been attempts to use anti-discrimination laws to restrict the freedom of belief, including but not limited to the freedom of religion.

In June 2015, the Australian Catholic Bishops’ Conference issued a pastoral letter entitled: *Don’t Mess with Marriage*. The booklet urged compassion, respect, sensitivity and love for those experiencing same-sex attraction before going on to outline Catholic teaching about marriage. It was distributed in parishes and to parents whose children attend Catholic schools. Same-sex marriage lobby group, Australian Marriage Equality issued a media release in which its national director at the time, Rodney Croome, urged complaints to be made to the Tasmanian Anti-Discrimination Commission. Mr Croome said:

“I urge everyone who finds it offensive and inappropriate, including teachers, parents and students, to complain to the Anti-Discrimination Commissioner, Robin Banks.”^{iv}

Transgender activist and Greens candidate Martine Delaney made a complaint to the Anti-Discrimination Commission, arguing that religious freedom is not absolute in a secular society. Ms Delaney sought a public apology from the Australian Catholic Bishops and a re-education program implemented for staff and students at Catholic schools, and Commissioner Robin Banks agreed that there was a case to answer.^v The complaint was eventually withdrawn, but the anti-discrimination law still remains.^{vi} At a Senate Select Committee hearing, Ms Banks expressed concern that any protections for religious freedoms in federal same-sex marriage legislation would override state anti-discrimination laws, such as those in Tasmania which allowed the Archbishop Porteous case to occur.^{vii}

This case illustrated that some activists, whether of their own initiative or encouraged by LGBTI advocacy groups, will not even tolerate faith groups expressing their beliefs to those who voluntarily attend their churches or schools, even at a time when Australian law defines marriage as being between a man and a woman. This type of activism will only increase if same-sex marriage was to become legal.

It's not only happening in Australia.

Students and staff of Trinity Western University, a Christian college in Canada, are asked to consent to a set of standards of behaviour, including abstaining from “sexual intimacy that violates the sacredness of marriage between a man and a woman.”^{viii}

After Trinity Western added its law faculty in 2013, three of Canada's nine Provincial Law Societies, those for Nova Scotia, Ontario and British Columbia, declined to accredit Trinity Western law graduates because of the community covenant. The objection of the law societies did not relate to the quality of the degree or graduates, but rather it was based on the personal decision of the individual students to refrain from sexual activity outside of heterosexual marriage. The decision of the law societies of Nova Scotia and British Columbia were overturned after lengthy court proceedings; however, the Ontario decision was upheld, meaning that Trinity Western graduates are not permitted to practise law in Ontario^{ix}.

The idea that the push for the redefinition of marriage is based on a “live and let live” attitude is unfounded and unfortunately naïve. As Paul Kelly said: ideology does not tolerate dissent.

ⁱ Audio Recording. A Respectful Conversation on Marriage, Panel Discussion at Australian Catholic University. 12 October 2015. Available at: <https://www.xt3.com/library/view.php?id=19769&categoryId=13&episodeId=2303>

ⁱⁱ Ibid

ⁱⁱⁱ Gay and Lesbian Rights Lobby (NSW). Submission on the Commonwealth Government's Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill. January 2017. Available at: <http://www.aph.gov.au/DocumentStore.ashx?id=7e22c64d-52da-4064-9d93-df88c00176ce&subId=462530>

^{iv} Australian Marriage Equality. AME Media Release: Gay students at risk from denigration. Educators who allow distribution violate duty of care. 24 June 2015. Available at:

<https://www.australianmarriageequality.org/2015/06/24/media-release-church-school-marriage-booklet-likely-violates-anti-bias-law/>

^v Shanahan D. Catholic Bishops called to answer in anti-discrimination test case. The Australian. 13 November 2015.

Available at: <http://www.theaustralian.com.au/national-affairs/state-politics/catholic-bishops-called-to-answer-in-antidiscrimination-test-case/news-story/b98439693f2f4aa17aca9b46c7bda776>

^{vi} A proposed amendment to the anti-discrimination laws announced by Tasmanian Attorney-General Vanessa Goodwin would see an “exemption” put in place for those who express a view for religious purposes, but there would still be no protection for those wishing to express an opinion not based on religious belief. Refer to Goodwin V. (2016). Government to consult on Anti-Discrimination Act. Available at:

http://www.premier.tas.gov.au/releases/government_to_consult_on_anti-discrimination_act

^{vii} Senate Committee Hearing. Australia. Senate Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill. 23 January 2017. Available at:

[http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/4578eae5-3f42-4336-abc1-b2badd18a6d5/toc_pdf/Select%20Committee%20on%20the%20Exposure%20Draft%20of%20the%20Marriage%20Amendment%20\(Same-Sex%20Marriage\)%20Bill_2017_01_23_4659_Official.pdf;fileType=application%2Fpdf#search=%22committees/commsen/4578eae5-3f42-4336-abc1-b2badd18a6d5/0004%22](http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/4578eae5-3f42-4336-abc1-b2badd18a6d5/toc_pdf/Select%20Committee%20on%20the%20Exposure%20Draft%20of%20the%20Marriage%20Amendment%20(Same-Sex%20Marriage)%20Bill_2017_01_23_4659_Official.pdf;fileType=application%2Fpdf#search=%22committees/commsen/4578eae5-3f42-4336-abc1-b2badd18a6d5/0004%22)

^{viii} Trinity Western University, Community Covenant. Available at: <https://www8.twu.ca/studenthandbook/university-policies/community-covenant-agreement.html>

^{ix} Fine S. Ontario Appeal Court upholds law society's stand on Trinity Western University. The Globe and the Mail. 29 June 2016. Available at: <https://www.theglobeandmail.com/news/national/ontario-appeal-court-upholds-law-societys-stand-on-christian-school/article30674427/>