

# Family

## UPDATE

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## Religious freedom: the political and legislative challenges

by Patrick J. Byrne

Following widespread public concerns over threats to religious freedom during the federal election, the Morrison Government has promised a religious discrimination act by July.

Human rights law is a tricky, problematic area of law. As militant secularists want to restrict religious freedoms by making religious freedom legislation as ineffective as possible, there are concerns that a new law could reduce, rather than comprehensively protect, freedoms.

Consider the complexity of issues with the changes in 2013 to the *Sex Discrimination Act 1984* (SDA) that made a person's gender identity and sexual orientation protected attributes.

Effectively, the Act's protections for a person's gender identity allow a biological boy/man who self-identifies as female to claim the same rights as girls/women.

All that's required for a sex/gender change is a statement from a registered medical practitioner or psychologist, a passport or Australian Government travel document, an amended birth certificate, or a state or territory Gender Recognition Certificate or Recognised Details Certificate. These documents are easy to obtain.

As the SDA covers state schools, state education departments have issued

policies requiring their school authorities to negotiate with transgender students as to which toilets, change rooms, sport, camps, dormitories and other services they can access at school.

For example, the NSW Education Department's policy – its 11-page Legal Issues Bulletin No 55, December 2014 – assessed the risks for “use of toilet and change rooms” as “high”. It set out risk-management procedures: “Doors provided to change room cubicles of their identified gender. Student must change in cubicle. Staff to monitor length of time in change room. Staff and student to report any incidents in the change room to Principal ... Zero tolerance to “skylarking” in change rooms.”

Further, the department's policy says compliance also requires allowing uniforms to be worn according to a person's preferred gender; support for medical transition of a child using puberty blockers and sex-change hormones; inclusion of transgender issues in the curriculum; inclusion in single-sex schools according to a person's preferred gender identity; and teachers and students required to use appropriate pronouns.

The South Australian Education Department's policy explicitly warns: “Failure to provide transgender students with access to appropriate toilet and change facilities may breach anti-discrimination legislation.”

This means that school principals and teachers could face legal penalties for non-compliance with these policies, and face disciplinary action, loss of professional qualifications and employment. Action could be taken for not letting a biological boy who



identifies as a girl into the girls' change rooms.

Whereas the SDA covers state schools, it carves out freedoms in the form of exemptions for faith-based schools. While there are conditions on these exemptions, nevertheless they provide protections against policies that the states are imposing on state schools, as described above.

These exemptions are now under review. After the Ruddock Inquiry into religious freedom, the Attorney-General referred the issue of freedoms and exemptions for religious schools to the Australian Law Reform Commission (ALRC), to report by April 2020.

The planned July bill means the Government is not waiting for the ALRC report.

While the form of the Government's bill is unknown, the terms of reference for the ALRC are revealing. It called for a review of laws to guarantee “the right of religious institutions to conduct their affairs in a way consistent with their religious ethos”, but at the same time to “limit or remove altogether (if practicable) religious exemptions to prohibitions on discrimination” from the SDA and other laws. ...

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## From the Editor

Well, the federal election has come and gone since the last issue. The result confounded the pollsters. The Coalition was returned with a majority in their own right despite the ALP being favoured to win.

The AFA campaigned on our “9 Policies to Put Families First, Grow Businesses and Employment”.

Our Policy No 9 is opposing removal of the exemptions for faith-based schools from the *Sex Discrimination Act*. One of the first issues the new government has to deal with after the election is religious freedom. A-G Christian Porter has said legislation is to be put to Parliament. The first article in this issue, *Religious Freedom: the political and legislative challenges*, outlines the intricacies of drafting such a piece of legislation and the importance of maintaining the protections presently provided for faith-based schools by the religious exemptions.

Another pressing issue is energy policy. Our Policy No 8 is supporting new high-efficiency, low-emissions coal-fired power stations. The overwhelming defeat of the ALP in Queensland was in large part due to their opposition to the Adani mine project

which offers the hope of thousands of jobs for Queenslanders. Former Greens’ Leader, Bob Brown, helped defeat the ALP by his provocative high-carbon-emitting “Stop Adani” caravan which drove from Tasmania to northern Queensland to tell the locals that Adani would not be good for the environment. This did not impress ordinary Queensland voters for whom Adani represents prospects for jobs, income, economic security for their families and prosperity for the region. The issue of affordable energy is the subject of the second article in this issue, *Green energy policies freeze out the poor*: “The replacement of low-cost base-load power with high-cost, renewable energy sources such as wind and solar is hurting those who can least afford to pay.” Is this the kind of society we want in Australia?

We will continue in subsequent issues to provide more articles on our “9 Policies.”  
Until next time.

**Terri M. Kelleher**  
AFA National Vice-President

### Religious Freedoms... cont. from pg 1

... This poses many difficulties.

Would a religious discrimination act protect the freedom of religious institutions in the absence of exemptions in the SDA? For example, would such an act protect a religious school’s belief that biological sex is fixed and immutable, from the full force of the SDA, which says a person must not be treated “less favourably” or be “disadvantaged” because of their “gender identity”?

Also, the PM has stated that he doesn’t want religious schools expelling gay students. How would a religious anti-discrimination act distinguish between a same-sex attracted student and LGBT activist students and staff campaigning to change the ethos of the school? How would it protect the freedom of schools to enrol and employ people in accordance with the school’s religious ethos?

Therefore, should exemptions in the SDA remain in place until a religious discrimination act has shown that it can

effectively protect the freedoms of faith-based schools?

Further, the Attorney-General’s terms of reference to the ALRC calls for the removal of “any legal impediments [federal, state or territory] to the expression of a view” that marriage is between a man and a woman.

How would a religious anti-discrimination act protect a person’s freedom publicly to express their moral beliefs about sexual behaviour and man+woman marriage, when some anti-discrimination acts say that a person cannot be discriminated against on grounds of their sexual orientation, gender identity and marital status? Tasmanian Archbishop Julian Porteous was threatened with prosecution under the Tasmanian anti-discrimination Act for publishing his Church’s view on traditional marriage.

How would a religious discrimination act protect employees (religious or secular) whose public views conflict with their company or profession accreditation authority endorsing same-sex marriage and LGBT affirmation policies? Rugby Australia terminated the contract of champion player Israel Folau over his social media posts on a range of moral issues, including sexual...

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...behaviour.

In the end, creating legislation to protect freedom of religion requires an understanding that difference is not discrimination so as to protect everyone's freedom of speech, which is the foundation of a tolerant and free democracy. Getting it right without going backwards is going to be an enormous legislative and political challenge.

*Patrick J. Byrne is national president of the National Civic Council.*

## State Reports

### Victoria:

1. Daniel Andrews' ALP government in Victoria has introduced a bill to amend the Births, Deaths and Marriages Registration Act to allow a person to change their birth certificate to the gender they identify as without gender reassignment surgery and allow applicants to self-nominate the sex listed on their birth registration as male, female, or any other gender diverse or non-binary descriptor of their choice.

It would also allow children to alter the gender on their birth certificate, provided they have parental support and a statement from a doctor or registered psychologist stating that the decision is in their best interests.

A similar bill was defeated in November 2016. An Action Alert has gone out to AFA members and supporters to contact their MPs asking them to oppose the bill.

2. Energy Australia has warned workers at its Yallourn power station in the Latrobe Valley that it may shut down within six years, long before its scheduled 2032 closure. Yallourn provides 22 per cent of Victoria's power generation and creates thousands of direct and indirect jobs.

The electricity generator said a number of policy factors could force it to shut early- One: the Victorian ALP government's 50 per cent renewable energy target by 2030, and

Two: if the recommendations by a panel led by former ALP climate-change minister Greg Combet for a 60 per cent cut to CO2 emissions by 2030 were adopted by the government, it could spell the end of Yallourn [not to mention other coal-fired power plants in Victoria].

An AFA Action Alert has gone to members and supporters asking them to email their MPs urging them to reject any legislation that would enact a 60 per cent cut to CO2 emissions by 2030 and also to put policies in place for enough affordable, baseload power in the grid to be maintained to meet

household, business and industry electricity demands.

### Queensland:

1. In February, an Inquiry into aged care, end-of-life and palliative care and voluntary assisted dying was set up. Submissions closed on April 15. The findings of the Committee are to be reported to the Legislative Assembly by 30 November, 2019. Voluntary Assisted Dying took up a substantial proportion of the Terms of Reference.

2. After the federal election the Queensland ALP Premier quickly announced that the Adani mine would go ahead, pronto! Days after their election wipe-out in Queensland, it was reported that Anastacia Palaszczuk said she was "fed up" with the ongoing delays related to Adani's environmental approvals, and had ordered her Coordinator-General to expedite approvals currently sitting with Queensland's Environment Department. This is welcome news as it should provide many new jobs for the people of Central Queensland.

### WA:

1. Surrogacy: The Bill has been referred to a Committee stage due in no small part to the endeavours of the Hon. Nick Goiran MP. A vote is expected in 2-3 months.

2. Euthanasia: The new leader of the WA Opposition, Lisa Harvey, has announced that she is opposed to the introduction of euthanasia. The Catholic Archbishop of Perth, Timothy Costelloe, issued a statement which was presented in all parishes. Cards, containing arguments against euthanasia, are available from the WA office and can be forwarded by electors to their MPs. There is also a need to write personal letters to MPs explaining why legislation is unnecessary. The Euthanasia Prevention Coalition is also active in lobbying MPs. The rally against the introduction of euthanasia in WA will be held on September 4, 2019 at noon in front of Parliament House.

### NSW:

1. Abortion decriminalisation is likely to be back on the agenda in New South Wales. Independent cross bencher, Alex Greenwich, has said he will work with others on a draft bill and the Greens have also confirmed their intention to introduce a bill in the first year of the current parliament.

The ALP's policy follows similar moves by the Queensland party, which introduced legislation to decriminalise abortion after seeking recommendations from the state's law reform commission. The Queensland parliament voted to legalise abortion in

2018. ALP backbencher, Jo Haylen, said she would work across parliament to make decriminalisation happen.

2. One Nation Upper House MP Mark Latham has said he intends to introduce a religious freedom Bill.

### South Australia:

The Coalition government has set up an End of Life Committee to inquire into choices at end of life including voluntary assisted suicide/euthanasia. The AFA will put in a submission when submissions are called for.

## Upcoming Events



### LIFE DINNER 2019

Saturday, 24 August, 2019

6:30 for 7pm start

Aurora Receptions, 129 Donald Street,  
East Brunswick

Guest speaker: Therese Hungerford-Morgan, a young practising midwife will launch an exciting new pro-life campaign - "A person's a person no matter how small." (Dr Seuss)

Tickets: Adult \$85/couple \$160/  
student \$60

RSVP: Friday 16 August Ann-Maree  
(Phone (03) 98160800; Mobile  
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# Green energy policies freeze out the poor

by Peter Westmore

The increase in renewable energy (solar and wind) has pushed up electricity prices and, inevitably, increased the number of disconnections of poor families who cannot afford the rising price of electricity.

In Western Australia, a recent report by the state's Economic Regulation Authority revealed that almost 20,000 West Australians had their power disconnected in 2017–18, a rise of about 20 per cent over the previous 12 months.

In addition to the rising price of usage, the report identified the state government's increase in daily fixed charges as one of the main reasons behind the surge in electricity prices, which cost consumers an extra \$170 a year.

Electricity disconnections do not occur immediately after a bill is overdue. Under national energy retail law, the retailers must follow specific steps before disconnecting a customer's power.

These are:

The retailer must send you a bill that includes how much you owe, when the bill must be paid and how to pay it.

If you fail to pay your bill by the due date, the retailer is obliged to send a reminder notice.

If you still have not paid the bill within the allocated time on the reminder notice, the retailer must then send a disconnection warning notice.

Once this has been sent, the retailer must also try to contact you if it has not already called regarding the unpaid bill.

All this happens before disconnection takes place.

Origin Energy says that Western Australia has one of the highest growth rates of solar uptake in Australia, according to 2017 data.

Research by the Australian Energy Market Operator (AEMO) also shows that solar panels represent the West Australian grid's biggest collective generator.

Poor people generally do not have the

capital to install solar panels, so the subsidised installation gives a substantial economic benefit to wealthy consumers. The same trend is appearing in several other states.

An article in the Herald Sun (February 2, 2019) reported that in NSW, disconnections were up by more than 18 per cent and hardships were up nearly 19 per cent. Disconnections were up by more than 30 per cent for both of the biggest retailers, AGL and Origin.

In Victoria, the Essential Services Commission reported that there had been a 35 per cent increase in disconnections in 2018 over the previous year.

Excluding disconnections from AGL and subsidiary Powerdirect, Victorian retailers disconnected 23,406 residential electricity customers in the first six months of the 2017–18 financial year, more than for the entire previous year.

In Queensland, power companies also recorded a sharp rise in disconnections, up 11 per cent in 2018.

In South Australia, disconnections overall were down slightly, but the two biggest retailers recorded big increases in disconnections: AGL up 19 per cent and Origin up 56 per cent.

AGL's hardship customer numbers were up 67 per cent and customers on payment plans up 126 per cent, while Origin's hardship cases were up 44 per cent.

Hardship cases have also risen nationally, climbing 14 per cent, while the number of payment plans being offered by retailers fell by 6 per cent.

A study of electricity disconnections in 2016 found that they were concentrated in rural and low-income urban areas.

If solar and wind power were actually cheaper than base-load coal-fired electricity – as the Greens and Bill Shorten claim – prices would be falling, along with the number of poor families being disconnected.



In fact, the opposite is happening, as a direct result of the replacement of low-cost base-load power with high-cost renewable energy sources such as wind and solar.

The same trend is evident in the UK, where the British Government has expanded subsidies for the installation of wind and solar power, while coal-fired base-load power stations have been retired.

According to the fuel poverty report recently released by the Department of Business, Energy and Industrial Strategy (BEIS), nearly 70 per cent of UK households are heating their houses less than is required to meet the levels considered necessary to deliver comfort and health.

Those on lower incomes are “under-consuming” by a larger margin than those on higher incomes, with only the wealthiest decile consuming more than the estimated requirement.

The poorest households were under-consuming by the largest margin, and it is in this category that those most vulnerable to policy costs, the 2.2 million UK households using electric heating, are concentrated, particularly in rental accommodation.

Dr John Constable of the Global Warming Policy Foundation said: “We have long known that [Britain's] energy and climate policies were regressive and damaging to the poor.

“The Government's own data is now illustrating the facts, showing that those on the lowest incomes, who often have no alternative to electric heating, simply cannot afford to keep warm. That is deeply unjust, and the Government should take corrective steps immediately.”

The cost of implementing the climate-change agenda is being borne almost entirely by those who can least afford it: the poor.

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