

This paper is neither about the rights of religious people nor the rights of gay people.

The first question raised by this paper is, “What are the rights of secular government over religious doctrine?”

The second question is, “Do parents have the right to get what they pay for?”

The third question is, “How will this be applied in reality?”

1. Are there defensible legal grounds by which a secular government may decide who is and who is not a practising member of a religion? On what grounds does a secular government decide what does and does not undermine a religious ethos? On what grounds does a secular government decide what is and is not a sin, and what, therefore, should be preached? On what grounds does a secular government elevate the rights of a protected class over and above the rights and wishes of parents who have chosen a religious school for their children precisely because they desire that ethos which the government seeks to undermine? These proposals are not about the protection of dissident or non-practising members of a religion. These proposals are about giving the government the right to re-write the teachings of the religion.
2. Parents of students in religious schools are not paying for the mere insertion of some religious education classes into the curriculum. Parents pay their school fees in expectation of a religious *environment* for their children. The right of parents to receive what they have paid for is not addressed by this paper. As they pay for the services, they must have some legal claim upon the character of those services, surely?
3. By what rubric will claims against schools be assessed, and what are the anticipated penalties for infraction? Are there any limits to the demands that might be made in the interests of the protection of LGBTQ+ staff or students? For example:
  - a. A Baptist teacher in a Baptist school reads aloud a line of Sacred Scripture to which a student objects, claiming it has triggered her suicidal depression and instinct for self-harm. The student (or her lawyer) demands that the teacher state publicly that this line represents the thought of the writer at the time of writing, but is not a permanent truth. The teacher is unable to comply with this demand. Is he fired from the school, banned from teaching altogether, or imprisoned?
  - b. The teacher is fired, but the same student then claims to be triggered by the sight of the teacher’s wife, who works as a receptionist at the same school. The receptionist rarely, if ever, interacts with the student, but, as the student explains to the *Sydney Morning Herald*, “Looking at her face every morning just makes me feel so sick. It’s

like, just by sitting there, she's reminding me of his abuse and so she's doing his homophobia for him. I have the right to go to school without being reminded of him. Just because she's married to him, it's no excuse. He insulted my human dignity in public so her apology for his actions should be public too." Does the protection of the student's mental health extend this far? Must this receptionist publicly disavow her husband's beliefs at the risk of losing her job? If not, to which rubric must the unfortunate School Principal refer when advising the student of the limits to her rights over teachers?

- c. In the negative publicity that surrounds the case, the teacher is harassed in the street, suffering vandalism to his property and abuse on national and social media. He loses his teaching career, and empties his retirement fund in the legal battle which he also loses. He can no longer make the repayments on the mortgage and his home is repossessed. Does the government have a legal right to set any citizen on this trajectory by giving one protected class the right to demand, from a lower class, the public disavowal of an article of faith?
- d. A social media campaign demands that the teacher and the receptionist be denied entry to Coles and Woolworths, which are at the time advertising themselves as inclusive of all genders and all loves. The CEOs concede, stating that 'welcoming homophobia to our store is incompatible with the promotion of human rights.' The teacher appeals to the Human Rights Commission. He argues that his beliefs do not hurt anyone while he is buying a loaf of bread. His adversaries state that now he is *known* to be a homophobe, he *is* hurtful to those who recognise him. What is the result of his appeal? Has the original rule, which allegedly only applied to his work in a Baptist school, actually served as precedent for its wider application?
- e. Inspired by this success, the student establishes a 'Homophobia Register'. The intention is to question every teacher in the school – including those who have never expressed any beliefs around sexuality, and who do not teach religion – about their beliefs on this point. Teachers who articulate traditional Christian teaching to the student's face will then be labelled 'homophobic' and sued for mental health damage and violation of human rights. What is the position of teachers who have never otherwise raised this issue, but are asked a direct question on this point by a person who is known to be seeking cause to prosecute? Would the government support the student's action in this case?

- f. An LGBTQ+ student in a school that publicly offers parents a 'Catholic ethos' demands the right to give a speech to the school assembly during Pride Week. The parents of 200 devout Maronite students protest this possibility, and state that they pay their school fees in expectation of a Catholic environment for their children. Does the single student *legally* outrank the 400 parents and the 200 students? Does the school not have a legal and moral obligation to give the parents what they pay for?
- g. Having read about the previous case in the news, the school states that they must acquiesce to the student's demands for fear of legal action. The Maronite parents withdraw their children from the school. 200 students at \$20,000 per annum means an immediate loss of \$1,000,000 revenue, and up to \$4,000,000 by the end of the year. With a shortfall of four million dollars, the school is no longer able to offer the same resources to the remaining students, even though their parents are still paying the same fees. A number of casual teachers lose their jobs. Does the ethical obligation to the activist student cover *all* this? Does the protection of a student's mental health outrank *all* consequence? If not, where are the boundaries? By whom are they defined, and on what grounds?

What are the rights of secular government over religious doctrine? Do parents have the right to get what they pay for? How will this be applied in reality?