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I am very pleased to have the opportunity to make a submission to the Workplaces (Protection from Protestors) Amendment Bill 2021. I will note some general points before commenting on the specifics of the bill.

Although there is no way of accounting for events in this manner, it is ironic that the closing date for this submission process coincides with the violent and destructive far-right extremism that even now is having a singular impact on businesses in Victoria. I note the tendency for some commentators to refer to them as 'protestors', and contrast this with the way that peaceful forest defenders have been labelled, unfairly, in lutruwita/Tasmania.

Contextually, it is difficult to see how this proposed legislation can possibly have application against peaceful protestors with legitimate concerns, but appear to have zero application in the event that far-right extremists were to attempt to repeat their actions in lutruwita/Tasmania. Indeed, the framing of the legislation around peaceful protestors, instead of targeting far-right, anti-vaccination extremists speaks volumes about the intent behind this bill.

I would highlight that the peaceful protestors in lutruwita/Tasmania have not resorted to violence. Indeed, in one particular instance, the police (though not the government notably) were forced into an embarrassing climbdown for wrongly arresting a peaceful activist.

It is difficult to imagine a more dangerous risk to employees, than some of the risky situations that they are placed in, in the workplace. For example, forestry work is well known for the physical dangers it poses to workers. Yet somehow it is protestors who are vilified as being the risk.

This bill represents the worst excesses of belligerent and aggressive governance, coupled with the inappropriate and dangerous language so often used by ministers. When we consider the very real risks to human health from environmentally destructive actions like destroying native forests (which increase the risk of bushfires), we need to reconsider how we view violence in this setting. In that regard, many protestors should be commended on their restraint, seeking through peaceful means the justice that has been denied them by supposedly representative government.

This Bill merely serves to grow divisiveness in the lutruwita/Tasmania community, and increase the risk of violence not from peaceful protestors, but to be directed against them.

Clause 4

The clause attempts to alleviate the implication of the word "protestors", replacing it instead with the vague phrase "certain actions". It is clear from prior statements made by government ministers, and in the very attitude of government agencies, that "certain actions" means peaceful protests.

Given the way the bill is worded, it is unclear how it would be interpreted in the event of a peaceful protestor obstructing an unlawful activity (as has been the recent case with mining in the takayna

rainforest). This is particularly problematic when considered with a mixture of supposedly lawful activity.

Clause 6, Section 3

The Bill attempts to resolve issues arising from previous court decisions, by attempting to remove references to protestors. However, multiple media releases by the government about this Bill have used the word 'protest' or 'protestor'. It is a considerable effort at bureaucratic gaslighting to suggest that the Bill is directed at anyone other than protestors.

The Objects of the Bill are incredibly, and infuriately, vague. By trying to balance the 'right of persons to carry out business activities...' with the 'rights of persons to freedom of movement, assembly and lawful expression of opinion' generates an alarming ambiguity ripe for misinterpretation.

Protests are, by their very nature, designed to cause some limited and temporary disruption. They are a coveted mark of free speech, and democratic values. Protests arise for a number of reasons, usually from the perception of a particular group of people that they, their rights, or the interests of the country are being disenfranchised in some manner, and that furthermore they are unable to seek satisfaction in their representative government. Around the world, there have been many examples of such protests, which have garnered support, approval and encouragement from the state, and elected representatives.

The potency of peaceful protest is the power it contains to compel government to listen to a voice it might otherwise not hear. It is frankly ridiculous, and hypocritical, to encourage a principal of free speech in other nations, while rejecting the very premise in their own backyard.

I am also cautious about the way the Objects of the Bill may be misinterpreted places. For example, a protest moving through an urban business district, might be perceived by a business owner as prohibiting their right to undertake their business activity. How would they calculate this impact? What modelling would be used by the government to determine that a threshold had been met?

Clause 6, new sections 4 and 5

This Bill focuses on a narrow list of industries, but with a broad application. Noting the concern of the above paragraph, how exactly can *any* protest not have a considered impact on a retail industry. Just by protestors turning up, a business owner might feel that they have grounds to report the protest as a criminal act.

Furthermore, this broad range of application risks another dangerous situation, promoting individuals to use the legal process as a personalised, almost vigilante level, resource. Without clarity on the extent and impact of the protest (or certain action, or whatever term the government chooses to use), it becomes purely in the eye of the beholder to determine that their business activity has been affected.

Suppose police were called to a protest; how would they determine the impact on any retail business, or indeed agricultural, or mining? What independent assessment would be undertaken?

Why are some industries included but not others? Taking the example of the anti-vaccination protests, there have been clear impacts on health centres concerned for the safety of the staff resulting in closure. Or consider the impact of far-right protests; even if they codified their language, certain non-government agencies, like migrant services, might feel compelled to close. Yet, under this legislation, there would be no avenue for legal recourse. Far-right, anti-science protestors would

have free rein to intimidate the community, while peaceful protestors attempting to protest at least partially unlawful activity could be arrested.

Clause 6, new section 6

There is little to say about this except to note an old saying, "a guilty conscious will show". Highlighting the obvious that this Bill would not infringe on a constitutional freedom, suggests the opposite.

Clause 7

The punishment is excessive and contrary to lutruwita/Tasmania principles of law. Tasmanian law treats imprisonment as the sentence of last resort. However, it is clear from both Minister statements and the emphasis in this legislation, that the government views imprisonment as the only viable outcome.

It is also concerning that the punishments are excessive in comparison to other offences. For example, the punishment for this Bill exceeds that of contravening a PFVO (20 penalty units, term not exceeding 12 months). Even for a second offence of a PFVO breach the maximum punishment is imprisonment not exceeding 18 months. In what world is a peaceful protest anything akin to domestic violence?

Conclusion

This Bill represents the worst instincts of draconian government, over-reaching on ethical, moral and legal authority in order to deliberately target peaceful protest. It is the very worst imposition of an anti-rights agenda, making a mockery of the spirit of the law, and the protections of the constitution.

In the context of the type of protests we see today, the very real contradictions and hypocrisy of this Bill are laid bare. Never a good idea to begin with, the government's excessive grasp for authoritarian control is exposed.

Rights are protected by sincere implementation of law, regulating industry with a view to protecting public safety, and developing environmental protection with an eye to public health. will only serve to deteriorate the freedoms that the people of lutruwita/Tasmania have by right.

Yours sincerely,

Jack Davenport