



International Women's Day Brisbane Meanjin

Email [REDACTED]

Phone [REDACTED]

Contact: Anna McCormack

Convenor, IWD Committee Brisbane Meanjin.

Postal address: [REDACTED]

To: health@parliament.qld.gov.au

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This submission on the Qld Health Legislation Amendment Bill 2019, due by 12 noon 6 January 2000, has been prepared by the International Women's Day (IWD) Association, Brisbane Meanjin, for the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee.

1. Introduction

IWD Brisbane Meanjin is a left wing women's liberation organisation which organises events to defend women and girls' sex based human rights, in particular the annual IWD rally and march in Brisbane Meanjin.

The Bill appears to be largely uncontroversial and to make good sense eg strengthening the commitment to health equity for Aboriginal and Torres Strait Islander people and strengthening networked governance in Qld's public health system.

Part 5 Clause 28, however, establishes a controversial ideology, gender identity ideology, in law. It does this by linking gender identity ideology with a popular issue ie support for lesbian and gay rights. Generally, the community does not support conversion therapy because conversion therapy weaponises therapeutic practices against lesbians and gays to 'convert' them away from their sexual orientation. It is likely that most people in our community would oppose conversion therapy. Gender identity ideology however is a highly contentious ideology which does not enjoy community support. The two questions of lesbian and gay rights on the one hand and the imposition of gender identity ideology on the other, have nothing in common and to link them as an inseparable entity is misleading. It also hurts community support for lesbian and gay rights, which is strong. Lesbian and gay rights are about the legal and social acceptance of sexual orientation; gender identity has nothing to do with sexual

orientation. In fact, Clause 28, Chapter 5B, Sections 213E, 213F, 213G, 213H and 213I actually **establish and affirm** the principle of conversion therapy for those with gender dysphoria while outlawing it for lesbians and gays. Gender identity ideology **IS** conversion therapy for people with gender dysphoria.

Most community members do not even know what gender identity ideology is, let alone understand the extent of the negative impacts the ideology causes to the lives of women, girls and children generally. **Our association holds grave concerns for the impact on women, children, lesbians and gays if this Bill is passed in its current form.** At the least, the link between opposition to gay conversion therapy and support for gender identity ideology must be broken; the two matters need to be considered separately. The way the Bill is written it is impossible to support the measures regarding gay conversion therapy and, at the same time, oppose the Government's attempt to legislate for gender identity ideology. The Bill rolls into one, support for lesbian and gay rights to sexual orientation and support for gender identity ideology. This is a regressive and dangerous coupling.

The IWD Association wrote to all Qld State MPs on 12 December 2019 outlining our concerns with this Bill. Included in those concerns is the lack of robust community representation on the Minister's Roundtable of November 2018. We noted there was no consultation via Minister Miles' Roundtable with independent organisations representing the interests of children, nor with professional mental health organisations such as the National Association of Practising Psychiatrists (NAPP) or the Australian Association of Psychologists Incorporated (AAP), nor with detransitioners, 24. nor with groups representing women's sex based rights nor with groups representing the interests of people with intersex conditions despite the inclusion of the "I" in the "LGBTIQ" that this piece of legislation claims to serve, nor with specifically lesbian groups despite the inclusion of the "L" in the "LGBTIQ" that this piece of legislation claims to serve. Qld Health policy staff who gave evidence to the Public Hearing of the Parliamentary Committee on Monday 9 December referred to this fairly narrow roundtable as "a cross section of the community". This is patently untrue.

A second issue regarding the Minister's Roundtable is whether all members were informed of the inclusion of gender identity ideology under the Conversion Therapy provision. This is unclear. We would be interested to know whether the gender inclusions were made prior to or since November 2018. If it was the latter, the process is flawed.

We are concerned that the evidence purported to support the 'gender' provisions in the Bill is either non-existent, relies on circular argument, dismisses (by failing to acknowledge) concerns for the impacts on women and children or does not take community views into account. We are also concerned by the disproportionate influence of Rainbow Labor on this Bill, or that part of it which attempts to link sexual orientation with gender identity. Rainbow Labor is not known for supporting women's interests.

Our recommendations are clear:

1. Remove the linking of gender identity ideology with lesbian, gay and bisexual rights.
2. Remove the gender provisions in this Bill.
3. If the Minister wishes to legislate on gender identity, he needs to ensure robust community consultation is a feature of the process and he needs to ensure any Roundtable includes all parties with a valid interest in the matter (including women's organisations that defend

women's sex based rights, lesbians, organisations that promote children's interests and those with expertise in children's psychiatry).

2. Gender Identity Ideology

Gender identity ideology, sometimes called transgender ideology, is a reflection of individualism attempting to replace the concerns of the collective. Individuals' subjective, and supposedly innate, feelings about their gender, and depending on which theorist you read there may be scores of genders, rely on replacing material reality in theory, analysis, political goals. The subjective experience of individual gender replaces the collective identity of biological sex. The language of material reality understands the binary nature of biological sex amongst humans ie humans are either female or male and this is immutable. The exception (which proves the rule) is the condition of intersex which a small number of humans have where sex may be unclear and is often assigned at birth as a consequence. Gender identity ideology conflates gender and sex – the discussion often begins by recognising the differences but then conflating the two.

The rapid rise of transgender ideology has been due to a number of factors including its enthusiastic embracing by the middle class left especially students and academics at universities, Big Pharma and the Medical Industry and neoliberal policy bodies.

Transgender activism presents the privileged with an opportunity to ignore questions of class, sex and race inequality. "As a result we have recently witnessed the spectacle of working class women in prison being assaulted by a person with a penis (ie a man) being ignored and, in some cases, his behavior excused so that the man's status as a trans woman can be defended. In the process there has been a normalizing of the unequal treatment of working class women and an entrenchment of their marginalisation. There is no starker example of the absolute disdain in which middle class social justice warriors hold the working class." 1.

The transgender movement pushing for gender identity ideology and sex self identification, for which this Bill is the precursor, is based on a rejection of biological reality and a denial therefore that women experience discrimination and oppression in a world run by, and in the interests of, men. If you deny the biological reality of sex then you deny there is such a thing as sexism or discrimination on the ground of sex. Attempts by women to discuss the mantra 'trans women are women' are met with social media bullying, attempts to prevent women meeting to discuss the issue and threats of violence both from those men who demand to be accepted as literal women and the people who support them in this demand. 19 and 21.

This is the ideology the Health Legislation Amendment Bill establishes in Qld.

3. Redefining Language

The Bill re-defines a number of dictionary and commonly understood definitions of terms it uses. No explanation is given for why terminology has been re-defined, instead new meanings of terms are just slipped in. This is a dangerous practice, inconsistent with the workings of democratic society.

The meaning of **Sexual Orientation** in this bill:

“sexual orientation, of a person, means the person’s capacity for emotional, affectional and sexual attraction to, and intimate and sexual relations with, persons of a different gender, the same gender or more than 1 gender.”

This is incorrect.

Sexual Orientation is a specific concept referring to whether people are same sex attracted or bisexual. Gender identity ideology denies there is such a thing as same sex attraction – social media sites are full of accusations of “transphobia” and “terf” (trans exclusionary radical feminist) against lesbians who do not wish to consider having sex with transwomen ie trans identified males. Lesbians are accused of being bigots.

The meaning of **Gender Identity** in this Bill

“is a person’s internal and individual experience of gender”. Apart from the fact that this definition is circular, it is likely that most people don’t even have a ‘gender identity’. We know our biological sex, which is determined at conception and observed at birth or earlier via scan technology. But ‘gender identity’?

Gender identity ideology conflates ‘gender’ which is a social construct, and ‘sex’ which is biology. Gender Identity is the way a person chooses to perform the opposite gender role. A man may perform femininity, or a woman may perform being masculine. This has nothing to do with a person’s sex, or sexual orientation. Gender is simply the hierarchical and socially constructed performance of masculine or feminine.

The meaning of “**assigned at birth**” in this Bill:

The Bill refers to sex as something that is “assigned at birth” as if this is a commonly used understanding of how biology is named. It is not. Sex is not ‘assigned at birth’ for anyone apart from the tiny minority of people who are born intersex. For everyone else, sex is not ‘assigned’, it is observed at birth or earlier via scan technology. Rather than being ‘assigned’, sex is **determined** and not at birth, sex is determined at conception.

The Bill introduces an incorrect understanding of the term ‘**conversion therapy**’ by calling it “a treatment or other practice that attempts to change or suppress a person’s sexual orientation or gender identity”.

This definition is incorrect. Tacking on “or gender identity” to the dictionary and commonly understood definition of conversion therapy, especially without community consultation, is unacceptable.

4. Restrictive and Regressive Gender Roles Prescribed by Gender Identity Ideology

One of the intended, and actual, results of gender identity ideology is to reduce the political representation of women in parties, policy committees, government and other public bodies. Previous generations of women have fought hard within political parties to increase female representation at all levels. Gender identity ideology denies biological reality and establishes the conditions, and policies, to replace female-only positions with men. For example the New York Democrats recently replaced the ‘one female one male’ rule to open up even more positions to men. 2. There are also instances of at

least one Australian political party standing trans identified men as candidates and counting this towards their number of female candidates.

At the same time, gender identity ideology reinforces the gender binary of characteristics and stereotypes associated with being female and being male. Hence the huge amount of evidence of people who have surgically transitioned, or not surgically transitioned but swapped sex identity anyhow, and explained their move with claims like 'I always wanted to perform in dance costumes and loved girly things' (from transwomen) or 'I was never like other girls, I loved playing with the boys' (from transmen). This reinforces a gendered system that is unfair to both women and men, girls and boys. It denies both sexes opportunities to develop as full humans. It is particularly unfair to women and girls because it maintains and strengthens the gender hierarchy which places girls and women at the bottom and boys and men at the top. The hierarchy has previously been recognised by government and community initiatives to defend and extend female sex based rights; gender identity ideology overturns those initiatives and affirms the sex hierarchy. The losers are girls and women.

This legislation enshrines in health policy the notion that restrictive, discriminatory and coercive gender roles are innate. Again, the main losers are girls and women.

The Bill also supports the regressive notion that stereotypical gender roles are part of an official diagnosis for gender dysphoria. This is extremely harmful to women and men, girls and boys.

5. Conversion Therapy and Homophobia

The legislation proposed in regards to "conversion therapy" fails to recognise that "gender conversion" **IS** in fact the major form of lesbian and gay "conversion therapy" in practice today. The naming of anything other than the so-called 'affirmative' model of gender transitioning as "gender conversion therapy" is misleading. The criminalisation and punishment of health professionals, and in particular psychologists, paediatricians and endocrinologists, is a travesty in light of the responsibilities of these professionals in enabling them to fulfil their professional obligations and protect children. The 'affirmative' model is anything but affirming of confused and struggling children, young people and adults who are told they were 'born in the wrong body.'

There are major issues with the legislation as it refers to gender identity, and the unintended consequences such legislation would have for gay and lesbian youth in particular.

It is therefore useful to see how the "gender identity" construct is used against gays and lesbians in other countries. The 'affirmative model' of gender identity proposed in the Health Legislation Amendment Bill 2019 is a threat to the basic human rights of lesbian, gay and bisexual people.

The main country that sees gays and lesbians undergoing "gender conversion" in this way is Iran, where 'gender conversion', more accurately termed 'sex change' is acceptable to religious authorities, whereas homosexuality is punished with lashing and the death penalty. Iran is second only after Thailand in 'gender reassignment' surgery. Motivational factors are anti homosexual prejudice in families, communities, and the death penalty that is in place for homosexuals as well as other homophobic legislation. Transactivists such as Maryam Khatoonpour Molkar were instrumental in Iran enshrining in law the right to 'gender reassignment' practices.

Lesbians and gays from Iran report feeling socially and religiously coerced to undertake 'gender reassignment' transition. Iranian lesbian and gay refugees report that Iranian health professionals strongly recommend 'gender conversion' to homosexuals. 3. Acceptance of one's homosexuality either privately or publicly is against the legal, religious and healthcare policies of Iran. 'Trans the gay away' is the term used by many progressive people to describe Iran's policy.

Religious opposition to homosexuality is relevant to the phenomenon of gender transition. This is of particular concern in light of the fact that according to the Australian Bureau of Statistics 69.9 per cent of Australians claimed membership of various religious groups, including a substantial proportion that traditionally have negative views about homosexuality.

In Australia, literally the only documented examples of conversion therapy have been conducted in a religious context, and they are so rare that there is no evidence available of current practices. This is actually acknowledged in the Human Rights Law Centre/LaTrobe University Report used by the Health Department to justify the sections in this Bill which establish gender identity ideology in law. The outlaw provisions are not even directed at religious personnel, they target health professionals. Health professionals who try to practice conversion therapy are in violation of the ethics codes of their professions, such behaviour by health professionals is clandestine, fortunately rare, and should be outlawed. It seems apparent that the banning of gay conversion therapy is a part of this Bill only to slip in the contentious sections on gender and the Bill's support for gender conversion therapy.

No studies have been done into the role of homophobic views and child rearing practices of people with parental responsibility presenting children whom they have parental responsibility towards to health professionals for gender transition. The anecdotal evidence from Iran, however, is compelling.

6. Stonewall

In the UK organisations such as Stonewall have lobbied for changes to health legislation to favour transgender demands whilst ignoring the views of many lesbians and gays where lesbian and gay rights and the rights of women are negatively impacted.

This has led to a split with one of the founders of Stonewall, Simon Fanshawe OBE signing a letter condemning the demonisation of lesbians, gays and women in general, by Stonewall. Stonewall's practice is to label as "transphobic" any questioning or criticism of policies that adversely affect lesbians and gays, or women in general.

In response, the LGB Alliance UK was founded in order to defend and protect the rights of lesbian, gay and bisexual people from incursion by gender identity ideology which is often homophobic in intent and outcome. The Alliance is regarded by feminists as a progressive alternative to Stonewall because the Alliance is unequivocal in its defence of lesbian and gay rights and women's rights. It openly states: "Homosexuality is same-sex attraction. Biological sex is real. Sex is binary, not a spectrum" and has therefore been condemned itself by trans rights activists as "transphobic". 4.

In the UK The Gender Identity Development Service (GIDS) at the Tavistock and Portman NHS foundation Trust has had multiple resignations since 2016. One of the governors, a psychoanalyst named Marcus Evans, resigned stating "I do not believe we understand what is going on in this complex area and the need to adopt an attitude which examines things from different points of view is essential.

This is difficult in the current environment as the debate and discussion required is continually being closed down or effectively described as ‘transphobic’ or in some way prejudicial.”

The staff governor issued a report on the practices warning “the GIDS service as it now functions [is] not fit for purpose and children’s ends are being met in a woeful, inadequate manner and some will live on with the damaging consequences”. 5.

In addition Dr Kirsty Entwistle wrote an open letter describing the atmosphere of fear and bullying that thrives in an ‘affirmative model’ environment where clinicians with significant fears for a child’s safety are accused of being “transphobic” for having legitimate concerns about the safety and well being of children to whom they owe a duty of care. 6.

Gay and lesbian children and teens are recognised as suffering higher rates of mental health issues, have a higher likelihood of being victims of familial and extra familial abuse and are in greater need of the advocacy of clinicians whose professional judgement may result in a treatment plan that may be in opposition to the ‘affirmative’ care model. 11, 12, 13. Criminalisation of these clinicians for using their clinical judgement and centring their patients’ needs will lead to poor outcomes for their patients and attrition of such clinicians from the health system in Queensland.

It is well known that a significant proportion of non gender conforming children if left alone will become gay and lesbian adults.

Therefore the enforcement of an ‘affirmative’ ‘gender model will mean that gender non conforming children having difficulties due to mental health concerns, autism or suffering abuse who come into contact with health care service providers will be directed to ‘gender affirmation’ as the opposite sex. **This** is conversion therapy, the very therapy the Bill claims to outlaw.

This despite the fact that children do not have the ability to give informed consent and are by definition vulnerable minors. A gender ‘affirmative’ model will be a grave violation of gender non conforming children’s human rights, and will disproportionately affect gay and lesbian youth. 7 and 8.

These violations may take the form of genital mutilation and the use of cross sex hormonal interventions. In particular the affects of the use of cross sex hormones in this manner has not been adequately studied though emerging recent studies such as “Occupancy of Acute Cardiovascular Events in Transgender Individuals Receiving Hormone Therapy, Results from a Large Cohort Study” by Nota NM, et al. suggest significant iatrogenic harm.

It is doubtful that such legislation would be in compliance with Section 17 (c) of Queensland’s Human Rights Act 2019 ‘*Protection from torture and cruel, inhuman or degrading treatment*’ which states

“A person must not be—

(c) subjected to medical or scientific experimentation or treatment without the person’s full, free and informed consent.”

This is particularly important in view of the fact that children and to an extent some vulnerable adults are incapable of informed consent in general. Additionally, they are incapable of informed consent in the absence or scarcity of relevant studies and data regarding the health effects of an ‘affirmative

model' which uses interventions for which long term effects are either not known or are only just emerging.

It has already been noted that detransitioners including gay and lesbian detransitioners, were not consulted on this legislation despite having a significant interest in gender transitioning practices.

In light of the need for further study and consideration of multiple areas of harm to lesbians and gays, and particularly children who may grow to be lesbians and gays, we have recommended that the 'affirmative' model of gender transition under the incorrect guise of "banning conversion therapy" be removed as it relates to gender.

7. Australian Federal Government Inquiry

The Queensland Bill is being proposed at a time when a major aspect of it, ie the transing of children, is under consideration by the Federal Health Minister.

Federal Health Minister Greg Hunt initially called on the Royal Australian College of Physicians (RACP) to "urgently consider and advise on the clinical best practice for the treatment of gender dysphoria in children and adolescents".

"It is important that we have a nationally consistent standard of care that is evidence based and with appropriate safeguards to protect the interests of the patient. I look forward to receiving your advice in the coming months," (Minister Hunt, 21 August 2019). The RACP has agreed to consult experts and committees.

Additionally, a broader national review has been requested of Minister Hunt by over 200 doctors and psychiatrists. 23. That submission to the Federal Minister raises serious issues about the lack of scientific evidence for the efficacy of the treatment model to assist children and adolescents with gender dysphoria. It is concerning that the Qld Government is waiting for neither the RACP review nor the broader review recommended by doctors and psychiatrists.

When asked by an MP from the Parliamentary Committee at the Public Hearing on Monday 9 December, why the consultation for this Bill has such a short timeframe, the Director-General Q Health referred to Qld's desire to be the first State in the Commonwealth to introduce this legislation. Poor reasoning.

Far too much is at stake for the health and well- being of increasing numbers of children and their families, for the Qld Government to seek to rush through a Bill that will impact many people. Decisions by and for children will have profound effects on them for the rest of their lives , as well as on the resources of government to provide appropriate lifelong medical services for children who transition.

8. The Transing of Children

See also section under **Stonewall**

The Bill's Explanatory Notes insistently state the Bill outlaws "conversion therapy". This is misleading. While the Bill does outlaw conversion therapy ie the 'conversion' of lesbians and gays away from their sexual orientation, it also **obliges** conversion therapy as the only option to be supported by health professionals for patients with gender dysphoria. Any health professional who supports sufferers of gender dysphoria to work through the issues instead of immediately agreeing to conversion therapy,

risks criminalisation under this Bill. This is an extraordinary move, unsupported by data and evidence but supported strongly by a regressive ideology.

The orthodoxy in today's environment where the mantra of 'Transwomen are Women' is hard to challenge because of social ostracism, bullying, threats of rape, burnings and death, threats against one's job, deplatforming etc pressures health professionals, and others, to immediately 'affirm' both adults and children who believe they are the opposite sex. 9. Nevertheless some professionals are beginning to challenge the orthodoxy and speak up.

"A recent response published in The BMJ, titled Safeguarding adolescents from premature, permanent medicalisation, argues that when treating cases of gender dysphoria, "it remains legitimate to listen, assess, explore, wait, watch development, offer skilled support, deal with co-morbidities and prior traumas, and consider use of a variety of models of care. While respecting individuals' right to a different viewpoint, it is neither mandatory to affirm their beliefs nor automatic that transition is the goal, particularly when dealing with children, adolescents and young adults...With 85% desistance amongst referred transgender children and increasing awareness of detransitioning, unquestioning 'affirmation' as a pathway that leads gender dysphoric patients to irreversible interventions cannot be considered sole or best practice." 10. This is from a piece written by a trans identified man, Todd Whitworth. It contains sensible advice that governments need to heed if they are to accept their responsibility to protect children and assist the most vulnerable in our society.

Rapid onset gender dysphoria (ROGD), especially among teenage girls, and in particular among girls with backgrounds including autism, mental health issues and child sexual abuse, has been identified by some courageous professionals recently as a phenomenon requiring attention. 5, 6, 7, 8. We say 'courageous' because any attempt at critique, discussion, debate is met with attempts to silence by proponents of gender identity ideology.

In the UK there has been a surge in children who believe they are transgender (a 3,200% rise over the last ten years, 75% of whom are girls). For the first time, the majority of patients referred to the UK Tavistock clinic (54%) are aged 14 or under. Most are girls. 13. And yet efforts to question why there is currently such a developing discomfort with and hatred of their female bodies by teenage girls are closed down.

9. Tactic of linking a popular progressive issue (lesbian and gay rights) with a regressive and little known or understood area (gender identity ideology)

We have referred in our Introduction to this strategy. Self-described biggest law firm in the world, Dentons, recently provided advice to organisations wishing to establish gender identity ideology by law and this has been used as a template in a number of jurisdictions globally. 18. The Queensland Bill is an example of the template in action. James Kirkup has written succinctly of the template. 20. The Dentons' template includes: linking the gender identity ideological push to a more popular issue, minimising media coverage, minimising public scrutiny and minimising community consultation.

This may produce outcomes desired by the trans lobby in some jurisdictions, it is not an example of the core values of democratic society which include, among other things, valuing community participation, public scrutiny and transparent decision making.

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