

Legal Affairs and Community Safety Committee
lacsc@parliament.qld.gov.au

Friday 22 July 2016

To the Committee

Submission re the Health and Other Legislation Amendment Bill 2016

Thank you for the opportunity to provide a submission about the Health and Other Legislation Amendment Bill 2016 ('the Bill').

In this submission, I will focus on Part 2 of the Bill, namely those provisions seeking to amend the Queensland Criminal Code.

Specifically, I write to support the long overdue equalisation of the age of consent for anal intercourse in Queensland.

I do so as a gay man who was born in Queensland in 1978, and who lived there until 1996, although now lives in Sydney.

The above dates mean that, for the first 12 years of my life, homosexual acts were criminalised – and I recall being vaguely aware of this fact, that 'gay = criminal', as I grew up in Central Queensland.

I am also old enough to remember, in slightly more detail, the historic passage of legislation in 1990 that decriminalised sex between men in my 'home' state.

Indeed, it was only a couple of months later, when I first arrived at the religious boarding school in Brisbane that would be my home for the following five years, that I first started to realise that I was gay myself.

What I didn't fully comprehend for another couple of years – but had certainly figured out by the time I turned 16 – was that the Goss Labor Government, and Queensland Parliament more generally, had left the important job of decriminalisation only half-done.

While they decriminalised sex between adult gay and bisexual men, they had also introduced a new form of discrimination – with the age of consent set at 18 for anal intercourse (which they referred to as 'sodomy'), and 16 for everything else.

Admittedly, this new law technically applied to anal intercourse between anyone – meaning that 16 or 17 year old cisgender heterosexual people engaging in this form of sex were also criminalised – but it is clear they were not the real 'targets'.

The Parliament knew it. The media knew it. The LGBTI community knew it. And this (then) teenage gay boy, even though he was still deeply entrenched in the

closet, knew it too. This law was primarily concerned with prohibiting same-sex activity among teenage males.

For the years 1994 to 1996, while I was aged 16 and 17 and still living in Queensland, I was fully aware that the law treated me differently simply because of my sexual orientation.

For whatever reason – whether it was blatant homophobia, personal distaste or ‘squeamishness’ about anal intercourse, misguided beliefs about health risks or malicious stereotypes about homosexual ‘recruitment’ – my state’s lawmakers had decided to single me, and people like me, out as being lesser than our peers.

It was just one more reminder of the societal homophobia surrounding me, everywhere I looked, and one more factor that made it extremely difficult to come out to my family and friends.

I also believe it contributed to the lack of *any* LGBTI sexual health education during my time at high school (although obviously the religious nature of the school played a part too), something that was *actually* a health risk (especially given these were the peak years of deaths from AIDS-related illness in Australia, before the advent of life-saving treatments).

Of course, my story is by no means unique – there have literally been tens of thousands of young gay and bisexual men who have grown up in Queensland since the passage of the unequal age of consent in 1990. And, just like me, many of them have experienced adverse consequences due to these discriminatory laws.

Indeed, the explanatory memorandum of the Bill notes that “[s]ome in the community have identified the inconsistent age of consent for anal sex in the Criminal Code as a barrier to young people accessing safe sex education regarding anal intercourse, with gay and bisexual youth being denied peer acceptance and community support.”

It further observes that “[t]he panel [convened to consider this issue] noted that young people in same sex relationships may feel compelled to withhold information about their sexual history from their health practitioner for fear of the possible legal consequences, whether for themselves or their partner. This may have implications in terms of the young person’s access to appropriate medical treatment and also has the impact of stigmatising their relationship.”

Finally, “[t]he expert panel considered that using the term sodomy may stigmatise this form of intercourse, and homosexual relationships in particular.”

In my view, these are all compelling reasons to equalise the age of consent between anal intercourse and other forms of intercourse, and to update the language that is used in the Criminal Code to be more accurate and inclusive.

What is disappointing, even distressing, is that it has taken successive Queensland Governments more than 25 years to agree with this position and to finally take steps to remedy this injustice.

That's a quarter of a century of prejudiced provisions, in the state's criminal law, applying to young gay and bisexual men.

A quarter of a century sending a message to people that they are not equal simply because of who they are.

A quarter of a century limiting the sexual health education provided to young gay and bisexual men.

A quarter of a century undermining the ability of tens of thousands of people, just like me, from accessing health services without fear of discriminatory treatment.

A quarter of a century of the Queensland Government and Parliament telling the LGBTI community, in yet another way, that it was not worthy of their respect.

And so, while I congratulate the decision by the Palaszczuk Labor Government to introduce this Bill to belatedly equalise the age of consent, and look forward to it being implemented later this year, I cannot help but take this moment to also reflect on, and condemn, the failure of previous Governments – from the Goss Labor Government, to the Borbidge Coalition, Beattie and Bligh Labor and Newman Liberal-National Governments – to remove these abhorrent provisions from the Queensland Criminal Code.

Their inaction on this issue has undeniably been to the detriment of generations of young gay and bisexual men, and it should not be forgotten.

Sincerely

Alastair Lawrie

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