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Committee Secretary

Legal Affairs and Safety Committee

Parliament House

George Street

Brisbane QLD 4000

Submission in relation to:

The Births, Deaths and Marriages Registration Bill 2022

Introduction and stance in relation to trans and gender diverse people

As a social worker (now retired) and a supporter of human rights for all people, I make this submission to express my strong concerns about this Bill and hence, my opposition to it.

I wish to make clear at the outset that I am not opposed to anyone who identifies as trans or gender diverse. While I do not believe that biological sex can be altered, and I am rationally unable to support the concept and theory of “gender identity” espoused by some academics and activists, I have respect and compassion for people who experience gender dysphoria, who seek relief from distress, negative social and emotional experiences and want legal recognition.

Over the last few years, I have become aware of their concerns as well as the concerns of those people who have publicly shared their stories of distress and regret after transitioning through medical interventions such as puberty blockers, hormone treatment and/or ‘top’ or ‘bottom’ surgery. As the Attorney General stated in her speech to Parliament when

introducing the Bill on 2/12/2022, and as the explanatory notes to the Bill state, such procedures can be onerous, invasive, painful and can result in serious consequences such as infertility and other negative effects on health and wellbeing. Unfortunately, people who have shared these stories have also received hurtful and abusive responses from extreme trans activists and some who are professionally involved in affirming such decisions, often made before a young person has been able to consent in a genuinely informed way. Many have expressed, for instance, that they were unaware they might never experience orgasm, may become sterile, and that it is not possible to actually change biological sex. Very sympathetic accounts can be found in the book *Irreversible damage* (Shrier, 2020).

Unfortunately, in some places it remains the case that therapists are legally bound to affirm a person's stated identity and not to explore mental health or other factors contributing to their suffering, regardless of their age. They may only guide them towards the stages of transitioning. To therapeutically explore the whole life context of a person has been inaccurately labelled "conversion therapy" and this has resulted in many people not receiving care and ethical support. Legal action by patients against providers of the affirmative approach and inquiries into impacts of this have led Sweden, Finland, the UK and other countries to change such laws in view of the harms caused. Reviews are underway in other places. A well-known development, for example, has been the closure of the Tavistock Clinic in England.

I therefore wish to make clear that, in opposing this Bill, I do not support any alternative which would require someone to undergo medical interventions or surgical procedures, because of the reasons outlined above. On this issue, I agree with Minister Fentiman that such interventions should never be a requirement for a person to live without prejudice when their gender presentation differs from their biological sex.

Type of Self-ID legislation in the Bill and alternatives

I refer to another submission to this inquiry provided by Professor Patrick Parkinson, AM, Professor of Law, University of Queensland, submitted on 22/12/2022. I accessed this via a link on Women's Forum Australia website. This provides considerable detail in relation to

the Bill's implications and a range of concerns about unintended consequences and potential legal confusion. It also comes at a time, when as I mentioned above and Professor Parkinson states, many of the ideas upon which such legislation is based are now "being rejected by many European nations and some of the activists themselves".

Professor Parkinson states that this Bill takes the form of a very radical expression of Self-ID legislation. Rather than offering an alternative which recognises stated gender identity, (the issue claiming recognition), the Bill allows the record of sex at birth to be changed. This confusion of sex and gender is complicated by the fact that the Bill allows for the newly recorded sex to apply for all purposes in Queensland law. As the explanatory notes state:

"From a general standpoint, in most instances, where other legislation refers to 'sex', a trans or gender diverse person is to be treated for the purposes of that law in accordance with the sex as altered with the registrar".

Professor Parkinson outlines a number of safety and fairness implications of this in relation to women's spaces and contact sports and some difficulties applying the legislation in relation to anti-discrimination law changes.

Professor Parkinson suggested an alternative approach which would allow for registration of a gender identity not congruent with their natal sex. He states that there are reforms that could be enacted which "do not cause nearly as many conceptual and practical difficulties" as this Bill does. I believe such alternatives reforms should be considered seriously to meet documentation needs of trans and gender diverse people without confusing the concepts of biological sex and gender identity.

Importance of sex as a meaningful category and risks if not retained

It is important that the category of biological sex to continue to be a meaningful one in terms of biological reality being reflected in Census and other statistical data which depends on sex as a category (for example, medical and health research where significant differences between male and female symptomology and treatments for the same condition require

sex-based data; male and female anatomical and developmental differences require sex recording; crime statistics where research evidence shows significant differences in male and female patterns of offending, such as sexual assault, but which are completely erased if only gender identity is recorded rather than sex in police systems and prisons such as in Ireland, Scotland and parts of the USA and Canada.)

It is reported that in Ireland, until 2019 no female had ever been imprisoned for a sex crime against an adult. Since then, Irish prisons have had a sudden influx of “female” sex offenders. Under Self-ID laws natal males identifying as transwomen can enter women’s prisons and are recorded as female. The distortion of statistics

make it appear as though rape is a crime committed by men and women. This muddles our understanding of this offence and makes it more difficult to discuss why rape is carried out and what can be done to prevent it (Williams, 2022, p.115).

As Helen Joyce explains, Swedish research into long term outcomes for post operative transsexuals concluded that transwomen “retained a male pattern regarding criminality” (Joyce, 2022, p. 162). Hence, male violence is hidden in the female data when gender identity replaces sex as a statistical category.

Sex, then, remains a biological and explanatory reality which should not be eclipsed by notions of gender identity. “Sex and gender -identity should not be placed in competition.” We should also recognise, record, track and legally protect sex. (Stock, 2020, p. 108).

Consequences of limited consultation in drafting the Bill

I understand that consultation was held largely (or perhaps exclusively?) with “trans and gender diverse people and their allies” as Minister Fentiman expressed when she thanked them for their advocacy and contribution in her speech on 2/12/22. This apparently limited range of consultation has reportedly occurred in other places where similar gender self-ID laws have been enacted with adverse consequences from which we can learn, and which should assist in avoiding their reproduction here.

A more diverse and inclusive consultation process might have included representatives of women's organisations and groups who have been offering evidence from Australian and international experience so that alternatives can be explored. It is reported by Women's Forum Australia that Minister Fentiman rejected their requests to be included in consultations and advised that there is no evidence domestically or internationally to support their concerns about the consequences of this form of Self-ID legislation for the safety and privacy of women and girls in female only spaces.

Compromising the safety of women and girls in women only spaces – evidence from the experience of Self-ID legislation

It is difficult to raise concerns about laws allowing males who self-identify as women to be considered female for “all purposes” (such as entry to women’s prisons, domestic violence shelters, rape crisis centres, women’s legal services, female changing rooms, and other places where women need privacy and protection, because of their vulnerability to abuse, harassment, sexual assault, voyeurism and exhibitionism by males). One reason for this difficulty is that the expression of such concerns tends to invoke an immediate backlash, assuming that any such concern – however, genuinely held, and regardless of presented evidence – renders the concerned person “anti-trans” and other derogatory labels. The concern is dismissed as a fabrication or cover for “transphobia”.

Unfortunately, Minister Fentiman, in her speech to parliament, engaged in such a pre-emptive denigration, denouncing anyone who raises concerns about natal males being able to enter women’s spaces as ‘transphobic’ and their claims “outrageous” and “ludicrous”. She insisted that “no-one who engages in this process will do so lightly. It is a deeply personal process and decision which must be respected.” She stated that there is “no evidence domestically or internationally to support such outrageous claims”.

It is troubling that the Minister for Women and for the Prevention of Domestic and Family Violence trivialised and dismissed these sincerely held concerns, the evidence for which has been widely documented. Indeed, it is not transphobic to point out that, where these laws have been enacted for all purposes, they have provided sexual predators with a loophole,

allowing them to self-identify as female to enter women's spaces where women have become less safe (Joyce, 2022, p.157).

Examples proliferate of the assault, rape, and harassment of women in prisons to which males who identify as women have been transferred. Recorded as transgender women, able to share rooms, showers and prison spaces with females – many of whom have experienced rape, sexual and other abuse at the hands of men – several of these male-bodied prisoners, classified as female, have committed sex-related crimes against women, girls or both before declaring themselves transwomen for admission to women's prisons. The sexual assault and harassment of women in women's prisons and in women's shelters by males identifying themselves as women have been recorded in prisons in the UK, the USA and Canada (see for example Gluck, 25.4.2022, Sieland, 18.10.2022, Stock, 2020, chap. 3, Williams, 2022, chap. 6).

As Stock (2020, p. 104) notes, in the UK "most of the providers of rape crisis centres and domestic violence shelters make no distinction between trans women and women, either as clients or employees ... It is made easy for badly-intentioned males to take advantage and so expose females to risk".

Minister Fentiman has called it transphobic to raise these instances of concern for women's safety in women's only spaces. Yet she also stated that "the application process will be supported by robust safeguards which will ensure that alterations [to birth certificates] are only made when they are genuine and in good faith". The fact that "robust safeguards" are included in the Bill suggests that it is not unreasonable to expect some applications which are not genuine or made in good faith. Recognising this reality - the very evidence these concerns are based on - does not require an assumption that all applicants have bad intentions, but that there is potential for some to seek to exploit this legislation. Women are aware that in similar legislation, safeguards have not been robust enough and that discretion allowed at various points in the process has resulted in the re-traumatising of vulnerable women, their harassment and their rape.

A male-bodied CEO of a rape crisis centre in Edinburgh is recorded as responding to women who do not want to be counselled by a male about their rape, that they should “reframe their trauma”. (Bindel, 2022). This is the reality experienced by many women and girls around the world where gender – or sex – Self-ID “for all purposes” has become law.

The Minister may consider these claims outrageous or ludicrous, but they represent another layer of real abuse for women and girls. I cannot support such legislation. There are alternatives to seriously consider and many others to consult. In good faith.

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