



Association For Reformed Political Action (ARPA)

The Acting Director, Tasmanian Law Reform Institute, Faculty of Law,
University of Tasmania
Private Bag 89 HOBART TASMANIA 7001
by email: Law.Reform@utas.edu.au

Dear Acting Director,

Re: Submission for the community consultation,

Conversion Practices : Law Reform Options for Tasmania

Sexual Orientation and Gender Identity Conversion Practices Issues Paper No 31 November 2020

Who we are

The Association for Reformed Political Action (hereafter ARPA) thanks you for the opportunity to submit to your community consultation, 'Conversion Practices : Law Reform Options for Tasmania,' covering the possible reforms to Tasmanian law to respond to sexual orientation and gender identity (SOGI) conversion practices.

ARPA is a non-partisan Christian organisation affiliated with the Free Reformed Churches of Australia, a denomination with over 4,000 members in congregations across Australia, including Tasmania.

ARPA is observing a global trend where community differences over matters about sexual morality and sexual identity cannot be debated as freely and as openly as other issues. For example, while competing and sometimes mutually exclusive ideas about matters such as the existence of deities, observance of holy days, permissibility of certain foods or even the creation of the universe can peacefully coexist, there is increasing hostility towards those who wish to believe and teach that sexual relationships are only appropriate within a marriage bond between one man and one woman, and that there are only two sexes.

Background

We believe that the starting point on the topic of identity and sexuality is God's creation of humankind, as recounted in Genesis 1:27: "So God created man (i.e. humankind) in His own image; in the image of God He created him; male and female he created them." We believe this passage teaches two things:

1. Firstly, people's identity is not found primarily in their sexuality but in their creation in the image of God. The fact that one's ultimate sense of identity and worth is found in being made in God's image, and not in one's sex, is further evident from New Testament passages such as Galatians 3:28. In the context of a Roman society which was highly divided because of slavery, racial

segregation and sexual segregation, the Apostle Paul wrote: “There is neither Jew nor Greek, neither slave nor free, there is neither male nor female, for you are all one in Christ Jesus.” Rather than emphasising identity-based on difference, this passage emphasises identity-based on commonality: one Saviour, Jesus Christ.

2. Secondly, this passage teaches that humankind from the beginning was created as either of two sexual groups: male or female. This is known as sexual dimorphism, and this reality is not changed by the fact that a small percentage of individuals may be born with intersex differences.

The theory that gender is a social construct which can be separated from biological sex has only gained popularity in the last four decades. The notion that gender, because it is independent of sex, can be fluid or changed, even multiple times, is not universally or scientifically accepted. We find it unfortunate that your Issues Paper does not rigorously examine these theories, but accepts them as fact.

In our view, attempts to obliterate, disguise or live at odds with one’s God-given gender are contrary to God’s will and against human good. Consequently, any attempt to do so, no matter how well-intentioned, is unlikely to bring the lasting relief that sufferers are seeking, and may bring them even greater suffering.

The TLRI would do well to consider the Sexuality and Gender report¹ published in the *New Atlantis* in 2016, by Dr. Lawrence S. Mayer, an epidemiologist trained in psychiatry, and Dr. Paul R. McHugh, arguably the most important American psychiatrist of the last half-century. In their executive summary, they note the following,

- “The understanding of sexual orientation as an innate, biologically fixed property of human beings; the idea that people are “born that way;” is not supported by scientific evidence.”
- “The hypothesis that gender identity is an innate, fixed property of human beings that is independent of biological sex, that a person might be “a man trapped in a woman’s body” or “a woman trapped in a man’s body,” is not supported by scientific evidence.”
- “Compared to the general population, adults who have undergone sex-reassignment surgery continue to have a higher risk of experiencing poor mental health outcomes. One study found that, compared to controls, sex-reassigned individuals were about five times more likely to attempt suicide and about 19 times more likely to die by suicide.”

The community consultation

Sadly, it is clear that this consultation is not independent. Firstly, it was generated by some minority activist groups, being “initiated by a community reference from peak Tasmanian Lesbian, Gay, Bisexual, Transgender, Queer, Asexual Plus (LGBTQA+) stakeholder bodies and representatives in 2016.” Secondly, the issues paper is full of bias. All SOGI conversion practices are considered harmful, making it almost a foregone conclusion that Tasmania must do something about SOGI conversion practices.

The issue of open discussion and independence is further compromised by the University of Tasmania refusing to publish Professor Patrick Parkinson’s paper on this very issue². The reason given was his use of so-called “offensive” terminology, such as “biological female” and “opposite sex”, and “his failure to consider activist and social sciences research”. As observed by Mai Ling

¹ <https://www.thenewatlantis.com/publications/executive-summary-sexuality-and-gender>

² <https://www.theaustralian.com.au/higher-education/university-of-tasmania-censored-paper-on-transgender-laws-says-academic/news-story/dde78d78fcf14f6cdf752756f57333b>

earlier this year³, “Professor Parkinson is a specialist in family law and child protection. Instead of trying to quash his words, spoken from experience and a place of deep concern, we ought to act on his urgent warnings before even more youth are permanently maimed.”

In the executive summary on page V of the Issues Paper, you headline that, “this Issues Paper informs a community consultation on the reform of Tasmanian law to address sexual orientation and gender identity (‘SOGI’) conversion practices.”

Then in section 2.3.1 on page 21 of the Issues Paper, under the headline, “Nature and prevalence in Tasmania”, you note that the “TLRI is presently unaware of data about the nature and prevalence of SOGI conversion practices in Tasmania. No scientific study has been published on the prevalence of SOGI conversion practices in Tasmania or Australia.”

We are incredulous that your entire Issues Paper assumes a problem that you don’t even know exists, and that you need to work on a definition for what you are considering to be banned as well!

Children

At ARPA we have a particular concern for children. A person under the age of 18 years should receive appropriate professional care and treatment if he or she is experiencing gender dysphoria. Professional guidance which encourages a child to come to terms with his or her biological sex, and avoids promoting the illusion that a person can somehow be ‘born in the wrong body’ should not be criminalised, nor should parents be criminalised for encouraging children to identify with their biological sex. Parents should be informed if their child experiences gender dysphoria, in the same way that they would be informed of other medical issues involving their children.

Children should not be permitted to commence any ‘sex reassignment’ or other procedure which is either irreversible or commits the child to medical dependency and/or possible sterility for life, until he or she has reached the full maturity of his or her biological sex and the state of adulthood.

Enforcing such a restriction would remove the need for mediation by the Family Court should there be differences of opinion between parents and children or amongst parents themselves. It would also prevent the possibility of children accusing parents of undue intervention into their decision-making process should a ‘sex change’ commenced as a minor be regretted when the child becomes an adult. This would bring legislation on ‘sex reassignment’ into line with laws governing other body-altering procedures, including laws which invoke heavy penalties for the irreversible alteration of the bodies of underage persons.

Please note, that this is not to say that so-called ‘conversion therapies’ which inflict physical harm or psychological abuse should be tolerated; existing criminal penalties on assault should be applied in these cases.

Again to Mai Ling, “considering the well-documented physical and mental health implications of puberty blockers and sex change surgery, is it not irresponsible of our government, media and health institutions to keep advocating affirmation of gender dysphoria, particularly in vulnerable, malleable children?”

Treatment

The professional help available for those with gender dysphoria should include affirming as well as different views. Parental and pastoral counselling are not forms of conversion therapy. Those who

³ <https://mercatornet.com/the-truth-about-trans-must-be-defended/47318/>

promote overly broad conversion therapy bans, encourage children to embrace their self-perceived gender identities or sexual orientations unquestioningly, despite the fact that only a minority of children who experience cross-gender identification will continue to do so into adolescence or adulthood.

From the *New Atlantis* report, “longitudinal studies of adolescents suggest that sexual orientation may be quite fluid over the life course for some people, with one study estimating that as many as 80% of male adolescents who report same-sex attractions no longer do so as adults.”

Counselling and treatment is a complex issue. Yet, some want gender dysphoric individuals to find only gender counsellors who encourage them in their sexual misassumptions. Indeed, there are no other health issues where doctors modify healthy bodies to align with a mind’s misperception, or where they would call a healthy body a “birth defect” rather than working with the mind to accept bodily reality.

The law

The current working definition that you are using is, “acts or statements that are aimed at changing, suppressing, or eradicating the sexual orientation or gender identity of another person and are based on a claim, assertion or notion, either express or implied, that non-conforming sexual orientation or gender identity is a physical or psychological dysfunction that can be suppressed or changed.”

The stereotype of conversion therapy brings to mind long-discredited practices, such as electric shocks. In the mid-1900s, some doctors and therapists prescribed medication, performed lobotomies, and practised electric shock therapy to try to eradicate same-sex attraction. Again, we believe such treatments, also known as aversion therapy, are degrading and wrong and should be punished under existing criminal law. We affirm the inherent dignity and worth of each individual. Every person is a unique creation made in the image of God. Because of this belief, we love all individuals and want them protected in law. Any criminal law must only capture truly coercive and dangerous types of conversion therapy.

Intentionally or not, your definition captures helpful counselling and psychological support for children, teens and adults struggling with gender dysphoria. It also captures spiritual counselling around sexual ethics and identity. Any proposal to ban conversion therapy must clarify that these practices are not conversion therapy, nor is religious instruction promoting healthy sexuality in line with biblical teaching. Any ban on conversion therapy must not lump the helpful with the harmful.

Conversion therapy bans also condemn efforts to help someone manage unwanted sexual desires or urges. For example, a person may prefer to diminish feelings of same-sex attraction and enhance feelings of opposite-sex attraction to have a traditional family, for reasons of religion or conscience, or for other legitimate personal reasons that the state should respect.

We would urge the TLRI to give due consideration to the recent *Bell v. Tavistock* case, decided by the High Court in the United Kingdom. This case illustrates the harm that may occur when children and young people are pushed towards gender transitioning. Furthermore, it opens up the question of whether a government adopting SOGI conversion legislation might be held liable under similar circumstances.

The UK judges in the case noted that **the prescribing of puberty blockers to children with gender dysphoria is an experimental treatment**, with real uncertainty over the short and long-term consequences of the treatment and with minimal evidence as to its efficacy. Further, The court ruled

that it was **highly unlikely that children under 16 could understand and give consent to puberty blockers**. Specifically they said, “It is highly unlikely that a child aged 13 or under would be competent to give consent to the administration of puberty blockers;” and; “it is doubtful that a child aged 14 or 15 could understand and weigh the long-term risks and consequences of the administration of puberty blockers.”

As observed in Federal Parliament by Senator Claire Chandler⁴, “It’s clear from the Keira Bell judgement that there are many valid concerns about medical interventions on children experiencing gender dysphoria. Yet for many years people raising those exact concerns, both here in Australia and around the world, have been labelled as hateful and transphobic and been accused of pushing children towards self-harm, just as those with legitimate evidence based concerns about women’s sport and women’s services have been defamed as transphobic and ignored by the mainstream media. Thanks to the bravery of Keira Bell and the efforts of her supporters, the world can now see that silencing and pushing aside these concerns does not guarantee better outcomes for children who need care, support and the best possible medical assistance. This must be a turning point for Australia, away from silencing and slurs and towards proper evidence-based outcomes and proper public discussion.”

Conclusion

We agree with Dr John Whitehall, Professor of Paediatrics and Child Health, that transgenderism should be considered by the Federal Government by way of a Parliamentary Enquiry⁵. After all, the first role of Government is the protection of vulnerable children.

In his opinion, “an ideology, gender fluidity, has been imposed on a section of the medical and broader community with the force of law. Such experimental practice confronts all the international codes of medical research ethics on human experimentation including, the ancient Hippocratic Oath, the Belmont Report (1978), the Declaration of Geneva (1948), the Declaration of Helsinki (1964) and the Nuremberg Principles (1949).”

We thank you for arranging this consultation and commend our suggestions and recommendations to you. Furthermore, we encourage you to consult more widely on this matter, so that any proposed changes to the law commended to Government actually reflect the wishes of the entire Tasmanian community.

⁴ <https://senatorchandler.com.au/senate-speech-keira-bell-case/>

⁵ <https://www.stopsafeschools.com/request-for-parliamentary-enquiry-into-transgenderism-prof-john-whitehall-2/>