



Feminist Legal Clinic Inc.

Benledi House, 186 Glebe Point Road, Glebe NSW 2037
PO Box 273, Summer Hill NSW 2130
Mobile: 0402 467 476
www.feministlegal.org
ABN: 17 360 484 300

Tasmanian Law Reform Institute
Private Bag 89,
HOBART TAS 7001

By email only: Law.Reform@utas.edu.au

Tuesday 22 December 2020

Submission regarding Conversion Practices : Law Reform Options for Tasmania

Feminist Legal Clinic Inc. is a community legal service that works to advance the human rights of women and girls through a combination of targeted casework, community legal education and law reform submissions.

Our service has recently started to be contacted by clients regretting their transition and seeking redress for the physical and psychological injury caused by ill-advised medical interventions. We also support parents who are distressed about the harm being done to their children by fast-tracked hormone treatment and surgeries.

By including gender identity together with sexual orientation, we are concerned that the proposed changes to Tasmanian law will contribute to misconceptions and perpetuate a flawed and dangerous ideology which is placing many women and girls at risk. The recent UK High Court case of *Bell v Tavistock* has established that there is inadequate evidence to support the affirmation model of treatment which is causing irreparable harm to many young and vulnerable people experiencing gender dysphoria. This submission therefore is focused on opposing the inclusion of the concept of gender identity in any legislative reforms concerned with so-called ‘conversion practices’.

Question 1

After considering the background and working definition (see [1.3.23] on page 13), in your opinion, what are and are not ‘sexual orientation and gender identity conversion practices’?

It is misleading to equate conversion therapy as historically applied to homosexuality with attempts to counsel individuals suffering gender dysphoria. It is the drastic medical interventions being applied to “transition” many young people who may otherwise go on to identify as gay or lesbian that would be more rightly be regarded as “conversion therapy”.

Certainly, there is a basis for regarding this extreme medicalised approach as a strategy to rid the world of homosexuals and other gender non-conforming individuals, rendering them invisible and sterile. Indeed, in Iran where homosexuality is a crime punishable by death for men and lashings for women, sex reassignment is not only allowed but subsidised by the State.

Question 2

Should people be allowed to consent to SOGI conversion practices? If so, at what age and under what conditions?

In recent years there has been an exponential rise in the numbers of children presenting with gender dysphoria, including high numbers of teenage girls. The affirmation model of treatment typically involves fast-tracking these young people onto puberty blockers which almost inevitably lead to cross-sex hormone treatments and often drastic surgical procedures, all of which cause permanent harm. These include infertility, decreased capacity for sexual pleasure and other harmful physical and psychological effects which have not yet been adequately investigated with longitudinal studies.

The UK High Court in the case of *Bell v Tavistock* has recently established that children should not be regarded as having capacity to consent to such harmful treatment. Meanwhile in the Australian case of *Re Imogen* the Family Court also found that hormonal treatment should not be administered to children under the age of 18 years in the absence of parental consent or court authorisation. We would suggest that further precautions are still needed to protect the human rights of children in this area.

Question 3

Have you been involved in or offered, or are you aware of, any forms of SOGI conversion practices in Tasmania? If so, what were the effects on you, or the person exposed to them?

We are concerned that young and otherwise vulnerable people in Tasmania are being subjected to drastic conversion practices in the form of puberty blockers, hormonal treatments and surgeries and that this should be outlawed as a matter of urgency. Unfortunately, the proposed reforms to the law are extremely misguided and appear to mandate the very practices which should be outlawed.

Question 4

Do you think that Tasmanian law should be changed to address SOGI conversion practices? If so, should this be through comprehensive reform, amendment or both (a hybrid)?

No laws should be made that provide legitimacy to the treatment of distressed children with hormones and surgery. There needs to be extensive research and public consultation and debate on these questions and education campaigns to counter and correct the overwhelming misinformation that has already been disseminated to date on this topic by those with a vested interest in creating lifelong medical patients.

Question 5

Should some or all forms of SOGI conversion practices be criminalised in Tasmania? If so, which, if any, should be dealt with as serious (indictable) crimes and which, if any, should be dealt with as less serious (summary) offences?

The Tasmanian legislature should not consider passing criminal laws in an area where undisputed medical and psychological standards of care are yet to be established, and research is both flawed and inadequate. For example, various western European countries are already reappraising their embrace of the gender affirmation model of care and introducing laws to protect children against such practices. The threat of criminal penalties, including imprisonment, for those who dare to question or depart from the affirmation model will effectively mandate the very practices that should be urgently outlawed.

Question 6

Should some or all forms of SOGI conversion practices be made civil wrongs in Tasmania? If so, what sort of practices should people be liable for and how should those subject to such practices be compensated?

Keira Bell is just one of an increasing number of detransitioners and members of the trans community who are now speaking out against the use of these treatments, particularly on children, and the need for more counselling before these interventions are considered. Various whistle blowers who have worked within gender clinics, such as Dr Kenneth Zucker in Canada and Dr David Bell in the United Kingdom, have sounded the alarm about young and otherwise vulnerable individuals being exploited for profit by pharmaceutical and medical industries. In view of the decision in *Bell v Tavistock*, proceeding with these proposed laws would arguably constitute a significant breach of the Tasmanian Government's duty of care and will pave the way for extensive future litigation.

Question 7

Should any existing Tasmanian laws (besides criminal laws or the Civil Liability Act 2002 (Tas)) be amended to cover SOGI conversion practices? If so, which ones and in what way?

See 5.

Question 8

Are there any other models or approaches that are preferable to, or should complement, changing the law?

Sex is an immutable biological reality whereas gender is a social construct which is subject to change. It is essential that these concepts should not be conflated and individuals should not be misled into believing that superficial changes to their physical appearance can alter whether they are male or female. No amount of feminine dressing, female hormones or surgical interventions will change you into a woman if you are biologically male. Health professionals must be free to explain these scientific facts to patients without being accused of conversion therapy and risking prosecution. Gender non-conformity should be embraced without the need to call into question an individual's biological sex.

Question 9

Are there any other matters that you consider relevant to this Inquiry and would like to raise?

The existence of intersex individuals does not change the reality that human sex is binary. There are many individuals with only one leg but this does not alter the fact that humans as a species are bipedal. It is not necessary to reject either science or common sense to be accepting of diversity and compassionate to those who experience psychological discomfort in relation to their physical attributes. These changes to the law would pave the way for a dystopic future where pseudoscience is freely propagated and those who dare speak the truth face severe sanctions by the state.

Thank you for the opportunity to make this submission. Please do not hesitate to contact me on office@feministlegal.org or on 0402467476 to expand on any element of it if required.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Anna Kerr', with a stylized flourish at the end.

Anna Kerr
Principal Solicitor