

Submission
No 45

**INQUIRY INTO EDUCATION LEGISLATION
AMENDMENT (PARENTAL RIGHTS) BILL 2020**

Name: The Revd Dr Josephine Inkpin

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**Submission to the
NSW Education Legislation Amendment (Parental Rights) Bill 2020
by the Revd Dr Josephine Inkpin**

Preamble

I am a transgender woman who has ministered as a priest for 35 years in the Anglican Church in both England and Australia (here for 20 years), been a staff member of the National Council of Churches in Australia and General Secretary of the NSW Ecumenical Council, and now works as Minister of Pitt Street Uniting Church in Sydney. During my ministry, I have had frequent, and often deep, involvement with schools, including as a member of two school governing bodies and as an assistant chaplain at Toowoomba Anglican College and Preparatory School. I have taught for many years in theological education, as a recognised lecturer of Charles Sturt University. As a transgender person, I have also worked closely with the Schools Commission of the Anglican Church Southern Queensland, assisting in the development of supportive balanced approaches and policies involving gender diverse pupils, parents and staff. As a parent, I accompanied my two children through State secondary education in New South Wales, and have two grandchildren who will enter NSW public education in but a few years time. I am also currently chair of the board of Equal Voices, a national peak body of LGBTIQ+ Christians and allies.

Summary

I warmly welcome and encourage constructive and informed attention to matters raised in the Education Legislation Amendment (Parental Rights) Bill 2020, not least to supporting hard-pressed young people who are gender diverse. However this Bill appears clearly to be neither constructive nor informed, particularly about the realities and needs of gender diverse people. It threatens to undermine the important cooperation required between the various elements of school communities, including harmony between parents themselves. It would significantly weaken the education system and its ability to attend to the breadth of contemporary life and the variety of the NSW population. It would be especially damaging to gender diverse people – children, staff and parents. I would therefore recommend it be withdrawn and energy and resources be instead given to consultations and changes to strengthen common commitments across the education system, particularly in improving awareness of well-established contemporary gender understandings and the pressing challenges of the health and education of gender diverse people.

Key issues with the Bill

1. The Bill is seriously flawed from the outset, in its very construction, by its insertion of specifics related to sexuality and gender (fluidity) in a measure which asserts a principle which affects many more areas of education. The sections applying to 'gender fluidity' should therefore be removed, as such related issues deserve their own proper attention, and should not be isolated from others in a Bill which would affect a much greater range of issues. The Bill's title in itself disguises and distorts these realities.
2. The term 'gender fluidity' in the definition proposed to be added to the Amendment of Education Act 1990 No8 – 'Section 3 (1) Definitions' – is very limited, distorting, and, frankly ideological (despite the Bill's affirmed intention to ensure 'non-ideological' education): This foundational statement lies at the heart of the problematic nature of the Bill and

further emphasises the need for gender diversity to be treated separately from parental rights in such legislation:

- 2.1 As a transgender person myself 'gender fluidity' is neither a term I use, nor one I find is helpful to other gender diverse people I support and the professionals with whom we relate. 'Gender fluidity' is rather understood as one area of gender identity and expression, not as an all embracing term which is being constructed in the Bill.
 - 2.2 The definition of 'biological sex' raises more questions than it answers, as it seeks to affirm an (ideological) belief in a supposed concreteness of biology whilst admitting sexual differentiation (in the phrase in brackets) which undermines such simplistic defining.
 - 2.3 The definition of 'biological sex' labels those who are sexually diverse as people with 'disorders', which is distressing and out of line with best practice.
 - 2.4 The definition includes a false binary between social construction and biological sex. With many other transgender people, my social context, outlook, deep-down understanding of my spiritual identity, and biology are not necessarily in conflict, but work together, where I am allowed to understand myself and develop appropriately (with medical and/or other supports, including educational awareness). For myself, and many gender diverse people, we do not so much seek to escape our biological realities as to enter more deeply into all life-giving aspects of ourselves, including our bodies.
3. Due to the very framing of the fundamental definition of 'gender fluidity', all sections of the Bill should be removed which relate to gender diverse people and restriction awareness and education. That such a definition, and its accompanying provisions, should be seriously put forward in NSW Parliament underlines the pressing need for increased constructive awareness and understanding of gender diversity. In relation to NSW Education, this indicates that more well-informed gender education should be developed - not less, or (as the Bill intends) no, education at all.
 4. The use of the other foundational defining term 'parental primacy' is also fraught with difficulties. It appears to isolate parental rights from the rights of the child, and the rights of education staff and authorities, and the wider community. As such it is also misleading and likely to be destructive in its potential effects:
 - 4.1 My long experience of school communities is that they are not simple institutional vehicles for formal education but complex ecologies which, where they flourish best, seek to engage a wide variety of interests. To give undue primacy to rights of parents to negation and withdrawal is consequently to undermine such healthy communities.
 - 4.2 The parental primacy rights of negation and withdrawal would create significant conflicts with the rights of other parents to positive respect and engagement. This would threaten school communities seeking to work together, with expert guidance from the experience of educators, wider advisers and the wisdom of the wider community. Instead, school authorities would be reduced to mediators between the individuals with differing opinions and interests. Instead of removing ideological conflicts from education, the Bill would consequently enshrine them in the life and management of schools themselves.
 5. The proposed insertions (6), (7), (8), (9) to the Amendment of Education Act 1990 No8 are deeply prejudicial and dismissive of the rights of gender diverse, and gender diverse supporting, pupils, parents and staff. They run quite counter to the responsibilities of the NSW Government to ensure the best education, health and support for all its people:
 - 5.1 Continued research over many years has shown how gender diverse pupils thrive best in schools where they are affirmed and where understanding of the breadth of human diversity is understood.

- 5.2 Where gender diverse people are not affirmed in educational spaces, levels of withdrawal, non-attendance, stress and suicide sky-rocket.
- 5.3 My ministry in recent years has been inundated by concerned gender diverse people and families seeking support. Whilst some progress has been achieved in various sectors of society, so much more needs to be done. Moving in the opposite direction would be disastrous and undermine the good work done in other aspects of NSW Government and communities.
- 5.4 Outlawing contemporary gender understandings does damage to other cisgender parents and children who seek to be part of NSW communities which value everyone.
6. Whilst the 'parental primacy' definition is destructive of healthy education relationships as a whole, it is particularly disastrous for gender diverse parents and parents who support their gender diverse children. Indeed it is contradictory to their own rights in making the parental rights of others greater than their own. Such legislated inequality is extraordinary and reflects an ideological preference which takes away even what such parents now have.
- 6.1 I commend instead the constructive engagement made by Anglican Schools in Southern Queensland. Whilst maintaining an Anglican ethos, they have listened to expert advice and drawn upon it.
- 6.2. Core to Anglican Schools positive developments has been the primacy of the needs of the person most affected by any decision. Thus, where a child affirms a gender identity different from that given at birth, it is they who are at the heart of best practices of care. The school may helpfully draw on parents, who may hopefully be supportive (more likely where the school and wider community is actively promoting best understanding of gender diversity), and of skilled and experienced advisers. At some stage they may let the wider school community know, as appropriate, of possible things which are needed to be known (eg change of dress). However, other parents opposed to such care are thus the last, with others, to be informed. They are not, as this Bill proposes, arbiters of whether any education or care should be offered.
7. The proposed insertions (10) to Sections 17A-17E are further discriminatory, as well as damaging to education and health, in restricting the support which can be offered to others. Despite my own professional and personal experience, I would indeed myself be proscribed. This is an extraordinary provision which would further divide and make NSW schools bastions of ideological resistance to the rich human diversity of their own wider communities. My experience has been that, sensitively considered, I and others are light not destruction to others.
8. The greatest weakness and potential human cost of this Bill is to children and young people. For the Bill not only potentially fragments the school community, and sets parents against one another, in the name of ideologically constructed 'primacy' and 'gender fluidity'. It also sets the rights of vulnerable children aside and risks enabling crippling forms of child abuse. For it is well established that the very best thing a gender diverse child can have is supportive parenting. By excluding best models of gender understanding from NSW schools, this Bill consequently weakens care of the most vulnerable and would potentially significantly increase rates of physical, social, emotional and spiritual harm.
9. Gender diversity can be quite complex, and journeys of gender diverse people can be extremely demanding, even to the point of utter despair. Those outside such understandings and journeys can easily react badly, often through a lack of education and false fears. The lives of all however can be enriched if considered education and leadership is provided, informed by gender diverse people them/ourselves and those who know us best. We are all on a learning curve in these matters, but this Bill would set us all back.