Australian Feminists for Women's Rights (AF4WR)
Submission to the
JSCFADT Inquiry into the rights of women and children

Introduction

Women and female children are, in almost all situations nationally and internationally, disproportionately subjected to violence in all its forms: physical, sexual, economic, psychological/coercive, and so on. They are subjected to this violence *by the very fact of their female sex.* This state of affairs has been well documented over several decades by countless reports at institutional level, including but not limited to various agencies of the UN, the EU, and Australian federal and state governments. This documentation produced by both Australian and international governmental and intergovernmental institutions has often been in direct response to advocacy by both national and international non-governmental organisations (NGOs), and has frequently drawn on the considerable research produced by those NGOs.

As recently as 2021, in her report on "Rape as a grave, systematic and widespread human rights violation", the then UN Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, reiterated that

> Globally, 1 in 3 women and girls has been subjected to gender-based violence, and 1 in 10 girls has been a victim of rape. Rape has been criminalized in a large number of States and yet it remains one of the most widespread crimes, with the majority of perpetrators enjoying impunity and the majority of women victims not reporting it.[1]

Successive Australian governments have been well aware of this sex-specific targeting of women. For example, in a radio interview on 7 December 2022, Minister for Women Katy Gallagher spoke of the "unacceptable" levels of sexual and sex-specific violence against women in Australia. In a particular reference to women in the public eye—in the wake of the cancelled retrial of Bruce Lehrmann for the alleged rape [redacted] due to the mental health impact of the proceedings on Ms Higgins— Ms Gallagher stated that "the nature of the abuse towards women is … quite different from that experienced by men. So it's more … threats, sexualised threats, threats about what someone will do to you - those kinds of things".[2]

This very existence of these countless reports and statements recognising sex-specific and sexualised violations of the rights of women and girls, usually accompanied by calls to action by institutional and civil society actors alike, begs the question of why more has not been done over the decades to address these violations. We are thus encouraged by Senator Gallagher's words and by the JSCFADT's renewed attention to this matter. Like the JSCFADT, we are also particularly mindful of the particular forms of abuse, or exacerbation of other abuses, experienced by migrant and refugee women, although the experience of the latter group, especially as concerns ongoing impacts of trauma, is arguably markedly different from that of the former.

In this submission, AF4WR will address the following items in particular:

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[1] Special Rapporteur on violence against women, its causes and consequences. 2021. "Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention'. Report to the UN Human Rights Council. UN Ref. A/HRC/47/26.
[2] Interview with Patricia Karvelas, Radio National Breakfast, 7 December 2022. https://ministers.pmc.gov.au/gallagher/2022/radio-interview-abc-rn-breakfast-3.

1. **Clarity of language used to describe the violations (TOR items a, b and d)**
2. **Adequacy of support mechanisms. especially legal and in terms of refuges and other protective spaces (TOR item b).**
3. **The re-institutionalisation of misogyny and homophobia in society, government and education (TOR items a and c).**

Each item will include a series of recommendations for concrete actions that the Australian federal government (and, often, state and territory governments) can take to address the issues outlined in this submission.

Definitions of terms

In discussing these items, AF4WR will use the following terminology and definitions for the sake of absolute clarity.

- *Sex* refers to the biological dimorphism among humans as sexually dimorphic mammals, i.e. humans are male or female. The infinitesimally small proportion of the human population that is truly intersex (rather than cases of anomalous chromosomal makeup in biological males or females, such as Klinefelter or Turner syndromes, which are often *mistakenly* classed as intersex), does not alter this fact.
- *Women and girls* means those of female sex, that is, female bodied adults and children: those born with various multiples of the X chromosome (most commonly XX) and, except in extremely rare cases, no Y chromosome, and possessing female genitalia and other secondary female sexed-based characteristics. In our discussion of violations of the rights of women and girls, this is the population to which we are referring.
- *Men and boys* means those of male sex, that is, male bodied adults and children, i.e. those born with one X chromosome and one Y chromosome, and in rare cases two or more of either or both, and possessing male genitalia and other secondary sexed-based male characteristics. In our discussion of the part men and boys play in the violation of the rights of women and girls, this is the population to which we are referring.
- *Sex-role stereotypes* are a sociocultural construct whereby people of female and male sex are expected to behave in certain ways, like certain things and fulfil certain societal expectations because of their sex. Sex-role stereotypes are a key factor in most forms of direct and indirect violence against women and girls.
- *Gender* was originally analysed by feminists as a sociocultural construct based on sex-role stereotypes. It is not a material or biological condition but a cultural one, and although it can be a basis of analysis of cultural prejudices against women and girls that contribute to the acts of personal, institutional, or symbolic violence they experience, it has no basis in material reality. Considerable confusion has arisen out of the conflation of the concepts of sex and gender within institutional vocabulary and legislation. We will discuss this problem further in (1) below.
- *Gender identity* refers to an individual's sense of being the wrong sex, that is, the individual identifies with a social construct of sex roles that is at variance with the usual sociocultural expectations associated with that individual's biological sex. It is not a material or biological condition but like the concept of gender itself, is a sociocultural construct.

The generalisation of the idea of gender identity in much of the world has significantly contributed to obfuscation concerning who and what are causing harms to women and girls (or indeed, who or what women and girls even *are*) and thus makes it very difficult, even impossible in some circumstances, to appropriately address these harms. Maleness and femaleness are not individual identities to be chosen or discarded, they are material realities from which it is impossible to disconnect, even when chemical and surgical treatments are involved.

1. **Clarity of language used to describe the violations (TOR items a, b and d)**

Notwithstanding the plethora of reports and recommendations concerning violations of women's and girls' rights on a global, national, and local scale, and despite demonstrable goodwill on the part of many institutional actors, the problem remains largely unsolved. Part of the difficulty in addressing the problem is being able to even *name* it accurately. The use of vague, ambiguous or obfuscating terminology concerning violation of women's and girls' rights frequently enables such violations to continue unhampered. For, when we are not clear about who is being abused, who the perpetrators are (individual, group or institutional), and in what circumstances, then we cannot be clear about the measures that need to be taken to put an end to the problems.

The question of language is thus an overarching problem impacting on all others. Moreover, as concerns the particular situations of migrant and refugee women, the less clear we are in what for them may be a second, third or fourth language (English), the more difficulty they will have in communicating their needs and in understanding what is offered them or asked of them, and thus in accessing appropriate services. This problem also arises for many women whose native language is English, especially albeit not solely members of socioeconomically or ethnically marginalised groups, for whom the complexity of institutional language can be challenging at the best of times.

1.1. Confusion of "sex" and "gender"

AF4WR consider it unfortunate that throughout national and international institutions, the term *gender* has replaced the term *sex*, and terms such as *violence against women and girls,* or indeed *male violence against women and girls*, have been replaced by *gender-based violence.* Women and girls do not suffer violence because of "gender" and even less because of "gender identity", but because they are of female sex. Moreover, all reports on rape and other forms of physical violence against women and girls show—without exception—that the overwhelming majority of perpetrators of that violence are male. This is not to suggest that men and boys never suffer sexual assault or other forms of physical violence, but even there, the overwhelming majority of perpetrators are *also* male. So, even if some women can be violent towards men, children, or other women, the problem is *not* one of men and women being equally violent towards each other. This is a *sex-based* problem and must be articulated and addressed as such.

Moreover, the ambiguity introduced by the widespread substitution of *gender* for *sex* sometimes makes it difficult to understand whether what is being discussed is *women and girls*; *boys and men; both women and men; societal structuring of relationships between the sexes* (which may or may not include a reference to power imbalances between male people and female people); or even *women, girls and non-female people with a "gender identity"*.

The confusion is exacerbated when "gender" and "sex" begin to be used interchangeably and sometimes in ways that self-contradict, as in the case of proposed legislation in Queensland. Under this legislation, regulations governing the issuing of birth certificates, for example, will replace "mother" with "birthing parent", the latter defined as *a person of ANY sex who gives birth*, as if there were more than two sexes. The *sex descriptor* of the parent or child can be *male, female or any term chosen by the applicant, e.g. genderqueer, agender, pangender, bigender, and so on, provided it is not obscene.* All such words will now also apparently be a description of the sex of a person at birth and accorded legal equivalence to male or female. If this legislation is adopted, it will be impossible to provide intelligible records of parentage in Queensland. Apart from other considerations, given the number of diseases or chronic conditions that include a sex-based hereditary component, the implications for the future healthcare of the offspring may be serious.

1.2. "Women AND……"

There is an increasing tendency in both official and everyday discourse to expand the category of "women" to include anyone who may have a personal identity that is for them not entirely congruent with biological female-ness, for example *women and non-binary people; those who identify as women*, and so on. Being female is not an identity. It is a material reality with significant consequences for the lives of female people, the most dire of which prompted the current JSCFADT enquiry. It is noteworthy that comparable language is not being used when discussing men. It is almost always the category of *women* that is rendered open to reinterpretation and ambiguous language.

1.3. Inaccurately identifying perpetrators of violence

Increasingly, violent crimes against women are misdocumented and misreported when the male perpetrator "identifies" as a "woman". A telling example is that of Evie Amati. In 2017, Amati, a male-bodied individual then identifying as a woman, randomly assaulted two people with an axe in a 7-Eleven store in a Sydney inner suburb. Amati claimed to be hurt and enraged on discovering that lesbians Amati met on a dating site had no interest in sexual relations with male-bodied people. All reports of this case referred to Amati, the assailant, as a "woman", *even after Amati began detransitioning.*

Yet, statistically, males who identify as transgender are no less likely to commit acts of violence against women than males who do not. It is simply a falsification of data to misreport acts of violence committed by these people as having been committed by "women". This misdocumentation has serious consequences:

a) It artificially inflates the statistics on female perpetrators of violence, notably sexual violence and notably against women. That is, it inaccurately shows women to be more violent than they actually are.

b) Conversely, it downplays the statistics on male violence against women, and silences any discussion of that violence when the perpetrator "identifies" as a woman. There are even documented cases where such acts of violence are deemed "impossible" because the alleged perpetrator was transgender, such as occurred in a UK hospital in 2021.

c) There is, moreover, evidence that such "gender identification" may be purely opportunistic, as in cases when already-incarcerated male sexual offenders wish to gain access to women (in women's prisons) through "transitioning", as in the case of Stephen Wood (Karen White) in the UK in 2018, or of Paul (Paula) Denyer, the so-called "Frankston serial killer", in Victoria, Australia (ongoing). This situation is all the more worrying in the face of the fact that the majority of the female prison population is socioeconomically marginalised (one third are Indigenous) and an estimated 85% have experienced violence at some point in their lives.[3]

Not only does such misdocumentation place specific groups of women at risk (see also [2] below), it comforts certain individuals and groups of men in society who claim that violence against women is not as widespread as suggested, or that "women are violent too". More seriously, it makes it impossible to develop coherent strategies for addressing male violence against women and ensuring women have protected spaces.

1.4. Language used around reproductive functions of women

One of the most worrying shifts in terminology concerns women's reproductive functions and reproductive health. Both governmental and non-governmental agencies have pushed for a change in the language used around menstruation, pregnancy, childbirth and reproductive health, for example by replacing the term "mother" with "birthing parent" and the term "breast feeding" with the anatomically incorrect "chest feeding". Women and girls are also now increasingly referred to as "menstruators" or "cervix havers". Again, no such shifts in terminology are observed in widespread use for men. They are not referred to as "ejaculators" or "inseminating parents" for example.

In July 2022 Sall Grover lodged a complaint against Medicare for the right to have herself named as "mother" and not "birthing parent" on her daughter's records. Government Services Minister Bill Shorten intervened to ensure that right was protected. However, women should not be forced into jumping through administrative hoops to have accurate and comprehensible language used in relation to their reproductive functions and reproductive health.

Most particularly, women whose first language is not English (including the majority of migrant and refugee women) and other women for whom these terminology debates are arcane (which is arguably the majority of women in Australia), should not be forced into dealing with incomprehensible language to describe what for them is a normal part of being female and giving birth. Moreover, although women's biology is clearly important as concerns their health needs (and not only in relation to reproduction), it can be a source of embarrassment and belittlement for many women to be referred to as solely defined by the fact that they ovulate, at least during part of their lives ("menstruators").

[3] Meyer, Silke. 2021. "Rethinking female incarceration: Road to prison paved with domestic abuse." Melbourne: Monash University, 30 July. https://lens.monash.edu/@politics-society/2021/07/30/1383557/rethinking-female-incarceration-road-to-prison-paved-with-domestic-abuse, accessed 2 August 2021.

Recommendations:
That Australian federal, state and territory governments

- *refrain wherever possible from using the term "gender" when referring to women and girls, or violence against women and girls. This includes revising most paper and online forms currently in use by federal and state governments, which require people to state their "gender". Such a term is not transparent and does not enable governments to accurately document (male) violence against women, nor respond to women's sex-based needs and experience.*
- *use accurate and widely understood and accepted terminology to refer to women's biology, reproduction and reproductive health, to avoid confusion for women and to enable women's health needs to be appropriately addressed.*

2. Adequacy of support mechanisms. especially legal and in terms of refuges and other protective spaces (TOR item b).

At the time of writing in mid-December 2022, the failure of the justice system in relation to [redacted] has been the trigger for much public discussion of the difficulties women have in accessing legal recourse and redress when they are actual or alleged victims of sexual and physical violence, which is as we have seen usually perpetrated by men.

These difficulties do not only relate to the justice system, defective as it is in this area; they are also encountered by women every step of the way, in access to safe refuges; medical and counselling support, including for trauma and including culturally and linguistically appropriate care; free or low cost legal and financial advice; and of course, financial support. Again, all these issues are exacerbated when it comes to the experience of migrant and refugee women.

2.1. Migrant women's experience and needs

In June 2021, Monash University published "Migrant and Refugee Women in Australia: The Safety and Security Study", based on a survey of 1,400 women.[4] This was "the first national study [and the largest to date] to look at the residency and visa status of migrant and refugee women, and the first to ask specific questions about controlling behaviours related to migration abuse".[5] The authors, who included in their definition of domestic and family violence (DFV) various forms coercive control including threats to children or pets, and social control such as threats around visa or residency status, found that:

> 33% of respondents had experienced some form of DFV … Of those who had experienced any form of DFV, controlling behaviours was the most common:
> • controlling behaviours (91%)
> • violence towards others and/or property (47%)
> • physical/sexual violence (42%).[6]

[4] Segrave, Marie, Rebecca Wickes and Chloe Keel. 2021. "Migrant and Refugee Women in Australia: The Safety and Security Survey." Melbourne: Monash University. https://bridges.monash.edu/articles/report/_/14863872, accessed 7 December 2022.
[5] Segrave, Marie, Chloe Keel and Rebecca Wickes. 2021. "One third of migrant and refugee women experience domestic violence, major survey reveals." *The Conversation,* 30 June. https://theconversation.com/one-third-of-migrant-and-refugee-women-experience-domestic-violence-major-survey-reveals-163651, accessed 7 December 2022.
[6] Segrave, Wickes and Keel 2021: 30.

Half of these women were between 30 and 44 years of age and over half had experienced two or all of these three types of harm. As is the case for women in Australia more broadly, socioeconomic disadvantage increased the likelihood of migrant and refugee women experiencing DFV. In addition, the survey respondents reported a high level of non-DFV threats or assaults; they attributed a high proportion of threatening behaviours in particular to racial bias.

As concerns trust in Australian institutions, the majority of respondents to the study placed a high level of trust in the police, which may seem surprising, but a significant proportion placed a low level of trust in community religious leaders. The distrust factor was relatively consistent across different faiths, although, predictably, the highest level of distrust was among atheists and agnostics.

This last factor—distrust of religious leaders, including by religiously observant women—points to the complexity of dealing with violence against women in ethno-religious minority "communities". Spokespeople and associations claiming to represent those communities are often albeit not always religiously and socially conservative, and can play a gatekeeping role in relation to women in particular. Minority women thus need access to services that demonstrate an understanding of their ethno-cultural and/or religious needs without at the same time being informed by stereotypical assumptions or paternalistic behaviours. Many, including some refugee women, are highly educated and a default one-size-fits-all approach to supporting migrant women experiencing violence, whether through DFV or social prejudice, is clearly not going to work.

Given, however, that DFV is overwhelmingly perpetrated by men, and that religious leaders are almost always men also, women experiencing violence within their families or communities need to know they have access not only to culturally appropriate safe spaces but also to *women-only* safe spaces.

In Australia at this time, the inadequacy of women's support services including refuges is well known, pushing some state governments such as those of New South Wales and Western Australia to commit to significantly increasing their number in the near future.

2.2. Lesbian Asylum Seekers

In a number of countries such as Germany and the UK, lesbians seeking their right to refugee protection face unlawful discrimination and violation of their rights. Mengia Tschalaer reported from Germany that about 95% of asylum cases lodged by lesbians, mostly from Sub-Saharan African countries, are rejected after the first interview. This is in contrast to a 50% rejection rate of all LGBTQI+ individuals seeking asylum and a 30% rejection rate for heterosexual women.[7]

In the UK Home Office statistics showed worsening prospects for asylum seekers making a bid for protection on the basis of sexual orientation. Between 2015 and 2018, the refusal rate for sexuality-based asylum claims increased from 61% to 71%.[8]

[7] Tschalaer, Mengia. 2021. "The Recognition of Black Lesbian Asylum Claims in Germany." https://www.bristol.ac.uk/policybristol/policy-briefings/lesbian-asylum-seekers/.
[8] Brewer, Kirstie. 2020. " 'How do I convince the Home Office I'm a lesbian?' ". BBC News, 26 February. https://www.bbc.com/news/stories-51636642. See also Singer, Sarah. 2021. " 'How much of a lesbian are

A longstanding issue faced by gay men and lesbians alike, but particularly by lesbians, is the need to prove you are homosexual when the notions of lesbian and gay life in the mind of the assessor are based on Western visibility and expression which are very different to that of countries where women's sexuality may more generally be a taboo subject, and where lesbians are forced into an underground secret existence for fear of torture or death. Where gay men may face more public forms of abuse, which may then become comparatively easier to witness and document, lesbians are subjected to specific sex-based abuses in the private sphere including forced marriage and pregnancies, and beatings and rapes by male family members.[9] These sex-specific experiences of human rights violations among lesbians make answering more than 300 questions about your personal and intimate life extremely difficult, all the more because frequently lesbians don't have the "acceptable" Western words and narrative to describe themselves, their sexuality or persecution both as women and same-sex attracted. This leads to high rates of rejection of their claim and a denial of their human rights.

2.3. Gender Identity Recognition puts women's safe spaces at risk

Increasing the number of refuges will not improve women's safety *unless* they are guaranteed to be women-only. If male individuals who "identify" as women are given access to women's refuges, then at the very least women may not *feel* safe and thus self-exclude (there is anecdotal evidence that this has already happened). At worst, they may not *be* safe, especially if, as is the case with males demanding access to women's prisons, the male individuals demanding access to women's refuges are predatory and opportunistic men seeking easy access to vulnerable women.

On 29 November 2002, UN Special Rapporteur on violence against women, its causes and consequences, Reem Alsalem, raised precisely these concerns in her letter to the Scottish government concerning its Gender Recognition Reform (GRR) Bill, which proposes to considerably reduce the requirements placed by the UK Gender Recognition Act (2004) on people gender-identifying as the opposite sex to be legally recognised as the latter. The Scottish bill reduces the period required to live in the desired "gender" from two years to three months and removes the requirement for two medical practitioners to supply supporting evidence.

Under the UK Act, there is a legal presumption that males in possession of a gender recognition certificate as female have a right to access women-only spaces and services, which has already created some problems and is one reason celebrated author J.K. Rowling recently opened Beira's Place, a *women-only* sexual violence support service in Edinburgh, completely funded by her.[10] (Similar motivations, to create a safe space for women, were behind the creation, earlier in 2022, of the Women's Trauma Recovery Centre in Thirroul, NSW. At the time of writing there is no NSW Gender Recognition Act to stand in the way of this important service being *women-only*. However, there is a risk that this situation may change in the foreseeable future.)

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you?': Experiences of LGBT asylum seekers in immigration detention in the UK". In *Queer Migration and Asylum in Europe,* ed. Richard C.M. Mole, 238–260. https://doi.org/10.2307/j.ctv17ppc7d.18.

[9] Winter, Bronwyn. 2015. "The 'L' in the LGBTI 'alphabet soup': issues faced by lesbian asylum seekers and other non-Western lesbian exiles in France". *Contemporary French Civilization* 40(2) (special issue on immigration). DOI:10.3828/cfc.2015.11

[10] https://beirasplace.org.uk/.

In writing to the Scottish government, Ms Alsalem raised the concern that the new Scottish bill, if passed, "would potentially open the door for violent males who identify as men to abuse the process of acquiring a gender certificate and the rights that are associated with it".[11] While we believe that *this risk already exists*, the Scottish GGR Bill would severely exacerbate it, by leaving the way open for highly opportunistic and predatory males to use a relatively easy means of access to already-vulnerable women.

In Australia, a number of states have introduced gender self-ID legislation, either passed into law or currently under discussion. It is imperative that any laws concerning gender identity protect women's sex-based rights, include women-only safe spaces and services, and provide mechanisms for addressing actual or perceived conflicts of rights. Laws currently in operation in Australia provide no such protections. Yet without those protections, Australia's endeavours to uphold women's human rights and put an end to male violence against women will be rendered at least in part ineffectual.

2.4. Health services and hospitals

A comparable concern exists with relation to health services and hospital care. The crisis in our public hospitals has come into sharp focus in this period of COVID-19 pandemic, with wards overburdened and (insufficient numbers of) staff pushed to breaking point. There are many measures needed to address this crisis, in the interests of all patients and all staff, but in terms of protecting women who have suffered violence and need hospitalisation, *the issue of safety is paramount.* Just as in the case of prisons and refuges, allowing males who "identify" as women access to women's wards will not help protect women who have been rendered particularly vulnerable as a result of violence.

Another problem concerns specific attitudes by the medical profession towards women and women's health, particularly albeit not solely mental and reproductive health. In Item 1.4 above we referred to the generalisation of vocabulary that refers to women as a series of anatomical elements and reproductive functions rather than as women. Such vocabulary is at best obfuscating or even embarrassing to some individuals, and at worst dehumanising. For women attempting to access supportive health services, especially as recently arrived migrants or refugees, such reduction of their humanity to body parts is alienating and demeaning. For women's health care to be effective, particularly in cases of trauma or severe health complications, it has to treat the whole person, not reduce her to a series of body parts.

[11] Special Rapporteur on violence against women, its causes and consequences. 2022. Letter to the First Minister of Scotland, Nicola Sturgeon, 29 November. UN Ref.: OL GBR 14/2022.

Among the many issues confronting women worldwide in the area of reproductive health, obstetric violence has come to light as a most egregious form of violence against women and as such, violation of women's human rights. A 2019 report by the UN Special Rapporteur on violence against women, its causes and consequences set out just how widespread this violence is—including in a number of EU countries, in both Western and Eastern Europe. The concluding recommendations of that report stressed that "[w]omen's human rights include their right to receive dignified and respectful reproductive health-care services and obstetric care, free from discrimination and any violence, including sexism and psychological violence, torture, inhuman and degrading treatment and coercion".[12]

This is not only an "other countries" problem: it happens in Australia also, at an alarming rate. A study published on 30 November 2022, the first of its kind in Australia, documented that an astonishing 11.6% of the 8,804 women surveyed by the authors (survey published in English and seven other languages) reported an experience of obstetric violence. The treatment they received ranged from disrespectful, abusive and coercive comments and threats to physical abuse or procedures such as vaginal examinations conducted without their consent. The respondents reported feeling dehumanised, powerless and violated.[13] The personal experience of a number of members of AF4WR and women we have spoken to supports the evidence of this survey. Women are being treated, by a proportion of the medical profession, like reproducing machines rather than people. Such attitudes can only be reinforced by the use of language that reduces women to body parts and bodily functions, and denies recognition even of the fact that they *are* women, and mothers.

Recommendations

- *That the Australian government, in collaboration with State and Territory governments, conduct of review of all self-ID legislation currently in force or under consideration, to ensure that men, as defined in this document, not be granted access to women's refuges, prisons or hospital wards, in order to ensure the safety of vulnerable women. Should gender-non-conforming men need sate spaces away from other men, then our governments have a responsibility to provide such spaces,* but this provision should never be made at the expense of women's safety; vulnerable women in particular should not be expected to accommodate males in women's spaces. *Such undermining of women's safe spaces has the potential to be re-traumatising for already-traumatised women, and carries a real risk of further physical harm.*
- *That women's health services, especially reproductive health, refer to and treat women as women, not as a series of bodily functions and body parts. This holistic treatment commences with the use of appropriate and meaningful language and respect for women as people.*

[12] Special Rapporteur on violence against women, its causes and consequences. 2019. "A human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence". UN General Assembly Ref. A/74/137.
[13] Keedle, Hazel, Warren Keedle and Hannah G. Dahlen. 2022. "Dehumanized, Violated, and Powerless: An Australian Survey of Women's Experiences of Obstetric Violence in the Past 5 Years". *Violence Against Women.* https://doi.org/10.1177/107780122211401.

3. The re-institutionalisation of misogyny and homophobia in the treatment of girls (TOR items a and c)

In a local government area in late 2022, staff were discussing options for activities for International Women's Day 2023. One staff member quite naturally and predictably put forward ideas for activities for women and girls. Another staff member objected, stating that the mention of "women and girls" was "exclusionary" of trans and non-binary people. The senior staffer present agreed, with the curious outcome that events organised for International Women's Day now cannot be advertised as being *for* women and girls. This is not a joke, it is not apocryphal. We cannot disclose which local government area we are referring to as the person who reported this incident to us could be placed at risk in her workplace. Suffice it to say that it was an inner city area in one of Australia's capital cities.

Such incidents are proliferating throughout Australia's urban communities in particular: they are happening to us, to those around us, and to our children. Together, they build a worrying scenario.

One element of this scenario is that males are claiming sporting titles that women have trained and worked for (e.g. Western Australian women's longboard surfing championship, Yarra Ranges women's downhill skateboarding championship, both in 2022). This is a disincentive to girls to practise to become proficient in sports requiring strength and speed, if males with greater muscle mass, bone density and lung capacity are to be allowed to compete beside them. It is also a matter of concern in a number of ethnic minority communities where sex-segregation in physical activity is culturally important, and in which girls can often *only* access participation in sports if sex-segregation is ensured. There is some anecdotal evidence that girls are already starting to self-exclude from some girls' team sports where boys and men are also allowed to play *as girls.*

Examples of other worrying developments: government areas distribute brochures that refer to tampon dispensers for "menstruators"; institutions such as the venerable Australian Museum invite men dressed in women's lingerie to take charge of children's play activities; and men use women's changerooms and toilets without fear of sanction, often causing distress to women and girls using those facilities. Girl children are learning (once again) not to trust their instincts, but to comply with institutional directives and institutional cultures that devalue them *as girls*, as *female people.*

Body-shame and body-self-hatred are now taking new forms. Children under ten years of age are taught at schools to list "their" pronouns, and come home to report to their parents that they are now nonbinary, pansexual, genderqueer or trans—without necessarily demonstrating understanding of what those terms actually mean. Such identities are valorised, they are fashionable: they are thus attractive to children who may see them as a means to improve their status in their peer group. Gender non-conforming youth are being encouraged to see themselves not as potentially homosexual, which they otherwise may often albeit not always turn out to be, but as transgender.

3.1. The (hetero)sexism of gender dysphoria diagnoses and "gender-affirming care" (GAC)

The Diagnostic and Statistical Manual (DSM) defines gender dysphoria in children as a marked incongruence between one's experienced/expressed gender and assigned gender, lasting at least six months, as manifested by at least six of the following criteria, one of which must be the first criterion.[14]

1. A strong desire to be of the other gender or an insistence that one is the other gender.
2. A strong preference for *wearing clothes typical of the opposite gender*. In boys a strong preference for wearing or simulating female attire, and/or a resistance to wearing traditional masculine clothing. In girls, a strong preference for wearing typical masculine clothing, and/or a resistance to wearing traditional feminine clothing.
3. A strong preference for *cross-gender roles* in make-believe play or fantasy play
4. A strong preference for the toys, games or activities *stereotypically used* or engaged in by the other gender
5. A strong preference for *playmates of the other gender*
6. A *strong rejection* of toys, games and activities *stereotypical of one's assigned gender*
7. *A strong dislike of one's sexual anatomy.*
8. A strong desire for the physical sex characteristics that match one's experienced gender. [Italics added].

Five of these eight "diagnostic" criteria are based on the child not conforming to outdated and harmful traditional feminine or masculine stereotyped behaviour, appearance or activities. This is but one reason girls who are "tomboys" or same-sex attracted are misdiagnosed as transgender and subjected to the irreversible drug and hormone treatments of GAC. The focus on non-conformity in these criteria would have seen many women who were children in the 1950s, 60s and 70s diagnosed with gender dysphoria.

AF4WR argue that utilising damaging stereotypes of who and what girls ought to play with, and how they dress, to pathologise and medicalise them, is regressive. It is a serious violation of Article 5 of CEDAW which among other things, obliges States Parties "to take all appropriate measures to eliminate … practices which are based … on stereotyped roles for men and women".[15]

The extraordinary rise in so-called gender dysphoria in recent years, including in Australia, and especially among girls, is thus alarming, and the lack of attention by the medical establishment to other psychological factors, including trauma, is even more alarming. Girl children's anxiety or distress is paid attention *only* if channelled through acceptable scripts. Several major reviews have been conducted overseas about this rise and the complete reversal of sex ratios from cases occurring prior to 2014.[16] They show at least 75% of

[14] American Psychological Association (APA). 2021. *Guidelines for Psychological Practice With Transgender and Gender Nonconforming People*. https://www.apa.org/practice/guidelines/transgender.pdf.
[15] https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm

[16] See for example, the following reports re the UK: Lyons, Kate. 2016. "Gender identity clinic services under strain as referral rates soar". *The Guardian,* 11 July. https://www.theguardian.com/society/2016/jul/10/transgender-clinic-waiting-times-patient-numbers-soar-gender-identity-services, and re Sweden: Orange, Richard. "Teenage transgender row splits Sweden as dysphoria diagnoses soar by 1,500%". *The Guardian,* 23 February. https://www.theguardian.com/society/2020/feb/22/ssweden-teenage-transgender-row-dysphoria-diagnoses-soar.

children currently with this disorder are female, not male as previously the case, and that social contagion is a significant factor in this increase, as Australian research also shows.[17]

Using the DSM criteria, clinicians are unable to tell (diagnose) which children will outgrow their childhood or adolescent distress and which will not. They are also unable to tell which female children will develop a same-sex sexual orientation. Eighty-five percent of children and adolescents will outgrow their distress if they are not socially transitioned, and do not have any medical or surgical gender affirming treatments associated with GAC.

A key element of GAC is the use of puberty blockers. The drugs used are gonadotropin-releasing hormone (GnRH) agonists or analogues, which are sex hormone suppressants developed to treat, among other things, some cancers such as prostate or breast cancer. The most common brand for these drugs is *Lupron.* Lupron is now routinely prescribed to suppress puberty in children and adolescents deemed to be transgender but whose hormone levels would otherwise be perfectly normal. It is not approved for this purpose by medical authorities in many countries, and some, such as the US Food and Drug Administration (FDA), have warned against its use.

The documented harmful side effects of the use of GnRH agonists as puberty blockers include:

- decrease in bone density, such that teenagers can develop osteoporosis
- reduction in bone growth or height
- decrease in mental acuity including lowering of IQ by up to 10 points
- headache, fatigue, insomnia and muscle aches
- changes in weight, mood
- changes in breast tissue
- spotting or irregular periods
- idiopathic intracranial hypertension, resulting in loss of vision.[18]

The effect on teens' sexual life and function is unknown, although what *is* known is that prolonged doses of cross-sex hormones can result in infertility and atrophy of sexual organs such as the uterus. Early social transition and use of puberty blockers predispose young people to proceed to take cross-sex hormones at a young age.

[17] Kenny, Dianna. 2019. "Children and young people seeking and obtaining treatment for gender dysphoria in Australia: Trends by state over time (2014-2018)". *Forum on transgender children and adolescents at the Parliament of NSW,* 04 September, https://www.diannakenny.com.au/k-blog/item/12-children-and-young-people-seeking-and-obtaining-treatment-for-gender-dysphoria-in-australia-trends-by-state-over-time-201-2018.html; 2022. "The social contagion of gender dysphoria." https://www.diannakenny.com.au/k-blog/item/18-the-social-contagion-of-gender-dysphoria html.

[18] Biggs, Michael. 2019. "The Tavistock's Experiment with Puberty Blockers". http://users.ox.ac.uk/~sfos0060/Biggs_ExperimentPubertyBlockers.pdf

Particularly alarming is not only the encouraging but the *mandating* of so-called "gender affirming" treatments (GAC). What is happening in Australia, and happening to girl children and young people in particular, is part of a global trend, and driven by well-funded lobby groups. Some states in Australia and the USA, along with the Canadian government, have enacted legislation that criminalises any health or medical practitioner, parent or teacher who opts for opts for non- medical approaches and does NOT affirm the child's stated belief that she or he has the wrong body. Under this legislation children are removed from the care and protection of their parents, a violation of both the child's and parent's rights.

Yet in the past 12 months, the UK, Sweden and Finland have all *rejected* GAC after conducting their own national reviews of the international evidence, following the UK High Court judgment in a case brought by a former patient, Keira Bell, against the Tavistock children's gender clinic (now closed by the National Health Service). These three countries have replaced GAC with a non-drug based and non-medical approach. All former enthusiastic adopters of "gender-affirming" treatments such as the use of GnRH agonists, these countries are now banning or severely limiting the use of that drug for GAC among minors. In Australia, by contrast, we are not heeding the evidence based calls for a return to not only common sense but also a regard for the welfare of children, to whom all adults and Australia as a society that champions equality owe our protection and respect.

3.2. GAC and migrant children

In countries such as Australia, the USA and the UK with large numbers of migrant and refugee families, the female children in these families are particularly exposed to the risks posed by the ideology that children can be born in the wrong body. It is estimated that one in four "LGBTQ" youth in the US are first generation migrants.[19] Multicultural mainstream media such as SBS in Australia frequently promote and legitimate this ideology with stories and material about transitioning children.

State Education departments have curricula that incorporate this ideology, and produce guides for schools about transgender students that lack safeguarding of children's rights. The disturbing advice is to *not* inform parents that their child socially transitions at school with name and pronoun changes. It is even advised that the child be directed to gender services without parental knowledge, let alone consent, if the school deems the parents are unsupportive of gender transition. Some state anti-discrimination legislation protects all students in the school, whether or not their parents and carers affirm their gender identity.[20]

Initiatives such as Pride Week, originally developed to support lesbian and gay youth, have increasingly become platforms for the promotion of the ideology of transgender, such that, as mentioned above, children who *may* be homosexual and as such, do not gender-conform, are encouraged to see themselves as trans. The deep irony of this trend that initiatives that purport to be a celebration of sexual diversity and of all groups in the "LGBTQ" alphabet, have become a new process of gender and sexual *normalisation*, where young people are encouraged to identify as trans rather than to explore the possibility that they may be lesbian, gay or bisexual.

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[19] "LGBTQ Youth from Immigrant Families". The Trevor Project, 30 April 2021. https://www.thetrevorproject.org/research-briefs/lgbtq-youth-from-immigrant-families-2/.

[20] See for example The Queensland Human Rights Commission Guide for Schools: https://www.qhrc.qld.gov.au/__data/assets/pdf_file/0019/24535/QHRC_TransAtSchool_forschools.pdf.

The diverse backgrounds and experiences of migrant and refugee parents means while their child may be less likely in many cases to disclose gender-non-conforming behaviour, the parents may also be less aware of the risks to their child of gender affirmation and less equipped to challenge the school and gender services. This in turn exposes their daughters (in particular) to all the risks of transition and GAC detailed above.

3.3. GAC as a violation of the human rights of girls

AF4WR are particularly disturbed by violations in relation to specific rights contained in the Convention of the Rights of the Child (CRC) and Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) covering health, information, education, the development of the child, and the elimination of harmful and wrongful stereotypes of women and men. The highest attainable standard of health, which includes girls and women's sexual and reproductive health, is a right that is being violated for thousands of female children and young girls worldwide.

The CRC and CEDAW came into existence to protect children from the types of harms and impacts that arise from GAC, yet the increasing, and increasingly overwhelming, evidence of these harms is currently disregarded by governments in favour of ideological practices that are sexist and homophobic.

Recommendations

- *That the Australian government immediately conduct an enquiry into the laws and practices in the area of "gender medicine" in Australia, along the lines of the Cass Review conducted in the UK.[21] All stakeholders should be consulted as part of this review.*
- *That girl children not be required to accept males into their spaces, games or sports, and not be shamed for refusing to do so.*
- *That girl children dealing with body image issues, anxiety or trauma, or doubts or concerns over their emerging sexuality, not be subjected to pressures to "gender conform" but be provided with full information and a range of options, and sufficient time to properly consider them.*

[21] https://cass.independent-review.uk/publications/.

Conclusion

The Australian government's concern for the rights of women and girls in national and international context, as expressed through this enquiry, is laudable, and AF4WR are hopeful that this initiative is the start of a new and ongoing conversation in this area that will lead to stronger and more lasting outcomes. As is noted in the Inquiry's Terms of Reference, the violations of women's rights internationally have been severely exacerbated by COVID, climate change and new or ongoing armed conflicts, and refugee and migrant women and girls are particularly vulnerable. We would add that lesbians or any other women who do not conform to sex-role stereotypes suffer particular forms of vulnerability and violations, which are often not articulated clearly in these conversations, with the effect of leaving these women and girls even more exposed to risk.

Yet many of these risks to the safety of girls and women exist right here in Australia, as the Minister for Women has recently noted. They are magnified by a return to the sorts of sexist stereotypes that we had hoped, following second wave feminism and a resulting change in societal attitudes towards women, would have left us forever. Whether we are talking about sexualised threats to women in the public eye, obstetric violence or increases in sexual assault and domestic violence, we seem to be returning to a time where women were considered to be things defined primarily by sex organs and reproductive functions, rather than fully human people.

Even the very bodily integrity of girls and women is now under threat as an ideology and cultural and medical practices that don the veneer of progressivism return us to the most appalling heterosexist stereotypes of what men and women "should" be and what abusive behaviours by males women are expected to not only tolerate but embrace, in the name of "inclusion". Yet, it is women who are being excluded anew—from sports, titles, affirmative action, safe spaces—and the long term mental and physical health of girls that is being placed at risk, by these new ideologies and practices.

We have heard many women comment to us that this is the most misogynist period they have experienced in their lifetime. A worrying trend. We sincerely hope that the Australian government will heed the warning signs and act to reverse this trend.