

Submission re the Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020

Senate Standing Committee on Education and Employment
Submitted online via aph.gov.au

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To the Committee

Thank you for the opportunity to provide this submission regarding the Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020.

I do so as a long-standing advocate for the lesbian, gay, bisexual, transgender and intersex (LGBTI) community, and as a gay man who (barely) survived five years at a homophobic religious boarding school in Queensland in the early 1990s¹ and who hopes to help protect trans and gender diverse students from experiencing similar discrimination today.

Contrary to its name, this legislation is not about prohibiting the indoctrination of children, but instead appears to be motivated by prejudice against the gender identity and/or gender expression of trans and non-binary young people.

It is not about providing balance, but is instead aimed at banning the information these children need to grow up feeling safe and supported, and reach their full potential.

And it is not about ensuring all students enjoy an inclusive education, but instead seeks to erase trans and gender diverse kids. From the curriculum, and from the classroom.

These disturbing truths are revealed by Senator Hanson's Second Reading Speech, where she spends almost half of its word count arguing against 'gender theory indoctrination in schools', which she claims 'involves some teachers and schools pushing the idea that a child's biological sex does not determine where you are male or female.'

Not only does Senator Hanson fail to understand the difference between sex assigned at birth and gender identity – and the existence of hundreds of thousands of trans and gender diverse Australians demonstrate that these two can and frequently do diverge.

But she also seems to believe that banning curriculum materials which mention said reality of gender diversity will somehow prevent children from becoming trans or non-binary in the first place (from the Second Reading Speech: 'The preoccupation with gender identity by some teachers and schools is correlated with an increase in children identifying as transgender, which is why I say these educators are transgenerating our children').

I know from bitter personal experience that the consequence of a homophobic education, where the curriculum did not even acknowledge the existence of same-sex attraction let alone affirm that it was a valid sexual orientation, did not make me any less gay, but it did nearly cost me my life.

The same will inevitably be true for trans and gender diverse students should this legislation pass. The choice is not between whether a child is trans or non-binary on one hand, or cisgender on the other. The choice is between whether a trans or non-binary child is happy and healthy, or depressed and at significant risk of self-harm.

On this most basic of outcomes, our schools are currently failing. Badly. The recent findings of the *Writing Themselves In 4ⁱⁱ* survey indicate that, far from schools being overwhelmingly supportive environments where being trans and gender diverse is encouraged, in many, indeed most, there is either silence or active hostility.

From that report:

- One-half (51.2%; n=1,953) of secondary school participants reported that trans and gender diverse people were never mentioned in a supportive or inclusive way;ⁱⁱⁱ
- Almost three-quarters of trans men (74.3%; n=278) and two-thirds of trans women (67.7%; n=46) and non-binary participants (65.8%; n=746) said that in the past 12 months they had felt unsafe or uncomfortable at their educational institution due to their sexuality or gender identity;^{iv}
- Only 41.0% (n=378) of trans and gender diverse participants in secondary schools reported being able to safely use their chosen name or pronouns in the past 12 months, while only 50.9% (n=469) were able to wear clothes that matched their gender identity;^v and
- Over seven-tenths (70.2%; n=2,579) of secondary school participants... reported hearing negative language about gender identity or gender expression sometimes or frequently in the past 12 months.^{vi}

Many trans and gender diverse students are not thriving in these toxic environments. Nor are they being 'created' by overly-supportive schools and teachers. They are merely doing their best to survive despite the transphobia which far too often surrounds them.

There is one point on which I agree with Senator Hanson. In her Second Reading Speech, she declares that 'Our children deserve an education that will allow them to reach their potential.' Unlike Senator Hanson, however, I believe that this statement should apply to all students, and not just those who are cisgender.

Trans and non-binary children have the same right to learn, and grow, as any other child. As every other child. Our schools should be doing more to support them, not less. That includes increasing their visibility in the curriculum, rather than having all references to gender diversity erased because of discriminatory legislation proposed by an extremist Senator.

I call on the Senate Standing Committee on Education and Employment, and the Parliament more broadly, to reject this attack on some of Australia's most vulnerable.

Recommendation: That the Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020 be rejected in its entirety.

Before I conclude this submission, I would like to raise two additional arguments, both of which militate for rejection of this legislation.

First, the Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020 needs to be seen in its wider context. In my view, it is merely one small part of a larger, dangerous and divisive culture war being waged right now against trans and gender diverse Australians.

The proponents of this culture war include organisations that were opposed to the right of all couples to marry irrespective of their sexual orientations, gender identities and/or sex characteristics. Having lost that fight, including through the 2017 same-sex marriage postal survey, they appear to have turned their attention to denying the fundamental rights of trans and gender diverse Australians, and especially trans and non-binary young people.

These organisations have found supporters in columnists, and media publications, that seem happy to publish attacks on the ability of trans kids just to be themselves.

Unfortunately, these organisations also appear to have found supporters in the Senate itself, with the passage of Senator Roberts' motion number 1055, on Wednesday 17 March 2021. As well as seeking to reinforce the use of binary-only gender descriptors, it included the following concerning clauses (among others):

'That the Senate notes that:

ii. broad scale genuine inclusion cannot be achieved through distortions of biological and relational descriptors,

iii. an individual's right to choose their descriptors and pronouns for personal use must not dehumanise the human race and undermine gender.'

In response, I would submit that denying the existence of trans and non-binary people is a far greater threat to 'broad scale genuine inclusion'. More importantly, a trans or non-binary person affirming their gender descriptors and pronouns does not pose any threat to any person who is prepared to accept and respect other people for who they are.

Nor does the use of diverse gender descriptors and/or pronouns 'dehumanise the human race' in any way. Indeed, I would encourage Senators who voted in support of that motion to reflect on exactly who was being dehumanised by its contents.

The anti-trans agenda has found even greater support among state and territory parliaments, including in my jurisdiction of NSW. The state leader of Senator Hanson's Party has introduced his own legislation seeking to make life much more difficult for LGBTI students, and for trans and non-binary students in particular.

As I have written elsewhere,^{vii} the Education Legislation Amendment (Parental Rights) Bill 2020 is:

'A Bill that seeks to prohibit any and all teaching that someone's gender identity can be different to the gender assigned to them at birth.'

That weaponises the so-called morality of transphobes to deny the reality of trans people.

A Bill that actually goes much, much further, by banning any 'teaching, instruction, counselling and advice' that acknowledges said lived reality, by anybody remotely connected to a school, from principals to parents volunteering in the school canteen.

That compels a school counsellor to remain silent when a suicidal trans student just needs to hear the most basic words of comfort: that they are not alone, and who they are is okay.

A Bill that recycles failed and flawed policies from Thatcher-era Britain, reviving 'section 28'-style laws which saw a generation of lesbian, gay and bisexual students marginalised and made invisible, without access to safe sex education even at the height of the HIV epidemic.

Policies that were abandoned in the UK almost two decades ago, now being contemplated for LGBT students right here in 2021.

A Bill that seeks to insert an ignorant, inappropriate and incorrect definition of intersex in NSW law for the first time, further stigmatising individuals that still endure the most significant human rights abuses of any group within the LGBTI community.'

While discussing the Education Legislation Amendment (Parental Rights) Bill 2020, I should note that were both it and Senator Hanson's own Bill to pass their respective Parliaments, it is highly likely the Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020 would result in the defunding of NSW public schools.

That is because of the operation of proposed section 22AA of the *Australian Education Act 2013* (Cth), and especially sub-section (1)(b):

'A payment of financial assistance under this Act to a State or Territory is subject to the condition that the State or Territory has in force laws that... require a staff member (however described) of a school to provide students with a balanced presentation of opposing views on political, historical and scientific issues as such issues arise in the teaching of a subject.'

Given the NSW Bill expressly prohibits the teaching of particular views, including in relation to the scientific diversity of gender identity, it cannot possibly be described as balanced according to that word's ordinary meaning.

Putting that particular issue to one side, I raise the broader context of the Bill currently before the Committee because it will have consequences outside of its own flawed provisions.

If the Committee, and Parliament, choose to support the Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020, it will only embolden the proponents of the culture war against trans and non-binary kids.

On the other hand, the Committee, and Parliament, have the opportunity through this inquiry and subsequent legislative debate to send a strong signal that trans and gender diverse Australians have the right to be themselves, and above all that trans and non-binary children will be protected against further attacks.

The second and final additional argument I would like to raise relates to the impracticability of the Bill itself. Specifically, proposed section (7) of the *Australian Curriculum, Assessment and Reporting Authority Act 2008* (Act), provides that:

'The Australian Curriculum, Assessment and Reporting Authority must ensure that:
(a) the national school curriculum is developed and administered to provide a balanced presentation of opposing views on political, historical and scientific issues; and
(b) information, resources, support and guidance that promote a balanced presentation of opposing views on political, historical and scientific issues are provided to the teaching profession.'

However, the Bill does not define what is meant by the term 'balance'. The Explanatory Memorandum fails to provide further clarification, simply noting this provision requires ACARA 'to promote a balanced presentation of opposing views *where they exist*' (emphasis added).

Which leaves us with Senator Hanson's Second Reading Speech to assist with legislative interpretation. In the context of her views on, or rather against, climate change science – which dominates the other half of her statement – the notion of 'balance' becomes problematic.

It appears Senator Hanson would like to provide an equal platform in the science curriculum to climate change denialism alongside evidence-based climate science which irrefutably shows the earth is heating, and that this heating is caused by human activity.

To do what Senator Hanson proposes – to provide space in the science curriculum just because some people believe it, rather than because it is based on evidence – would undermine the very nature of science itself.

Nevertheless, it is the application of the Bill's vague notions of 'balance' to the subject of history that reveals just how unworkable this legislation is.

Thinking first about the history of human life on this continent. If a conservative estimate of Aboriginal history is 65,000 years, while the length of British invasion is only 233 years, does that mean a 'balanced' history curriculum would provide 279 times the syllabus space to Indigenous history as it does to history post-1788? That is certainly an arguable interpretation of balance – although I doubt it accords with Senator Hanson's views.

Similar questions arise in relation to the invasion of Gallipoli by Australian troops, as part of the British Empire, in World War I. Does balance in this context mean providing equal time to the views of Turkish people about this invasion as those of Australians? Does it mean allocating equal space to views for and against the War overall? Once again, I suspect my

own perspective of what would be balanced here would differ, quite substantially, from Senator Hanson's.

To raise one last example, how would this legislation affect the history curriculum around World War II, and specifically the Holocaust? Abhorrent though their views are, some people continue to espouse Holocaust denialist arguments. To apply the language used in the Explanatory Memorandum, they are 'opposing views (about history) where they exist'.

It is therefore at least possible that, if passed, the Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020 would mandate ACARA to include Holocaust denialism as part of the Australian history curriculum.

Such an outcome is obviously unacceptable. It reflects a Bill that is an unworkable mess, and one that would create a mess of Australia's curriculum, not just in history, but in politics, science and elsewhere too.

In my view, this impracticability is the inevitable outcome of a Senator trying to impose their ideological obsessions – in this case, climate change denialism, and the erasure of trans and non-binary kids – through the national education system.

I would much prefer our school curriculum to be drafted by experts who understand their subject matter, as well as the learning and developmental needs of children – all children – rather than a Senator who does not seem to even understand her own legislation.

I sincerely hope the majority of the Committee, and the Parliament, share that preference.

Thank you for considering this submission as part of the inquiry into the Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020. Please do not hesitate to contact me, at the details provided, should the Committee require additional information.

Sincerely
Alastair Lawrie

Footnotes:

ⁱ For more on my experiences, see 'The Longest Five Years', via <https://alastairlawrie.net/2019/03/17/the-longest-five-years/> 17 March 2019.

ⁱⁱ Adam O. Hill et al, 'Writing Themselves In 4: The Health and Wellbeing of LGBTQA+ Young People in Australia', La Trobe University Australian Research Centre in Sex, Health and Society, February 2021, available at https://www.latrobe.edu.au/_data/assets/pdf_file/0010/1198945/Writing-Themselves-In-4-National-report.pdf

ⁱⁱⁱ Ibid, p48.

^{iv} Ibid, p52.

^v Ibid, p54.

^{vi} Ibid, p57.

^{vii} See 'NSW MPs can be champions for trans and gender diverse kids. Or bullies.', via <https://alastairlawrie.net/2021/02/14/nsw-mps-can-be-champions-for-trans-and-gender-diverse-kids-or-bullies/> 14 February 2021.