The Royal Children's Hospital Melbourne
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Current and emerging threats to trans and gender diverse human rights in Australia

Submission to the Australian Human Rights Commission
May 2024

From The Melbourne Children's Campus, comprising:

- The Royal Children's Hospital (RCH), Melbourne
- Murdoch Children's Research Institute
- The University of Melbourne, Department of Paediatrics

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Melbourne Children's
A world leader in child and adolescent health
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Our expertise

Melbourne Children's brings together four organisations: **The Royal Children's Hospital**, the **Murdoch Children's Research Institute**, the **University of Melbourne's Department of Paediatrics** and **The Royal Children's Hospital Foundation** at a single, award-winning campus in Melbourne. Our campus purpose is to advance child and adolescent health through prevention, early intervention and health promotion, together with the highest quality clinical care, research, education and training.

The Royal Children's Hospital is a tertiary and quaternary centre for paediatric care in Victoria. The vison of the RCH is a world where all kids thrive. We believe all children and young people should have the same opportunity to realise their potential. This includes trans and gender diverse children and young people. The Royal Children's Hospital Gender Service (RCHGS) has provided care to children and young people since 2003, was formally established in 2012, and has received specific funding from the Victorian Department of Health since 2015. It was the first paediatric gender service established in Australia and remains the largest, supporting approximately 1500 trans youth currently. The RCHGS provides a clinical service with the primary aim to improve the physical and mental health outcomes for trans and gender diverse children and young people. The model of care is multidisciplinary, individualised and family-focussed. Each young person and family are unique, and their care needs differ. Services offered include education, linkages to community and peer supports, psychological support, speech and voice training and medical affirmation, including pubertal suppression and gender affirming hormones. The clinical service is informed by our consumer advisory group, recognising that the voices of those with lived and living experience are an essential component in ensuring our service meets the needs of the community. The RCHGS respects the rights, capacity, and autonomy of children and youth in being able to identify and express their needs and preferences and therefore be at the centre of decision-making.

The Murdoch Children's Research Institute is Australia's largest child health research institute and is ranked among the top three globally for research quality and impact. The MCRI Transgender Health Research Group conducts and publishes world-leading research, focused on the health of trans youth. This includes the *Trans20* longitudinal cohort study, tracking the outcomes of ~600 youth and their families seen and supported at the RCHGS. Associate Professor Ken Pang from RCHGS and MCRI is leading a national research collaboration – the

Australian Research Consortium for Trans Youth and Children (ARCTYC) – which was recently granted five million dollars by the Medical Research Future Fund (MRFF). ARCTYC aims to bring researchers, clinicians and community members together to create a national data registry, improve delivery of hormonal treatments (pubertal suppression, oestrogen and testosterone), explore non-medical supports and compare different gender-affirming health care models for trans young people.

The Department of Paediatrics, University of Melbourne provides internationally respected undergraduate and postgraduate education in child and adolescent health and is the lead for all educational activities across the Melbourne Children's Campus. The Department is also involved in clinical care and translational research and is focused on creating a culture of diversity and inclusion.

The rights of all children and young people, including trans and gender diverse (TGD) children

The United Nations Convention on the Rights of the Child (CRC) was ratified by Australia in 1990. The Australian Government has a duty to uphold these rights, for all children, including TGD children and youth. Our clinical and research work has alerted us to a coordinated national and international threat to the rights of trans youth that is increasingly prominent across health, education, legal, political, and media sectors. With our expertise in paediatric development and healthcare, our focus will be on CRC Articles 8, 17, 24, 28 and 29. All rights are connected and interdependent. At the most fundamental level, TGD young people have the right to live a good life.

Current and emerging threats to Article 8: The right to preserve identity

The right of TDG youth to preserve their identity through name and gender self-identification and expression is under threat. For trans youth, living and expressing their identity is underpinned by safe social affirmation, where name and pronoun choice, bodily expression and appropriate access to gendered spaces and activities is protected by institutions and government.

Internationally, there are clear legislative threats to trans youth being able to live safely in their affirmed gender. This is particularly apparent in the United States (Human Rights Campaign Report 2023) and includes forced student outing laws, pronoun refusal, "don't Say LGBTQ+" laws and bathroom bans. Although Australian LGBTQ+ youth have not yet been subject to this intensity of legal attack, recent repeated political attempts have been made to undermine the TGD (and human) right to self-identification and expression. This includes the Childhood Gender Transition Prohibition Bill 2023 and repeated motions put forward by Senator Hanson, Independent Victorian MP Deeming (Legislative council notice paper 23, *p25*) and the Hon. Mark Latham (MLC, Parental Rights Bill 2020). A recent report from the Australian Law Reform Commission highlighted specific educational settings that are not supportive of diverse gender expression (ALRC Report 142). In addition, psychiatrist Dr Jillian Spencer and the Human Rights Law Alliance, have challenged the professional requirement to use a child's preferred pronouns and name, stating "*It is not a doctor's job to affirm unreality*." Policies and practices that prohibit this self-determination threaten the rights of all trans people to live as their authentic selves.

The importance of social affirmation, or living and expressing oneself in their affirmed gender, is supported by the best available research evidence. Olsen (2016) demonstrated that prepubescent children who were supported in their identified gender showed fewer mental health symptoms compared to those from previous studies who lacked social affirmation. Similarly, Durwood (2017) found that trans children who socially transitioned exhibited comparable self-worth to national standards and matched peers and siblings. Russell (2018) found that, among 129 trans adolescents, those addressed by their chosen name experienced lower rates of depression, self-harm, and suicide attempts than those who were not addressed by their chosen name. An Australian national survey reported better mental health and greater subjective happiness in LGBTQA+

youth when educational and workplace settings are affirming (Amos 2023). This research demonstrates clear positive mental health outcomes for young people who are supported in their decision for social affirmation.

Current and emerging threats to Article 17: The right to accurate information (that does not harm)

Article 17 states that children should have access to information aimed at the promotion of their social, spiritual, and moral well-being and physical and mental health. It places a specific obligation on governments to "develop appropriate guidelines for the protection of the child from information and material injurious to his or her (*or their*) well-being." Most youth now seek information online, as do their parents and caregivers. Although there are excellent local sources of information online (e.g., Telethon Kids Institute, Transforming Families, Raising Children's Network, Transcend Australia), misinformation and disinformation targeting TGD children is increasing in Australia, exposing trans youth to material that pathologizes their existence, promotes trans hate and discrimination, and erodes confidence in trans healthcare.

We know that disinformation regarding trans youth targets the following areas (Meade 2023, McNamara 2023):

- The validity of trans identities
- The benefits of social affirmation
- The definition and practice of gender affirming care
- The safety of medical affirmation, especially pubertal suppression
- The benefits of medical affirmation for trans youth
- The rates of 'desistance' and 'regret'

The RCHGS frequently speaks to parents and young people distressed and confused about information read or seen online. Disinformation has also been used repeatedly in the US to ban gender affirming care to children

(see Biased Science report). It has also been used to justify restrictions on medical indemnity coverage for doctors providing gender-affirming medical care in Australia (MDA 2023, AMSA disaffiliation).

There are a number of groups, with overlapping memberships, creating and promoting disinformation in Australia, such as Genspect and the Society for Evidence-Based Gender Medicine (SEGM) (Turner 2023, SPLC 2023). These disinformation campaigns are well-funded, organised, and promoted nationally by organisations such as Binary Australia (previously known as Marriage Alliance) and the Australian Christian Lobby, with sponsored posts on social media platforms (Zhang 2022), repeated media articles (TGV submission 2023, Sydney Corpus Lab 2021), and recently a widely viewed, misleading Spotlight Episode on Channel 7 (ABC news 2023). This pervasive disinformation is designed to spread public doubt and induce fear, reducing the number of children supported to access gender affirming care, and ultimately influence legislation to oppress trans people. It is not a benign process, but an alarming threat, and has resulted in legislative or policy changes restricting access to affirming care for youth in the US and the UK (NHS England 2024, BMJ 2023).

Online anti-trans hate causes harm (Trans Justice Project). Hughto (2021) reported that more frequent exposure to negative trans-related media is associated with depression, anxiety and post-traumatic stress disorder symptoms in TGD individuals, and such exposure is associated with impaired access to treatment (Indremo 2022). The clinical experience at the RCHGS in recent years is of TGD youth exposed to more frequent incidents of bullying, often leading to reduced school attendance, social isolation and worsening mental health. We hypothesise that this recent escalation in bullying is associated with the increasing level of anti-trans media over the same period. Gender affirmation and family support is not sufficient to counteract the effects of bullying and trans-hate on mental health and quality of life.

Current and emerging threats to Article 24: The right to the highest attainable standard of health

Trans and gender diverse children and young people – like all children and young people – have a right to the highest attainable standard of health. To have this right fulfilled, young people need to (a) have access to care, (b) have care that that is as effective and safe as possible, based on current evidence, and (c) delivered in a way that is respectful and caring, so that they are able to continue to receive care. Gender affirming care is

evidence-based with significant benefits. This model encompasses recognising and respecting an individual's lived experience and providing the supports they want and need. It is individualised and multidisciplinary, and can include social and legal affirmation, discussed above, as well as medical affirmation. Medical affirmation can include pubertal suppression and gender affirming hormones (GAH, Oestrogen and Testosterone). All trans children and youth have a right to access this healthcare. However, provision of this care is under threat, particularly in the UK and US, specifically targeting pubertal suppression and GAHs (Biased Science, McNamara 2022, NHS England 2024).

There is growing evidence that the use of pubertal suppression improves mental health outcomes and overall functioning in trans youth, with no evidence of deterioration in wellbeing (de Vries 2011, de Vries 2014, Costa 2015, van der Miesen 2020, Achille 2020, Turban 2020, Kuper 2020, Brik 2020, Carmichael 2021). Qualitative research also supports the acceptability of use amongst trans youth and parents, with limited concern or experience of side-effects and low cessation rates, with those on puberty blockers describing them as "essential" and "life-saving" (Cavve 2024 Hobson 2024, Horton 2022).

In addition, recent research shows improved psychological well-being, reduced anxiety and depression and lower odds of suicidality in trans youth receiving gender affirming hormones (Tordoff 2022, Chen 2023). A recent systematic review (Doyle 2023) reported psychosocial benefits from gender affirming hormone use, for both transmasculine and transfeminine individuals, with consistent reductions in depressive symptoms and psychological distress.

Studies reporting benefit from gender affirming care have been ignored, or unjustifiably discounted, in jurisdictions that have limited access to this care (Biased Science, McNamara et al 2022, NHS England 2024). Standards of research that are not applied in other areas of healthcare are applied to gender affirming care, such as calls for unfeasible study designs and restricting care access to research participants only. Discrepant

prescribing regulations are also applied, including equating off-label prescribing as unsafe, where in reality a large proportion of paediatric medications are used off-label (Czaja 2015, Landwehr 2019).

Historically, gender affirming medical care has required the involvement of Australian courts. The courts have grappled with (1) their role in approving gender affirming care where parents, the child and treating clinicians all agree that it is in the child's best interests, and (2) whether a Gillick competent transgender adolescent ought to be able to consent to this treatment, as is the case in most other areas of medicine. Through a series of cases (*re: Jamie, re. Kelvin*), court involvement is now limited to cases where there is a dispute, usually between parents, but there have been recent calls to reconsider the role of the courts which, if taken up, could restrict access to appropriate gender affirming care in the future (The Australian, 2023).

Current and emerging threats to Articles 28 and 29: The right to education

All children have the right to education, however trans youth are often unable to learn in traditional school settings, that remain unsafe. A national report on the health and well-being of LGBTQA+ young people in Australia (Writing Themselves in 4), surveyed 6418 young people aged 14 to 21 years in 2019. 70% of participants reported hearing negative language about gender identity or gender expression, sometimes or frequently, in the past 12 months at school and 60% reported feeling unsafe at school, with more than 50% missing days of school as a result. The recent ALRC report also highlights discrimination towards LGBTQ+ youth in Australia's religious schools.

From our experience, trans youth often leave the mainstream education systems because of this discrimination. A safe, accessible learning environment is a right. In addition to being free from harassment, a safe environment includes the use of chosen name and identified gender, access to the bathroom of choice and participation in educational and co-curricular activities that align with the identified gender.

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Conclusion

Limiting the ability of trans youth to affirm their gender – either socially, medically or legally – poses clear threats to their human rights. It curtails their self-expression, their agency, their health and their right to have input into the trajectory of their own lives. The rights of trans and gender diverse children and young people need to be particularly considered by the Australian Human Rights Commission, for they lack the constitutional power to combat the many systems of oppression and discrimination as legal minors. The coordinated attack on medical affirmation is part of an organised effort to diminish the rights of a minority under the guise of protection. The research evidence, and our clinical expertise, demonstrate that when the rights of trans and gender diverse young people are attacked and breached, their health suffers and the impacts can be long-lasting and devastating. Trans children and young people are healthiest and happiest when they are listened to, safe, and celebrated as a wonderful part of humanity.

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