

WCHM Position Paper: Intersex, Transgender and Gender Diversity

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women's centre for health matters ●

A. Introduction

The Women's Centre for Health Matters Inc (WCHM) works to improve the health and wellbeing of all women in the ACT and surrounding regions, with a focus on women who experience disadvantage and marginalisation, or who have specific gender-related needs. WCHM's Strategic Plan for 2012-16 outlines the ways in which the organisation intends to assist women in the ACT to make informed health and wellbeing choices, and to influence health related services and policy to be responsive to ACT women's needs.

Today, there are an extraordinarily diverse range of discourses about sex and gender which emerge from and are debated within the circles of academics, governments, human rights frameworks, health and social service providers, activists, and communities. These discourses mobilise the concepts of 'sex' and 'gender' in different ways and for different purposes, whether it be as a key facet of identity, an aspect of biology, a way of being in the world, a determinant of health and wellbeing, a marker of discrimination or inequality, or any other number of different articulations. At the same time as these conversations have pushed 'women's issues' onto the public agenda, in more recent years intersex, transgender and other gender diverse voices have also begun to make themselves heard in all of these arenas.

Due largely to the advocacy efforts of these groups, it is increasingly recognised that the binary categories of 'male' and 'female' do not do justice to the range of gender identities and expressions in the community. At the same time, the diversity of biological sex is also beginning to be appreciated amongst the mainstream population as intersex people and their allies become more organised and visible. Both of these broad issues have been the focus of major law reform at a state and national level, most notably (in the ACT) with the introduction of legislative changes to the ACT Births, Deaths and Marriages Act which remove the requirement for surgery before a person's sex can be changed on their birth certificate.

In light of all this, and through WCHM's engagement with the range of other services in the ACT that respond to gender-related needs in the community—in particular, with support and advocacy organisation A Gender Agenda—it has become clear that it will be an ongoing part of WCHM's future work to reflect on what we mean by 'sex' and 'gender' and how we define the group of people we represent. This is particularly important because, within the range of contested definitions of these terms, "women who experience disadvantage and marginalisation" or who have "specific gender-related needs" might include people who have traditionally been

invisible to women's organisations: for example, transgender women or women who have an intersex difference which means their physiology is not wholly female. It may also include transmasculine people whose physiology means that they may require services usually associated with women's health.

This paper will establish WCHM's basic orientation on intersex, transgender and gender diversity in relation to the organisation's core business, and set out some principles that will help to guide WCHM's work in this area. From this point, WCHM can proceed to further explore what intersex, transgender and gender diversity means for the organisation and, indeed, for the women's sector more broadly.

B. Terminology

For the purposes of this paper, terms will be used in the following ways:

Gender: "Gender is not what culture created out of my body's sex; rather, sex is what culture makes when it genders my body." – Riki Wilchins, transgender activist¹

In this position paper, 'gender' is used in the broadest sense to indicate the entire range of embodied, psychological, physiological, and social ways of understanding and constructing sexual difference.

Gender diversity/diverse: Used to indicate the range of experiences, articulations, and physical expressions of gender, many of which are not captured within the categories 'man'/'woman' or 'male'/'female' as they are traditionally understood.² Sometimes used interchangeably with "trans" or "transgender" to refer to anyone who doesn't identify with or express their gender in terms of the male/female binary.

Intersex: Intersex is a term which relates to a range of biological traits or variations that lie between 'male' and 'female' (as they have traditionally been defined). Intersex people are born with chromosomes, genitals, and/or reproductive organs that are traditionally considered to be both 'male' and 'female', neither, or atypical. Intersex is not a gender identity or a sexuality—individuals may identify as male, female, intersex, both, between, or none of these.³

Transgender: Sometimes abbreviated to the prefix 'trans', which literally means 'across from'. The term can be used in a narrow sense to describe a person who

¹ http://www.iwtc.org/ideas/15_definitions.pdf

² <https://www.genderspectrum.org/about/understanding-gender>

³ <http://oii.org.au/21336/intersex-for-allies/>

identifies their gender as other than that they were assigned at birth. It can include transsexuals (usually people who were born female but live and identify as male, or vice versa), but can also include, for example, persons who identify as female when their body is female or male when their body is male, but whose behaviour and appearance is not congruent with that socially expected of their sex, such as masculine or “butch” women, effeminate men or androgynous people. Transgender people may or may not have had medical intervention in relation to their sex characteristics.

C. Why is intersex, transgender and gender diversity WCHM’s business?

WCHM uses a ‘gender lens’ in its work because we believe that people’s health and wellbeing outcomes are impacted by their gender. Alongside the gendered biological differences that create different health needs, the complex social and cultural significance of gender means that it shapes people’s lives and choices in a very real way, making it a determinant of health and wellbeing.

The feminist framework that WCHM emerged from sees a special urgency in attending to the health needs of women as a marginalised group with particular, previously unrecognised or de-emphasised, health needs. However, with the rising visibility of queer voices in the late twentieth-century, it has become increasingly recognised that talking about gender only in terms of a binary is not enough. The voices of intersex, transgender and other gender diverse people challenge organisations like WCHM to develop a more sophisticated understanding of gender. To acknowledge these disparate ways of doing gender is essentially to acknowledge that ‘woman’ is not an unproblematic, self-evident social category. It suggests that WCHM must find ways to be guided by the diverse experiences of the community in identifying who constitutes our client group, and what issues are ours to take up. Ignoring the existence of these groups, or failing to consider them in relation to WCHM’s work, is also to risk further marginalising highly disadvantaged people; in addition, it is to miss having a conversation that is likely to substantially develop the relevance of our work to the real, diverse, and changing community in which we operate.

In the ACT, intersex, transgender and gender diverse people face real and serious barriers to achieving health and wellbeing. In particular, there continues to be confusion about how members of these communities should be positioned in relation

to women's (and, for that matter, men's) services. A striking example of this is that WCHM understands that some ACT women's refuges do not accept transgender women as clients, and it remains unclear as to whether they would consider admitting, for instance, a client who is a trans man, or someone who is intersex but identifies and presents as a female. At a more fundamental level, there appears to be a real need for community organisations to be supported to attain basic cultural competence with regards to intersex, transgender, gender diverse people. WCHM may have a role to play in terms of raising awareness of these issues, and particularly in forging connections between health/women's organisations and organisations that work with the ACT's intersex, transgender and gender diverse populations, to help ensure that the voices of those affected, and their representatives and advocates, are heard.

D. Legal, policy and human rights perspectives

Australian State and Federal Governments have recognised intersex, transgender and gender diverse people in various ways, of which the following is just a selection:

- The Federal Health Minister announced in 2013 that Medicare would become sex and gender neutral, making the health system greatly more accessible to intersex people and people of diverse genders.⁴
- The *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth) was passed last year, making it illegal to discriminate against someone on the basis of their sexual orientation, gender identity, or intersex status.
- In 2011 the Federal Government announced a passports policy which would enable intersex and gender diverse people to obtain a passport which reflects their identified and lived gender, including the possibility of an "X" sex marker, without requiring that the person have undergone medical intervention.
- In July of 2013 the Government released the *Australian Government Guidelines on the Recognition of Sex and Gender*, which provide for appropriate data collection and recognition of people of diverse sex or gender across all Government departments and agencies.

⁴ <http://oii.org.au/23049/medicare-sex-gender-neutral/>

However, there are still numerous legal, political, and social barriers which prevent many intersex, transgender and gender diverse people from achieving acceptable health and wellbeing outcomes. These include the following (although this list is by no means comprehensive):

- Current clinical guidelines on the medical management of intersex people often involve invasive infant genital surgery; this is considered by many rights groups to be medically and socially unnecessary, as well as a potential human rights violation.⁵
- A key recommendation of the National LGBTI Health Alliance's report *Diversity in Health* was that national and state government bodies need to address the difficulties sex and/or gender diverse people have in accessing "many funded community services due to their sex segregated service delivery model."⁶
- Despite the passing of the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act* in 2013, anecdotal reports suggest that many services and workplaces remain inaccessible to transgender, gender diverse or intersex people, whether through indirect or overt discrimination.
- Under current Australian state and territory laws, people are unable to change their legal sex from the one assigned to them at birth without 'medical proof' of the legitimacy of their sex.⁷ Usually, this requires the 'surgical alteration of reproductive organs.' This is despite the fact that many transgender, intersex and gender diverse people do not want or are unable to have sex reassignment surgery—a procedure which will leave them sterilised, and which is not subsidised through Medicare.⁸
- Young transgender or gender diverse people are currently unable to access medical treatment without going through a lengthy legal process.⁹
- There is a dearth of research (internationally and nationally) on transgender and gender diverse people. This is even more seriously the case in relation to intersex people. The Australian Bureau of Statistics and the Australian

⁵ Organisation Intersex International Australia Limited. 'Information for intersex allies'.

<http://oii.org.au/21336/intersex-for-allies/>

⁶ National LGBTI Health Alliance, November 2012. *Diversity in Health: Improving the health and wellbeing of transgender, intersex and other sex and gender diverse Australians:*

<http://www.lgbthealth.org.au/sites/default/files/Diversity%20In%20Health%20Report%20FINALOnline.pdf>.

⁷ Soon to change in the ACT as a result of the Births, Deaths and Marriages Registration Amendment Bill 2013 (ACT).

⁸http://www.transconference.org.au/uploads/1/0/5/8/10587506/key_note_address_health_wellbeing_for_transgender_peter_hyndal.pdf

⁹ Ibid.

Institute of Health and Welfare do not produce any population based research on these communities.¹⁰

E. WCHM's guiding principles on intersex, transgender and gender diverse inclusion

WCHM will be guided by the following principles in its work:

- i) The term 'woman' has a wide range of biological, medical, political, and cultural valences and inflections, and WCHM commits to ensuring that its definition of 'woman' remains nuanced and current
- ii) Transgender, gender diverse and, intersex people have particular needs related to their gender or biological sex that deserve to be acknowledged and engaged with as part of WCHM's ongoing role as women's health advocate in the ACT
- iii) WCHM's engagement may extend to people who identify as men—for example, where their needs relate to sex organs that are medically recognised as 'female' (such as access to pap smears)
- iv) WCHM will develop and maintain relationships with organisations that work with intersex, transgender and gender diverse communities in the ACT
- v) WCHM will advocate within the community sector for the needs of intersex, transgender and gender diverse communities.

¹⁰ Ibid.