



National Conference 2021

Day 3: Defending Freedoms

Cancel Culture – What will be banned next?

Written & presented by Terri Kelleher

Cancel culture refers to censorship of opinions and commentary on social media and in the press, papers, radio and television. It is social ostracism – being shut out or shut down. Or being punished by severe criticism for expressing “incorrect” views.

Often it is celebrities who are cancelled. Home grown examples are Israel Folau and Margaret Court.

On the world stage former US President Donald Trump was banned from Twitter. Now the media has almost “disappeared” him from sight. He only gets a mention when it is to report he is being impeached or some other negative reflection on his character or reputation.

Another international example is J K Rowling the author of the Harry Potter series who expressed unacceptable views on the transgender issue and was roundly criticised for her temerity and a campaign was run against her to boycott her books.

Then there are the ordinary people who are being censored or punished for their “incorrect” views. The mother whose daughter is transitioning to a boy wrote of her misgivings about whether there is enough rigour in assessing young people who present with gender dysphoria before prescribing cross sex hormones. She wrote she felt there was too much pressure to transition rather than explore all the options. The piece was pulled from the Melbourne Age webpage – censored. The mother remained anonymous to protect the identity of her child.

Australian GPs Dr David Van Gend and Dr Jereth Kok have been punished for comments on social media. Dr Van Gend was investigated by the Medical Board (a punishment in itself) for a complaint of “discriminatory conduct” contrary to the Medical Board Code of Conduct for

practitioners. Similarly Dr Jereth Kok has been suspended from practice indefinitely by the Medical Board since August 2019 for social media comments which are claimed offend against the Medical Board Code of Conduct. He cannot work in the profession he trained for in a university for years to provide for his young family until the Medical Board makes a final decision and only then if they decide to lift the suspension.

So the pressure of opinion in main stream media and on social media and then Codes of Conduct, both professional (as in the case of the two medical doctors) and corporate (as in Israel Folau's case where Rugby Australia claimed he had breached his contract by breaching their code of conduct by the comments he made) can "cancel" people and cause them financial and career loss and certainly enormous stress.

One of the main areas where the cancel culture is operating is in relation to the gender debate. I want to say at the outset that this is a very sensitive discussion. I have no intention to offend or cause distress to any person who is same sex attracted or identifies as opposite to their birth sex or identifies as gender diverse. But this is an important discussion of grave public interest and that is the reason I am addressing it. I invite you to bear with me and consider what I say. I respect your view if you disagree with me and I only ask that you extend me the same courtesy.

What I want to do is to draw a map for you of the laws that are restricting/dictating what we can say or do in relation to the gender debate - the laws that make certain conduct or the expression of certain views illegal.

Beginning with the federal Racial Discrimination Act in 1975, over the period of the 1980s and 90s the federal parliament and all Australian States and Territories passed anti-discrimination laws.

These laws also contain "vilification" provisions which variously make it illegal to offend, insult, humiliate or hold up to ridicule or to incite hatred or violence towards another person on the basis of a "protected attribute".

The purpose of these laws was to ensure freedom from discrimination and vilification, to ensure equality. These are noble aims and no one would disagree with them. But did anyone ask what situations of conflict these laws would create?

WHAT ARE THESE LAWS?

In 2013 amendments to the federal Sex Discrimination Act (SDA) inserted "sexual orientation" and "gender identity" as protected attributes. At the same time the definitions of "man" and "woman" were deleted. Almost unnoticed the almost universal belief that human beings are binary, male and female, objectively ascertained by their reproductive function, was replaced by a legislatively imposed recognition of self-chosen, changeable "gender identity" as determinant of legal rights.

“Gender identity” includes “the gender-related identity ... of a person”. So a biological male who identifies as a woman can claim access to women’s toilets, change rooms, showers, safe places such as women’s refuges and to be accommodated in women’s prisons. It also allows them to compete in women’s sporting competitions, apply for affirmative action employment benefits and scholarships. These are the real conflicts that flow from the legal recognition of “gender identity” over biological sex as determining rights.

Then in 2017 the federal Marriage Act was amended to re-define “marriage” from what it had always been understood to mean, the union of one man and one woman, to [“the union of 2 people”](#) meaning any 2 people regardless of their sex, sexual orientation or gender identity. Sex and gender are irrelevant. This redefinition of marriage left unresolved conflicts thus created with religious freedom. The federal government promised to resolve those issues after the marriage amendment was voted on – that it should not hold up amending the Marriage Act. Now more than 3 years later the promised Religious Discrimination Bill has still not been introduced into the parliament.

After the re-definition of marriage amendments were made in a number of states to Births Deaths and Marriages Registration Acts to allow a person’s “gender identity” (whether with or without gender re-assignment surgery) to be recorded as their sex descriptor on their birth certificate. So if a biological male identifies as female the effect of this being recorded on the person’s birth certificate, their primary identification document, is to allow that person access to women’s toilets, change rooms and showers and to compete in women’s sporting competitions.

The latest legislation I will mention is the law just passed in Victoria banning LGBT “conversion therapy” or “practices”. We certainly do not support coercive, harmful practices that have been used in the past. And we certainly do not support forced counselling, treatment or advice. We acknowledge the distress people experience in relation to these very personal and sensitive matters.

But the Victorian law goes far beyond banning harmful practices. To suggest a person who has identified as other than their birth sex could be comfortable with their birth sex risks prosecution for engaging in a “conversion practice” and a severe fine and/or a term of imprisonment. This is based on the belief that sexual orientation and gender identity can’t change.

It makes illegal any conduct - advice, counselling or expression of views - that would change or suppress a person’s sexual orientation or gender identity. It applies to any “person” engaging in such conduct and so would apply to conversations between parents and their child or teenager questioning their gender identity or discussing treatment options. It specifically includes psychiatric and psychotherapy or similar consultations, prayer based practices and referral for counselling that would be a change or suppression practice. So medical professionals and counsellors and churches’ ministries to the LGBT community will all be affected by this law. And even if the person wants and seeks out such counselling, advice or treatment and consents providing it is still illegal.

It also raises the spectre of a further shut down of free speech. Will public comment on or discussion of the concept of gender identity or the risks of puberty blockers and cross sex hormones or on assessing all the issues and investigating co-morbidities in a child or young person seeking to transition and exploring all treatment options before proceeding risk a charge of inducing a person who reads such comments to attempt to change or suppress their gender identity? If so it is a threat to free speech for journalists, professionals commenting on treatment for gender dysphoria; for medical researchers publishing research on the effects of hormone treatment or the incidence of regret at gender transitioning or the mental health effects of transitioning treatments or surgery. Could such publications “induce” a person to suppress their gender identity?

Feminists are speaking out about the erasure of women’s sex based rights. Will the Victorian law mean women who express the view that women’s sport should be for biological women only are risk of complaint or investigation for a “change or suppression practice” as that could lead a transgender MtoF to suppress their gender identity, to hide it, so they can compete in women’s sport? In the US Martina Navratilova and a group of high profile female athletes have just challenged President Joe Biden’s push to allow male-to-female transgender athletes to compete in girl’s and women’s competitive sports. Under the new Victorian law could that amount to a change or suppression practice? Would feminist groups such as the Women’s Liberation Front be at risk of complaint of “change or suppression practices” for objecting to biological males who identify as female being accommodated in women’s prisons for safety reasons? Would groups running women’s refuges be at risk of complaint or investigation for “change or suppression practices” for refusing entry to biological males identifying as female?

Other organisations and individuals who could be caught by the Bill’s provisions are:

- Rugby Australia, if it adopts World Rugby’s [Transgender Guideline](#) that excludes trans male-to-females in the elite women’s competition, on grounds of safety for biological women;
- the AFL because of its [policy](#) requiring men who identify as women to lower their testosterone levels and be subject to strength and other physical attribute tests before being allowed into the women’s elite competition;
- Sydney’s Mclver Ladies Baths for their [policy](#) requiring trans male-to-female swimmers to have undergone sex change surgery.
- What about teachers affirming binary, male and female sex in biology classes;
- natal women defending their sex-based right to their toilets, showers and change rooms;
- girls’ schools that enrol only biological girls;
- ministers of religion teaching moral principles about sexuality and marriage based on the biological world view that humans are binary male or female;
- health professionals warning of the risks of puberty blockers for children.

These laws are legally enabling the cancel culture. They are making illegal dissent or public discussion that is not consistent with the view, being imposed like a religion, that an individual's identified gender and access to the rights that flow from that is not to be questioned; and that an LGB person should not be able to seek to change or suppress their sexual orientation.

The Victorian law is I think the high water mark of cancel culture for seeking to change or suppress the views of people who believe that humans are binary male and female.

Everyone is affected by this issue. We are all human. For a free and tolerant society every person must be free to express their view as long as it is done in a civil and respectful manner.