

Sex, Gender and Women's Rights

Abstract

Despite legislation proposing sex self-identification being deferred in early 2019, numerous government departments and agencies have implemented self-identification in their policies and practices. If a man can declare himself to be a woman, what, then, is a woman, and how can women's rights as a political class be maintained? This article explores the tensions between women's sex-based human rights and the claims of transgender advocates. In so doing, it discusses the nature and implications of gender ideology and highlights the failure of public sector institutions, in embracing key tenets of this ideology, to follow well-established policymaking processes.

Keywords sex, gender, human rights, women's rights, gender theory, gender ideology, policy capture, transgender

The purpose of this article is to:

- show how parts of the New Zealand government have implemented sex self-identification without a legislative mandate;
- explain the background to gender ideology;

- demonstrate how gender theory is leading to the disappearance of the traditional concept of 'sex' in public policy, and has led to a clash between women's rights and transgender claims;
- discuss the processes for good policymaking in New Zealand and how

policy capture by gender ideology has replaced proper process; and

- discuss lessons to be learned and future steps that could be taken to provide a legal mandate that acknowledges gender diversity without erasing women's rights.

The article draws on our 2020 investigation into the implications of gender ideology¹ for women's sex-based human rights (Rivers and Abigail, 2021). This work focuses on women because men in general do not suffer rights infringements in the same way, or to the same extent, when female-to-male trans men claim male social roles and spaces. However, the ceding of sex to gender does have negative impacts on gay men, as well as on lesbians.

Background

Sex and gender identity

For millennia human societies have lived with the material reality of two sexes, with biological sex determining who is female and who male. In recent years this reality has been turned upside down by the belief of some that sex is a spectrum and is fluid, that it is possible to change sex and that biological features are irrelevant to, and may conflict with, the 'inner essence' of our 'gender identity' (Reilly-Cooper, 2015). The

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enormity of the societal upheaval stemming from this belief can scarcely be overstated. The New Zealand population has not been asked whether it thinks our biological features are no longer what make us male or female, or whether they believe people can actually change sex. Yet the gender ideology underpinning this revolution in thinking has become embedded in public sector institutions (not only in New Zealand), with almost no public oversight and with no legislative mandate (Hamilton, 2019; Ffiske, 2020b; Sinnott, 2020). Associated work is moving us towards a society where 'sex' as a biological descriptor does not exist except as a private matter (International Conference on Transgender Law and Employment Policy, 1993), and is replaced by 'gender' (Future of Legal Gender, 2019; Stock, 2019) as determinative of identity for almost all purposes.

The belief that a man can transition to becoming a woman is the crux of the issue in relation to women's rights. If 'woman' is no longer defined as 'adult human female' and instead means 'anyone who feels like one', what, then, is a woman, and what does it mean for women's sex-based human rights? Women as a political class will disappear if a belief in gender identity is mandated, raising issues as to how the injustices experienced by women as a class can be addressed.

Sex self-identification

Sex self-identification refers to a person being able change their sex label, including on their birth certificate, with no social, legal or medical preconditions of any kind. This means that men who declare a female identity have the right to be regarded in all respects as female, including to use female resources, to take up positions designated as women-only, and to take part in women's sports.²

In 2017 the Births, Deaths, Marriages, and Relationships Registration Bill (BDMRR Bill), a technical update to existing legislation, was introduced into the New Zealand Parliament. It went through the select committee process but was then amended to include sex self-identification, after public consultation had closed. Because of this, and on advice from Crown Law, the bill was deferred in February 2019 (Martin, 2019).

At the time of writing the government has re-introduced the bill, including provision for self-identification. The bill caters for multiple sex changes over a lifetime, with intermediate or non-gendered options available (Tinetti, 2021). A suite of other legislation will embed gender identity and non-binary status. For example, it is proposed that 'gender identity' be covered by the proposed hate speech legislation, making it possible that any expression of disagreement with this concept will be regarded as hate speech. Those failing to acknowledge gender identities as real, or parents who refuse

census and prison system, despite the lack of legislative mandate (Murray and Hunter Blackburn, 2019). When we began to explore departmental practices in New Zealand, it became apparent that policy initiatives to implement self-identification were already underway prior to the BDMRR Bill being introduced, and, despite its deferral, had gathered pace. We found that across multiple agencies new policies and approaches were introduced to bring in gender ideology. In general, such changes were made with little policy analysis, no risk mitigation or impact assessment, no pilot processes and no proposed evaluation of

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their child access to puberty blockers, could commit new offences related to conversion practices.

Until recently, sex transition was regarded as a means by which people desperately uncomfortable in their bodies (mostly men) could take on the appearance of the other sex in order to live in the role of that sex. There are many trans people who say they have not literally changed sex (Hayton, 2021; Yardley, 2017). Trans advocates often point to the existence of indigenous trans people – for example, hijra in India, fa'afafine in Samoa and 'two-spirit' people in the Americas. However, the presentation of such people as analogous to modern transgenderism is rejected by many indigenous people (Pember, 2016; Mana Wāhine Kōrero, 2021). Almost always men, they were never understood to be literally women.

Policy changes in ministries and departments

The impetus for our research in 2020 was an article by a Scottish policy think tank which showed that sex self-identification was being implemented in the Scottish

changes. No opinions were canvassed, other than from people claiming a gender identity and their supporters.

Ministry for Women

The Ministry for Women has changed its understanding of the meaning of 'women' without any consultation with the population group it was set up to serve. Despite the deferral of the BDMRR Bill in 2019, the ministry's response to a request made under the Official Information Act in June 2020 stated that it represents the interests of all women, including transgender women, and recognises the right of all people to self-identify (Ministry for Women, 2020). It appears that from late 2017 the ministry quietly included 'trans women' as part of its client group (Ministry for Women, 2018). There was no public notification of this change until OIA requests apparently prompted a statement on the ministry's website in March 2021 (Ministry for Women, 2021).

Statistics New Zealand

In 2015, Statistics New Zealand announced a world first in a new gender identity

statistical standard. 'Gender diverse' would appear as a new classification, distinct from 'male' or 'female'. The standard defined 'gender identity' as:

A person's internal sense of being wholly female, wholly male, or having aspects of female and/or male. A person's gender identity can be expressed in several ways, and may or may not correspond with the sex recorded at birth. (Statistics New Zealand, 2015)

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Women, Statistics New Zealand designed a new standard for pay gap measurement, in which 'employees should be included as the gender they choose. Some employees may not identify as men or women but as gender-diverse, or they may prefer not to state a gender identity' (Statistics New Zealand, Ministry for Women and State Services Commission, 2020). Since 2018, all public sector workforce information has been collected by self-identified gender, affecting not only pay data; roles held by trans women are being counted as held by women (State Services Commission, 2018).

Statistics New Zealand also decided that the 2019/20 Household Economic Survey would for the first time ask

apply across all of New Zealand's public sector over time, except for those cases, such as in the health services, where knowledge of sex is a specific requirement. Despite the extensive consultation, sex information in a medical context was declared 'beyond the scope' of the new standard (Statistics New Zealand 2021a).

'Gender by default' is explained in the consultation document as:

an approach that defaults to the collection of gender data as opposed to sex at birth ... Collection of sex at birth information should be viewed as an exception where there is a specific need.

In most cases a person's gender – their social and personal identity – is most relevant for policy making and research rather than their sex at birth. Gender based analysis is used in a range of areas, from income equality to health and education. (Statistics New Zealand, 2020c, emphasis added)

All the documents referenced in the sex and gender identity standards relate to the specific concerns of transgender and intersex people. There is no evidence of research either into the various impacts of failing to collect sex-based data or data on men who identify as women being added to women's data.

Public Service Commission

The Public Service Commission – formerly the State Services Commission – has led the work of implementing gender ideology across the public sector (State Services Commission, 2019). As noted above, the commission co-designed in 2018 a new standard on the measurement and analysis of gender pay gaps (Statistics New Zealand, Ministry for Women and State Services Commission, 2020), in which, despite pay equity legislation being based on sex, not gender, transgender people were included as their claimed gender identity.

The pay comparisons for the New Zealand public sector for 2019 showed an historically exceptional result, with the gender pay gap falling from 12.2% in 2018 to 10.5% (Genter, 2020). Because for the first time it is impossible to know who is included in the category of women, it is

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and a statistical standard for sexual identity. It used a three-week public submissions process to collect feedback on these initiatives (Statistics New Zealand, 2018a). The new sexual orientation standard stated that orientation may be defined as same-gender or opposite-gender orientation (Statistics New Zealand, 2018b). But sexual orientation has never been defined as anything but sex-based attraction, including in the Human Rights Act. Based on submissions, the standard also recognised 'non-binary' identities, despite there being no legal status for these. Yet if people can legally identify as non-binary, the definition of 'sex' collapses. This was one of the points made by Crown Law which contributed to the deferral of the self-identification provisions in 2019 (Crown Law, 2019a).

Also in 2018, together with the State Services Commission and the Ministry for

respondents to describe their gender as well as their sex at birth (Statistics New Zealand, 2019a).

A review of the statistical standards for sex and gender identity in 2019–20 did involve public consultation. By this stage, 'gender' and 'gender identity' were becoming conflated, as the new definition of 'gender' was: 'a person's social and personal identity as male, female, or another gender such as non-binary ... A person's gender may change over time. Some people may not identify with any gender' (Statistics New Zealand, 2020c). The consultation paper provides an almost identical definition for 'gender identity'. It also says that 'sex' can change over the course of a lifetime (ibid.).

The proposed changes heralded the effective replacement of data on sex (based on biological features) with data on gender (defined in this case as a belief). This would

unclear whether self-identified women (trans women), who were likely to be in better paid, traditionally male occupations, had any effect on the reduction in the pay differential.

In mid-2020 the Public Service Commission announced that staff should 'consider starting a meeting with each attendee sharing their name and pronouns' and that 'having pronouns in an email signature signals you as an LGBTQIA+ ally' (Public Service Commission, 2020). Many agencies have since adopted 'preferred pronoun' use (Statistics New Zealand, 2020d; Crown Law, 2019b). Despite their use not being mandatory, some departments have introduced them in such a way that public servants effectively have no choice (Ministry of Justice, 2021).

Human Rights Commission

Despite its legislated role under the Human Rights Act 1993 to prevent discrimination against women, the Human Rights Commission has consistently promoted transgender rights over women's sex-based rights (Alves, 2018), and in its submission to the BDMRR Bill in 2018 advocated sex self-identity without preconditions (Human Rights Commission, 2018). The submission gave no consideration to whether those rights might disadvantage women.

The commission's 2020 *Prism* report repeats that gender identity refers to 'each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth' (Human Rights Commission, 2020). Statements about 'each person' tie everyone into a belief, despite many people not accepting this and there being no proof that 'gender identity' exists (Hayton, 2021).

The Human Rights Act also protects against discrimination on the basis of sexual orientation. The *Prism* report states that sexual orientation refers to attraction to the same, different or both genders (Human Rights Commission, 2020). Given its interpretation of gender as meaning 'gender by self-identification', this language effectively drains sexual orientation of its meaning. It also misrepresents the legislation on protection of sexual orientation.

A further duty of the Human Rights Commission is to 'encourage ... harmonious

relations between individuals and among the diverse groups' of our society (Human Rights Act 1993, 5(1)(b)). The level of discord between trans lobbyists³ and women's rights advocates has reached toxic levels, but the commission has so far failed to play its role with these antagonist groups.

Ministry of Education

The Ministry of Education launched new relationships and sexuality education (RSE) guidelines in September 2020 (Ministry of Education, 2020a). The guidelines' provision for self-identification of sex in schools includes a sex category of 'other'. Science teaching is affected by

about the health curriculum (Education Act 1989), but there is no evidence that this RSE curriculum has been approved by parents.

Ministry of Social Development

A Ministry of Social Development policy change in December 2019 was announced by the trans advocacy group Gender Minorities Aotearoa. The ministry

has carried out community consultation and added a 'gender diverse' option to their systems. You can choose whether to use male, female, or gender diverse, just the same way you can choose

With standard forms changed to accept self-identification, the ministry now collects gender data rather than sex data by default.

ideas such as 'how biological sex has been constructed and measured over time' and sex being 'ascribed at birth'. The guidelines mandate the use of preferred names and pronouns and 'all school forms [should] allow for genders in addition to male or female (eg, gender diverse, non-binary, takatāpui)'.⁴ An Official Information Act request to the ministry reveals that teachers are to rely on their professional ethics to determine when 'sex' is of primary importance (biology curriculum) and when it is not (relationships and sexuality education) (Ministry of Education, 2020b). Teaching materials for the curriculum are marketed to schools, including a game from Family Planning in which the ideas are planted that boys can have periods and grow breasts (Family Planning, 2021). The guidelines advise that pupils are to have access to the sports, toilets and changing rooms of their chosen gender. There is no consideration of whether girls feel comfortable in using mixed facilities or with boys using the girls' facilities (Ministry of Education, 2020a).

Legislation decrees that school boards and parents must be consulted periodically

ethnicity – with no supporting documentation. You do not need to change your birth certificate or other ID to change your gender marker with MSD. (Gender Minorities Aotearoa, 2019)

Such change can be made with a simple phone call to an 0800 number.

With standard forms changed to accept self-identification, the ministry now collects gender data rather than sex data by default. An OIA response shows that, contrary to the statement from Gender Minorities Aotearoa, there was no community consultation on the change. The ministry stated that, in their view, the decision to change to a self-identification model 'was not regarded as policy work'; instead it was implemented as a technical change to the ministry's 'Guide to social development policy' (Ministry of Social Development, 2020, 2021).

Implications and unintended consequences

Our discussion above has focused on the policy and administrative changes that have resulted from the implementation of

gender ideology in the New Zealand public sector in recent years. The consequences of these changes are a story in themselves, of which we can give only a brief outline here.⁵

Data issues

First, the creation of new statistical standards will have an impact on record keeping, with serious consequences for future researchers. The implications of omitting sex-based data are that 'distorted statistics will give a distorted picture of actual real world inequality rooted in the biological and reproductive differences between women and men' (Reilly-Cooper, 2015).

In both Canada and the United Kingdom, refuges and rape crisis centres used by women victims of sexual violence are losing their funding if their services are maintained for biological women only ...

Such issues as health, occupational differences, access to money and roles of influence, and perpetration of and vulnerability to violence all continue to have sexed dimensions. Without accurate data on women, neither improvements nor slippage can be measured. In deciding on 'gender' as the default setting, there was also no examination of possible risks to work that has until now relied on data sets and series that are standardised to 'sex' (Statistics New Zealand, 2020a).

Not only does statistical data on women become unreliable when female-identified men are included in that category; it works also against the interests of transgender people. If they cannot be tracked, their particular needs cannot be properly understood. Such omissions also fail to consider detransitioners – those reverting to understanding themselves as their birth sex – many of whom experience severe mental health and medical consequences.

'Hiding' trans people in the statistics also obscures the fact that this group

remains by and large in the occupations, relationships and sex-based crime categories that they were in prior to transition. Violent crimes typical of males are being reported as female crimes (Coleman, n.d.).

Justice issues

In New Zealand, men can already be housed in women's prisons if they self-identify as women, provided their crime is not sexual violence against women. Assaults on women have occurred as a result (Place, 2019). These men are reported as women, even when other information is freely available (New Zealand Herald, 2020; Shaw, 2020).

In Canada the statistics on 'dangerous criminal women' increased dramatically following self-identification, skewing both the numbers and the reporting (Mason, 2021). The therapeutic environment designed for female inmates in Canada has changed to take account of the management issues that arise when men are housed (Mason, 2019). In California, pregnancies and abortions are allegedly happening in the women's prisons since trans women have been housed there (Kaminsky, 2021), while in New Zealand there are reports of pregnancies at Wiri women's prison (Chick, 2021). There are strong indications of opportunistic identification as female in order to gain access to vulnerable women (Biggs, 2020; Shaw, 2020). Two per cent of male prisoners in the United Kingdom report they are female (Hymas, 2019); sex data is obscured, allowing the sex of male prisoners identifying as female to be unknown by other prison staff and prisoners (Ffiske, 2020a). There are

shocking rates of prison rape (Shaw, 2020; Biggs, 2020).

In the United Kingdom women victims of violence at the hands of male-bodied trans women have been made to refer to their assailants as 'she' or they will be penalised for 'misgendering' (MacLachlan, 2019); this has applied even when the actual sex was known, and even when the attacker's male genitals were discussed during evidence (Shaw, 2020; Ghose, 2018). A New Zealand press report on an alleged murderer used a female name and pronouns throughout, making the person unidentifiable as a trans woman even while a campaign to have them housed in a women's prison was being covered in other news stories (New Zealand Herald, 2020; Sherwood, 2019).

The law in the United Kingdom allows women to be charged only as accessories to rape, a charge that is very rare. However, the Office of National Statistics has published Crown Prosecution Service data on rape prosecutions over a seven-year period showing that 436 individuals prosecuted for rape were recorded as women (Sullivan, 2021). The number of cases of child sexual abuse reportedly perpetrated by women has doubled over four years; self-identified women are included in this figure (Fairplay for Women, 2021).

In both Canada and the United Kingdom, refuges and rape crisis centres used by women victims of sexual violence are losing their funding if their services are maintained for biological women only (Linehan, 2021; Zygan, 2020). In New Zealand such services, originally created by women for women, are now inclusive of 'gender diverse' people, including as staff (Wellington Rape Crisis Services, n.d.).

Other impacts

We note other already apparent consequences very briefly:

- Language is being distorted in the name of inclusiveness, erasing women in the process: 'mother' is replaced with 'birthing person'; 'pregnant women' are now 'pregnant people'.
- Freedom of speech does not apply when anyone wanting to discuss women's rights is accused of hate speech and is 'deplatformed'.

- Public servants cannot give ‘free and frank advice’ when they are expected to adhere to gender ideology.
- In academia and in the sciences a climate of fear for careers is preventing reasoned debate and balancing of evidence; ‘cancel culture’ rules.
- Doctors and counsellors who do not agree with gender-affirming drugs for children are silent for fear of opprobrium.
- Lesbians are accused of transphobia if they do not accept relationships with trans women, and are being shut out of rainbow community events for being ‘exclusionary’.

Gender ideology – theory and principles

We turn now to a broader discussion of gender ideology and its influence in New Zealand. The starting point for its introduction into government policy was the Labour Party manifesto for the 2017 election (New Zealand Labour Party, 2017). The case for changes rested on a sense of duty founded on claims of transgender people’s vulnerability (Transgender Trend, 2019; Biggs, 2018), and new social conventions that render personal preferences and styles (once regarded as ‘personality’) as an ‘identity’ (Bilek, 2020b). But underpinning these changes lie international factors: the rise of gender theory, a subset of postmodern critical theory; the Yogyakarta Principles, which see ‘gender identity’ as the latest civil rights issue (International Commission of Jurists, 2017; Bindel and Newman, 2021);⁶ and significant funding from international foundations advocating gender ideology, including some that make grants in New Zealand (Gender Minorities Aotearoa, 2017).

Postmodern gender theory

The term ‘gender’ was used in feminist theory of the 1970s to explain societal expectations that imposed narrow and damaging stereotypes on both sexes. Its meaning changed with the rise of postmodern queer theory, especially in universities, in the 1990s. Academic courses in gender studies turned the focus away from women’s studies’ analysis of patriarchy, rejecting biological materialism and the reality of sexed bodies (Todd, 2019; Jones, 2018b). The

idea of gender as brought into being by repeated performances of a particular gender role took hold: ‘a man or woman came to mean someone who performed manhood or womanhood, which were sets of stereotypes ... that were meaningful simply because they were performed over and over again’ (Joyce, 2021, p.5). This notion has continued to underpin gender ideology.

Yogyakarta Principles

ARC International is an organisation which lobbies internationally for LGBT rights (ARC International, n.d.). It initiated a project to set up a human rights framework for sexual orientation

more well-established LGB wagon (Holloway, 2020; Jones, 2018a). The principles also created a false equivalence between transgender identity and disorders of sexual development (‘intersex’ conditions). By far the large majority of intersex people are either male or female.

Despite their not having been adopted by the United Nations and so not being binding on governments, the Yogyakarta Principles have been hugely influential in adding novel, unnegotiated definitions and new policy into UN and European Union policies, and even national constitutions (Zobnina, 2020). The New Zealand Human Rights Commission consistently implies that the principles have official standing.

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and gender identity, resulting in a 2006 meeting in Yogyakarta, Indonesia. Here a group of human rights experts constructed the Yogyakarta Principles, in which gender identity was first defined.

It appears that no attention was given to the implications for women’s rights. One of the original participants, Robert Wintemute, now says: ‘women’s rights were not considered during the meeting where the principles were written and the authors “failed to consider” that fully intact males would seek to access female-only spaces’ (Bindel and Newman, 2021; Wintemute, 2021).

The principles were updated in 2017 in a way that has taken advantage of jurisprudence related to the progress of gender ideology around the world and therefore serves to reinforce it (Zobnina, 2020). The acronym adopted, SOGIESC (sexual orientation, gender identity and expression and sex characteristics), helped to tie the gender identity issue to the larger,

According to the principles, men can become women, and vice versa, and must be regarded as such. Sex is fluid, so a man may be a woman one month but a man the next, with the possibility of non-binary status at any stage. Men who transition are a group of women in the way that women of colour, white women and disabled women are different categories of women. By this logic, trans women deserve access to women’s protected services, spaces and roles. This is what is planned for implementation in New Zealand legislation.

Funding from international foundations and local sources

Gender ideology has gathered pace significantly in the last five or six years as transgender organisations have gained access to significant funding. Governments and wealthy private benefactors, as well as large corporations, have funded gender ideology to an extent that was never the case for the LGB rights

groups of earlier years (Biggs, 2018; Bilek, 2020a). Organisations originally set up to support gays and lesbians have morphed into trans rights groups to support the 'queer' community, with millions of dollars going into advocacy work. New Zealand's 'rainbow' organisations have had large levels of funding from such sources (Rainbow Youth, 2020; InsideOUT, n.d.; Gender Minorities Aotearoa, 2017).

In 2019, law firm Dentons and the Thomson Reuters Foundation funded pro bono a project to help trans groups bring about changes in the law that would allow children to legally change their gender without adult approval. The resulting report encouraged non-governmental organisations

rainbow organisations are employed to develop local policies and to train staff. Given the adoption of the Yogyakarta Principles and postmodern approaches, the way this has played out has led to an inclusion and diversity framework that excludes people who do not believe they have a gender identity or that people can change sex.

Rainbow Tick

Rainbow Tick is one of a number of organisations that provide SOGIESC advice to the public sector. It offers certification for organisations that complete a diversity and inclusion assessment process. Rainbow Tick binds

hepatitis-C, young Māori men – to ensure either that they feel fully included in the public sector or that they are welcomed as people needing special support.

Women excluded from consultation

There is a glaring absence of women's rights advocates from consultations and working groups that need their input in order to create fair and robust policy that includes 'sex' as a useful category. When Statistics New Zealand established an advisory group of paid representatives to discuss the new statistical standards for sex and gender identity, every member represented the views of transgender or intersex people; none represented women (Statistics New Zealand, 2019c). Unsurprisingly, the consultation completely discounted the idea that a correct representation of women by 'sex' was relevant.

The same absence of women's rights advocates pertained in the Department of Internal Affairs. A working party to look at making sex self-identification easier included only voices that supported this and none that cautioned about overreach or risks (Department of Internal Affairs, 2020). The principal organisation speaking out for women's rights in relation to the BDMRR Bill is Speak Up For Women. It was not invited to join the working group.

As a result of the sidelining of women's interests, the subsequent regulatory impact statement for the reintroduced BDMRR Bill found no evidence that women will be harmed (Treasury, 2021).

Confusion between agencies on gender and sex

A Ministry of Justice letter to the authors of this article stated that it is not correct to conflate 'sex', 'gender' and 'gender identity' because 'all three terms have distinct definitions' (Greaney, 2021). We agree. However, the *Statistical Standard for Gender, Sex, and Variations of Sex Characteristics* includes gender identity within its definition of 'gender', and also states that sex, gender and gender identity can change over the course of a lifetime (Statistics New Zealand, 2021a). In response to an OIA request seeking clarification of this confusing statement, Statistics New Zealand said it was referring to the legal right to be able to change sex

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to get ahead of the government and publish progressive legislative proposals before the government had time to develop their own. NGOs need to intervene early in the legislative process and ideally before it has even started. This will give them far greater ability to shape the government agenda. (Kirkup, 2020)

The report also advised using the youth wings of political parties, and coat-tailing on popular reforms such as the legalisation of gay marriage (Hamilton, 2019; IGLYO, Thomson Reuters Foundation and Dentons, 2019).

As has been seen in this country, those tactics have worked well, thanks to the funding that has enabled them.

The implementation of gender ideology in government

The current government seeks to train public servants in inclusion and diversity, an approach that has gained momentum since the Public Services Act came into force in 2020. New diversity and inclusion roles are now part of human resources teams across the public sector. In addition,

signatories to policies and practices without any apparent checks as to whether these create conflicts of interest, even though there are examples where pressure has been applied to bring organisations into line (Desmarais, 2019).

The Public Service Commission's approach to issues of gender seems to follow the Rainbow Tick prescription to the extent that this appears, to us, to be an undue and unauthorised influence on policymaking. There are requirements for annual re-certification, board-level representation, funding of affinity groups, and representation of the relationship between Rainbow Tick and the agency to its employees, stakeholders and suppliers (Murphy, 2019). Training for all staff in 'unconscious bias' is prescribed. Through the Cross Agency Rainbow Network, agencies demonstrate how fully they are meeting the expectations of their SOGIESC communities (Cross Agency Rainbow Network, 2019).

There is nothing of this kind for other minority and vulnerable populations – refugees and new migrants, people with

multiple times over a lifetime (Statistics New Zealand, 2021b).

Meanwhile, the Department of Internal Affairs maintains not only that the content of birth certificates is not determinative of sex, but also that a definition of sex is beyond the scope of the BDMRR Bill (Treasury, 2021). It appears there is no coherent understanding across government of the relationship of 'sex' to 'gender' and 'gender identity'. Into this environment the minister of internal affairs has announced that the bill will be reintroduced into Parliament in a way that supports multiple gender and sex changes as well as intermediate statuses (Tinetti, 2021). We suggest that this 'queering' of sex serves to undermine the understanding of the public that male and female are distinct and meaningful categories.

Policy capture

In our view, the implementation of gender ideology in the New Zealand public sector is a clear example of policy capture. The OECD defines policy capture as:

the process of consistently or repeatedly directing public policy decisions away from the public interest towards the interest of a specific interest group or person. Capture is the opposite of inclusive and fair policy making and always undermines core democratic values. (OECD, 2017)

The way policy should be designed and implemented in the New Zealand government is led by the Department of the Prime Minister and Cabinet's Policy Project team (Department of the Prime Minister and Cabinet, 2020). Its Policy Quality Framework outlines how policy objectives should be met, with guidelines, checklists and other requirements for implementing good policy (Department of the Prime Minister and Cabinet, 2019). Our research shows little evidence that the guidelines have been followed, given the ceding of women's, lesbian and gay rights in favour of transgender rights in recent years.

The adoption of gender theory across government means that large segments of our public sector appear to be acting:

- undemocratically, in bringing in or promoting policies and protocols that

have not undergone proper public consultation or approval;

- illegally, by claiming legislation, international conventions and conference recommendations as the basis for bringing in or promoting policies and protocols, when these do not legalise what is claimed; and
- discriminatorily, in terms of ignoring women's sex-based rights in favour of those of men who claim female identity.

The public sector is well versed in addressing accountability issues, but does not respond so well to the impacts of systemic technological, cultural or social changes. The lack of capacity of the public

On what grounds can it make such a claim? The government has had more than 18 months to provide information about sex self-identification and its implications and encourage reasoned public debate. Instead, the public were given only three weeks to respond to a supplementary order paper reintroducing the new provisions in the BDMRR Bill. Only those who have been following this issue closely will be aware of this. Since the issue is one involving existing rights and claimed new rights, the Ministry of Justice and the Human Rights Commission should have taken the lead in getting information out to the public.

The New Zealand media has been

Prime Minister Jacinda Ardern has stated that our country has done well in managing the Covid-19 pandemic because the government has followed the science and has learned from watching what has happened overseas.

sector to carry out due diligence in the face of new ideas is concerning and cannot but create poor policy and unintended impacts.

Of missteps and silences – looking back

When it comes to introducing recognition of gender diverse and transgender people into policy, there has been very little public engagement or efforts to research issues in the way that good public policy development demands. Instead, governments have allowed a situation to develop where there is deep societal antagonism on this issue between transgender advocates and women's rights advocates. The atmosphere is now so deeply polarised that few politicians or media personnel are prepared to address the topic. Many professionals, too, are scared of speaking out, despite their concerns.⁷

The Department of Internal Affairs has claimed that 'New Zealand society is changing to recognise that a person's gender can differ from their sex and that it can change over time' (Treasury, 2021, p.6).

woefully silent, with a lack of good investigative journalism that could have prepared the public to have an informed view. Coverage in newsprint or on television has mainly been confined to sympathetic portraits of individual trans people.

New Zealanders live in a pluralistic and secular society, in which the state does not formally endorse any particular religion or creed. Yet there is now, in effect, a faith-based system of belief being imposed on New Zealand's children, its public servants, and gradually society at large. Something as fundamental as a belief in the possibility of changing sex should not be imposed on a population whose permission or opinion has not been sought. But voices opposing gender ideology have been systematically silenced, in New Zealand and elsewhere. In the United Kingdom, for instance, a woman who lost her job because of her belief that men and women cannot change their sex had to resort to the courts (Daly, 2021) for a judicial decision that in a democratic society those who believe in biological

reality have the same rights as those who believe in gender identity. In New Zealand, Speak Up For Women had to seek a judicial review in order to be ruled not a hate group (High Court of New Zealand, 2021, para 43). How many more women are going to have to take court cases because gender ideology's introduction into policy and legislation undermines their rights to assert their reality?

Prime Minister Jacinda Ardern has stated that our country has done well in managing the Covid-19 pandemic because the government has followed the science and has learned from watching what has happened overseas. The same respect for science and observing overseas experience should be applied to this issue. Science, we believe, demonstrates that it is not possible to change a person's biological sex (Reilly-Cooper, 2015; Hilton and Wright, 2020). Germany, Japan and the United Kingdom have withdrawn proposed sex self-identification, while negative consequences of self-identification elsewhere are well documented.

New Zealand cannot continue to bask in the glory of having been the first country in the world to grant women's suffrage while it pursues policies that undermine women's rights.

Conclusion – looking forward

The evidence from our research shows that the ship has sailed on the minister of internal affairs' aim to 'get it right' (Piper, 2021). The question now is how to address the worst impacts of these changes. The stated justification for the policy and legal moves is compassion and inclusion for a marginalised community. But while such considerations are relevant, they are not sufficient. What is also required is a proper analysis of the issues from all points of view, with the consequences spelled out clearly. The gender ideology debate should be able to be managed through normal democratic processes, as are other conflicts of rights.

If 'sex' is no longer to be a relevant category for most policy purposes, New Zealanders should be apprised of why this is the case. Even if 'woman' and 'man' are accepted to mean 'gender by identification', there will still need to be words that

describe the possession of male or female anatomy and the resultant life possibilities. People should be able to understand how their sex-based rights can be addressed and equitably met.

Proposed new legislation will have an impact on self-identification of sex – the hate speech bill, anti-conversion therapy law, and inclusion of 'gender identity' in the Human Rights Act. Overlaps between the current confused policy settings and the new laws are already apparent. The potential for unintended consequences warrants serious attention.

The approach adopted in the United Kingdom provides a sensible model. Single-sex services are permitted for various reasons, but have to be objectively justified. This means any exclusions of transgender women have also to be shown to be justified. Recent UK research shows that, faced with examples, even advocates of transgender rights recognise that women need services that meet their needs (Dillon, 2021). In addition, recent case law has protected belief both in gender identity and in sex (Daly, 2021). On the important issue of whether sex or gender should have primacy, the UK Equalities Act 2010 retains women's protections where there is objective justification.⁸ A research project funded by the Economic and Social Research Council is an academic exploration of different ways of reforming legal gender status, 'focusing on England and Wales, while drawing on experiences in other countries, [and] the different legal approaches taken towards other social characteristics, such as religion, disability, ethnicity and sexuality' (Future of Legal Gender, 2019).

Given the scale of the changes that have already been implemented in New Zealand, and the implications of the legislative changes that are in train, it would seem that nothing less than a holistic and disinterested review of the current conditions will suffice. Private legal action could seek a declaratory decision on the meanings of 'sex', 'male' and 'female' in law. But that would not effectively clarify all the other issues, nor set New Zealand on a path to ensuring that women's interests are accounted for.

The Human Rights Commission must ensure that the rights of women are retained while it supports the rights of transgender people. To date this has not been the case.⁹ The commission must also fulfil its legislated duty to 'encourage ... harmonious relations between individuals and among the diverse groups in society' by enabling constructive contact between advocates for women's rights and trans advocates. While the issues are being worked through, women's same-sex spaces must be retained.

The government should ensure that its actions align with the intent of the New Zealand Bill of Rights (Declarations of Inconsistency) Amendment Bill. The purpose of this legislation is to provide a remedy for when governments act in a way that undermines either the New Zealand Bill of Rights Act or the Human Rights Act.

Given the scale of what is happening, an investigation by the Law Commission or by a royal commission is also warranted. New Zealanders deserve nothing less.

1 We have retained the term 'gender ideology', as this was the term we used in our original paper. Many commentators are now using the term 'gender theory' instead. We use this where it refers to the body of knowledge arising from post-modern and critical theory, whereas we take 'ideology' to mean implementation of a belief system that advances the interests of adherents.

2 Laurel Hubbard's selection for the women's weightlifting category at the 2020 Olympics is the most well-known New Zealand example.

3 We make a distinction between trans people and trans activists. Not all trans people are engaged in political activism, and some agree with gender-critical feminists. Likewise, by no means are all trans activists transgender. 'This powerful new lobby far outnumbers the trans people it claims to speak for' (Joyce, 2021, p.5).

4 In the United Kingdom a judicial review is testing whether 'non-binary' is an appropriate status to encode into legislation (Elan-Cane, 2021). In New Zealand, by contrast, the term is implemented and is not even regarded as a policy matter.

5 For a full account, see Rivers and Abigail, 2021.

6 In New Zealand, as in the US and elsewhere (Reuters, 2020), endorsing new kinds of trans rights as civil rights is gaining currency. But no previous civil rights movement has expected other groups to give up their human rights; 'demanding that self-declared gender identity be allowed to override sex is not, as with genuine civil-rights movements, about extending privileges unjustly hoarded by a favoured group to a marginalised one' (Joyce, 2021, p.3).

7 Following our report 'Another unfortunate experiment? New Zealand's transgender health policy and its impact on children' (Rivers and Abigail, 2020), which covered puberty blockers and gender-affirming medicine, we encountered doctors at the very top of the medical profession who agreed with our analysis but were not prepared to say so publicly.

8 <https://www.legislation.gov.uk/ukpga/2010/15/notes/division/3/16/20/7>.

9 In a recent communication with the authors the chief human rights commissioner said, 'the Commission does not share the view that the rights of women and transgender people are at odds with each other'.

References

- Alves, V. (2018) 'Transgender woman accuses Wellington women-only gym of discrimination', *New Zealand Herald*, 29 May, https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12060723
- ARC International (n.d.) 'Background', <http://arc-international.net/about/background/>
- Biggs, M. (2018) 'The Open Society Foundation and the transgender movement', *4thWaveNow*, 25 May, <https://4thwavenow.com/tag/transgender-day-of-remembrance/>
- Bilek, J. (2020a) 'All roads lead to Arcus', *11th Hour*, 24 September, <https://www.the11thhourblog.com/post/all-roads-lead-to-arcus>
- Bilek, J. (2020b) 'From transsexual to transgender to transhuman part I', *11th Hour*, 12 October, <https://www.the11thhourblog.com/post/from-transsexual-to-transgender-to-transhuman-part-i>
- Bindel, J. and M. Newman (2021) 'The Yogyakarta Principles: women's rights were not considered', *Sex Matters*, 9 April, <https://sex-matters.org/posts/updates/yogyakarta-principles/>
- Chick, B. (2021) 'Select committee testimony of Brendon Chick to supplementary order paper 59 of the Births, Deaths, Marriages and Relationships Registration Bill', 27 September, <https://fb.watch/8nudtmYJgD/>
- Coleman, K. (n.d.) 'These are not our crimes', https://www.youtube.com/watch?v=9Nply-0_esU
- Cross Agency Rainbow Network (2019) *2019: a year in review*, Cross Agency Rainbow Network, <https://employeenetworks.govt.nz/assets/Uploads/Resources-to-download/CARN-annual-report-2019.pdf>
- Crown Law (2019a) 'Births, Death, Marriages and Relationship Registration Bill 2017 (296–2): Self-identification of sex', letter to deputy chief legal advisor, 20 February, https://www.beehive.govt.nz/sites/default/files/2019-02/Crown%20Law%20advice%20BDMRR%20Bill%20_0.pdf
- Crown Law (2019b) 'Working environment', Crown Law, <https://www.crownlaw.govt.nz/careers/working-environment/>
- Daly, P. (2021) 'The Forstater judgment: what next?', <https://www.linkedin.com/pulse/forstater-judgment-what-next-peter-daly>
- Department of Corrections (2018) 'Management of transgender prisoners', https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Induction/I.10-Management-of-transgender-prisoners
- Department of Internal Affairs (2020) *Final Report of the Working Group for Reducing Barriers to Changing Registered Sex*, Wellington: Department of Internal Affairs, [https://www.dia.govt.nz/diawebsite.nsf/Files/Report-of-the-Working-Group-for-reducing-barriers-to-changing-registered-sex/\\$file/Report-of-the-Working-Group-for-reducing-barriers-to-changing-registered-sex-\(full-report\).pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Report-of-the-Working-Group-for-reducing-barriers-to-changing-registered-sex/$file/Report-of-the-Working-Group-for-reducing-barriers-to-changing-registered-sex-(full-report).pdf)
- Department of the Prime Minister and Cabinet (2019) 'The Policy Improvement Framework', <https://dpmc.govt.nz/our-programmes/policy-project/policy-improvement-frameworks/policy-quality>
- Department of the Prime Minister and Cabinet (2020) 'The Policy Project', <https://dpmc.govt.nz/our-programmes/policy-project>
- Desmarais, F. (2019) 'Massey University Rainbow Tick likely to be reviewed if controversial "feminist" event goes ahead', *Stuff*, 1 October, <https://www.stuff.co.nz/national/education/116223573/massey-university-rainbow-tick-likely-to-be-reviewed-if-controversial-feminist-event-goes-ahead>
- Dillon, S. (2021) "'TERF/Bigot/Transphobe' – "We found the witch, burn her!'", doctoral thesis, University of Portsmouth, <https://shonaghdillon.co.uk/wp-content/uploads/2021/06/Shonagh-Dillon-TERF-BIGOT-TRANSPHOBE.pdf>
- Elan-Cane, C. (2021) *Christie Elan Cane: non-gendered*, <https://elancane.livejournal.com/>
- Fair Play For Women (2021) 'Fact check: are more women really sexually abusing children?', 9 January, https://fairplayforwomen.com/sex_data_wrong/
- Family Planning (2021) *Navigating the Journey: relationships and sexual education*, years 5–6, New Zealand Family Planning
- Fiske, C. (2020a) 'Of all people, female prisoners deserve single-sex spaces', *The Article*, 2 November, <https://www.thearticle.com/of-all-people-female-prisoners-deserve-single-sex-spaces>
- Fiske, C. (2020b) 'The Tories let in trans mania – now they must drive it out', *Conservative Woman*, 6 April, <https://conservativewoman.co.uk/the-tories-let-in-trans-mania-now-they-must-drive-it-out/>
- Future of Legal Gender (2019) *The Future of Legal Gender: a critical law reform project*, <https://futureoflegalgender.kcl.ac.uk/>
- Gay, E. (2020) 'Transgender prisoner spent three weeks in men's prison', *Stuff*, 3 May, <https://www.stuff.co.nz/national/crime/121322232/transgender-prisoner-spent-three-weeks-in-mens-prison>
- Gener, J.A. (2020) 'Lowest ever public service gender pay gap', *Scoop*, 23 July, <https://www.scoop.co.nz/stories/PA2007/S00207/lowest-ever-public-service-gender-pay-gap.htm>
- Gender Minorities Aotearoa (2017) 'International trans fund supports trans community development in Aotearoa', <https://genderminorities.com/2017/10/27/international-trans-fund-supports-trans-community-development-in-aotearoa/>
- Gender Minorities Aotearoa (2019) '3rd gender option for MSD', 10 December, <https://genderminorities.com/2019/12/10/winz-studylink-msd-gender-option-self-id/>
- Ghose, I. (2018) 'Transgender prisoner who molested female inmates at women's jail now locked up with dangerous men', *MEAWW*, 18 November, <https://meaww.com/transgender-inmate-sexually-abuse-women-inmates-jail-britain-most-dangerous-men>
- Greaney, C. (2021) Letter to Jan Rivers and Jill Abigail from Ministry of Justice, 12 May, <https://www.publicgood.org.nz/wp/wp-content/uploads/2021/07/DSC-86777-FINAL-signed-response-Justice.pdf>
- Hamilton, J. (2019) 'Dentons campaigns for kids to switch gender without parental approval', *Roll on Friday*, 29 November, <https://www.rollonfriday.com/news-content/dentons-campaigns-kids-switch-gender-without-parental-approval>
- Hayton, D. (2021) 'Why I became trans', *Unherd*, 29 November, <https://unherd.com/2021/08/why-i-became-trans/>
- High Court of New Zealand (2021) *Judgment Whitmore Daphna Kaye v Palmerston North City Council*, <https://speakupforwomen.nz/wp-content/uploads/2021/06/WHITMORE-Daphna-Kaye-v-Palmerston-North-City-Council-reasons-judg-20210624.pdf>
- Hilton, E.N. and C.M. Wright (2020) 'There's no question of our biological sex', *Australian*, 17 February, <https://www.theaustralian.com.au/commentary/theres-no-question-of-our-biological-sex/news-story/e07333189fcd3a5a97a4941fdf085e78>
- Holloway, G. (2020) 'The mysterious power of an international transgender declaration that no one has ever heard of', *MercatorNet*, <https://mercatornet.com/the-mysterious-power-of-an-international-transgender-declaration-that-no-one-has-ever-heard-of/66429>
- Human Rights Commission (2018) 'Submission on Births, Deaths, Marriages, and Relationships Registration Bill', https://www.parliament.nz/resource/en-NZ/52SCGA_EVI_74854_768/f89b89d6b8078ee4f17e3673d99cfb038ab67868
- Human Rights Commission (2020) *Prism: human rights issues relating to sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) in Aotearoa New Zealand*, Wellington: Human Rights Commission, <https://www.hrc.co.nz/>

- files/9215/9253/7296/HRC_PRISM_SOGIESC_Report_June_2020_FINAL.pdf
- Hymas, C. (2019) 'One in 50 prisoners identifies as transgender amid concerns inmates are attempting to secure prison perks', *Telegraph*, 10 July, <https://www.telegraph.co.uk/news/2019/07/09/one-50-prisoners-iden>
- IGLYO, Thomson Reuters Foundation and Dentons (2019) *Only Adults? Good practices in legal gender recognition for youth*, IGLYO, Thomson Reuters Foundation and Dentons, https://www.iglyo.com/wp-content/uploads/2019/11/IGLYO_v3-1.pdf
- InsideOUT (n.d.) 'Charity summary: InsideOUT Kōaro', Charities Register, <https://www.register.charities.govt.nz/CharitiesRegister/ViewCharity?accountId=ebb47fdd-a318-e211-84ab-00155d0d1916&searchId=5c100288-984b-4f8a-a190-7604fe5a2e2b>
- International Commission of Jurists (2017) *The Yogyakarta Principles plus 10*, Geneva: International Commission of Jurists, <https://yogyakartaprinciples.org/>
- International Conference on Transgender Law and Employment Policy (1993) 'International Bill of Gender Rights', <https://www.tolerance.org/classroom-resources/texts/international-bill-of-gender-rights>
- Jones, J.C. (2018a) 'Gay rights and trans rights – a compare and contrast', 9 September, <https://janeclarejones.com/2018/09/09/gay-rights-and-trans-rights-a-compare-and-contrast/>
- Jones, J.C. (2018b) 'Post-structuralism, Butler and bodies', 18 July, <https://janeclarejones.com/2018/07/18/post-structuralism-butler-and-bodies/>
- Joyce, H. (2021) *Trans: when ideology meets reality*, Simon and Schuster
- Kaminsky, G. (2021) 'California dishing out condoms to female inmates after Newsom forces them to live with men', *Federalist*, 12 August, <https://thefederalist.com/2021/08/12/california-dishing-out-condoms-to-female-inmates-after-newsom-forces-them-to-live-with-men/>
- Kirkup, J. (2020) 'The document that reveals the remarkable tactics of trans lobbyists', *Spectator*, 6 June, <https://www.spectator.co.uk/article/the-document-that-reveals-the-remarkable-tactics-of-trans-lobbyists>
- Linehan, G. (2021) 'Get ready to be angry: Brighton has its own Vancouver Rape Relief story', *The Glinner Update*, 22 February, <https://grahamlinehan.substack.com/p/get-ready-to-be-angry>
- MacLachlan, M. (2019) 'A year ago I was instructed by District Judge Kenneth Grant to pretend my male assailant was a woman', *Peak Trans*, 14 April, <https://www.peaktrans.org/district-judge-kenneth-grant/>
- Mana Wahine Kōrero (2021) 'Gender identity is not Māori culture', 19 August, <https://www.youtube.com/watch?v=qMsUoACPDB0>
- Martin, T. (2019) 'Births, Deaths, Marriages and Relationships Registration Bill to be deferred', media release, 14 April, <http://www.beehive.govt.nz/release/births-deaths-marriages-and-relationships-registration-bill-be-deferred>
- Mason, H. (2019) 'The alarm has been sounded, who's going to respond?', *Women Are Human*, 5 December, <https://www.womenarehuman.com/the-alarm-has-been-sounded-whos-going-to-respond/Mason, H.>
- Mason, H. (2021) Twitter thread, <https://threadreaderapp.com/thread/1307373520876449792.html>
- Ministry for Women (2018) *Statement of Intent: our approach for 2018–2022*, Wellington: Ministry for Women, https://women.govt.nz/sites/public_files/Statement%20of%20Intent%202018%20Ministry%20for%20Women.pdf
- Ministry for Women (2020) 'Official Information Act response: definition of woman', https://drive.google.com/file/d/1pKbn7R92PhQFcQFY5FG3eytDsK_VXMe5/view?usp=sharing
- Ministry for Women (2021) 'Our work', <https://women.govt.nz/about/our-work>
- Ministry of Education (2020a) 'Relationships and sexuality education', 11 November, <https://health.tki.org.nz/Teaching-in-HPE/Policy-Guidelines/Relationships-and-Sexuality-Education>
- Ministry of Education (2020b) 'OIA request to Ministry of Education re relationship and sexuality education guidelines issued September 2020', <https://www.publicgood.org.nz/wp/wp-content/uploads/2021/07/Ministry-of-Education-Response-Re-RSE-guidelines.pdf>
- Ministry of Justice (2021) 'Mandatory pronouns in job application', <https://www.publicgood.org.nz/wp/wp-content/uploads/2021/09/mandatory-pronouns.jpg>
- Ministry of Social Development (2020) Letter to Jan Rivers, 25 March, <https://fyi.org.nz/request/11860/response/47081/attach/3/20200325%20OIA%20response%20letter%20RIVERS.pdf>
- Ministry of Social Development (2021) 'The guide to social development policy', <https://www.workandincome.govt.nz/map/index.html>
- Murphy. (2019). 'What does it take to get a Rainbow Tick?', *Radio New Zealand*, 30 May <https://www.rnz.co.nz/news/national/390932/what-does-it-take-to-get-a-rainbow-tick>
- Murray, K. and L. Hunter Blackburn (2019) 'Losing sight of women's rights: the unregulated introduction of gender self-identification as a case study of policy capture in Scotland', *Scottish Affairs*, 28 (3), pp.262–89, <https://www.eupublishing.com/doi/abs/10.3366/scot.2019.0284>
- New Zealand Herald (2020) 'Auckland woman extradited to Australia to face murder charge over 2016 disappearance of Robert Dickie', *New Zealand Herald*, 26 June, <https://www.nzherald.co.nz/world/auckland-woman-extradited-to-australia-to-face-murder-charge-over-2016-disappearance-of-robert-dickie/N3H2VHRBMJDHI5XGVUQIMKNESA/>
- New Zealand Labour Party (2017) 'Inclusiveness and dignity for all Rainbow New Zealanders', <https://ndhadeliver.natlib.govt.nz/webarchive/wayback/20171020060542/http://www.labour.org.nz/rainbow>
- OECD (2017) *Preventing Policy Capture: integrity in public decision making*, Paris: OECD, <https://www.oecd.org/corruption/preventing-policy-capture-9789264065239-en.htm>
- Pember, M.A. (2016) "'Two spirit" tradition far from ubiquitous among tribes', *Rewire News*, 26 October, <https://rewirenews.com/article/2016/10/13/two-spirit-tradition-far-ubiquitous-among-tribes/>
- Piper, D. (2021) 'Bill simplifying birth certificate sex change gains momentum', *Stuff*, 13 June, <https://www.stuff.co.nz/national/politics/125423789/bill-simplifying-birth-certificate-sex-change-gains-momentum>
- Place, T. (2019) 'Transgender inmate at a women's prison accused of sexual assault', *Daily Mail*, 10 May, <https://www.dailymail.co.uk/news/article-7013261/Transgender-inmate-womens-prison-investigated-sexual-assault-bars.html>
- Public Service Commission (2020) 'Pronoun use in email signatures', <https://www.publicservice.govt.nz/our-work/diversity-and-inclusion/pronoun-use-in-email-signatures/>
- Rainbow Youth (2020) 'Charity details: Rainbow Youth Incorporated', Charities Register, <https://www.register.charities.govt.nz/CharitiesRegister/ViewCharity?accountId=592fd82f-0ad5-dc11-8026-0015c5f3da29>
- Reilly-Cooper, R. (2015) 'Sex and gender: a beginner's guide', *Sex and Gender Intro*, <https://sexandgenderintro.com/>
- Reuters (2020) 'Biden vows to pass LGBTQ rights legislation in first 100 days', *NBC News*, 30 October, <https://www.nbcnews.com/feature/nbc-out/biden-vows-pass-lgbtq-rights-legislation-first-100-days-n1245244>

- Rivers, J. and J. Abigail (2020) 'Another unfortunate experiment? New Zealand's transgender health policy and its impact on children', <https://www.publicgood.org.nz/2020/12/02/another-unfortunate-experiment/>
- Rivers, J. and J. Abigail (2021) 'What they do in the shadows: the rapid implementation of gender ideology in the New Zealand public sector: part 1: section 4 implications, impacts and unintended consequences of policy capture', <https://www.publicgood.org.nz/wp/wp-content/uploads/2021/07/Part-4-Unintended-consequences.pdf>
- Shaw, D. (2020) 'Male accused murderer transferred to women's prison following transgender activist outcry', 2 June, <https://www.womenarehuman.com/male-accused-murderer-transferred-to-womens-prison-following-outcry-by-transgender-activists-kylie-so/>
- Sherwood, S. and H. McNeilly (2019) 'Transgender prisoner investigated for sexual assault behind bars', *Stuff*, 10 May, <https://www.stuff.co.nz/national/crime/112432880/transgender-prisoner-investigated-for-sexual-assault-behind-bars>
- Sinnott, A. (2020) 'The 2010 Equality Act is being undermined by official guidance', *Uncommon Ground*, 6 March, <https://uncommongroundmedia.com/the-2010-equality-act-is-being-undermined-by-official-guidance/>
- State Services Commission (2018) 'Standards of workforce information for agencies in the state sector', Wellington: State Services Commission, https://www.publicservice.govt.nz/assets/Legacy/resources/Workforce_Information_for_State_Sector_Agencies_Nov-2018.pdf
- State Services Commission (2019) *Inclusion and Our Rainbow Public Service*, Wellington: State Services Commission, <https://www.publicservice.govt.nz/assets/SSC-Site-Assets/Workforce-and-Talent-Management/Diversity-Inclusion/WeCount-2019-findings.pdf>
- Statistics New Zealand (2015) 'Gender identity standard world-first in New Zealand', media release, *Scoop*, 17 July, <https://www.scoop.co.nz/stories/PO1507/S00152/gender-identity-standard-world-first-in-new-zealand.htm>
- Statistics New Zealand (2018a) 'Statistical standard for sexual identity: consultation', 1 May, <https://www.stats.govt.nz/consultations/statistical-standard-for-sexual-identity-consultation>
- Statistics New Zealand (2018b) *Sexual Orientation: findings from public consultation April 2018*, Wellington: Statistics New Zealand, <https://www.stats.govt.nz/assets/Uploads/Consultations/Sexual-orientation-findings-from-public-consultation-april-2018/Sexual-orientation-Findings-from-public-consultation-April-2018.pdf>
- Statistics New Zealand (2019a) 'Gender inclusive questions introduced to better reflect New Zealanders', news release, 24 June, <https://www.stats.govt.nz/news/gender-inclusive-questions-introduced-to-better-reflect-new-zealanders>
- Statistics New Zealand (2019b) 'Sexual orientation (framework)', <http://aria.stats.govt.nz/aria/#StandardView:uri=http://stats.govt.nz/cms/StatisticalStandard/aKorJMR9ZIDv3lub>
- Statistics New Zealand (2019c) 'Terms of reference for Advisory Group – sex and gender identity standard review', <https://www.stats.govt.nz/assets/Uploads/Reports/Reviewing-the-statistical-standards-for-sex-and-gender/Download-data/Terms-of-reference-for-advisory-group-sex-and-gender-identity-standard-review.pdf>
- Statistics New Zealand (2020a) 'A step-by-step guide to determining if and how to collect sex and gender data', <https://www.stats.govt.nz/assets/Uploads/Consultations/Sex-and-gender-identity-statistical-standards-Consultation/Decision-diagram-guide-to-determine-if-and-how-to-collect-sex-and-gender-data.jpg>
- Statistics New Zealand (2020b) 'Feedback sought on sex and gender identity review', news release, 2 July, <https://www.stats.govt.nz/news/feedback-sought-on-sex-and-gender-identity-review>
- Statistics New Zealand (2020c) *Sex and Gender Identity Statistical Standards: consultation*, Wellington: Statistics New Zealand, <https://www.stats.govt.nz/assets/Uploads/Consultations/Sex-and-gender-identity-statistical-standards-Consultation/Sex-and-gender-identity-statistical-standards-consultation.pdf>
- Statistics New Zealand (2020d) 'Example of use of pronouns in Stats NZ emails', <https://drive.google.com/file/d/1EYtBG4zcNKxfKXrQgN2vGEddfQli1Dsl/view?usp=sharing>
- Statistics New Zealand (2021a) *Statistical Standard for Gender, Sex, and Variations of Sex Characteristics*, Wellington: Statistics New Zealand, <https://www.stats.govt.nz/methods/statistical-standard-for-gender-sex-and-variations-of-sex-characteristics>
- Statistics New Zealand (2021b) 'Statistical standard for gender, sex and variations of sex characteristics', Official Information Act response, 27 May, <https://www.publicgood.org.nz/wp/wp-content/uploads/2021/07/img003.pdf>
- Statistics New Zealand, Ministry for Women and State Services Commission (2020) *Organisational Gender Pay Gaps: measurement and analysis guidelines*, 2nd edn, Wellington: Statistics New Zealand, <https://www.stats.govt.nz/assets/Uploads/Methods/Organisational-gender-pay-gaps-measurement-and-analysis-guidelines/organisational-gender-pay-gaps-measurement-analysis-guidelines.pdf>
- Stock, K. (2019) 'Ignoring differences between men and women is the wrong way to address gender dysphoria', *Quillette*, 11 April, <https://quillette.com/2019/04/11/ignoring-differences-between-men-and-women-is-the-wrong-way-to-address-gender-dysphoria/>
- Sullivan, A. (2021) 'Submission of Professor Alice Sullivan PE1876: accurately record the sex of people charged or convicted of rape or attempted rape', Scottish Parliament, 27 August, https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-citizen-participation-and-public-petitions-committee/correspondence/2021/pe1876_h-professor-alice-sullivan-submission-of-27-august-2021
- Tinetti, J. (2021) 'Progress towards simpler process for changing sex on birth certificates', media release, 13 June, <http://www.beehive.govt.nz/release/progress-towards-simpler-process-changing-sex-birth-certificates>
- Todd, S. (2019) 'Feminism, postmodernism and women's oppression', speech given at a Woman's Place meeting, London, 20 May, <https://womansplaceuk.org/2019/05/21/feminism-postmodernism-and-womens-oppression/>
- Transgender Trend (2019) 'Suicide facts and myths', <https://www.transgendertrend.com/the-suicide-myth/>
- Treasury (2021) 'Regulatory impact statement: introducing a self-identification process to recognise gender no birth certificates', <https://www.treasury.govt.nz/sites/default/files/2021-06/ria-dia-isi-may21.pdf>
- Wellington Rape Crisis Services (n.d.) 'About', <https://wellingtonrapecrisis.org.nz/about/services/>
- Yardley, M. (n.d.) 'A Miranda Yardley reader', blog post, <https://mirandayardley.com/en/a-miranda-yardley-reader/>
- Zobnina, A. (2020) 'Where did gender identity ideology come from?', speech to Women's Human Rights Campaign, 18 August, https://www.youtube.com/watch?reload=9&time_continue=390&v=jkOga6PX2Kc&feature=emb_title
- Zygan, A. (2020) 'Vancouver Rape Relief denied grant funding due to trans-exclusive policies', *Capilano Courier*, 1 April, <http://www.capilanocourier.com/2020/04/01/vancouver-rape-relief-denied-grant-funding-due-to-trans-exclusive-policies/>