

**CHALLENGE
INJUSTICE.**

22 December 2022

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
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Brisbane Qld 4000

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Dear Committee Secretary,

LEGAL AFFAIRS AND SAFETY COMMITTEE: BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL 2022

Amnesty International is a global movement of more than 10 million people who take injustice personally. We campaign for a world where human rights are enjoyed by all. Amnesty International is impartial and independent of any government, political persuasion or religious belief and does not receive funding from governments or political parties.

Amnesty International campaigns against direct or indirect discrimination on the basis of race, sex, sexual orientation, gender identity and sex characteristics. Amnesty International calls for states to take measures that prohibit discrimination as well as positive measures to address long-standing or systemic disadvantages, and to prevent discrimination by state and non-state actors.

Our work on non-discrimination is grounded in human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

With special consideration on the Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (the 'Yogyakarta Principles'), it is essential that Governments acknowledge that gender identity is integral to every person's dignity and humanity and must not be the basis of discrimination or abuse.¹

In Australia and around the world, most people take their identity documents for granted. For transgender, non-binary and gender diverse people, having their birth certificate correctly state their gender can mean everything.

But right now in Queensland, transgender people are forced to undergo invasive 'sex reassignment surgery' before being able to correct their birth certificate. Not only can this requirement present immense social, economic, and access barriers to legal gender recognition, but no person should be forced to undergo medical procedures as a requirement for recognition of who they are, a

¹ International Commission of Jurists (ICJ), Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity, March 2007, available at: <https://www.refworld.org/docid/48244e602.html>.

principle recognised in the Australian Government's Guidelines on the Recognition of Sex and Gender.²

For many non-binary and gender diverse people, there is also no option to correctly record their gender.

Our self-defined gender identity is one of the most basic aspects of self-determination, dignity and freedom. International human rights law says that our laws should respect self-identification. This means that trans, non-binary and gender diverse people should have access to basic ID that is true to their gender- regardless of what medical treatment they have (or have not) received.

Over the last few years, Amnesty International has campaigned in Queensland for amendments to the *Births, Deaths, Marriages and Registration Act 2003 (Qld)* to:

1. Allow individuals to self-identify their sex or gender on identification documents, including birth registration;
2. Remove the current requirement for an individual to have undergone 'sexual reassignment surgery' before a reassignment of sex in the person's record of birth; and
3. Enable parents to choose how they are recorded on a birth or adoption registration.

Amnesty International therefore very much welcomes the introduction by the Queensland Government of the *Births, Deaths and Marriages Registration Bill 2022 (Qld)*, which deals with all these matters in full to better recognise Queensland's diverse community.

While Amnesty International fully supports the passing of this Bill into law, we do note that fees for name or gender marker changes for gender affirmation remain, and that higher registry fees for 'data services' are also included. Amnesty International maintains that changes to name and gender marker fees should always be waived - in full - to ensure there are no further barriers for those seeking to access the benefits of these legislative changes.

Amnesty International recommends that:

1. The *Births, Deaths and Marriages Registration Bill 2022 (Qld)* be passed with the following amendments:
 - a. Changes to name and gender marker fees should be waived, in full.

For further information, or to discuss and organise a hearing appearance, please contact

at or .

Yours sincerely,

² Australian Government, 'Australian Government's Guidelines on the Recognition of Sex and Gender,' 2013, available at <https://www.ag.gov.au/sites/default/files/2020-03/AustralianGovernmentGuidelinesontheRecognitionofSexandGender.pdf>.

Sam Klintworth
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