

Births, Deaths and Marriages Registration Bill 2022

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See attached:

Women and girls need robust birth registration processes and accurate data

It is essential in the consideration of this Bill to consider why jurisdictions have birth registration processes and what a birth certificate is. The key reasons cited by the UNHCR¹ include:

- a permanent and official record of a child's existence,
- establishes a legal record of where the child was born and who the child's parents are.
- information collected from birth registration records helps governments decide where and how to spend money, and what areas to focus on for development programs, such as education and immunization.

The UNHCR goes on to state: "a birth certificate is the paper issued by the state to the parent or caregiver as a result of this process. A birth certificate proves that registration has occurred."

Birth certificates are a record of your birth that captures data that can be known on that day as result of the birth registration process, including sex. Sex is a matter of biological science and it is well understood in the community what 'sex' means on a birth certificate.

Why should Governments and in particular Governments applying a feminist analysis care about this? Because birth registration processes are a feminist issue. Birth registration processes are used to control and oppress women and girls in many countries but the key point here in Queensland is that they are used to collect data and make Government policy decisions. Accurate data on the experiences of females to ensure we are addressing sex-based discrimination are essential to making further inroads to improve the lives of women and girls in Queensland. This Bill is a threat to accurate data collection and as such a threat to effective Government policy decision making for women and girls. Queensland women and girls do not need more barriers to achieve equality and liberation.

To use a quick example, consider the significant weaknesses of our public transport system, Caroline Criado-Perez writes on public policy regarding public transport planning²: "We lack consistent, sex-disaggregated data from every country..." That is, no country collects consistent sex-disaggregated data on public transport use. This is one short quote in a book dedicated to documenting the abysmal state of sex-disaggregated data and how it is used in science, public policy and economics. To enable sex-based analysis this data needs to be collected accurately.

The needs of women and girls for Government's to collect accurate sex-disaggregated to inform public policy decisions is not incongruent with the recording of gender. It can occur adjacent to it. Conflation of sex and gender in our birth registration process and therefore statistical data will result in bad decisions in Government policy for Queensland women and girls. Data is also used to inform on the ground processes. Of particular concern is the provision of single sex and trauma informed services in housing, health and aged care services. With this total conflation as is proposed in this Bill

¹ <https://www.unicef.org/stories/what-birth-registration-and-why-does-it-matter>, What is birth registration and why does it matter, Leah Selim, 10 December 2019

² Invisible Women: Exposing data bias in a world designed for men, Caroline Criado-Perez, 2019.

there is no pathway to single sex service provision. Traumatized women and girls need single sex services.

Sex and gender are different – an important feminist concept

Gender is used to describe different concepts by different people, sometimes interchangeably across these meanings by the same people. Some use it to primarily describe gender identity framework, some to describe the class hierarchy through which sex-based class oppression occurs, some use it to describe stereotypes about men and women, boys and girls.

As a feminist and gender abolitionist I have watched as Governments abandon the goal of addressing, reducing and ending gender stereotypes and sexism. This seems to be fuelled by neo-liberal capitalism – selling gender and gender identity to young people and their families. Many women I talk to wonder when we all decided to embrace gender rather than fight its oppressive structures.

It is offensive to me, as a feminist, and other women and girls I talk to that I would be asked to 'identify' as a gender. For me gender is a social construct and the state coercing me to participate in this construct is similar to the state coercing me to participate in the concept that social construct of 'race' as a biological truth. As a person who has diverse cultural ancestry I would find such a notion similarly offensive.

Women and girls need single sex services

In other jurisdictions where these types of laws have been introduced they have done so in reference to the Yogyakarta Principles. These principles were put together in 2006 by a group who were considered to be human rights experts. They included a principle that indicated gender should replace sex on all identity documents.

Dr Robert Wintemute (a professor of human rights law at King's College) who was involved in developing the original Yogyakarta Principles indicated that he has changed his mind on the matter of self identification³. He says that when these principles were developed the rights of women were not considered. In particular it was not considered that the safety of female only spaces would be impacted. Dr Wintemute says listening to women changed his mind.

It is also possible that these changes (and those in other state jurisdictions) will interact in unintended or concerning ways with the Sex Discrimination Act and other sex based protections, resulting in significant conflicts in law. The outcome of this could mean that women and girls are no longer able to rely on sex based protections against sexism and sex-based discrimination. These protections are already difficult to access (I have direct experience with this as a union delegate), this will only make it harder.

My considerations on this, like Dr Wintemute, are also as a result of listening to people in our communities. It took me too long to do so and I hope that this the committee decides to listen to the feedback from women on this issue. The people I have listened to include feminist groups, lesbians,

³ <https://thecritic.co.uk/issues/april-2021/the-trans-rights-that-trump-all/>, The trans rights that trump all, Julie Bindel and Melanie Newman, April 2021 (from The Critic April 2021 edition)

gay men, young women, women who have been incarcerated, women who run and/or have been in need of refuge services and parents and children (particularly those who have teenage girls at school), women from diverse cultural backgrounds, women who are married to males who are transitioning, women who have detransitioned/desisted. The concerns raised in those conversations are that a self identification model that erases sex could see our most vulnerable women and girls impacted, those incarcerated in female only facilities, those accessing women's refuges and those in need of female only health and aged care. These concerns should not be dismissed and these women and girls should not be subject to gaslighting by their own state government.

The Scottish Parliament recently considered similar laws. The UN special rapporteur Reem Alsalem wrote a letter to the UK Government expressing concerns that the changes "would potentially open the door for violent males who identify as men to abuse the process or acquiring a gender certificate and the rights that are associated with it... This presents potential risks to the safety of women in all their diversity."⁴

The same concerns apply in the Australian context. The Attorney-General had an opportunity to address this but instead denied that any issues exist in jurisdictions and services already using forms of self identification. There have been instances of males accessing what used to be female only spaces and abusing the sex identification processes including instances where these males have sexually assaulted women and girls. A sample of incidents across various scenarios and dates are include:

- As documented in the UK parliament a hospital denied a rape had occurred as the male worker who was the alleged perpetrator was transgender and therefore female.⁵
- A male falsely claimed to be transgender and assaulted four women and girls (youngest victim was five years old), including two women in shelters in Canada.⁶
- A transgender woman (a male) with two decades long history of predatory behaviour is housed in the female prison and then attacks female inmates in the UK.⁷

⁴ <https://www.bbc.com/news/uk-scotland-63730621>, UN expert warns men could 'abuse' Scottish gender reforms, 23 November 2022

⁵ <https://www.nationalreview.com/news/british-hospital-allegedly-denied-rape-claim-because-perpetrator-was-transgender/>, British hospital allegedly denied rape claim because perpetrator was transgender, Zachary Evans, 18 March 2022. Note: also reported by Telegraph UK and The Times UK, have included the non-pay-walled reference

⁶ <https://torontosun.com/2014/02/26/predator-who-claimed-to-be-transgender-declared-dangerous-offender>, Predator who claimed to be transgender declared dangerous offender, Sam Pazzano, 26 February 2014

⁷ <https://www.theguardian.com/uk-news/2018/oct/11/transgender-prisoner-who-sexually-assaulted-inmates-jailed-for-life>, Transgender inmate who sexually assaulted inmates jailed for life, Nazia Parveen, 12 October 2018

Suggested actions for the committee

I support the concept that no one should feel there is systemic coercion to undergo significant medical procedures. However I also support the concept that no one should be coerced to adopt a gender. Unfortunately, this proposed solution offers no compromise to protect natal women and girls or for those who don't accept gender as a framework. This isn't good enough for the women and girls of Queensland. The lack of consultation, lack of compromise and lack of evidence based analysis is not something that women and girls should accept.

The questions that remain unanswered:

- Why are birth certificates being targeted for this change?
- Why is a Gender Recognition Certificate or similar not proposed?
- How will single sex spaces be supported following this change by the legislation?
- Why wouldn't the Attorney-General meet with women to allow them to raise their concerns and/or have their concerns addressed by the Attorney-General?
- Why is the erasure of the differences between sex and gender the only option provided to the Queensland electorate?

I implore the committee to ask those that put this Bill forward to do better consultation with women and girls. In particular, the committee should recommend the Attorney-General perform their role without bias and discrimination against women and girls and engage with women who are raising concerns about these changes rather than denigrating and dismissing them.

Please don't rush this change through and consider if there is a different way to achieve better services for all Queenslanders. As stated at the beginning of this submission retaining the accurate recording of sex at the time of birth does not exclude the recording of gender. Additional processes can be provided to record gender identity. It is never too late to choose a different path, Queensland could be a world leader by reasonably and carefully working through what is needed to support all Queenslanders.