

Submission to the Legal Affairs and Safety Committee on the Bill to change the
Births Deaths and Marriages Registration Act to allow sex self identification
on birth certificates in Qld

January 2023

Submitted by Dr Helen Waite

Dr H Waite

[REDACTED]

[REDACTED]

I am a woman, a lesbian, a mother, a former elite athlete, a retired teacher, a survivor of domestic violence, a resident in Queensland and a lifelong political activist for ending male violence oppression and domination of women and girls. My concerns about the Bill's consequences for women and girls safety and wellbeing are based on my birth and my lived experiences as a female in the many roles and activities of my life.

However, I hesitated to even make a submission. Firstly because of the cynical process of introducing the Bill on the last day of sitting with a very restricted deadline for submissions of just after the Christmas New year holiday season (11th Jan) .

Secondly, because when introducing the Bill, the Attorney General denigrated, and dismissed my life and the women centred perspectives of all the women like me who have fought for women's rights over the past 5 decades, by calling us transphobic. In other words, making it crystal clear any submissions regarding the impacts on women would automatically be unacceptable and ignored as transphobic:

"We also know that some groups will try to cloak their transphobia in the guise of women's safety— making claims about trans women accessing women's spaces, including change rooms or even domestic violence shelters."

It greatly concerns me that this government has used a common authoritarian tactic of abuse, to silence and overtly discourage any critical review or public discussion of the impacts of the Bill especially from women. It nearly worked on me. I thought what is the point of spending time away from family and friends during Christmas and New Years, when my evidence and experience will be *a priori* dismissed as transphobic. This is a terrible travesty of the democratic process and up front discourages political participation by citizens.

I strongly urge the government to retract and denounce the statements about transphobia and women's safety, in relation to the Bill. It is essential to reassure the general public that the government is actually committed to a transparent, non- ideological and impartial review of the shortcomings and unintended consequences of the Bill.

I recommend the current process and timetable be halted and the government hold public consultations and information sessions so that the non- transgender Queenslanders (ie over 99%) affected by the proposed changes are aware of what is at stake and can provide feedback.

The Daily Mail (UK) reported in Dec 2022, that in the survey of 10,000 people, 95% did not want England to recognise the Scottish sex self ID legislation passed on 22 December 2022. Earlier in the year, the English government had rejected introducing sex self ID, after widespread public consultations. It would be extremely difficult to argue from this and other data from overseas that the majority of Queenslanders would support the proposed Bill, if they knew about the impacts of self ID.

I noted there were no groups of women like me involved in the consultations or drafting. Apparently, because we are not considered as stakeholders by the Attorney General. Pretending the issue of birth certificates is a *trans rights issue* rather a *sex rights issue*, ie a factual record of sex on the day of birth means the Bill is fatally flawed and harms the rights of women and girls.

The government seems it will disregard any submissions which do not support giving any male the legal right to call themselves female at all times and in every circumstance in Queensland, even if that impinges on the rights of women and girls to provide services like DV refuges, health care or engage in activities that are single sex like community sport , camps, conferences or girls schools. I strongly urge the government to remedy this situation and announce at the very least an information paper and public sessions, and therefore a halt to the current submission and committee process.

As disheartening as the descent into an authoritarian political process has become in Qld and as disappointing as it is to me personally as a supporter of Labor, the issues have such serious ramifications for myself and my wellbeing I decided to make a limited submission and raise a few of my grave concerns, in good faith. I know that socially selfdeclaring oneself a female when one was born a male does not and cannot change a male's biology at birth and it is the everyday reality and the social and economic consequences of this male biology which necessitates single sex spaces, services, policies, organisations and preferences for women.

As the UK's Attorney General, Suella Braverman said in a speech on Judicial power in relation to the conflict of rights between women's single sex spaces and rights of gender minorities :

Sometimes, things that seem clear in the abstract become distorted when they are applied in the real world, with unintended consequences.

This proposed Bill makes it very clear that this government wants to remove and deny women and girls the right to single sex spaces, via a change on a birth certificate which gives any male the strongest legal right to define themselves as female and therefore entitled to enter all female single sex spaces across the age span.

The unintended consequences are obvious, numerous and well documented to all those women and men, who are not transphobic (but know the science,) of privileging males over females. Humans cannot change their biological sex, even if they have a birth certificate which reinforces such a false belief or live under laws which also embed this false belief.

For instance, men who declare and claim a female identity are then entitled to be housed in a female prison. If you care about the vulnerabilities transgender people, then your care and compassion must also be extended the greater vulnerabilities of women in prison if housed with males.

The reliance on the Yogyakarta Principles to justify the changes is deeply flawed

In common with many governments in the West, the Attorney General of the QLD government cites the Yogyakarta principles to justify the radical changes to Birth certificate legislation. However, what the Attorney General does not acknowledge or declare, are the inconvenient truths about the drafting of these principles. the United Nations General Assembly has not and is extremely unlikely to ratify these principles because of major flaws and unscientific claims and sex and gender.

The document was drafted by an unrepresentative group of trans right activists human rights activists and lawyers, 89% of whom were male. They have worked tirelessly to influence governments globally, via peak LGBTIQ+ group, to implement all the principles into laws. Queensland is no exception. The fact of limiting stakeholders primarily to LGBTIQ+ groups and excluding women, is evidence of the strategy being successful in action. As a woman and a lesbian, I am dismayed the QLD govt has adopted such an uncritical acceptance of the principles and been party to the global strategy to diminish the relevance of sex in favour of minority, but expanding types of gender identities.

The fatal flaws in the Yogyakarta principles were exposed in April 2021 when Robert Wintermute, a gay man and professor of human rights law at King's College London, revealed **WOMEN'S RIGHTS WERE NEVER CONSIDERED DURING THE MEETINGS TO DRAFT THE PRINCIPLES**. He says he should have challenged some aspects of the Principles and he failed to consider that trans women with male genitalia would seek to access female only spaces. As a principal drafter says **he has changed his mind after listening to the concerns of women**. (<https://thecritic.co.uk/issues/april-2021/the-trans-rights-that-trump-all/> accessed 9/01/2023).

Yogyakarts Principle 3 states:

*Each person's self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom. Legal documents such as birth certificates and passports **must reflect self-defined gender identity, it adds, and these must be recognised in "all contexts where the identification or disaggregation of persons by gender is required by law or policy"**.*

I RECOMMEND THE QLD GOVERNMENT PAUSE THE CURRENT PROCESS TO CHANGE BIRTH CERTIFICATES IN LINE WITH YOGYAKARTA PRINCIPLES AND PAY FULL REGARDS TO THE EXPERT ADVICE OF ROBERT WINTERMUTE TO SEEK OUT AND LISTEN TO THE CONCERNS OF WOMEN ABOUT THE HARMS OF ELIMINATING S BIOLOGICAL SEX IN QLD LAWS.

As a lesbian and member of numerous underground lesbian groups and organisations, I know there are a number of the principles which severely disadvantage lesbian women. The Principles merge lesbian and gay rights with the right to protection and expression of "gender identity". They also provide a foundation for the view that "gender identity" — based on the feelings of an individual — trumps biological sex.

This means that males with penises can legally be lesbians, because they identify as females and where possible, can have a birth certificate changed to say they are female. For me as a lesbian I have lost my rights under the laws protecting sexual orientation.

- I can no longer legally hold a conference for lesbians born female.
- I can no longer organise a dance for lesbians born female without facing litigation from a trans identified male who claims he is lesbian, as is currently happening to a lesbian in Tasmania.
- I cannot form a support organisation to meet the specific needs of lesbians without facing litigation from trans identified males.

This is why I, and large sections of the lesbian community, have to meet and organise underground. This lack of public visibility is extremely damaging to the well being and culture of lesbians of all ages

but especially young women exploring their attraction to other females. As a lesbian who come out in the late 70's, the last 5 years have been the most damaging to me personally.

I have to watch with sadness and great anger as lesbians are cancelled from even speaking at the Sydney Gay and Lesbian Mardi Gras, because they believe same sex lesbian sexual orientation is fundamentally about attraction to other female sexed people not heterosexual males who identity as females and lesbians.

As a direct result of the adoption of the Yogyakarta principles in Australia and by the QLD government I have lost my fundamental human right to associate and organise with females with whom I share social and cultural interests. A right trampled on by the everyday tactics of vilification, cancelling and silencing adopted by local trans activists here in Brisbane and whose networks create pile ons on venues to cancel events. A right that sees lesbian women as a group excluded from stakeholder consultations on legislation and policy which affects them in their everyday lives. A right that denies me my fundamental right to freedom of opinion without being vilified by politicians as a transphobe.

It is terrible time to be a lesbian especially after the enormous struggles for equality and social justice for women. I have been involved with for the past 50 years. This Bill can only lead to a worsening situation for lesbians born female and even more males demand entry to our spaces and more trans identified males abusing and denigrating lesbians as transphobic when we place boundaries on our relationships and reject what is a heterosexual sexual relationships with a trans identified male.

A demand that this Bill sanctions and a demand which I am legally compelled to obey. I have no option but to acceded to male demands to be in my lesbian space, meeting or organisation, because I do not have the financial resources to defend by basic human right and changing birth certificates based on se self ID trumps biological sex and the rights of women and girls to single sex spaces.

I could provide further evidence of the impact of self ID on me as an athlete, how difficult and unsafe it would be for my daughter to manage her menstrual blood one week in 4 in toilets and gym change rooms where males are legally entitled to be because of their new birth certificate. I could also provide evidence of how allowing children to cement a gender identity very early in their childhood, contravenes the mounting evidence of the harms of socially transitioning children before they have the cognitive maturity to assess the implication s for their adult lives.

I urge the government to incorporate the latest review of these issues which occurred in a Family court case here in Australia and pause the process for this Bill in order make better law in relation to the welfare and human rights of children.

The Family Court trial where parents were in dispute about the treatment of their child, featured several expert witnesses who informed the judge of the increasing concern about the safety of puberty blocker drugs and the European shift away from medicalised gender change for minors.

After 10 days of proceedings, the dispute between the child's parents was settled with an injunction preventing any transgender hormonal treatments until the child is 16 years old. **The injunction also prohibits any change of the child's name or gender in official records before age 16.**

(https://genderclinicnews.substack.com/p/no-blockers?utm_campaign=post Accessed 1001/2023)

In conclusion I recommend:

- the Bill be paused until a wide public consultation is conducted because the unintended consequences will affect nearly all Queenslanders, but especially women, lesbians and girls
- the government get up to speed and impartially assess the evidence, both here and overseas which demonstrates the unintended consequences of harms cause by the proposed changes, and not leave it to individual departments to work out the implementation

I respectfully suggest than no female MP in the Queensland parliament would call herself or their mother, *the birthing parent*. This simple exercise ought to provide the all evidence needed to remove the misogynistic, offensive and objectifying term *birthing parent* from any Birth certificate.