

Births, Deaths and Marriages Registration Bill 2022

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Submitted by: Coalition of Activist Lesbians Inc (CoAL Inc)
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***Submission by Coalition of Activist Lesbians (Inc) Australia (CoAL)
on Queensland Births, Deaths and Marriages Registration Bill 2022***

ABOUT CoAL

Inception of the Coalition of Activist Lesbians (Australia) Inc (CoAL) in 1994 coincided with plans to represent Australian lesbians at the 1995 UN 4th World Conference on Women in Beijing. CoAL was the only Lesbian-specific NGO in the world at that time to be UN-accredited, both with the Economic and Social Council (ECOSOC) and with the Division for the Advancement of Women.

CoAL works towards ending discrimination against lesbians. It is the only national not-for-profit, community-based organisation that advocates specifically on behalf of Australian lesbians to all levels of government.

CoAL aspires to be part of a society where respect for differences, the rule of law, and the equal dignity of all humans are shared.

We operate within a human rights-based, women-centric, socio-ecological framework to protect lesbian human rights, and to support all Australian lesbians to participate equally in society in activities for positive social change.

To fulfil our United Nations accreditation obligations, CoAL monitors Australian, state, and territory legislation - and the public and private sectors - to ensure implementation of principles inherent in international covenants, including freedom of speech and rights to association, and networks internationally,

nationally and locally, with other lesbian, women's, and general community groups.

SUMMARY AND RECOMMENDATIONS OF THIS SUBMISSION

As for our previous submission on proposed gender-related legislation in *Queensland (Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee Health Legislation Amendment Bill 2019*, Chapter 5B Conversion therapies), we focus on the consequences of this current proposed bill for lesbians. CoAL argues that the *Queensland Births, Deaths and Marriages Registration Bill 2022* will simply compound the errors in the former legislation, providing further justifications for discrimination against lesbians and other women.

1. Definitions of sex

2. Implications of 'sex' in proposed Queensland Births, Deaths and Marriages Registration Bill 2022

3. Linguistic annihilation of the female sex

4. Lesbian and other women-only spaces

1. Definitions of sex

The long-held biological definition of sex, based on reproductive capacity, is that biological life forms produce either small, motile or large, fixed gametes. In humans, this occurs in males (sperm) and females (oocytes) (Goyman et al 2022). It is vital that governments do not accept populist ideas and confuse sex with gender, yet increasingly we and other concerned groups and individuals find this happening.

The Australian Bureau of Statistics (ABS) seems to be quite confused about the terms 'sex' and 'gender'. For example, it produced the 2021 Census Form that 'allowed all respondents to select from three response options for the sex question:

sex descriptor means—

- (a) ‘male’; or
- (b) ‘female’; or
- (c) any other descriptor of a sex.

Examples—

‘agender’, ‘genderqueer’, ‘non-binary’ (Parliament of Queensland, 2022 Schedule 2 Dictionary: 140)

stating further that ‘a person's sex is based upon their sex characteristics, such as their chromosomes, hormones and reproductive organs’ (ABS, 28 JUN, 2022). But the ABS did not specify how a ‘non-binary’ person’s ‘chromosomes, hormones and reproductive organs’ would differ from those of binary males and females. Thus rendering their category of ‘non-binary’ meaningless.

The [Census and Statistics Regulation 2016](#) had dictated what information was to be collected in the Census, specifying that ‘in relation to the 2021 Census, the Census should collect data on sex, but not gender’. Yet the ABS decided that ‘non-binary’ *was* a sex category without defining how this can be so when the biology of people who identify as non-binary is either male or female. Not surprisingly the ABS admitted later that ‘the ABS does not believe results from the 2021 non-binary sex category provide data of high enough quality to be used’ (ABS, 28 JUN, 2022). CoAL argues that this is because **there is no such thing as ‘non-binary sex’** and the term is subject to multiple meanings. For example, of ‘0.17% of the Australian population’ (ABS, 28 JUN, 2022) who chose non-binary sex, ‘Responses show the concept of non-binary sex was not consistently understood and was perceived in different ways by different people’ (ABS, 28 JUN, 2022). In addition, of those who used a text box to elaborate on ‘Non-Binary Sex’, 60% gave answers such as ‘agender, demiboy, gender fluid, non-binary gender and trans woman’...Given this, the ABS does not support the use of the non-binary sex category to estimate the prevalence of any specific group in the community.’ (ABS, 28 JUN, 2022). Weaknesses in the methodology of the most foundational datagathering tool in Australia can have profound implications for how resources are allocated and which national policies are implemented.

The responses given to non-binary category and the conclusions made by the ABS to not support non-binary as a sex category was entirely predictable. The unusable data and confusion could have been avoided had the ABS consulted women including lesbians, in particular activist and specialist groups such as CoAL. CoAL notes that, of the four LGBT groups consulted regarding questions for the 2021 Census, none were lesbian- or even women-specific.

The whole issue of ‘gender identity’ as opposed to ‘sex’ is fraught and contested, as exemplified in the current controversy over the incursion into women’s rights by Scottish government attempts to replace ‘sex’ with ‘gender’ in legislation (eg, For Women Scotland 2022). This is understandable because identity is a feeling, vague or strong, differing from person to person. The characteristics of identity cannot be statistically categorised. Sex, on the other hand, is biologically indisputable except on the case of genetic abnormalities such as intersex. CoAL argues that the categories of sex should be female, male and intersex.

2. Implications of ‘sex’ in proposed Queensland Births, Deaths and Marriages Registration Bill 2022

The Bill’s Schedule 2 - Dictionary definition of sex states:

‘sex descriptor means—

- (a) ‘male’; or
- (b) ‘female’; or
- (c) any other descriptor of a sex.

Examples—

‘agender’, ‘genderqueer’, ‘non-binary’ (Parliament of Queensland, 2022: 140).

As demonstrated in the Census example, above, these definitions are likely to lead to legal problems if the definitions are ever contested in a court of law - because they do not have stable definitions across different legislations let alone within society more generally that are understood, and agreed, by all.

Likewise, the definition of Birth Parent is given as: *‘birth parent*, of a child, means the person, *of any sex*, [CoAL’s italics] who gave birth to the child’ (Parliament of Queensland, 2022: 135).

CoAL asserts that *only* biologically female people give birth to human babies. See, for example, a recent political intervention in Australia (Bye & Pendrick 2022; LGB Alliance Aust, 2022) regarding the issues of whether the word ‘mother’ can be used on birth certificates..

3. Linguistic annihilation of the female sex

Human rights are a matter of balancing the rights of one group against the rights of other groups in society. But if the word ‘woman’ is forbidden, along with any word denoting the specific experience, or position, of women in society we are subject to thought control just as powerful as that in the book *1984*. Hence the continual attacks on Kellie-Jay Keen and the definition on her original poster: ‘Woman – adult human female’ and the women who gather at Speakers’ Corners all over the world.

4. Lesbian and other women-only spaces

The rights to freedom of expression and freedom of association are protected in the UN’s Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It is of utmost concern to lesbians and all Australian women that the Australian Broadcasting Commission – which is taxpayer-funded, seems to have been utterly captured by an ideological cabal which presents unbalanced reports, e.g. favouring transgender-identifying athletes such as Hannah Mouncey and denying women equal airtime. On a segment of Media Watch (Barry, 2022) Paul Barry could only agree..

The right of lesbians’ and women’s freedom of association have been under attack in Australia for decades (Gottschalk, 2009).

In 2006, a single-sex association of lesbians-raised-as-girls, Sappho’s Party, (legally constituted under SA’s Equal Opportunity law) held a private reunion, continuing the 15-year tradition of annual lesbian gatherings. A trans-identified male, learning of the gathering, complained but stated he had no intention to attend, if invited. His only motivation, thus, seemed to be to prevent it: he wanted the Tribunal to deny lesbians’ right to Freedom of Association. Sappho’s Party

won the case (South Australian Equal Opportunity Tribunal, 2009), but since that time, lesbian organisations are unable to advertise events publicly if we wish to keep them lesbian-only.

In September 2020, the ACT Civil & Administrative Tribunal (ACAT) ordered Canberra newsreader Beth Rep to: pay trans-identified male ‘Bridget Clinch’ \$10,000 for vilifying him on her personal Facebook page; remove all the postings; and never to make similar ones again. Rep appealed and the Appeal Tribunal found ACAT’s decision to have been in error, ruling that ‘discussion and debate of this issue is in the public interest.’ (ACT Civil & Administrative Tribunal, 2020; Denholm, 2022).

There are frequent attempts to no platform feminist scholars who run seminars, such as Holly Lawford-Smith and Caroline Norma, if not fired from their jobs (Finlay 2021).

If passed, the Queensland legislation currently under consideration will guarantee males access to women’s toilets and changing rooms. This has been an ongoing issue for years (Jeffreys, 2014). Quite apart from women not wanting males to ‘mark their territory’ with pools of piss on the floor and toilet seats in (erstwhile) women’s toilets, there is a safeguarding issue, as evidenced by the notorious Wi Spa incident. In this, a trans-identifying male (who, it later transpired, already had a warrant out for his arrest for indecent exposure) walked around in the women’s section of the spa semi-showing off his wares (Levy, 2021). A woman, who objected, was told to leave and was later harassed at a protest about the spa’s policy.

Jessica Hoyle, who wanted to run a monthly lesbians-only social gathering in Launceston was forbidden to do so by the Human Right Commissioner (TASCAT 2022; Wyatt, 2022).

‘Roxy Tickle’ threatened to take Sall Grover to the Federal Court for insisting that her women-only dating and social website, Giggle, was for natal women only, but backed down before it went to court. Having caused Grover a great deal of anxiety (Wyatt 2022).

Katherine Deves came under an onslaught of criticism after agreeing to be Scott Morrison’s ‘captain’s pick’ for preselection in the last federal election for arguing that it was unfair for natal men to compete in women’s sports – backed up by Sen

Claire Chandler of Tasmania (Chandler, May 2021; Deves, Apr 2022). Surfing Australia remains intransigent in allowing men to surf in national women's surfing competitions (Daily Mail, 20 May 2022)

Women's prisons are particularly problematic for women, since they began accepting transgender-identify males – which is only likely to increase if this Queensland legislation is passed. Sutton (2019) reported that 'Evie Amati', who was serving 14 years in gaol for attempting to murder three strangers with an axe painted in transgender colours, had had to be 'held in three different women's prisons since her arrest two years ago', has used her intelligence and skills as former union organiser Karl Amati to push other female inmates around in the system. Likewise, it is hard to imagine the horror of inmates in Californian, or New Jersey, gaols who might find themselves sharing a cell with 'Dana Rivers' who was found guilty of triple homicide when he shot, stabbed, and burned a lesbian couple and their son, who he had initially harassed at Michigan Womyn's Music Festival as part of 'Camp Trans' (Gartrell, 2022).

CONCLUSION

In conclusion, CoAL strongly recommends that, in the interests of lesbians' and women's human rights, the *Queensland Births, Deaths and Marriages Registration Bill 2022* not be passed – and that the Attorney-General and Minister for Women should reverse her decision not to consult with Sall Grover and women's community groups - who are her political constituents - to hear their concerns.

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