



Submission to the Independent Expert on Sexual Orientation and Gender Identity (OHCHR), re Protection against violence and discrimination based on sexual orientation and gender identity, in relation to the human rights to freedom of expression, association and assembly

Introduction

Australian Feminists for Women's Rights (AF4WR) is a collective of feminists from all over Australia campaigning for women's sex-based rights protections, within a broader context of social and economic justice for all. We welcome the opportunity to provide a submission on the above topic.

In this submission, we will focus primarily on two groups: adult lesbians, and girls who do not conform to prescriptive sex-role stereotypes or otherwise do not quite "fit", many, even most, of whom, may later turn out to be lesbian.

We argue for the fundamental importance of separating *sexual orientation (SO)* from *gender identity (GI)*, as these two groups have different needs and goals, which are often currently in conflict. Sexual orientation is to do with personal sexuality and *social and sexual practices*, while gender identity is to do with *individual identification with sex-role stereotypes*. Everyone has a sexuality. Not everyone has a gender identity.

The consequences of confusing sex and gender are disastrous for women and girls:

- Girls who may be dealing with their own repressed or socially punished homosexuality, or who do not otherwise "conform" to prescriptive sex roles, are increasingly told they are transgender and pushed into social then medical transition, often from very early ages. These practices are sexist and homophobic: girls are being told that it is not possible to be female unless one conforms to sex-role stereotypes and /or is heterosexual. The gay is being transed away.
- Males with a "woman" gender identity are demanding and often legally gaining access to what were hitherto single-sex spaces, including lesbian-specific spaces and events, or other spaces in which lesbians are to be found, including women's shelters, hospitals, changing rooms and toilets, sports, and prisons. Women's safety or sense of privacy in these spaces is under threat as a result.
- There is increasing evidence that males with a "woman" gender identity are threatening (including through legal action) and in some cases perpetrating violence against lesbians who resist pressures to include them in their social networks or dating pools.

The consequences as concerns the freedom of expression, assembly and association of women and girls in general and lesbians in particular are especially detrimental to women's and girls' sex-based rights, all the more so because liberal democracies including Australia are now legislating *in favour* of the above practices that are actually or potentially harmful to women and girls and *denying* women and girls the freedoms with which the IE SOGI is currently concerned.

Laws, policies and practices in Australia that, explicitly or implicitly, ban, restrict or make more challenging the exercising of freedom of expression by civil society organisations or activists advocating for the human rights of lesbians and bisexual women

Australia is a Federal system, with many laws impacting on the above freedoms operating at a state level. However, the 2013 amendments to the Federal Sex Discrimination Act (1984) have resulted in a nonbiological assumed meaning of the terms woman and girl that includes males as well as females. This understanding has been incorporated into legislation, policy, media reporting norms, and major institutions across Australia, including the Australian Human Rights Commission and state human rights commissions where they exist, as well as state education departments and syllabi, universities, health providers and even prisons.

Most laws that use the terms “gender” and sex” define neither, or define “gender identity” as a “sense of one’s own gender” which is using the term to define the term and is thus circular and unclear. Sex is not defined at all. This generalised conflation of the terms “sex” and “gender” (or more broadly, the use of the latter to mostly, but not always, mean the former), has created obscurity around what is meant by the word woman. This obscurity is subsequently strengthened and mandated via “gender self-identification” (self-ID) legislation that translates this meaninglessness into law. In Queensland and Victoria, for example, gender self-ID is now mandated such that the word “women” no longer signifies a discrete sex class but is taken to mean “females plus any male with a ‘woman’ gender identity”. In other words, potentially any human. The word “woman” is thus rendered legally meaningless as a protected category. Other states are currently discussing similar legislation.

As a consequence, when lesbians—that is, people of female sex who are sexually attracted to other people of female sex—wish to gather in women-only spaces and events, they are now forced underground, for fear of either legal reprisals or indeed threats and violence. This is a regressive move, taking us back over a century to a time when lesbians were closeted and could not express their homosexuality and homosociality openly for fear of often violent and coercive reprisals.

In 2023, the Lesbian Action Group (LAG) formed to challenge this situation, by applying to the Australian Human Rights Commission (AHRC) for an exemption to hold a women-only event for international lesbian day and subsequent women-only events specifically for lesbians at Melbourne’s Pride Centre. [The AHRC ruled](#) that the event would discriminate against males with a “woman” gender identity; its decision did not consider the issue of sex discrimination at all, [as LAG noted in its response](#).

Lesbians challenging the presumed right of transgender-identified males who claim to be “lesbian” are routinely met with hostility that extends from cyberbullying (including doxxing) to complaints to women’s workplaces or public regulatory bodies (human rights complaints, litigation), and even to death threats.

Institutions such as local councils, in training modules on inclusion, diversity and anti-bullying, require that female employees, in order to “pass” this training, agree that biological males who identify as “women” should be able to use female toilets and changerooms throughout the workplace, including in pool and gym areas. Women who do not answer this training question “correctly” risk penalties ranging from withholding of incremental progression to misconduct charges, and more generally marginalisation and vilification in

their workplaces. It is increasingly difficult in any workplace for women, including lesbians, to challenge such compelled opinions and compelled speech.

One prominent example in Australia is that of Holly Lawford-Smith, Associate Professor of political philosophy at the University of Melbourne. A/Prof. Lawford-Smith is an out lesbian and her books discussing gender critical feminism and the importance of sex-based rights are published by the prestigious Oxford University Press. For some years Lawford-Smith and a number of her students have been subjected to threats and bullying by transactivists on campus. She initially encountered veiled reprimands from senior University management who stressed the importance of “inclusion” but did nothing to address the bullying and threats against Lawford Smith. Even the University of Melbourne branch of the National Tertiary Education Union (NTEU), which supposedly defends academic freedom, signed a statement deeming Lawford-Smith “transphobic” and offered her no support.

When the violence perpetrated by some transactivists and trans-ally activists became so extreme that security guards had to be stationed at classrooms to protect Lawford-Smith and her students, only then was the University management forced to make a statement condemning the violence. Lawford-Smith is currently bringing a Work Health and Safety lawsuit against her employer for failing to provide her with a safe workplace.

The principal author of this submission, Emeritus Professor Bronwyn Winter, was formerly University of Sydney branch president of the NTEU and co-founder in 2000 of its national Caucus Queer Unionists in Tertiary Education (QUTE). At that time the caucus included lesbian, gay, bisexual and transgender representatives who worked together in a context of mutual respect including respect for separate spaces when needed. Twenty years later, the then national convenor of the caucus was bullied out of the role by a group of transactivists and their allies, simply for having signed the International Declaration on Women’s Sex-Based Rights (which does not even mention transgender, it focuses on women). As concerns the union, until very recently a proud defender of the right to dissent and hold unpopular views—to the extent of defending that right in national industrial tribunals—now effectively promotes censorship of anyone expression views critical of gender ideology.

These are some high-profile examples of legal and institutional suppression of freedom of expression, association and assembly of lesbians and indeed any person, gay or straight, male or female, who raises even the most timid of concerns regarding the logic of gender identity.

The first letter of the LGBT alphabet is first precisely because many decades ago lesbian activists fought for lesbian visibility, advocacy for lesbian rights, and protection of lesbian spaces within the gay movement. Yet today, in our liberal democracies lesbians are facing the most authoritarian forms of erasure, removal of their rights and removal of any protections for their spaces, events and culture. They are even forbidden from holding lesbian-only (same-sex-attracted female only) gatherings at State funded Pride Centres. It is a terrifying irony that these assaults on lesbian rights are coming first and foremost from within the movement that supposedly is there to protect them.

Censorship of lesbians and gay men raising concerns about “transing the gay away” through the use of so-called “gender affirming medicine” on minors

In Australia, lesbians and gay men, as well as health practitioners, are facing vilification, threats, censorship, workplace impacts (including loss of jobs) and even prosecution, for

raising concerns about the transgenering of children. Statistics provided by gender clinics themselves—sometimes in response to Freedom of Information requests—as well as peer-reviewed research have shown that there has been an alarming increase in children presenting with so-called “gender dysphoria”: up to several thousand percent, since circa 2010, and the majority are now girls.

The now well-known [Interim Report of the Cass Review](#) of the Gender Identity Development Services (GIDS) at London’s Tavistock clinic—commissioned following public statements by a number of whistleblowers—showed a lack of methodical rigour in the GIDS approach, with an insufficient evidence base for proceeding to so-called gender-affirming medicine (GAM), insufficient research into the harms of puberty blockers and synthetic cross-sex hormones, and insufficient or even no attention paid to comorbid factors including but not limited to autism, anxiety disorders, trauma linked to family violence or sexual assault, and so on.

Cass’s report led to an overhaul of “gender” services for minors in the UK, including the closure of the GIDS. Similar reversals of policy are now occurring in a number of other countries, and there is an increasing number of lawsuits brought by young gay men and (especially) lesbians harmed by GAM. The lawsuits brought by Keira Bell and Ritchie Herron in the UK are well-known, as is the investigation of the charity Mermaids, until recently the primary trans influencer among educational institutions in the UK. Mermaids had attempted to have the LGB Alliance’s charity status removed because of the LGBA’s gender critical stance—a lawsuit it thankfully lost. Gay men and lesbians—and most particularly lesbians—nonetheless continue to be routinely threatened, in the UK as here in Australia, whenever they attempt to denounce the homophobia characterising “gender” medicine. Children who are otherwise very likely to grow up into healthy and happy gay men and lesbians are being socially and medically conditioned into believing they are transgender because they do not conform to rigid sexist stereotypes in appearance and behaviour.

In Australia, AF4WR is aware of a number of lawsuits being brought by detransitioned lesbians, who cannot be named in this submission as their cases are pending. Moreover, there is almost zero psychological support available for detransitioners: transgender lobbyists go as far as to deny their existence. Indeed, in some states such as Victoria psychologists and psychiatrists could face hefty fines and even jail terms for offering any counselling that does not follow the GAM model. As a result, detransitioners are left isolated and vulnerable, and their detransition is even denied by health practitioners. For example, one detransitioned lesbian had to be hospitalised for a reason independent of her transition/detransition history, around 18 months after she stopped taking testosterone. The hospital nonetheless tried to impose doses of testosterone on her. It was only after her father intervened, threatening legal action against the hospital, that it desisted. It had failed to listen to the young lesbian herself, even though she had reached the legal age of majority. A number of other legal cases, where parents of supposedly gender-dysphoric children disagree on the best therapeutic approach, are argued in Australia’s Family Court, where the process is heavily biased in favour of the transgender approach.

When we attempt to raise these issues, and engage in discussion that is fact-based rather than propaganda-based, we are routinely branded “bigots” and even “Nazis”, including by political leaders across the political spectrum. The media shun us and transgender lobbyists stalk us on social media. Our freedom of expression as feminists and as lesbians is curtailed.

We have shown in another submission to the OHCHR concerning the Rights of the Child and Inclusive Social Protection, prepared jointly in June 2023 with the LGB Alliance Australia (LGBAA) and the Coalition of Activist Lesbians (Australia) Inc (CoAL), that the harms done to minors by GAM breach several Articles 3, 6, 9, 13, 14, 19 and 24 of the Convention on the Rights of Child, concerning the health and welfare of children and the duty of care of parents.

We further argued that the practices of social transition, encouraged within education and health policies, and of GAM are deeply homophobic, but the SOGI agenda now links gender identity with sexual orientation as if they were the same problem and we all had common cause. They are not, and we do not.

The UN must decouple “SO” from “GI” in its approach to sexual and gender diversity

As we have argued here, “SOGI” does not designate a homogenous population with common interests. On the contrary, women in general and lesbians in particular are subjected to censorship, vilification, harassment and indeed violence whenever we express gender critical views or claim the right for lesbians to their own spaces, events, culture, choices of sexual partner, and indeed healthy development of young “gender-non-conforming” girls. We have *never* launched such hate campaigns against transgender people and *never* attempted to censor them. Yet we are consistently vilified, threatened and silenced. Our freedom of expression, association and assembly is denied by people who are supposedly part of the “same” LGBT group, according to the logics of governments and the UN.

Homosexuals and transgender people could be allies. But this can only happen if the right to freedom of expression, association and assembly is protected for all: *including* the right to criticise, to disagree, and to present evidence-based arguments.

As long as any woman, any lesbian, is made unsafe by the bullying practices of the transgender lobby and the institutional and political enabling thereof, we do not have the full enjoyment of human rights and are unable to call on the UN to protect them. This is an appalling travesty of the philosophical underpinnings of the UN and its agencies, and it must be remedied if the UN is to retain any credibility as a protector of human rights.

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