

LGB ALLIANCE AUSTRALIA



Vilification
Abuse
Violence

Protecting LGB Victorians from Vilification
A response to the Victorian Government

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About LGB Alliance Australia

Our Vision

Lesbians, gay men and bisexuals living free from discrimination or disadvantage based on their sexual orientation.

Our Mission

To advance lesbian, gay and bisexual rights

We advance the interests of lesbians, gay men and bisexuals, and stand up for our right to live as same-sex attracted people without discrimination or disadvantage.

We will ensure that the voices of lesbians, gay men and bisexuals are heard in all public and political discussions affecting our lives.

To highlight the dual discrimination faced by lesbians

We amplify the voices of lesbians and highlight the dual discrimination experienced by lesbians as women who are same-sex attracted in a male-dominated society.

To protect children who may grow up to be lesbian, gay, or bisexual

We work to protect children from harmful, unscientific ideologies that may lead them to believe either their personality or their body is in need of changing. Any child growing up to be lesbian, gay or bisexual has the right to be happy and confident about their sexuality and who they are.

To promote free speech on lesbian, gay and bisexual issues

We promote freedom of speech and informed dialogue on issues concerning the rights of lesbians, gay men and bisexuals. We assert that different opinions, even those we may disagree with, should be heard as part of the public debate.

You can find out more about us on our website – www.lgballiance.org.au

You can get in contact with us on email – contact@lgballiance.org.au

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Contents

Executive Summary	3
Recommendations	5
Consultation Questions	6
Appendix	13

Executive Summary

LGB Alliance Australia is Australia's largest organisation advocating solely for the rights of lesbian, gay and bisexual individuals. We started advocating for LGB rights in 2020 as many mainstream LGBT organisations shifted their focus away from LGB rights to prioritise gender identity. Now, our rights as same sex attracted people are being erased and we are subjected to new forms of discrimination.

We welcome the opportunity to respond to the proposal to amend Victoria's anti-vilification legislation. Our response addresses Questions 1, 4 and 5 of the consultation paper and is guided by three of our four core objectives: to advance lesbian, gay and bisexual rights; to highlight the dual discrimination faced by lesbians; and to promote free speech on lesbian, gay and bisexual issues.

In their report of the Inquiry into Anti-Vilification Protections, the Legal and Social Issues Committee recommended extending the civil and criminal protections of the Racial and Religious Tolerance Act (RRTA) 2001 to include, amongst other attributes, 'gender and/or sex'; 'sexual orientation'; 'gender identity and/or gender expression'; and 'HIV/AIDS status'.

LGB Alliance Australia is deeply conscious of how homophobic and sexist vilification has impacted our community. For example, in a recent survey, we found that almost half our members believed their physical or mental health had been impacted by discrimination they had experienced on grounds of their same-sex attraction.

Broadly speaking, we can see value in extending legal protections from vilification. However, we are not confident that these particular changes will serve to better uphold our rights. While the extension of anti-vilification law to cover HIV/AIDS status seems straightforward and commendable, the extensions to cover 'gender and/or sex', 'sexual orientation' and 'gender identity and/or gender expression' are not so simple. The proposed changes to the legislation would rely upon the existing attributes for protection on the basis of sex, sexual orientation and gender identity within Victoria's Equal Opportunity Act (EOA). This is a problem because the EOA does not name lesbian, gay or bisexual people as protected cohorts and provides no factual, measurable definition of sexual orientation. Nor does it define women, men or biological sex.

Rights which cannot be defined cannot be upheld.

Furthermore, we hold concerns that the proposed amended legislation would be utilised to further vilify, intimidate and silence LGB people who insist upon our sex-based rights and who raise concerns about the impacts of gender ideology on our community. We have seen how laws prohibiting 'hate crimes' and similar have been deployed for this purpose in overseas jurisdictions.

We note the warning to this effect issued recently by Ms Reem Alsalem, United Nations Special Rapporteur on Violence against Women and Girls, which we reproduce in full in the appendix.

Protecting LGB Victorians from Vilification

It is deeply ironic that legislative changes which purport to strengthen protections from vilification for LGB people will very possibly be utilised to the opposite effect.

Our advocacy is guided by our four objectives (see 'About LGB Alliance Australia'). We are a non-partisan organisation, committed to cultivating positive relationships at all levels of government. We would welcome the opportunity to discuss these matters further.

Recommendations

We are broadly supportive of stronger action to prevent and address vilification on grounds of sex, same-sex attraction and HIV/AIDS status. However, if anti-vilification legislation is to be fit for purpose, we contend the following changes are needed.

1. Return to clear, factual, biological/natal definitions of 'woman', 'man', 'sex', 'lesbian', 'gay' and 'bisexual' in legislation and policy, and remove any conflation of 'sex' and 'gender'. Specifically:
 - a. Return to the original definition of sexual orientation in the Equal Opportunity Act (28 April 2010): 'sexual orientation means homosexuality (including lesbianism), bisexuality or heterosexuality'.
 - b. Return to the original definition of women and men of the federal Sex Discrimination Act (1984) before the 2013 amendments: 'man means a member of the male sex'; 'woman means a member of the female sex'.

These definitions are accurate, comprehensive, and easily understood by the whole Victorian community.

2. Commit clearly and unambiguously to support the principle that women and LGB people are entitled to full enjoyment of all our rights under the Universal Declaration of Human Rights, the Convention on the Elimination of all Forms of Discrimination against Women, and the International Covenant on Civil and Political Rights and its General Comment 34 ('Freedoms of opinion and expression'). These include the rights of women and LGB people to freedom of thought, conscience and religion; freedom of opinion and expression; and freedom of peaceful assembly and association.
3. Commit to improving systems and services so that they function to uphold the rights of LGB Victorians effectively and equitably under existing legislation, so we can live free from existing offences which may (or may not) be driven by homophobia and/or sexism. Such offences include common and aggravated assault; obscene, indecent, threatening language and behaviour; stalking; sexual offences; threats to kill; threats to inflict serious injury; threats to commit a sexual offence; sexual harassment; cyber bullying of a child; adult cyber abuse; and serious bullying. Victorian and Commonwealth laws already prohibit these acts and yet they continue – often without just resolution. To get better outcomes, review and improvements may well be needed at the levels of resourcing, policy and practice – e.g. to strengthen support for victims of crime. We believe upholding LGB people's rights properly under existing legislation would likely deliver more value than introducing new legislation, which we are not confident will be deployed for our benefit.

Consultation Questions

Consultation question 1: 'Do you have any views on how the anti-vilification protections should apply to protect people based on sex?'

LGB Alliance Australia holds deep concerns about sex-based offending against women and girls. We note, for example, that 37% of Australian women experienced sexual abuse during childhood, while 1 in 6 Australian women experienced sexual harassment in the past 12 months alone.¹ While we are not convinced that anti-vilification legislation is the best way to address this (given the parliamentary committee's equivocal findings about success of the RRTA so far), we would certainly support more action to uphold women's rights in general.

More specifically, LGB Alliance Australia has raised concerns repeatedly about the vilification of women in public life who speak about the sex-based rights of women and LGB people.* We have observed demeaning language, wild accusations, sustained harassment and highly sexualised threats and aggression directed at women both in person and online.[†]

For example, the 2021 Parliamentary Inquiry into Social Media and Online Safety heard from Anna Kerr, principal solicitor at the Feminist Legal Clinic; Sall Grover, CEO of the social networking app Giggle; and Senator Claire Chandler, Liberal Senator for Tasmania, about the vile, sexualised harassment and threats they witnessed and received (online and offline) as supporters of women's sex-based rights.

Senator Chandler, for instance, described hearing from distressed women who had been sent messages such as 'whose d--- did you suck to get a job at [redacted] you f---- dog? trans women are women mate so go whinge about it you f----- ugly hag b----'. She commented 'as a Senator and advocate for women's sex-based rights, I have had to consider whether I am prepared to continue to receive abusive anonymous emails titled – for example – "TERFS eat shit and die"'.²

The report of the Inquiry into Anti-Vilification Protections recommended that anti-vilification legislation be extended to cover 'gender and/or sex'. The Victorian Government's consultation paper proposes that anti-vilification legislation be updated to 'protect people from gender based vilification by using the existing attribute of sex in the EOA'.

* See our statements in support of the Lesbian Action Group, Dr Jillian Spencer, Reem Alsalem, Julie Szego, Sall Grover, Holly Lawford-Smith, Katherine Deves, Moira Deeming, the women participating in Let Women Speak, and others: <https://www.lgballiance.org.au/news> and via our social media.

† For collated examples, see for example Terfisaslur website and Meghan Murphy, ' "TERF" isn't just a slur, it's hate speech', *Feminist Current*, 21 Sep 2017, <https://www.feministcurrent.com/2017/09/21/terf-isnt-slur-hate-speech/>

Protecting LGB Victorians from Vilification

This approach is inherently flawed. The EOA does not contain a definition of sex.[‡] When the original Act was passed, presumably biological sex was considered so obvious that it did not require a definition. Nowadays, however, Victorians may change their legal record of sex once every 12 months by filling out a statutory declaration, providing proof of ID and a statement of support by one other person.³

The Victorian Government's consultation paper about anti-vilification protections uses the terms 'sex' and 'gender' apparently interchangeably. Meanwhile, the report of the parliamentary inquiry claimed its stakeholders, including VEOHRC, voiced a 'broad consensus to use a gender-based concept of sex, such as gender, gender identity, gender expression and gender non-conformity' on grounds that this would 'protect both women and, broadly speaking, members of the LGBTIQ community, without diminishing the rights and protections of either group'.⁴

We disagree. It is hard to see how extending the RRTA could possibly function to protect women from sex-based vilification consistently and reliably without a factual, clear, measurable definition of 'woman' and 'sex'.

Sex is biological, immutable and dimorphic: female or male. 'Gender' is a highly contested word. Some people use it as a polite alternative for biological sex; some use it to refer to sexist stereotypes (e.g. 'girls can't play football'; 'boys don't cry'); and some use it to refer to an individual's belief in an internal, self-declared identity. These three definitions are at odds and therefore incompatible.

The EOA does not define 'gender', but it defines 'gender identity' as follows:

'A person's gender-related identity, which may or may not correspond with their designated sex at birth, and includes the personal sense of the body (whether this involves medical intervention or not) and other expressions of gender, including dress, speech, mannerisms, names and personal references.'

This definition is virtually incoherent and offers no protection to women. Sex-based vilification of women is not directed at our identity, our 'personal sense of the body' or our 'personal references'. It is directed at our bodily selves. This is evident in the highly physical and sexualised threats and slurs directed at women who speak on behalf of sex-based rights – see for example a well-known case of an MC at London Pride who declared that lesbian activists protesting against gender identity ideology should be dragged out of the parade 'by their saggy tits'.⁵

The parliamentary report which prompted this consultation provides numerous case stories of serious sexual harassment and physical assaults on women.⁶ These attacks were directed at women's bodily selves, not at some mystic inner sense of 'identity'.

[‡] The only definition in the EOA relevant to biological sex is the category 'sexual characteristics', but as the consultation paper makes clear, that definition was inserted specifically to provide protection to intersex Victorians. As such, its applicability to women is doubtful.

Protecting LGB Victorians from Vilification

Around Australia, legislation and policies are being changed to remove biological sex as a protected category. For example, the 2013 amendment to the federal Sex Discrimination Act (1984) removed the original, clear sex-based definitions and inserted a lengthy and baffling definition of 'gender identity' instead.⁷

When the biological, measurable reality of sex is removed from legislation, it becomes impossible to accurately, consistently recognize and address the forms of vilification experienced by women and LGB people on the basis of sex – for example, women's experiences of rape threats and LGB people's experience of slurs about our sex lives.

Indeed, replacing 'sex' with 'gender' has enabled anti-discrimination laws to be weaponised against women and LGB people. LGB Alliance Australia has listed numerous lesbian events and groups which were forced to close down or allow entry to men for fear of legal action for 'discriminating' against trans-identified biological males.⁸

This is no trivial matter. In a recent survey, we found that more than half our members agreed that their mental or physical health had been impacted negatively by a lack of single-sex spaces or events. LGB Australians spoke of feeling isolated and depressed; finding it hard to make friends or meet partners; being unable to access single-sex support groups for domestic violence; battling dual exclusion from religious and 'rainbow' communities; feeling closeted all over again; feeling like a 'thought criminal'; feeling devalued and unsafe. Only 6% agreed they felt accepted by the wider 'LGBTIQ+ community'. One commented:

'Being a lesbian or queer woman feels so unsafe right now. Older lesbians I know say they feel more threatened now than they did in the 1970s. Women are once again being subjugated to men and it needs to stop.'⁹

Replacing sex with gender also compromises datasets, thus weakening policy-making. Reem Alsalem, UN Special Rapporteur on Violence against Women and Girls, states:

'Unfortunately, today there is a concerning deprioritization of sex-related data, driven in large part by a deliberate conflation of sex and gender, which leads to erroneous conclusions, mischaracterization of problems in society, and therefore also to misinformed responses.'¹⁰

It would be impossible to assess reliably how changes to anti-vilification legislation impact on women, as long as 'gender' is both prioritised and conflated with sex.

Protecting LGB Victorians from Vilification

Consultation question 4: 'Do you have any views on how anti-vilification protections should apply to LGBTIQ+ communities?'

The consultation paper contains the welcome suggestion of extending anti-vilification protections to cover Victorians living with HIV/AIDS. Unfortunately, it also proposes extending protections to 'LGBTIQ+' Victorian via the definitions of 'sexual orientation' and 'gender identity' in the current EOA.

The original EOA (2010) defined sexual orientation as: 'homosexuality (including lesbianism), bisexuality or heterosexuality'. This definition was clear, factual and accessible. But it was changed in 2021 to reflect what the consultation paper calls 'current usage': 'drawing on the Yogyakarta Principles'.

(Note: the Yogyakarta Principles are not legally binding in Australia.¹¹ It is our view that they should be considered an activist document promoting gender identity ideology.)

Now, the EOA defines sexual orientation as follows:

'A person's emotional, affectional and sexual attraction to, or intimate or sexual relations with, persons of a different gender or the same gender or more than one gender.'

The EOA does not define 'gender', but as noted earlier it defines gender identity as:

'A person's gender-related identity, which may or may not correspond with their designated sex at birth, and includes the personal sense of the body (whether this involves medical intervention or not) and other expressions of gender, including dress, speech, mannerisms, names and personal references.'

These definitions provide no consistent, reliable, meaningful protection for LGB Victorians because they are factually untrue. Lesbians, gay men and bisexual individuals experience same-sex attraction on the basis of biological sex, not on the basis of another person's identity, feelings, clothing, or adherence to sexist stereotypes.

For example, a biological male who puts on high heels and changes his name to Susan does not become sexually attractive to lesbians. A biological female who talks about football and sits with her knees apart does not become sexually attractive to gay men. The idea is absurd.

Vilification of LGB people is grounded in the reality of our sexed bodies and sexual partnerships. When sex is removed from legislation, our protections are removed.

Protecting LGB Victorians from Vilification

Consultation question 5: 'Government proposes to extend current protections beyond race and religion. What do you think this should look like?'

The report of the parliamentary committee describes many instances of aggressive, frightening and deeply distressing behaviour towards individuals based on characteristics such as race, religion, disability, sex and sexuality. Many of our members have endured similar experiences.

For example, in a recent survey, we found that more than two-thirds of our members had been subjected to slurs against LGB people; 38% had been harassed about their sexuality at school or in the workplace; 39% had been rejected by a friend because of their sexuality; and 36% had been rejected by a family member. 46% believed their health or wellbeing had been impacted by discrimination against them due to their same-sex attraction.¹²

However, we are unconvinced that extending the RRTA in the way that has been proposed would deliver material improvement. Most of the concerns identified by the parliamentary report in relation to 'LGBTIQ+' refer to behaviours which are already illegal and/or constitute serious breaches of school or workplace policy.⁵ If these incidents were not addressed properly – and sadly, it appears many were not – this was not because there was no legal or policy basis for action in most instances.

On balance, we believe more benefits would be delivered by a focus on ensuring that existing laws are brought to life consistently, promptly and fairly in order to get just and timely resolution for victims. To this end, it might be necessary to review resourcing and priorities for courts, police, mediation services, community legal services and the Victims Assistance Program. There appear to be contested priorities and significant gaps in resourcing in some key areas. For example, we understand that the Dispute Settlement Centre of Victoria has had to close its general service for now due to extraordinary demand in relation to rental disputes.¹³ Meanwhile, the Victims of Crime Commissioner has identified frequent gaps in victims' access to support, information and opportunities to have their voices heard.¹⁴

We believe addressing gaps in the existing system would likely deliver better outcomes than extending legislation which the parliamentary report recognises has not had very strong impact so far.

The Crimes Act, Summary Offences Act, Sex Discrimination Act, and Online Safety Act already cover a wide range of relevant offences, including common and aggravated assault; obscene, indecent, threatening language and behaviour; stalking; sexual offences; threats to kill; threats to inflict serious injury; threats to commit a sexual offence; sexual harassment; cyber bullying of a child; adult cyber abuse; and serious bullying (see Brodie's Law). Worksafe Victoria, the Department of Education and Training, and VEOHRC provide

⁵ The examples of vilification addressed in the parliamentary report focused on the experiences of gay men, transgender people and the imprecise umbrella term 'LGBTIQ+'. No attention was given to vilification of lesbians or bisexual women, despite the double discrimination they face.

Protecting LGB Victorians from Vilification

extensive guidance about handling of bullying, discrimination and other interpersonal risks.

Greater commitment could be made to address attacks on LGB people using existing laws and policies. We would welcome such a commitment.

Unfortunately, we have another serious concern about the extension of the RRTA to cover 'LGBTIQ+ communities' and 'gender': we think it highly possible that such legislation will be deployed in bad faith to intimidate, vilify and silence LGB individuals and women who campaign for sex-based rights.

LGB Alliance Australia, along with LGB Alliance UK, has already been accused of being a 'hate group' and subjected to inaccurate, damaging smear campaigns, due to our insistence on the importance of biological sex to LGB rights and our support for female-only lesbian community events and male-only gay events. We reject such lazy, inaccurate accusations. As our record shows clearly, we have never advocated for any kind of hate, our objectives are based in human rights, our organization is politically non-partisan, and our individual members are politically diverse and moderate.¹⁵

Unfortunately, we have observed numerous examples in overseas jurisdictions where laws about 'hate crimes', 'non-crime hate incidents', or simply over-zealous, ideological policing have been deployed perversely in order to persecute individuals who support sex-based rights. Reem Alsalem, U.N. Special Rapporteur on Violence Against Women and Girls, has pointed to this trend as a threat to women's human rights – see Appendix.

Perhaps the most overt efforts to silence LGB voices on grounds of 'hate speech' occurred recently in Norway, when lesbian artist Tonje Gjevjon and feminist organiser Christina Ellingsen were investigated by police after publicly voicing their objection to biological males who called themselves lesbians. Gjevjon stated 'It is as impossible for men to become lesbians as it is for men to become pregnant. Men are men regardless of sexual fetishes'. Ellingsen tweeted 'How does it help young lesbians when males claim to be lesbian, too?' and 'Why [does] FRI [transgender activist group Foreningen FRI] teach young people that males can be lesbians? Isn't that conversion therapy?' Both women were questioned by police and faced the possibility of three years imprisonment, before their cases were eventually dropped.¹⁶

Other cases of interest occurred in the UK. For example, in 2017, Linda Bellos OBE, a lesbian, labour activist and distinguished campaigner for racial equality, spoke on a panel of feminist intellectuals where she cracked a joke about being willing to defend herself if physically assaulted by transgender activists, as had happened recently to another older woman. Bellos, in her late 60s at the time, quipped 'If any one of those bastards comes anywhere near me, I will take my glasses off and clock 'em'. After a complaint by a transgender activist, she was questioned under caution by police for using threatening, abusive or insulting words or behaviour and then subjected to a private prosecution, which only ended when the CPS intervened.¹⁷

Protecting LGB Victorians from Vilification

Meanwhile, UK police have used the bizarre system of 'non-crime hate incidents' to persecute numerous women and men who have voiced concerns about gender identity ideology. For example, one woman was targeted after tweeting a mild criticism of the Progress Pride flag, while another woman was tracked down via CCTV after she took a photograph of a sticker designed by lesbian artist Angela Wild, which read 'Keep Males Out Of Women-Only Spaces'. Police came to the women's homes, interrogated and lectured them at length, before recording 'non-crime hate incidents' against them.¹⁸

As well as being an extraordinary waste of police resources, such conduct by law enforcement demonstrates a sinister trend whereby activists inside and outside the justice system misuse their powers in order to intimidate ordinary citizens.

Unfortunately, it would not surprise us if the proposed Victorian legislation were deployed in the same way. This seems especially likely given the parliamentary report's reference to 'the United Kingdom's approach to hate crimes' as a model to learn from (Rec. 26).

The forcible silencing of LGB and women's voices in the offline world is mirrored in the digital world. Many individuals have been banned, suspended or restricted from social media platforms, or have had their content removed, after using language which most people would find reasonable and factual, such as 'Men aren't women', 'Lesbians are female homosexuals' and 'Women don't have penises.'¹⁹ In one recent example, University of Melbourne Professor Holly Lawford-Smith described how speaking openly about her lesbianism and her gender-critical views got her banned not only from Twitter, but also from the essay-writing platform Medium and the allegedly lesbian-friendly dating sites HER and Hinge.²⁰ As Recommendation 35 by the parliamentary committee urges the Victorian Government to exercise more control over the digital world too, we can be forgiven for wondering if LGB people can expect even more such treatment in future.

It is a grim irony that anti-vilification reforms which purport to increase protections for LGB people will very possibly be used to marginalise and silence us further. Until legislators and regulators demonstrate a commitment to upholding sex-based rights in law, policy and practice, and to honouring our rights to freedom of thought, expression, association and assembly, we do not feel able to support the proposed legislative changes in their current form.

We would be glad to discuss these matters further with you. Please contact susanna.williams@lgballiance.org.au

Appendix

Reem Alsalem, UN Special Rapporteur on Violence against Women and Girls, 'Allow women and girls to speak on sex, gender and gender identity without intimidation or fear: UN expert,' United Nations Human Rights Office of the High Commissioner, Media Release, 22 May 2023,

<https://www.ohchr.org/en/press-releases/2023/05/allow-women-and-girls-speak-sex-gender-and-gender-identity-without>

I am deeply concerned at the escalation of intimidation and threats against women and girls for expressing their opinions and beliefs regarding their needs and rights based on their sex and/or sexual orientation. Disagreement with the views of women/girls including politicians, academics, and women rights advocates should never be used as grounds to justify violence and intimidation. In addition, discrimination based on sex and sexual orientation is prohibited in international and regional instruments.

I am concerned about the decreasing space available for women and women's organizations to organize and/or express their opinion peacefully in several countries in the Global North. Women coming together to demand the respect for their needs based on their sex and/or sexual orientation have been threatened, attacked, and vilified.

Law enforcement has an important role and responsibility to protect lawful gatherings by women. Law enforcement agencies should ensure women's safety and rights to freedom of assembly and speech without intimidation or coercion. Whereas counter-protesters also have the right to freedom of expression and assembly, law enforcement must ensure that this is not exercised in a manner that prevents women from exercising their rights to freedom of assembly and speech, whether through threats, intimidation, or use of violence, where women's speech is effectively silenced by loud counter-protests. There is a positive legal obligation to protect women in such circumstances, including by keeping counter-protesters at a distance that is safe, and enables women's speech to be audible. The impact of law enforcement failing to provide the necessary safeguards has been observed in some countries. Women and girls have been exposed to verbal and physical intimidation and attacks and/or been drowned out by the noise of counter-protesters in attempts, frequently successful, to derail these events. Threats and acts of violence, suppression of speech should not deprive individuals of their right to freedom of peaceful assembly. Law enforcement should therefore ensure the full protection of the rights of women, girls, and their allies to express their views, including women politicians, women rights advocates, sportswomen, "de-transitioners" and academics to ensure that those that have perpetrated violence are brought to account.

I also note with concern the frequent tactic of smearing women, girls and their allies who hold lawful and protected beliefs on non-discrimination based on sex and same sex attraction as "Nazis," "genocidaires" and "extremists" to intimidate women, instill

Protecting LGB Victorians from Vilification

fear into them and shame them into silence. They also have been made with the specific objective of inciting violence and hatred against women based on their beliefs. According to international human rights law, freedom of expression should be protected unless it incites violence and hatred. The victims of these sort of attacks on freedom of speech and expression who call for respectful and transparent discussions around the definition of “sex”, “gender” and “gender identity” and the interaction of rights derived from these for rights holders in any given society.

The duty not to discriminate based on sex and associated stereotypes regarding the roles of men, women, boys, and girls is a tenet of international human rights law that States are obliged to adhere to and that they have codified into most national laws. Concerns around the continued adherence to these obligations should therefore not be delegitimized, trivialized, and criminalized. Women and girls who emphasize the specific needs of women born female and who call for and engage in discussions around the definitions of sex gender, and gender identity and the interaction of rights derived from these for rights holders in any given society should therefore be able to express themselves and their concerns on these issues in safety and in dignity.

Moreover, it is important that people, including researchers and academic, who express their views on “gender affirming” interventions including for children are not silenced, threatened, or intimidated simply for holding and articulating such views. This is particularly important given the implications for vital issues such as safeguarding, participation and consent by children, and sex education.

Measures that I find particularly concerning include reprisals such as censorship, legal harassment, loss of jobs, loss of income, removal from social media platforms, speaking engagements and the refusal to publish research conclusions and articles. These tactics have affected the ability to discuss issues related to sex, gender, and gender identity within universities and in society. I am furthermore aware of women politicians who have been sanctioned by their political parties, including through the threat of dismissal or actual dismissal. These actions have been accompanied by attacks and integrity, both online and offline, via smear campaigns and the incitement of hatred.

According to international human rights law, any restriction on freedom of expression should be carried out strictly in accordance with the human rights standards of legality, necessity, proportionality and to serve a legitimate aim. Those disagreeing with the views of women and girls expressing concerns related to gender identity and sex also have a right to express their opinion. However, in doing so they must not threaten the safety and integrity of those they are protesting against and disagreeing with. **Sweeping restrictions on the ability of women and men to raise concerns regarding the scope of rights based on gender identity and sex are in violation of the fundamentals of freedom of thought and freedom of belief and expression and amounts to unjustified or blanket censorship.** [Our emphasis.]

Protecting LGB Victorians from Vilification

In addition, I note with concern the way in which provisions that criminalize hate speech based on a number of grounds, including gender expression or gender identity, in countries in the Global North have been interpreted. Some such provisions are being taken to mean that any interrogation of the scope of rights based on gender identity amount to hate speech against non-binary persons and perhaps even incitement of hatred and genocide. [Our emphasis]

I would like to emphasize that the rights to free expression and peaceful assembly are crucial to ensuring that societies can develop their priorities and policies democratically and balance the rights of diverse groups in a pluralistic society. Attempts to silence women based on the views they hold regarding the scope of gender identity and sex in law and in practice and the rights associated with these, severely affects their participation in society in dignity and in safety, as well as their country's prosperity and development.

Protecting LGB Victorians from Vilification

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- ¹ Australian Bureau of Statistics, 'Sexual Harassment,' 2021, <https://www.abs.gov.au/articles/sexual-harassment>; Australian Child Maltreatment Study, 'Findings', 2023, <https://www.acms.au/findings/>
- ² Australian Parliament, Inquiry into Social Media and Online Safety, 2021, submissions by Feminist Legal Clinic, Giggle, and Senator Claire Chandler, https://www.aph.gov.au/Parliamentary_Business/Committees/House/Former_Committees/Social_Media_and_Online_Safety/SocialMediaandSafety/Submissions
- ³ Births, Deaths and Marriages Victoria, 'Change a record of sex', accessed Aug 2023, <https://www.bdm.vic.gov.au/changes-and-corrections/change-your-recorded-sex>
- ⁴ Parliament of Victoria, Legislative Assembly Legal and Social Issues Committee, 'Inquiry into anti-vilification protections,' March 2021, p.57
- ⁵ Julie Bindel, 'Why are lesbians no longer welcome at Pride?,' *Spectator UK*, 28 August 2022, <https://www.spectator.co.uk/article/why-are-lesbians-no-longer-welcome-at-pride/>
- ⁶ Parliament of Victoria, Legislative Assembly Legal and Social Issues Committee, 'Inquiry into anti-vilification protections,' March 2021, for example pp.48-50
- ⁷ Australian Government, Sex Discrimination Act 1984, <https://www.legislation.gov.au/Details/C2012C00313> . Gender identity is defined as: 'the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person's designated sex at birth'.
- ⁸ LGB Alliance Australia, Submission to inquiry into Australia's Human Rights Framework, 2023, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework/Submissions
- ⁹ LGB Alliance Australia, internal member data
- ¹⁰ Reem Alsalem, United Nations Special Rapporteur on Violence Against Women and Girls, its causes and consequences, 'Repression of women is blocking the SDGs,' 24 April 2023 <https://sdg-action.org/repression-of-women-is-blocking-the-sdgs/>
- ¹¹ Australian Human Rights Commission, 'Section 4 - Human rights and discrimination on the basis of sexual orientation or gender identity - Addressing sexual orientation and sex and/or gender identity discrimination: Consultation Report (2011),' <https://humanrights.gov.au/our-work/section-4-human-rights-and-discrimination-basis-sexual-orientation-or-gender-identity#Heading229>
- ¹² LGB Alliance Australia, internal member data
- ¹³ Dispute Settlement Centre of Victoria, accessed 31/8/2023, <https://www.disputes.vic.gov.au/>
- ¹⁴ Victims of Crime Commissioner, submission to 'Improving victims' experience of summary criminal proceedings: Issues Paper', 10 August 2021, <https://www.victimsofcrimecommissioner.vic.gov.au/publications>
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Protecting LGB Victorians from Vilification

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