

**VISIBLE LESBIAN GROUP'S RESPONSE  
TO THE AUSTRALIAN HUMAN RIGHTS COMMISSION'S  
PRELIMINARY VIEW OF  
THE APPLICATION BY LESBIAN ACTION GROUP FOR A  
TEMPORARY EXEMPTION FROM  
THE *SEX DISCRIMINATION ACT 1984***

*3 October 2023*

**Introduction**

On 17 August 1983 Australia signed the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW). In doing so, Australia committed to take action so Australian women can enjoy their fundamental rights and freedoms. International human rights law creates obligations for nations that sign on, to legislate the relevant statutes to promote and protect human rights for all its citizens. This should include the management, prevention, investigation, prosecution and sanctioning of human rights abuses. In 1984 the Parliament of Australia enacted the *Sex Discrimination Act 1984* which sought to protect women from discrimination and unfair treatment in the public sphere of Australian life.

Homosexual people in Australia have until very recently been treated unfairly. In our social, religious, medical and legal spheres strong protocols existed and punishments for traversing these were common and harsh. Changes have occurred slowly over the past five decades following the removal of criminal prosecutions and medical (including psychological) controls, and with some progress in religious, social and cultural approaches - such that we now have marriage equality and homosexual people are no longer considered sick, sinful or dangerous.

Historically the intersections of homosexual people and the law was predicated on understandings of the sex base of humans (regardless of sexual orientation) as females and males. In recent decades this basic fact of life has been eroded as gender has become a signifier of identity. Debates have raged about scientific, emotional, performative and other issues related to this phenomenon, and pressure asserted on all spheres of society so that not only has the word 'gender' superseded the word and fact of 'sex', but legislation, policy and practice now allow for people to transition. With male bodied people claiming women's gender leading to confusion, misunderstandings and conflict, problems arise concerning services that hitherto were clearly for males or females eg. women's toilets and changing rooms, women's prisons, men's barbers, men's clubs.

The present problem concerns a lesbian group whose membership, participants and guests are natal females. Melbourne's **Lesbian Action Group (LAG)** has therefore applied for an exemption from the *Sex Discrimination Act 1984* in order to safely meet with, support and enjoy social, political, cultural, educational, spiritual and family activities. These are things other Australians, homosexual and heterosexual alike can lawfully do.

The VISIBLE Lesbian Group supports LAG's application for the said exemption on the basis of their human rights to association, freedom of speech and expression, privacy, and freedom from violence. As it appears that other groups are disinclined to agree with the exercise of these rights in relation to natal women, including natal lesbians, there is an unfortunate, and at times hostile situation about differing rights. However the LAG proposal to have their gatherings for natal women only does not preclude other lesbian, women's, LGBTI or any other demographic having events that involve all women or all women and men regardless of "gender identity". The women of LAG, membership and their guests, are entitled to organise their own events without being deemed unlawful.

## **Violence and Harassment Against Lesbian Women Underpin the Necessity for LAG to be Granted the sought Exemption**

### **Basics -**

- Violence against lesbians is an aspect of violence against women.
- Violence against lesbians happens, but is under-reported.

The United Nations Global Database on Violence against Women states that reports and research about violence and harassment against women most usually do not specify violence against lesbians, or if so passingly and rarely as a category. <https://evaw-global-database.unwomen.org/en>

### **Considerations -**

- (a) The fact that even today lesbians are a largely hidden population/ demographic but still suffer harassment and violence, which is often hidden from public view – and sometimes from personal view (family, partner, friends) too.
- (b) Lesbians and women generally are often reluctant to report/take action about harassment and/or violence, which is part of the systemic oppression of lesbians.
- (c) Sometimes women who are not lesbians are attacked or abused - they are either presumed to be lesbian and/or called lesbian (or other terms) as an intended insult – although this is not seen or reported as violence against lesbians.
- (d) Since the very early 1990s research into violence against lesbian women has commonly formed part of that addressing the LGBTI people. Not only is this liable to be methodologically problematic, but it often fails to separate data specific to lesbian women. It cannot be emphasised too strongly that the lives of lesbian women differ considerably from those of gay men and others within the LGHTI conglomerate.
- (e) There is no such thing as an LGBTI person – it is simply a nonsense as no one person could be or factually represent all those identities.
- (f) Reports on women's safety infrequently give data specific to lesbian women, as much of their focus is on domestic and family violence. This includes the Australian National Research Organization for Women's Safety, and various Australian Bureau of Statistics reports on personal safety about the nature and extent of violence experienced since the age of 15. Note here: the NSW Police Survey 1995 'Out of The Blue' (1995) found that, based on crime statistics, lesbian respondents were six times as likely as heterosexual women to experience assault. (1)

In appreciation of the above, especially (d), some historical data will be useful to show that lesbian women have been confronted with violence and harassment for many years (perhaps for ever?) See also the appendix.

- In 1992 the NSW Police survey of over 300 lesbians showed that 78% had experienced some form of harassment or violence. (1)
- The Gay and Lesbian Rights Lobby (NSW) reported in 1992 that 91% of respondents of survey of Sydney lesbians reported verbal, physical or sexual assault. All believed they had been attacked because of their lesbianism. (2)
- In the same year the *Young Lesbians Report* revealed 90% of respondents said they had experienced discrimination of some sort due to their lesbianism, while over 83% had been verbally abused, including threats of physical violence from groups of males. (3)
- In 1993 the Lesbian and Gay Community Action (South Australia) *The Police and You Report* stated that 32% of lesbians had experienced physical hate crime attacks, with 83% resulting in physical injury and 67% in psychological injury.
- In 1994 a Melbourne study which included nearly 500 lesbians, revealed that 70% had been verbally abused, threatened or bashed in a public place. (4)
- A 1994 national study of violence and harassment in schools reported 67% of students had been verbally harassed, 30% threatened with violence and 30% physically attacked – even though 51% of respondents were not 'out' to any teachers, nor 61% to any students. (5)
- In 1997 the Coalition of Activist Lesbians Australia (COAL) published a research paper on violence against lesbians which details the above items and other valuable information on this issue. (6) It also published a research paper on lesbian health which referred to the harms suffered by lesbians due to discrimination and violence. (7)
- Today violence against LGBTI people remains a worrying aspect of Australian life, such that the various states have police and LGBTI community organisations/consultations and/or liaison officers to receive specific complaints and suggestions, develop safe practices, and to promote safety. (8)
- Many public, private and community organisations are addressing violence against lesbian women, most nestled in with other victim/survivor categories (LGBTI, sozi), less often specifically lesbian designated. (9), (10) and (11).

We submit that the paucity of dedicated reports of violence against lesbian women should be understood within the larger cohorts, and that reports in international literature should be considered significant.

### ***Confusion about Identities and Rights – Language, Society and In/Exclusion***

Desire, behaviour and identity are integral to human sexuality and sexual identity. Some commentators see them as distinct (12) while others eg. The Australian Study of Health and Relationships, suggest that behaviour, desire and identity overlap in complex ways. (13)

These attributes and their implications are important to the understanding and definitions in the categories termed sexual orientation and gender identity. Concerning the former in the 1860s, Hungarian journalist Karl Maria Kertbeny coined the terms 'heterosexual' and 'homosexual' to describe sexual experiences. And so heterosexual and homosexual entered the lexicon and 'sexual orientation' became a common term.

However the term gender identity has a much shorter history. In the 1960s it was coined by sexologist John Money who founded The Gender Identity Clinic at Johns Hopkins University, USA, which were followed by development of gender theories, gender fluidity and gender ideologies.

Understanding the terms sexual orientation and gender identity has become the bedrock of the queer sphere – which itself almost defies definition as many people use it as a convenient euphemism. Alternatively the catch-all acronyms LGBTI /LGBTIQ are common as is the term 'sogi' – sexual orientation and gender identity. These developments are problematic in that lesbian women are subsumed under the complex – complex terms that VISIBLE Lesbian Group considers to be detrimental to autonomous rights-bearing natal lesbian women. In the early days of 'gay' liberation lesbians were subsumed by gay men, then in the 1980s some organisations recognised their lesbian members and renamed themselves as gay and lesbian eg. Sydney's Mardi Gras became Gay and Lesbian Mardi Gras. Alas this was a short-lived phenomenon as further changes brought in the GLBTI / LGBTI terminology and descriptors and referred to us all as 'sogi'. This is the background to adoption by statutes, policies and practices in public, private and community sectors of these descriptors and understandings at odds with many lesbian women, feminist women who are not lesbians and indeed numbers of lesbians, gay men and bisexual people who claim sex-based rights.

As mentioned above the changing terminology concerning sex and gender is confusing. It is also conflicting with people following gender fluid ideologies against those who assert the binary nature of human sex. It is interesting to note that Ms. Reem Alsalem, the United Nations Special Rapporteur on violence against women and girls has said, in relation to complaints against sex-based facts of sexual being: "There is nothing outdated or unscientific about the binary nature of sex, and I would encourage signatories of this letter to seek out biologists for a conversation around this issue." She added: "Law enforcement has a crucial role in protecting lawful gatherings of women and ensuring women's safety and rights to freedom of assembly and speech without intimidation, coercion, or being effectively silenced". (14)

Let's now consider protecting lawful gatherings of women and the human rights of this minority with a minority – lesbian women.

Lesbian women of yesteryear were hidden, and suffered confusion, fear, self-doubt, unsafe practices and lifestyles (often involving drugs and alcohol), isolation, estrangement from family, friends and colleagues, self-harm, mental health problems, suicide. (15) Today while lesbian women are less hidden and likewise homosexual people and other non-traditional identities are viewed less negatively, it is still challenging for a woman to find and wear her lesbian identity, and become part of a community of like-minded women. Even in

metropolitan inner cities 'gay' communities, lesbian women still have to deal with these personal challenges, with harassment, abuse and violence being a constant possibility.

It is **necessary** for the **substantive justice** of this minority within a minority to have and enjoy their human rights to organise activities, and to have safety and privacy for political, cultural, spiritual and other activities.

## **Conclusion**

VISIBLE Lesbian Group was formed in Sydney in 1990 by lesbian women of varying ages, cultural backgrounds, education and abilities who were actively working for the participation, human rights and equality of lesbians across society. Although not a large group, we worked to provide affirming literature, training and lesbian-positive community development. Currently VISIBLE continues these activities beyond Sydney and strives to always support and resource other lesbian women and groups. VISIBLE commends LAG in their feminist informed work to support and enrich the lives of lesbian women born and raised female.

VISIBLE Lesbian Group asks the AHRC not to ignore this group of lesbian women – they deserve to organise their own events without being deemed unlawful. After all, the Pride Centre and other LGBTI groups are free to organise for their constituencies, including separate events for the “Bears” gay men’s group and trans groups. It would be fair and reasonable for LAG lesbian women to do likewise with impunity.

The *Sex Discrimination Act 1984* and the Human Rights Commission are supposed to protect women from discrimination, so please grant this exemption. Refusal of this LAG exemption would send a message to Australians that some lesbian women are not worthy of protection from exclusion, harm, discrimination and abuse. This would be quite unacceptable.

The lesbian women of the LAG group are focused on supporting their lesbian community, not opposing other groups within the LGBTI conglomerate. The LAG group’s request is consistent with any and all women’s rights - to meet in safety and share activities together. The LAG group represents lesbians who are a minority within a minority, and as such should be protected by the law and the Commission from exclusion and discrimination.

The *Sex Discrimination Act 1984* was enacted to protect women from discrimination, including lesbian women. Refusal of this temporary exemption for LAG would send a message to Australians that some lesbians are not worthy of protection from exclusion, harm, discrimination and abuse. (Repetition intended.)

**VISIBLE Lesbian Group respectfully urges the Australian Human Rights Commission to please grant this exemption.**

## **ENDNOTES**

- (1) NSW Police Service, (1995) *Out of the Blue: A Police survey of violence and harassment against gay men and lesbians, NSW.*
- (2) Gay and Lesbian Rights Lobby NSW (1992) *Off Our Backs: A Study of Anti-Lesbian Violence, StreetWatch Series.*

- (3) Barbeler, Vic, 1992, *The Young Lesbian Report: A Study of Attitudes and Behaviours of Adolescent Lesbians Today*, Young Lesbian Support Group, NSW
- (4) GLAD (Gay Men and Lesbians Against Discrimination), 1994, *Not A Day Goes By: Report on the GLAD Survey into Discrimination and Violence Against Lesbians and Gay Men in Victoria*, GLAD, Melbourne
- (5) Griffin, Jacqui, (1994) *The Schoolwatch Report: A Study into Anti-Lesbian and Gay Harassment and Violence in Australian Schools*, Sydney.
- (6) Sitka, Chris (1997) *Violence Against Lesbians*, Research paper prepared for Coalition of Activist Lesbians Australia, (Funded by Australian Government's Office of Status of Women).
- (7) Helen Myers and Lavender (1997) *An Overview of Lesbians and Health Issues*, Research Paper prepared for Coalition of Activist Lesbians Australia, (Funded by Australian Government's Office of Status of Women).
- (8) NSW Parliament (2010) *NSW Government Response to the Report of Inquiry into Bullying of Children and Young People*, Legislative Council General Purpose Standing Committee No 2.
- (9) Australian Human Rights Commission (2010) *Violence, Harassment and Bullying and the LGBTI Community*,  
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- (10) World Health Organisation (2015) *Ending violence and discrimination against lesbian, gay, bisexual, transgender and intersex people*,  
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- (11) Human Rights Watch (2023) *This is Why We Became Activists: Violence against Lesbian, Bisexual and Queer and Non-Binary People* <https://www.hrw.org/report/2023/02/14/why-we-became-activists/violence-against-lesbian-bisexual-and-queer-women-and-non>
- (12) Altman Dennis (2008), The Term 'LGBTI' Confuses Desire, Behaviour and Identity – it's Time for a Rethink, *The Conversation*  
<https://theconversation.com/the-term-lgbti-confuses-desire-behaviour-and-identity-its-time-for-a-rethink-90175>
- (13) Richters Juliet; Altman Dennis et al (2014), Sexual identity, sexual attraction and sexual experience: the Second Australian Study of Health and Relationships, *Sexual Health*, 2014, **11**, 451–460 with CSIRO Publishing.
- (14) Statement by Reem Alsalem, Special Rapporteur on violence against women and girls on AWID's (Association for Women's Rights in Development) open letter of 18 May 2023, "There Is No Place for Anti-Trans Agendas in the UN", 16 September 2023."
- (15) Altman, Dennis (2020) From Camp to Queer: How Far Have We Come? *Thorne Harbour Health News*, 9 Nov 2020 <https://thorneharbour.org/news-events/news/camp-queer-how-far-have-we-come/>

## APPENDIX

### VIOLENCE AGAINST LESBIANS IS NOT NEW – SOME HISTORICAL REPORTS etc.

ACON (2009) Submission to the House of Representatives Standing Committee on Family, Community, Housing and Youth - Inquiry into the Impact of Violence on young Australians (2009)

- Anti-Discrimination Board of NSW and StreetWatch Series (1994) *Final Report of the Streetwatch Implementation Advisory Committee*, Anti-Discrimination Board of NSW.
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