

‘Feminists in Support of Birth Certificate Reform in Victoria’: A Gender Critical Reply



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An [Open Letter](#)[1] signed by 46 academics (14 from my own institution, the University of Melbourne) and aiming for 800 further signatories has gone up on the Equality Australia website (these guys were also the host of the [recent letter](#)[2] attempting to have the Victorian Women’s Guild’s public event ‘[The Future of Sex-Based Rights](#)’[3] de-platformed).

It’s full of the hyperbole and conflation we’ve come to know and love (I’m kidding) from transactivists. I’ve commented [here](#)[4] on the disrespect involved in co-opting terms like ‘coercive sterilisation’. In this piece I’ll focus on something else, namely the relentless conflation of sex and gender coming from transactivists at the moment, and which academics of all people should be able to avoid.

The letter starts off well enough. The authors support the Bill to allow transgender and gender non-conforming people (I suppose they mean non-binary, because butch lesbians and effeminate gay men aren’t exactly clamouring to have their sex changed on their birth certificates) to “change the sex recorded on their birth certificates”. It *is* sex that’s recorded on birth certificates, and the Bill *does* allow people to change it. So far so good.

But then — goddamn, we couldn’t even get through the first paragraph?! — suddenly we have the claim that the amendment will allow trans people to affirm their identities in law “without being required to undergo coercive sterilisation as a requirement to legally change their sex *and gender identity* documents” [my italics].

Hold on, where did ‘gender identity’ come from? None of our documents record gender identity. Perhaps the authors think that by sneaking ‘gender identity’ in here, they can normalize the ridiculous fact that this law is *turning* documents that record sex *into* documents that record gender identity. This also allows them to avoid confronting the fact that those documents are not recording sex *and* gender identity, but rather *replacing* the record of sex with the record of gender identity for anyone who makes use of the new provisions.

The next paragraph does a bit of the usual mischaracterizing of the disagreement between feminists that transactivists love to promote. In particular, the authors claim that those who want to see the Bill rejected support “law that fundamentally equates one’s body parts with one’s identity and possibilities in life”. Um, no we don’t. We reject the idea that bodies should limit possibilities. *That’s why* we don’t think a gender non-conforming male person needs to claim to be a woman because he wants to present or act in a feminine way (and ditto a gender non-conforming female person). We are *gender abolitionists* (seriously, how many times do I need to say this?). We want a world in which the system of norms and expectations that limit people’s opportunities because of their sex has disappeared. That being said, we do not reject the idea that people’s bodies *currently do* limit their possibilities in life. Being female, in our non-ideal world, does make quite a big difference to how your life goes. Until it doesn’t, we need to keep sex-based protections in place. Calling yourself a ‘feminist’ while working to undermine those protections is disingenuous at best (that’s me at my most polite).

Hot on the heels of this complete misunderstanding of the gender critical feminists’ position, there’s then some armchair stipulating of empirical facts: “there is no evidence from other jurisdictions where similar legislative reform has been introduced that [increased risk of sexual and other gender-based violence] is likely to occur”. Predictably, no links are provided. To the best of my knowledge, no country or state that has introduced self-identification for sex has also paired this with a systematic review of the impacts of the law on women. So we just don’t know what’s happening on the ground. Only the most egregious cases are likely to make international news. And what about the impacts that don’t count as violence, but still matter? What about women’s privacy, and comfort, and freedom of association, and the need for respite from male-socialized behaviours once in a while? What about women of faith, and women from cultural groups whose practices require sex-segregation? What about trauma survivors?

It’s a little ironic that the authors say “we support the safety, well-being, and flourishing of *all* members of our community”. This is demonstrably false, given the enthusiasm with which they’re throwing away women’s single-sex spaces. Apparently they support the safety, well-being, and flourishing of transwomen. I’m glad for transwomen that they have such good allies. I do wish those allies could find a way to support trans rights without dismantling women’s rights.

The last thing I’ll comment on is the idea that gender critical feminists are ‘essentialists’ or ‘biological determinists’. This is *ridiculous*. The authors accuse us of collapsing sex and gender (into sex), but transactivists are the ones collapsing sex and gender (into gender identity). We maintain a strict distinction between sex and gender. For us, sex is biological, and gender is a system of norms and expectations imposed on the basis of sex. Norms of femininity are imposed on female people, and violations of these norms are policed. Norms of masculinity are imposed on male people, and violations of these norms are policed. What could it mean to say that “these advocates maintain an essentialist view... such that one’s body parts are seen to determine one’s gender”? It can only mean, *these* norms rather than *these* ones are applied to you by others, because you’re female. Well yes, exactly! That’s not what they mean by ‘essentialism’ though. They mean, being female is an essential property of being in the gender class ‘woman’, but for them, gender is *identity*. That means, we’re just talking past each other. And our claim doesn’t amount to biological determinism either. (Seriously. Look it up). For transactivists, there’s only [gender identity](#)[5]. And that’s got nothing to do with how you’re treated by others as you move through the world, and everything to do with how you feel about yourself. This is the thing the authors think should be on birth certificates. Sex is entirely erased from the picture, despite the massive role it continues to play in how people’s lives go.

There’s one thing in the letter I can get on board with, namely the point in the last paragraph that we currently have “restrictive and arbitrary boxes for defining “gender” — the very boxes we have been fighting as feminists to undo for decades”. We should indeed be working to get rid of those boxes, so that male and female people can do and be whatever they want to be, without being policed for not fitting narrow sets of stereotypes (which, let’s be honest, *no one* fits, not just trans people). We don’t accomplish that by encouraging people to swap into the other box. Nor do we accomplish that by letting any male person declare himself a woman and thereby have the full protection of the law in accessing women’s single-sex spaces, services, and protections. All that does is make the world worse for women.

Let's start ignoring sex *after* we've accomplished it not having political and social significance anymore, rather than ignoring it *in the hope that* it (somehow, magically) will cease to have it.

Links:

- [1] <https://equalityaustralia.org.au/my-id-my-identity/open-letter-feminists-support-fair-birth-certificates/>
- [2] <https://actionnetwork.org/forms/provide-a-safe-environment-for-transgender-and-gender-non-conforming-individuals>
- [3] <https://www.eventbrite.com.au/e/the-future-of-sex-based-rights-tickets-66454546337#>
- [4] Twitter account since suspended (mine).
- [5] A Philosophical Perspective on Gender Identity [long] – archived at hollylawford-smith.org