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and

*Australian Human Rights Commission legal department —*

The Australian Human Rights Commission's preliminary decision to reject the Lesbian Action Group's exemption application for single-sex events is wrong, I believe, for reasons I outline here.

Lesbians are pleading for the use of a public space, and the AHRC has announced its intention, with faulty reasons, to ignore them.

Up at this point, the AHRC has paid no heed to any person or group pointing out that lesbians are an actual (in every sense 'real') minority community now forced back into the closet of private meetings.

The AHRC now wields a legal fiction protecting the dignity of transgender people as an instrument to humiliate and harass women who *only wish to have a public place to meet for friendship and in safety*.<sup>1</sup>

The AHRC and lobby groups have exchanged notes to each other about law and process while accepting as a premise, *without any evidence*, that transwomen are the most vulnerable, marginalised people in our society. It is the crudest kind of self-assessed prioritarianism.

The commission's assertions demand close scrutiny. I refer you to your preliminary decision:<sup>2</sup>

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<sup>1</sup> Examples of the dangers are too numerous to list. Here is a recent one in Australia, involving an 'activist' who was a member of a Victorian Pride Centre group: Reduux, 8 July 2023 <<https://reduxx.info/he-got-away-with-it-trans-activist-sentenced-to-just-five-months-good-behavior-after-leaving-woman-permanently-disabled/>>. Accessed 29 September 2023.

<sup>2</sup> 'Notice of preliminary view on application for temporary exemption: Lesbian Action Group', Australian Human Rights Commission, 25 September 2023 <<https://bit.ly/3tdRo04>>. Accessed 29 September 2023.

7.41 The Commission is not persuaded it is appropriate and reasonable to:

- make distinctions between women based on their cisgender or transgender experience, or among same-sex attracted women based on the exclusivity of their same-sex attraction at an event of this kind, or
- exclude same-sex attracted women who are transgender, bisexual and queer from an event of this kind.

I ask you to read these sentences to yourself and recognise them for what they are: *nonsense*.

- Is it really *not reasonable* and *not appropriate* to make distinctions between women on the basis of “cisgender” and “transgender” experience? Is the actual experience of transgender and so-called “cis” women exactly the same? Are they born and do they grow up in the same way? Do they live with exactly the same prejudices and discriminations? —No.
- Where, in the Australian legal judgments providing dignity to people who do not see themselves in conventional gender roles, is there a *requirement to disregard the actual experience* of either women or lesbians? —Nowhere that I know of.<sup>3</sup>
- What is the literal meaning of “same-sex attracted women who are transgender”?
  - Does it mean that males who were observed at birth (and in the womb) to be male, but now have a sincere belief they are ‘women’ (even if not ‘female’), and are heterosexual in orientation, are therefore lesbians and must be accepted as lesbians?
  - Do the commissioners assert ‘some heterosexuals are lesbians’?
  - Do the commissioners assert that if a male person begins to imagine or sincerely believes ‘he is a lesbian,’ his (or her) sexual orientation has in that instant also changed?
  - Are the commissioners not persuaded it is appropriate or reasonable to exclude narrow categories of persons from lesbian events simply because the commission no longer has

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<sup>3</sup> “Finally, this ruling fails to consider what distinctions, if any, exist between sex and gender. Whereas sex is commonly understood to refer to biological characteristics, gender is often considered a social construct. Arguably, a failure to explore the concepts of sex and gender is a notable lacuna in the judgment. Although perhaps intentional, this means that the Court missed an important opportunity to clarify the meaning of sex and gender in law and public policy. That said, by conflating sex and gender the decision recognises that the use of labels and categories can be offensive.” (The case note could also have added that the absence of labels and categories can be dangerous and offensive.) Case note: ‘Norrie v NSW Registrar of Births, Deaths and Marriages,’ p.54 in *Resilient Individuals: Sexual Orientation, Gender Identity & Intersex Rights, National Consultation Report • 2015*, Australian Human Rights Commission 2015.

any legal principle or guidance to conclude that lesbians (female homosexuals) actually exist?

Why is no one in the commission, not even any of the well-qualified commissioners, able to persuade themselves this is a problem?

Of course, it is lesbians (and women generally) who are being marginalised here. Only in minds ruled by legalistic bloviation would it be possible to conclude that the application of a group of women to meet for the purpose of finding friendship was in any way “unreasonable” or “inappropriate.”



Lobby groups advising the commissioners want them to think that lesbians have "failed" to explain how they will "enforce" the exemption they seek. This is not a failure. The Lesbian Action Group does not intend to enforce anything, has not claimed it will enforce an exemption afforded to it, and therefore has no need to explain what it does not intend to do.

The Lesbian Action Group is asking the Victorian Pride Centre and transgender activists for *respect* — respect for boundaries, for differences of belief and preference. The Pride Centre, Q+Law, and Equality Australia have decided that this simple act of respect is too hard: *they expect that transgender activists will not show the respect that would permit lesbians to meet with other lesbians*. The Pride Centre, Q+Law, and Equality Australia expect transgender activists to gate-crash, confront, and threaten their way into any meeting of women that sought to exclude them and their pretences. I expect the Lesbian Action Group will greet those activists with a cup of tea and the question “Why are you here?”



This is the sorry state of affairs the AHRC is about to sanction using language unconnected to justice or compassion and that makes the commission sound like the “obtuse” warden of Shawshank prison.<sup>4</sup>

Shame on you.

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<sup>4</sup> The character Warden Norton in ‘The Shawshank Redemption,’ dir. Frank Darabont, 1994. Video excerpt, duration 1 min. 50 sec.: <<https://bit.ly/3PXdPO8>>. Accessed 30 September 2023.