



Submission to the Independent Expert on sexual orientation and
gender identity

Call for input to thematic report to HRC62: Violence and
discrimination experienced by lesbian, bisexual, and queer (LBQ)
women

10 February 2026

INTRODUCTION

The Affiliation of Australian Women's Action Alliances (AAWAA) is a secular, non-partisan affiliation of independent women's rights organisations across Australia. We advocate for women and girls in domains where we face discrimination or vulnerability because of sex. Our work includes documenting governance failures affecting lesbian and bisexual women.

AAWAA has previously provided submissions to the Independent Expert on sexual orientation and gender identity, submitting in January 2024 on freedom of expression, association and assembly, highlighting the Australian Human Rights Commission's (AHRC) denial of an exemption for lesbian-only events and the conflation of sexual orientation with gender identity as mechanisms undermining lesbian rights¹. AAWAA returned to the IE's mandate in April 2025 with analysis of systemic school failures to protect same-sex attracted and gender-questioning girls under the Convention on the Rights of the Child. This submission builds on both contributions to demonstrate that governance failures act as a primary mechanism of discrimination and violence against lesbian and bisexual women.

Whilst we engage respectfully with the Independent Expert's framework referencing 'queer' women, we note that this terminology captures males who identify as women or girls, thereby erasing the distinct experiences of lesbian and bisexual women. We recommend disaggregating L and B from Q experiences in any final report, given materially different realities. For the purposes of this submission, our focus remains on lesbian and bisexual women—females with same-sex attraction—who must be recognised as the primary stakeholders in any examination of same-sex attracted women's rights.

WHY GOVERNANCE MATTERS: EXCLUSION AS DISCRIMINATION

Lesbian and bisexual women experience direct violence and harassment in Australia. Yet an equally fundamental problem persists: systematic governance, process, and accountability failures that severely impact their lives. Governance determines who defines problems,

¹ [New SOGI expert must listen to lesbians](#), AAWAA.

which solutions are legitimate, whose voices count. Moreover, when lesbian and bisexual women are excluded from policy development about their own rights, the resulting policies inevitably harm them. This exclusion itself constitutes discrimination.

Australia has obligations under CEDAW Article 7 to ensure women's right to participate in the formulation of government policy². And the CEDAW Committee's General Recommendation No. 23 emphasises that women must be equally involved in decision-making at all levels³. For lesbian and bisexual women, meaningful participation means involvement from the earliest policy stages in the formulation of policy that affects them, not commentary on predetermined solutions. Yet Australian governance frameworks and agencies systematically violate these obligations across policy domains affecting lesbian and bisexual women—from sex self-identification legislation to exemptions under discrimination law to school policies. This submission demonstrates how governance capture, institutional bias, and procedural failures operate together to exclude lesbian and bisexual women from democratic processes.

THE MECHANICS OF GOVERNANCE CAPTURE

Over two decades, Australia's institutional landscape has shifted in ways that systematically marginalise lesbian and bisexual women's voices while amplifying those of organisations claiming to represent them but opposing their interests.

Captured representation

A recurring feature of governance capture is the treatment of peak LGBTIQ+ organisations as default representatives of lesbian interests, even where their stated policy positions conflict with sex-based lesbian rights. Equality Australia, a national LGBTIQ+ organisation, led a coalition of 15 LGBTIQ+ organisations opposing the Lesbian Action Group's application for an exemption to hold female-only lesbian events⁴. Equality Australia publicly characterised the LAG application 'intentionally cruel and divisive' and a 'sad stunt'. Yet Equality Australia's own submission acknowledged that although it was 'important and beneficial for lesbians to be able to gather as a community,' it was 'not appropriate or necessary to exclude same-sex attracted women who are transgender, bisexual and queer in order to do so.' This treats lesbians as a gender identity subset rather than females with same-sex attraction, effectively prioritising male access over lesbian safety.

The Victorian Pride Centre's refusal to host LAG's International Lesbian Day celebration further exemplifies this dynamic, with the centre stating that the event's exclusionary nature was 'inconsistent' with the centre's fundamental purpose⁵.

² [Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979](#), OHCHR.

³ Access via [General recommendations](#), OHCHR.

⁴ See our analysis at [Equality Australia and the Lesbian Action Group: contesting the meaning of 'woman' in women's spaces](#), AAWAA.

⁵ [Victorian Pride Centre Rejects Application For 'Lesbian Born Female' Event](#), Star Observer.

Systematic exclusion from policy processes

Sex self-identification legislation demonstrates consistent marginalisation of lesbian and bisexual women's voices. In Queensland (2018-2023), the government began closed consultations on sex self-ID laws with LGBTQIA+ groups in 2018 but only involved hand-picked women's groups—including those representing lesbians—in 2022 after public pressure, and only then through a single one-hour information session⁶. In New South Wales (2023-2024), LGBTQIA+ advocacy groups received access to sex self-ID policy input from early 2023, while Women's Rights Network Australia—whose representation includes lesbians—only discovered the bill in April 2024⁷. Parliamentary committee review allowed only an online survey; public hearings occurred only after pressure and by invitation. In Western Australia (2024), the Law Reform Commission consulted LGBTQIA+ groups on sex self-ID but not lesbian-only groups, presenting the bill as an 'emergency measure' with strict debate limits⁸.

The pattern is consistent: LGBTQIA+ organisations receive early policy influence; lesbian, bisexual, and women's organisations discover policy after framing is set; consultations are rushed; parliamentary scrutiny is bypassed; lesbian concerns are dismissed as 'bigotry'.

The Lesbian Action Group case: institutional failure in detail

The Australian Human Rights Commission's handling of the Lesbian Action Group's exemption application epitomises these governance failures⁹. The LAG applied in August 2023 for a five-year exemption under Section 44 of the Sex Discrimination Act to hold 'Lesbians Born Female Only' events. The LAG had documented two decades of forced underground organising due to harassment, legal threats, and male encroachment into lesbian spaces. The application received strong support, with a clear majority of submissions from individuals and organisations supporting LAG's request.

Despite acknowledging that lesbians suffered 'significant structural and entrenched discrimination' the AHRC nevertheless concluded it was not appropriate to exclude transgender males with a lesbian identity from community events, effectively prioritising those males' access over lesbian women's freedom of assembly. The AHRC granted participatory credibility to 15 LGBTIQ+ organisations in a joint submission opposing the LAG, while individual lesbian supporters and lesbian-led organisations making submissions were not treated with equivalent institutional standing. The commission's preliminary view failed to systematically address the human rights at stake in LAG's application, including the ICCPR protections for freedom of expression, peaceful assembly, and association that LAG's supporters explicitly invoked. It did not establish whether the AHRC had legal authority to restrict these fundamental rights. It concluded instead that lesbians could not organise as females without citing legal authority for this position. It failed to consider whether the exemption could be granted as a 'special measure' under Section 7D, which explicitly

⁶ See statements of reservation contained in [Inquiry into the Births, Deaths and Marriages Registration Bill 2022, Report No. 41](#), 57th Parliament Legal Affairs and Safety Committee, Queensland Parliament, February 2023.

⁷ [Submission 38 – Women's Rights Network Australia](#), WRNA.

⁸ [Parliamentary Debates \(Hansard\) Forty-first Parliament, first session 2024, Legislative Council](#), Tuesday, 10 September 2024, pp 4119.

⁹ See our blog posts at [Womensadvocacy.net](#).

permits measures intended to achieve equality. By denying lesbians the ability to publicly advertise female-only events, the AHRC actively obstructed lesbians' assembly and association rights.

The decision has created a stark hierarchy: males claiming access to lesbian spaces are treated as more legitimate stakeholders than lesbians themselves. The Administrative Review Tribunal affirmed this decision in January 2025, noting LAG 'remains free to hold private or members-only events'—meaning lesbians can organise, but only if invisible. This denies lesbians' fundamental right to political participation through public assembly. LAG is appealing to the Federal Court in February 2026.

The principle of legality matters here¹⁰. The AHRC failed to apply this principle, which requires that legislation not be interpreted as abrogating fundamental rights unless Parliament uses clear and unambiguous language that does so. The AHRC has failed to recognise that the 2013 *Sex Discrimination Act* amendments intended to protect both sexual orientation (sex-based) and gender identity (self-declared) as separate characteristics, not collapse one into the other. Other Commonwealth legislation continues to define 'woman' as 'a member of the female sex' (*Workplace Gender Equality Act 2012*, *Equal Opportunity (Commonwealth Authorities) Act 1987*). Absent clear Parliamentary intent to subordinate women's freedom of association to gender identity protections, the AHRC should have acted to preserve female-only lesbian spaces.

Moreover, gay men have been granted exemptions by the Victorian Civil and Administrative Tribunal for male-only events¹¹; transgender groups advertise exclusive events without objection. In Tasmania, Jessica Hoyle and LGB Alliance Australia were repeatedly refused permission to organise females-only lesbian events, compelling Hoyle to pursue appeal through federal courts¹². These cases directly illustrate the impossibility of female-only civil association. Only lesbians, it seems, are denied the right to organise.

Exclusion from parliament

In September 2024, the federal Minister for Women blocked the first reading of the Sex Discrimination Amendment (Acknowledging Biological Reality) Bill 2024, which aimed to restore the legal definitions of 'man' and 'woman' based on biological sex to the Act.¹³ No subsequent government-led debate has occurred on sex-based protections despite legal uncertainty. Lesbian and bisexual women in Australia cannot exercise political speech rights on matters fundamentally affecting their lives.

HARMS AND INTERNATIONAL VIOLATIONS

These governance failures have concrete consequences. Lesbian and bisexual women cannot organise publicly without legal jeopardy. Community infrastructure has been lost. Lesbian-led organisations have no government funding or advisory standing.

¹⁰ [Tickle v Giggle and the principle of legality](#), AAWAA.

¹¹ [Peel Hotel Pty Ltd \(Anti-Discrimination Exemption\) \[2010\] VCAT 2005 \(13 December 2010\)](#).

¹² [Jessica Hoyle and LGB Alliance Australia \(Review of Refusal of an Application for Exemption\) \[2022\] TASCAT 142 \(24 November 2022\)](#).

¹³ [SDA Amendment \(Acknowledging Biological Reality\) Bill 2024](#).

The violations are systematic: CEDAW Article 7 (policy participation), ICCPR Articles 19, 21, 22 (expression, assembly, association), and the UN Special Rapporteur's affirmation that sex-based rights must not be subordinated to gender identity claims. Australian governance systematically violates these frameworks.

NEED FOR GOVERNANCE REFORM

Governance reform is essential. The Independent Expert's mandate offers an opportunity to centre lesbian and bisexual women—the primary stakeholders in any examination of same-sex attracted women's rights.

Meaningful reform requires recognition that governance failures constitute discrimination; transparent stakeholder frameworks based on material impact, not ideology; explicit separation of sexual orientation and gender identity in policy and consultation; review of institutional capture; and clarification of exemption frameworks so lesbian and bisexual women can organise as females without litigation burden.

Lesbian and bisexual women must be recognised as females with same-sex attraction, entitled to organise on that basis without male interference. Governance structures that exclude them from policy processes violate fundamental human rights.