

Document 15:

From: **Withheld under s9(2)(a)**
Sent: Sunday, 2 September 2018 4:15 PM
To: Hon Tracey Martin <Tracey.Martin@parliament.govt.nz>
Subject: Changes to the BDMRR Bill (1995)

Dear Tracey,

I'm writing to express my concern and dismay at the proposed changes to the Births, Deaths, Marriages, and Relationships Registration Bill (1995). You'll be aware that the changes proposed to this act include a move to allow the process of changing the registered sex on a birth certificate to a one step declaration ("Self- ID"). The implications for women are reaching, but there's been no public consultation process about it. It is women who will be at risk through these proposed changes, not men.

There has been no consultation, risk assessment, or consideration of the following:

- What are the implications for women's dignity and safety on losing sex-segregated spaces? What are the implications of growing numbers of male-bodied people present in women's prisons, women's refuges, changing rooms, rape crisis centres?
- What are the implications for women's representative political and civic positions, which have been established through the hard work of women, to counterbalance women's historic under-representation in those areas?
- What about women's sport? Is it fair that women should compete against male-bodied people on the basis of their "identity"?
- What are the implications for reliable statistics, upon which government policy is created? What are the implications for health, crime statistics, and sex differentiation in employment & pay, if self-ID is introduced?
- What happens to the definition of biological sex, which is a protected category? How can this be reconciled with self-ID?

There is no evidence to indicate that male pattern violence decreases when men transition to, or identify as, women¹. Former Prime Minister Helen Clark yesterday described male violence against women as a "national crisis."² Given our culturally high levels of violence against women, legal gatekeeping processes that protect vulnerable women and girls from male-bodied people – whether those people identify as women or not – should not be removed.

So my first questions to you: Why has there has been no public process of consultation with women, and women's organisations, regarding these proposed changes? Will you advocate for consultation? How can you guarantee women's safety under a system of self-ID? The wider public must be made broadly aware of these changes, and appropriate risk assessment must be carried out before any changes are made – not as a 'review' in five years time, as has been recommended.

Furthermore, there are cultural and social implications for women when the ontological category of 'woman' becomes a "feeling" to be identified with, rather than a word to describe the lived experience of having a female body. The proposed changes re: self-ID to the BDMRR Bill, and the language that surrounds it, enshrines "gender identity" (gendered stereotypes) in law over material reality. Women have been fighting against this for decades.

There has been a significant increase in the number of young women identifying as transgender over the past decade.³ This has occurred in New Zealand, and throughout the western world. Our society places huge pressure on young women in regard to gendered and sexualised stereotypes, and it seems many young women are choosing to "identify" out of being a woman. There is also recently published international evidence that "Rapid Onset Gender Dysphoria" is occurring in 'clusters' among young people within peer groups - that is, an element of social contagion is present.⁴

So my second question/s to you: What are the implications for young people when we culturally affirm "gender identity"? And how will a one step approach to self-ID contribute to that affirmation, and potentially, a lifetime of medicalization and surgeries?

I am emailing all of the NZF MPs, hoping that you will consider these questions and advocate for a process of consultation regarding changes to the BDMRR Bill.

The UK government is going through this same process of consultation in regard to self-ID: Why not New Zealand?

Thank you for your time.

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(1) "Second, regarding any crime, male-to-females had a significantly increased risk for crime compared to female controls (aHR 6.6; 95% CI 4.1–10.8) but not compared to males (aHR 0.8; 95% CI 0.5–1.2). This indicates that they retained a male pattern regarding criminality. The same was true regarding violent crime." <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0016885>

(2) <https://www.radionz.co.nz/news/national/365452/violence-against-women-is-a-national-crisis-helen-clark>

(3) This is a Wellington based case study: <https://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2018/vol-131-no-1468-19-january-2018/7463>

(4) <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0202330>

Document 16:

From: **Withheld under s9(2)(a)**
Sent: Monday, 3 September 2018 10:39 AM
To: T Martin (MIN) <t.martin@ministers.govt.nz>
Subject:

Hi Tracey.

I'm aware that parliament is close to passing amendments to the Births, Deaths, Marriages, and Relationships Registration Act.

The amendments include provision for one-step legal self-ID.

The intentions of these amendments are noble: making it easier for trans people to have official documents that reflect their feelings.

However the unintended consequences have not been considered. The amendments are open to abuse. Specifically: abusive men will find it very easy to change their legally recognized sex and then be able to access female-only spaces, services and provisions.

No assessment has been done by any ministry on the possible impacts of the amendments on women.

This is a huge change in law and it directly impacts women.

However, women have not been consulted on these changes.

I share the concerns of the Lesbian Rights Alliance and Speak Up For Women.

Their concerns can be seen here.

<https://speakupforwomen.nz/>

I'm based in Auckland central. If at all possible I'd like to meet (either on person or via video or voice call) to discuss my concerns.

Thank you.

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Document 17:

From: **Withheld under s9(2)(a)**
Sent: Tuesday, 4 September 2018 11:00 AM
To: Hon Chris Hipkins <Chris.Hipkins@parliament.govt.nz>
Subject: Question - Please reply

Dear MP,

I understand parliament is considering implementing full legal sex changes based solely on "self declaration". This would allow males to be legally recognised as females and vice versa. **How will females retain their right to female only spaces, services & provisions if males can be legally recognised as females?**

Please explain. I need to know.

Sincerely,

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Document 18:

8 September 2018

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To: Ron Mark
New Zealand First List MP
25 High Street
CARTERTON 5713

Dear Hon Ron Mark

I am writing to you as a Wairarapa resident and constituent, because I'm hoping you will be able to take some action on my behalf. I am hoping you will:

- talk to your caucus colleagues about the "self-ID" provisions in Section 22 of the Births, Deaths, Marriages and Relationships Registration Bill (in Hon. Tracey Martin's name), and
- support measures to pause the passage of the Bill so that further analysis and consultation can be undertaken, to ensure against negative unforeseen consequences.

The intention of the Section 22 self-ID provisions is to make life easier for transgender people, a principle I support. I believe the changes have potentially negative unintended consequences for women and girls.

It is becoming a fraught issue, however, with claims made in the media and on social media that anyone concerned about this matter is "anti-trans", a bigot or worse. Unfortunately, some of your Parliamentary colleagues, (who up till now I admired very much) have recently joined in the barrage of accusation and name-calling on social media, which is very disappointing indeed. It is creating a climate of fear, and ordinary New Zealanders who are aware of the issue (and most are not) are afraid to speak up because of this.

I urge you to familiarize yourself with this issue and to discuss with your caucus colleagues the issues I have raised, and to consider supporting measures to pause the progress of the Bill so that further analysis and more democratic consultation can take place. Further detail of my concerns is set out below.

Yours sincerely

Withheld under s9(2)(a)

Details of my concerns

The Births, Deaths, Marriages and Relationships Registration Bill is set down for its second reading in Parliament. It contains provisions to enable anyone to change the sex on their birth certificate via one-step process and does away with the current requirement for medical consultation and application through the Family Court.

This also enables any man at all to legally change his birth certificate sex, with no oversight from anyone else, nor requirement for any surgery or hormonal treatment. Intact adult males will be able

to call themselves women, legally, and will have access to all women-only spaces and institutions. I believe that this could be open to exploitation by people with bad intentions and will also undermine women's and girls' ability to have sex-segregated facilities and opportunities.

By a simple administrative process, an intact adult male who "identifies" as a woman could insist on being able to become involved in girls' activities such as Girl Guides, because the Guides' organisation could risk a discrimination lawsuit if they didn't allow this.

Female prisoners are also at risk because if, for example, a convicted rapist decides to "identify" as a woman, he would then be able to be moved to a women's prison, where a high proportion of the inmates have suffered sexual abuse by males at some time in their lives. This type of scenario occurred [recently in the UK](#). Other matters affected include sports, education, scholarships & quotas, accommodation and public facilities.

The original drafting of the Bill before Parliament retained the existing Family Court process, and initial consultation was based on that. The Green Party (via Jan Logie) worked through the Government and Administration Select Committee to replace Part 2, Subpart 7 of the Bill as introduced and inserted new clauses 22A -22J to the Bill with "self-ID" provisions. These new provisions were based on a 2014 petition by with 53 signatures, and not subject to consultation with the public. Only the petitioner, DIA and the Human Rights Commission were consulted.

All consultation, analysis and advice has focused only on the rights of trans people, and no consideration has been made of at all, by anyone, on the potential effects of the rest of the population, including on women and girls' safety, opportunities and freedom of association and speech.

I am no bigot and I support making society safer and fairer for people facing disadvantages because of factors over which they have no control. I believe this is an instance of significant social engineering, effectively changing the meaning of the words "man" "woman" "boy" and "girl" in New Zealand. By intending to make life more convenient and comfortable for one tiny sector of the population, Parliament may unwittingly allow negative effects on the rights and protections of 51% of the rest. Parliament owes it to New Zealanders all to have a chance to consider these changes and must also call for more expert analysis and advice on the potential effects of women and girls.

I hope you will talk to your colleagues about this matter.

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Document 19:

From: Contact Contact [mailto:contact@speakupforwomen.nz]
Sent: Sunday, 9 September 2018 8:45 PM
To: Hon Tracey Martin <Tracey.Martin@parliament.govt.nz>
Cc: Brett Hudson <Brett.Hudson@parliament.govt.nz>
Subject: Urgent: Letter to Min Tracey Martin re: BDMRR Bill

Dear Minister,

We are writing to you for a second time, to raise with you further information relating to the "self-ID provisions" contained in Section 22 of the Births, Deaths, Marriages and Relationships Registration Bill, currently set down for its second reading in Parliament. Please see the attached letter by our lawyers which outlines the new information that has come to light.

Thank you,
Georgina Blackmore

Speak Up For Women NZ

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Speak Up
for Women

9 September 2018

From: Georgina Blackmore
Spokesperson
Speak Up For Women

To: Hon Tracey Martin
Minister of Internal Affairs

by email

Dear Minister

We are writing to you for a second time, to raise with you further information relating to the "self-ID provisions" contained in Section 22 of the Births, Deaths, Marriages and Relationships Registration Bill, currently set down for its second reading in Parliament.

New information about the background to self-ID

As Speak Up For Women set out in our letter of 3 September 2018, the genesis of the "self-ID" proposals is Allyson Hamblett's Petition (2014/0086) signed by only 53 people. Notwithstanding the Government's recent claim that the public had "the opportunity to submit on"¹ this Petition, in fact the Select Committee considering the Petition in 2017 received submissions **only** from Ms Hamblett, the Department of Internal Affairs (DIA) and the Human Rights Commission. We noted that the DIA appeared to have raised concerns about the "wide ranging implications" of self-ID at this time.²

We have since obtained the original DIA advice on the Petition (advice dated 5 April and 19 May 2017).³ It confirms the DIA had concerns about self-ID. Three significant points emerge:

1. The DIA did not recommend self-ID;
2. The DIA did not recommend **any** amendment to the birth certificate sex provisions of the BDMR Act, and considered that existing provisions met international law standards;

¹ DIA Report dated 11 June 2018 At p11

² We set out the following quote from the GAC report on the Petition: "DIA said that **because a birth certificate involves core identity information, any potential law change has wide-ranging implications**. A birth certificate forms the basis for information on other official documentation, such as passports and driver licenses. Passports and driver licenses are considered "transactional" documents that involve less formal processes than s 28 [of the BDMR Act 1995]. Unlike a registered birth record they can be revoked." Petition 2014/0086 of Allyson Hamblett, Report of the Government [sic] Administration Committee (undated, but appears to be 11 August 2017) at p4

³ This advice was evidently on the parliamentary website but was not linked to the Petition. We located it as a result of an Official Information Act request.

3. The DIA noted that in 2006-8, the Human Rights Commission conducted an in-depth inquiry into discrimination faced by transgender people.⁴ The Commission recommended some changes to the birth certificate process, but **did not endorse self-ID**. In fact, the Commission **favoured retention of the Family Court declaration process and medical gatekeeping**.⁵

Central to the DIA's concerns was the identified need to **balance the personal interests of transgender people, against the need for certainty and integrity in official documentation**.⁶ The DIA noted that medical gatekeeping under the existing law⁷ had been interpreted broadly in case law, such that gender reassignment surgery is no longer required. This, the DIA said, provides sufficient flexibility to address Ms Hamblett's concerns.⁸

The DIA said that self-ID for birth certificates:⁹

"would have potentially wide-ranging implications for New Zealand government and society, including at an international level, because it involves core identity information... the Department is not in a position to confirm the government's support for [self-ID] or otherwise."

Notwithstanding these clearly expressed concerns, the Committee instructed officials to review the Act "with a view to amending it to an approach predicated on self-identification."¹⁰

The Human Rights Commission 2008 Inquiry

In 2006 the Human Rights Commission commenced the world's first in-depth inquiry into discrimination faced by transgender people, and reported in 2008. Its terms of reference included consideration of legislative amendments needed to improve the position of transgender people. The inquiry was led by three Commissioners and a team of staff, and they consulted widely.

The Report's discussion of the legal issues around birth certificate sex is nuanced and considered. Like the DIA in 2017, the Commission recognised the **importance of striking a balance between the personal interests of transgender people, and other interests**. Some of the Commission's key findings:

1. The needs of transgender people need to be balanced against the integrity of official documents;¹¹
2. The value of setting a "threshold" before sex can be changed on official documents was recognised.¹² This must be "robust" and ensure "a high standard of integrity in official birth records."¹³

⁴ NZ Human Rights Commission "To Be Who I Am" (2008) Report of the Inquiry into Discrimination Faced by Transgender People.

⁵ DIA supplementary advice 19 May 2017 at para [1]

⁶ DIA advice 5 April 2017 at para [47]

⁷ BDMRR Act s 28

⁸ DIA advice 5 April 2017 para [49]

⁹ DIA supplementary advice 19 May 2017 at para [5]

¹⁰ Petition 2014/0086 of Allyson Hamblett, Report of the Government [sic] and Administration Committee (undated 2017), p4

¹¹ NZ Human Rights Commission "To Be Who I Am" (2008) Report of the Inquiry into Discrimination Faced by Transgender People, at para [9.30]

¹² Ibid at para [9.30]

¹³ Ibid at para [9.33]

3. While a transgender person's subjective view of their gender identity should be taken into account, there also needs to be **objective evidence** they have taken steps to live in the appropriate sex;¹⁴
4. The potential impact on existing exceptions under the Human Rights Act was also recognised: **"a common sense, practical approach is needed to balance the rights of others in order to determine when and how exceptions relating to sex (including gender identity) apply."**

As set out above, the Commission recommended retention of the existing Family Court declaration process, and retention of the medical gatekeeping requirements (although it recommended a modest amendment to the wording of the latter.¹⁵)

The Commission essentially repeated this position in its 2010 report "Human Rights in New Zealand."¹⁶

The Human Rights Commission's current position

It is unclear why the Human Rights Commission has reversed its position and now favours self-ID.

The Commission's submission on the BDMRR Bill (dated 2 March 2018), which appears to have been written by two legal advisers, **does not even refer to the 2008 Inquiry and its clear rejection of self-ID.** We set out in our earlier letter our concern that this submission was somewhat misleading in its legal analysis in other respects (i.e. overstating the extent to which self-ID is reflected in international law).

The Commission's earlier (2017) submission on the Hamblett Petition was likewise supportive of self-ID. Written by one of the same legal advisers, it refers in passing to the 2008 Inquiry, but makes no reference to the Inquiry's recognition of the need for integrity of official records; the need for an objective threshold; or the need to consider the effects on the sex exemptions under the Human Rights Act. To the contrary, the Submission suggests that the reason the Inquiry favoured retention of existing Family Court and medical gatekeeping for birth certificates was because of the need for consistency with passports and driver licenses (which at that time were difficult for transgender people to change).¹⁷ **This is simply an incorrect interpretation of the Inquiry's Report.** Indeed, the Commission's current argument - that birth certificate self-ID is necessary because self-ID is now permitted for passports - overlooks the clear distinction between these documents, recognised by the 2008 Inquiry.¹⁸

¹⁴ Ibid at [9.31]

¹⁵ The Commission recommended changing the wording of s 28(3)(c)(i)(B). Rather than requiring evidence the person has undergone medical treatment to enable "physical conformation" with the nominated sex, the Commission preferred requiring medical evidence that the person has undertaken "decisive steps" to live fully and permanently in the nominated sex. (However, as the DIA 2017 advice notes, the Commission's concerns in this regard were in large part overtaken by subsequent case law that made it clear sexual reassignment surgery is not a prerequisite).

¹⁶ Cited in DIA advice 5 April 2017 at para [30]

¹⁷ Human Rights Commission Submission on Petition 2014/0086 of Allyson Hamblett at paras [16]-[18]

¹⁸ NZ Human Rights Commission "To Be Who I Am" (2008) Report of the Inquiry into Discrimination Faced by Transgender People, at para [9.39]-[9.40] (recognising that if a person is able to change the sex on their birth certificate, then they should also be able to change it on their passport. But the reverse does not follow. There may be reason to adopt a lower threshold for passports.

We note that the DIA clearly shared our concerns about the quality of the Human Rights Commission's Hamblett submission. The DIA criticised the Commission's characterisation of NZ's existing law as an "outlier", noting that on an international continuum New Zealand can reasonably be regarded as close to the liberal end.¹⁹ The DIA also criticised the Commission for providing "incomplete information" and implying that the existing law is interpreted more strictly than it is in fact.²⁰ Finally, the DIA noted that the Commission relied on a **submission** to the UN Human Rights Council (by the Sexual Orientation, Gender Identity and Intersex Coalition ("SOGII")). As the DIA pointed out, however, the Council did not make any recommendation in relation to this submission: a rather significant point the Commission omitted to mention.²¹

We suggest the Commission's current position is poorly-reasoned, and based on a flawed understanding of its own comprehensive 2008 Inquiry.

Conclusion

Both the Department of Internal Affairs in 2017, and the Human Rights Commission in 2008, rejected self-ID for birth certificates. Both agencies recognised the need to strike a balance between the personal needs of transgender people, and other rights and interests (including those protected by the exemptions under the Human Rights Act). The administrative change that deleted Part 2, Subpart 7 of the Bill as introduced and inserted new clauses 22A -22I (the "self-ID clauses" has not been subject to public consultation.

We call on you to work with your Parliamentary colleagues on both sides of the House to identify a way to amend the BDMRR Bill perhaps by a supplementary order paper, to protect sex-based exemptions under the Human Rights Act.

Your sincerely

Georgina Blackmore
Spokesperson, Speak Up For Women

cc Brett Hudson
Chairperson, Government and Administration Select Committee

¹⁹ DIA supplementary advice 19 May 2017 para [8]

²⁰ DIA supplementary advice 19 May 2017 para [9]. (The Commission had relied on an article written by a student).

²¹ DIA supplementary advice 19 May 2017 at para [10]

Document 20:

From: **Withheld under s9(2)(a)**
Sent: Tuesday, 11 September 2018 2:29 PM
To: T Martin (MIN) <t.martin@ministers.govt.nz>
Subject: Erosion of women's rights

Dear Hon. Tracey Martin

Please consider my letter attached.

Yours sincerely

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10 September 2018

Withheld under s9(2)(a)

To: Tracey Martin
NZ First List MP

Dear Ms Martin

I am writing to you as a concerned NZ citizen. I ask you to familiarise yourself with the "self-ID" proposal in Section 22 of the Births, Deaths, Marriages and Relationships Registration Bill (in Hon. Tracey Martin's name) and support measures to pause the passage of the Bill so that analysis and consultation can be undertaken on the possible impact self-ID could have on existing sex-based rights for women and girls.

I urge you to vote against the administrative change made to the BDMRR Bill at the Select Committee stage and allow proper consultation to occur with the New Zealand public.

To vote against this change may require two actions:

1. Voting against the Bill at its second reading, and
2. Tabling a Supplementary Order Paper at the Committee stage of the Bill to revert to the original wording.

I am very worried about the change of the legal definition of 'female' which will occur if this Bill is adopted. There will be no gatekeeping as there currently is involving medical professionals and the Family Court. Any male, with full genitalia intact, could fill out a form and be legally classified as female.

This is not only an affront to women, but could result in predatory males using the law to infiltrate women/girl's spaces for sexual offences; unscrupulous males could enter women/girls sports, take scholarships, etc.

This ideology of transgenderism is already impacting on women through the Correction Department housing male prisoners with no medical 'transition' into the Women's Estate. In the UK last week, one such male with a history of rape, sexually assaulted 4 women

prisoners; there is a call there for an inquiry and questions are being raised there about how such madness could have occurred.

Also, there has been no public debate about this issue. As a long time Green Party voter, I am disgusted at the way that Party has by stealth, snuck the amendment through; I am also appalled at some Green MP's abusive behaviour on social media towards people such as myself who are critical of this legislation.

Needless to say, I will never vote Green again, and will be working hard to ensure they are gone from Parliament for good.

I hope I can rely on you to further the interests of the women of NZ and to safeguard our democracy.

Yours sincerely

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Document 21:

From: C NZ [mailto:charlie.sawyer.montague@gmail.com]
Sent: Friday, 21 September 2018 5:24 PM
To: Erica Mangin <Erica.Mangin@parliament.govt.nz>
Subject: Re: Meeting request to Hon Tracey Martin

Kia ora Erica,

Will Hon Tracey Martin be willing to present this petition on my behalf? I'm aware I need to be in touch with an MP to arrange that, and OIA requests have shown that the analysis I ask for in my petition has not occurred :)

https://www.parliament.nz/en/pb/petitions/document/PET_79009/petition-of-charlie-montague-consult-with-women-before

I know there are many other women who would like to meet with Minister Tracey Martin to discuss this issue. Do you think perhaps we could reduce the time pressure by organising a group of women to meet with her at once?

Thank you so much for being in touch with me,

Charlie Montague

On Fri, 21 Sep 2018 at 16:26, Erica Mangin <Erica.Mangin@parliament.govt.nz> wrote:

Dear Ms Sawyer Montague,

Thank you for your request to meet with the Minister to discuss proposed changes to the Births, Deaths, Marriages and Relationship Registration Act.

Unfortunately due to pressures on her diary the Minister is unable to meet with you. However, the Minister is glad you have taken other opportunities to make your concerns known (e.g. submitting on the Bill and lodging a Petition on the issue).

Kind regards,

Erica Mangin

Private Secretary for the Minister of Internal Affairs

Hon Tracey Martin

Document 22:

From: **Withheld under s9(2)(a)**
Sent: Sunday, 23 September 2018 12:08 PM
To: T Martin (MIN) <t.martin@ministers.govt.nz>; Hon Tracey Martin
<Tracey.Martin@parliament.govt.nz>
Subject: BDMMR Bill

Dear Tracey

I write to you about the proposed Births, Deaths and Marriages Relationships Registration Bill (BDMRR). I write to you in your capacity as Minister of Internal Affairs, Minister for Children and as list MP,

I am concerned about the proposed amendment to make retrospective changes to the birth sex recorded on birth certificates a matter of self-declaration. I am concerned that there has been insufficient consultation with those most likely to be impacted by this change, that is women and girls.

When this bill was opened for consultation with the public, the self-identification amendment was not included. This amendment was introduced *after* lobbying from transgender activists during the Select Committee consultation, meaning that the general public have not had the opportunity to submit on this particular amendment. No impact assessment has yet been undertaken by government on the potential consequences of introducing self-identification of sex.

I believe that the birth certificate should remain an accurate legal document, recording the material facts relating to the birth of an individual. Biological sex identified at birth is a matter of material reality, and the birth certificate should accurately reflect this. I do not believe it is appropriate to retrospectively falsify the factual record of birth to something as subjective as gender identity and feelings. If necessary a personal identity marker could be added alongside the biological sex at birth.

Transgender people do currently have a mechanism for making retrospective changes to the sex recorded on their birth certificate. They are able to make this change by demonstrating a commitment to medical and/or social transition to their chosen gender, involving an assessment by the Family Court. I believe this process allows for safe-guarding the process from abuse, whilst giving genuinely transgendered people a mechanism.

Making the category "woman" a subjective identity, rather than a matter of material, immutable, biological reality prevents us from being able to define, and accurately measure matters such as health outcomes and crime. The amendment to the BMDRR bill confuses the biological reality of "sex" with "gender", a set of socially constructed behaviours and roles.

I am concerned that there has been insufficient consideration of the potential risks to female only spaces, such as women's prisons, refuges and changing rooms, should the current safeguarding processes be lost. Male bodied persons would be entitled to access these women only spaces with only a cursory self-declaration. Women prisoners are particularly vulnerable to this, and there are already examples of male-bodied prisoners, whilst identifying as trans-women, committing assaults on women prisoners in New Zealand prisons.

I therefore ask the following things of you:

- Please do not vote for the BMDRR in its current form- please request that further consultation takes place given the potential impact on women's rights.

- Please request that passage of the bill be deferred until an impact assessment can be undertaken on the likely consequences of this proposed change.
- Please consider requests to meet with women who are concerned about these matters.

I would welcome the opportunity to meet with you in person to discuss my concerns.

Kind regards

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Document 23:

From: **Withheld under s9(2)(a)**
Sent: Monday, 24 September 2018 7:35 PM
To: T Martin (MIN) <t.martin@ministers.govt.nz>
Subject: BDM amendments

Dear Tracey.

I've recently learned that parliament is considering passing amendments to the Births, Deaths, Marriages, and Relationships Registration Act.

The amendments include provision for one-step legal self-ID.

The intentions of these amendments are noble: making it easier for trans people to have official documents that reflect their feelings.

However the unintended consequences have not been considered. The amendments are open to abuse. Specifically: abusive men will find it very easy to change their legally recognised sex and then be able to access female-only spaces, services and provisions.

No assessment has been done by any ministry on the possible impacts of the amendments on women.

This is a huge change in law and it directly impacts women.

However, women have not been consulted on these changes.

I share the concerns of the Lesbian Rights Alliance and Speak Up For Women.

Their concerns can be seen here:

<https://speakupforwomen.nz/>

My fear is not of trans women. Rather, on behalf of women, I fear the men who may insincerely adopt female identity for nefarious reasons. There *are* predatory men in this country who will view this legislation as an open door to places where they can access vulnerable women and girls. Places like: women's prisons, Girl Guide tents, changing rooms, and Womens' Refuges. I fear that New Zealand women and girls will be at risk, and some of them - and their families - will suffer if this legislation passes.

My worries only increase when I read stories like that of Karen White, a male pedophile and rapist identifying as a woman (sometimes, according to his girlfriend) who was recently charged with sexually assaulting inmates while incarcerated at a women's prison in England. The UK prison system accepted his identification as a woman and, as a result, four women who had nowhere to run or hide were assaulted.

The question that legislators must consider is this is: how many sexual assaults against women by males identifying as women will be enough to reverse this legislation? Will it be one rape? Or five? Or ten?

Again, this isn't about genuine transwomen. This is about men who could flout such a provision to gain access to vulnerable women.

Before you progress this legislation, please: engage in consultation with the women whom it will affect, and gather and analyse research on the possible consequences.

Thank you.

Kind regards,

Withheld under s9(2)(a)



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Document 24:

From: **Withheld under s9(2)(a)**
Sent: Monday, 24 September 2018 9:32 PM
To: W Peters (MIN) <W.Peters@ministers.govt.nz>
Subject: Fw: BDMRR Bill: self-ID for birth certificates

Dear Deputy Prime Minister,

I am a **Withheld under s9(2)(a)** but emphasise that I am writing to you in my personal capacity.

On 10 August 2018 I learned of the Government's proposals to introduce "self-identification" in relation to the "sex" specified on birth certificates. I was surprised to discover this proposal had already been through a Select Committee process and was well on the way to becoming law. For several months I had been closely following the self-ID debate in the UK, yet was oblivious to the New Zealand developments.

I have real concerns about the proposals, especially in relation to the effect on female-only spaces and services currently protected under the Human Rights Act 1993. As a criminal lawyer of over 20 years' experience I have particular concerns about safeguarding. The Human Rights Act recognises that sex segregation exists for good reasons, including privacy, dignity and safety. Changing the meaning of birth certificate "sex" to reflect a person's subjective feelings will, in my view, have a significant impact on existing protections, even if that impact is not immediate.

Male-pattern violence (including sexual violence, and associated conduct like voyeurism, intimate recording and exhibitionism) is an unfortunate reality and there is no evidence that males identifying as women pose any less of a risk in this regard. Indeed, in 2016, the President of the British Association of Gender Identity Specialists warned of an "ever increasing tide" of incarcerated sex offenders seeking to "transition". And some 48% of trans-identifying inmates currently in UK prisons are sex offenders (compared to 19% of all inmates).

Self-ID also means that for day to day purposes it will be impossible to distinguish males identifying as women from the ordinary population of males, with obvious consequences for female-only spaces. A recent (2 September 2018) investigation carried out by UK newspaper the Sunday Times showed that almost 90% of reported sexual assault, harassment and voyeurism in swimming pool and sports centre changing rooms happened in unisex facilities. This is despite the fact that unisex facilities make up less than half the total.

I also have concerns about the lack of public/stakeholder consultation surrounding these significant proposals, which as you know were not included in Bill when it was introduced. These issues are currently being debated in the UK, and the government there has facilitated a 12 week public consultation process (still ongoing) and has publicly confirmed its commitment to existing protections for women under the UK equivalent to the Human Rights Act. In other jurisdictions (e.g. Western Australia) similar proposals are undergoing Law Commission scrutiny.

In my reading around the background to the Bill I have seen no sign that the issue of potential impact on sex-based exceptions under the HRA has been acknowledged. Self-ID is presented (misleadingly in my respectful view) as a simple administrative change that will bring New Zealand up to international law standards. This is contrary to advice from the Department of Internal Affairs in 2017. It is also contrary to the carefully reasoned position of the Human Rights Commission in 2008, following its lengthy inquiry into transgender discrimination. Then, the Commission rejected self-ID, recognising the need to balance the interests of transgender persons against the need for integrity of official documentation and the rights of others. (The Commission's recent submission on the Bill, which supports self-ID, does not even refer to this history, and its legal analysis is in my view flawed).

The Bill also proposes removing existing Family Court gatekeeping, and the need for medical treatment, in relation to children and young persons who wish to change their recorded sex. These protections will be replaced by a "recommendation" from a "health professional" (defined extremely widely to include social workers and counsellors).

Again the UK experience is instructive. The Government has very recently (15 September 2018) announced an inquiry into the skyrocketing numbers of children and adolescents presenting for gender identity treatment. Referrals for girls have risen by 4400% in the past decade and "little is known of the reasons, or of the long term impact." A 2018 study in New Zealand into referrals to Wellington's Endocrine Services, reflects similar trends. There is growing disquiet among clinicians, and emerging evidence about the role of social contagion in these figures.

I believe the UK Government's announcement of an inquiry should serve as a red flag. There is a need to sound a note of caution about what is happening in our communities, particularly in relation to our girls. It is deeply troubling to me that in this climate the Select Committee is proposing a removal of existing checks and balances in relation to children wishing to change their legally-recognised sex, without wide consultation or policy analysis.

I have written to the Hon Tracey Martin as Minister responsible for the Bill, but she has declined to meet. I appreciate your portfolios leave little or no time for meeting with constituents. But I would very much appreciate an opportunity to discuss my concerns with New Zealand First representatives. I look forward to hearing from you.

Yours sincerely

Withheld under s9(2)(a)

[Redacted]

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Document 25:

From: Withheld under s9(2)(a)
Sent: Thursday, 27 September 2018 8:47 PM
To: Hon Tracey Martin <Tracey.Martin@parliament.govt.nz>
Cc: Marja Lubeck <Marja.Lubeck@parliament.govt.nz>
Subject: BDM Gender Marker Change Via Statutory Declaration

Hi Tracey, I was just wondering if you could share how the Bill or the BDM change of gender marker via statutory declaration was progressing?

Thanks & Kind regards,

Withheld under s9(2)(a)

Rodney Area Rainbow LGBTQ+
<http://www.rodneyrainbow/>



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Email also sent to: Hon Andrew Little, Hon Julie Anne Genter, and Rt Hon Jacinda Ardern.

Document 26:

From: **Withheld under s9(2)(a)**
Sent: Sunday, 30 September 2018 5:09 PM
To: Hon Carmel Sepuloni <Carmel.Sepuloni@parliament.govt.nz>
Subject: proposed changes to Births Deaths, Marriages and Relationships Registration Act

September 30 2018

Withheld under s9(2)(a)

Dear Carmel,

On the subject of proposed changes to Births Deaths, Marriages and Relationships Registration Act (BDMRRA), in regards to changing the sex marker on birth certificates.

Currently transgender people in New Zealand are able to apply to change the sex marker on their birth certificates through the Family Court by proving they have "taken decisive steps to live fully and permanently in the gender identity of the nominated sex" as well as it being based on "expert medical evidence".

I understand the proposed changes to the BDMRRA seek to streamline this process and change it to a one-step administrative process based on self-declaration of gender identity.

I would like the government to fully consult with providers for women's services in New Zealand, and what may be the unintended consequences of changes to this Act, before passing it through Parliament.

So far only a select few members of the public who are transgender, along with the Ministry of Internal Affairs and the Governance and Administration Select Committee have been consulted in regards to these proposed changes.

Last year Internal Affairs said *"self declaration" of sex has wide-reaching implications - yet it's heading into law without any impact assessment or consultation.*

This warning has seems to have been ignored.

Women deserve consultation on an issue which clearly impacts women and girls, and their sex specific services and groups.

Overseas there have already been instances of Women's Services seeking to exclude trans women where inclusion in their particular service is inappropriate due to the needs of the women they help. These service providers have had to undertake lengthy and costly law suits to continue to have the right to choose biological women to work within their own services.

The proposed changes to the BDMRRA will mean prisons will not be able to use discretion when transferring transgender prisoners to prisons housing the sex of those the prisoner feels they identify as.

With the proposed change to streamline the system it will take only 30 days to alter a birth certificate. This opens up the possibility for the process to be abused by prisoners for nefarious reasons. It will mean male bodied prisoners, who have no intention of ever changing sex, could be given unquestionable access to females housed in female prisons.

Areas that may be affected by these changes are:

- women's sports
- women's rape crisis centres
- women's refuge
- Girl Guides
- healthcare providers
- women's prisons
- breaches of women's rights
- pay equity statistics
- all women lists of MPs in parliament
- statistics of crime rates that relate specifically to women
- women's changing rooms
- women's bathrooms
- Single sex schools

When all these areas have been properly looked at, and public consultation has been undergone, it may then be appropriate to change the BDMRRA with some provisions for findings arising from these consultations.

Please consult with women on law changes that involve us.

Kind Regards

Withheld under s3(2)(a)

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Document 26B:

From: **Withheld under s9(2)(a)**

Sent: Tuesday, 2 October 2018 10:43 AM

To: Hon Andrew Little <Andrew.Little@parliament.govt.nz>

Subject: Re: proposed changes to Births Deaths, Marriages and Relationships Registration Act

Thank you for your reply Andrew, I see the Select Committee has finished with the Bill, they were to write a report on August 10th this year. The bill will likely be before Parliament for a second reading soon. This is my chance, as the member of the public to raise awareness with all MP's that there will be consequences for women should the bill go ahead in it's current form. Particularly relating to S28-29 which I feel needs further public and Government consultation before being passed. Especially from women who have concerns about the services I mentioned in my last email.

I have attached a letter penned by **Withheld under s9(2)(a)** which explains it more fully.

This bill will affect 50% of your constituents and their services and it is important for you personally to take notice of the wording in regards to sex and gender and definitions of both within those sections. The bill can be rewritten at this point.

Please read Georgina's letter and at least be aware of possible ramifications of passing it in it's current form when it comes back for it's second reading.

Kind Regards

Withheld under s9(2)(a)

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

2 March 2018

Submission on the Births, Deaths, Marriages, and Relationships Registration Bill

To the Governance and Administration Committee,

I am making this submission, as an individual, on the above Bill which re-enacts the Births, Deaths, Marriages, and Relationships Registration Act 1995 (BDMRRA). I am specifically addressing sections 28 - 29 of the Act and sections 67 – 72 of the proposed Bill. As outlined at the end of my submission I recommend that further public and governmental consultation be assured should these clauses be amended, that the clauses contain clear definitions of sex and gender identity, that secondary markers be included on birth certificates, that the intersex community is consulted on any changes and that the Minister of Corrections be requested to review any proposed amendments to these clauses.

PUBLIC CONSULTATION

I would like to make the following comments with regards to the report submitted by the Governance and Administration Committee, published on 11 August 2017 that was made in response to the petition of Allyson Hamblett, which was not made available on the parliament website adjoining and in relation to the Bill. (1)

This report was submitted the day after this Bill was introduced and the recommendations contained in this report, with regards to gender self-identification, are far-reaching and impactful on NZ law and policy.

The purpose of this Bill is stated on the parliament website as “to recast the access provisions in the 1995 Act and respond to the Law Commission’s review of burial and cremation law”.

If such a substantial change such as gender self-identification is being considered, I don’t believe this has been adequately communicated to the public. Although available elsewhere on the parliament website, this report was not available in relation to this Bill. The public are told that this Bill is “uncontroversial” and applies mainly to cremation and safe, accessible information pertaining to official identification documentation.

It is of concern that reasonable and transparent communication of intended amendments relating to self-identification are not being made freely available to the public. (See recommendation 1).

ISSUES PERTAINING TO THE GOVERNANCE AND ADMINISTRATION REPORT & SUPPORTING HUMAN RIGHTS COMMISSION DOCUMENT

The Governance and Administration Committee Report states that the Human Rights Commission (HRC) was invited to submit its view on Allyson Hamblett’s petition delivered on 25 October 2016.

The HRC states (point 18) in its submission that Section 28 of the current BDMRRA is “an outlier” now that passports and drivers licenses can be changed on the basis of self-identification. (2)

The Greens Aotearoa New Zealand website, inviting submissions to change the section to one of gender self-declaration, states that birth certificates are “one of the most important documents” we have. (3) I would go as far as to say that birth certificates are *the most* important piece of identification we have. Describing section 28 as ‘an outlier’ (which minimizes the importance of birth certificates), underestimates how impactful it would be for birth certificates to be changed based only on self-declaration.

I believe that birth certificates are extremely important. Especially when we take into account legislation, policies, services, funding, equal opportunities representation and discrimination law that currently rely on sex as a qualifying characteristic.

Adopting legislation that relies on gender self-identification and declaration, rather than biological sex will impact on statistical measurements required to determine funding and allocation of resources, spaces available based on sex and sex-segregation (such as prisons, hospital wards, rape crisis centers), sports, scholarships and schools.

Under Part Three: Testing of Legislative Content: Consistency with New Zealand's international obligations in the Departmental Disclosure Statement relating to this Bill it states:

"The Bill re-enacts the existing law in the BDMRA 1995, which gives effect to art 24(2) of the International Covenant on Civil and Political Rights 1966 (ICCPR) ("Every child shall be registered immediately after birth and shall have a name"). The Bill reflects the non-discrimination provisions in the Universal Declaration of Human Rights and the ICCPR, including sexual orientation and gender identity." (4)

However, both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) do not reference nor include 'gender identity'. Further to this, there is the potential for any gender identity legislation to come into conflict with domestic human rights legislation such as the Human Rights Act 1993 and the Bill of Rights Act 1990, which protect New Zealanders on the basis of sex.

Point 24 of the HRC report references the "Yogyakarta Principles" in the same breath as the ICCPR, so it is not surprising that one might think that these principles constitute current international human rights obligations for the New Zealand government. (2), (5)

It is important to note these the Yogyakarta Principles are not a legally binding part of international human rights law and do not appear, nor are referenced in the UDHR nor the ICCPR. To this day these principles have not been ratified in any treaty pertaining to international law by which New Zealand must observe. I find the HRC's suggestion that the Yogyakarta Principles are a requirement under international law, when they are not, an alarming misrepresentation.

The Governance and Administration Committee report concludes that:

"We recommend that the Minister of Internal Affairs instruct officials to review section 28 of the BDMRA with a view to amending it to an approach predicated on self-identification. We suggest that the review should take into account the process and requirements in other jurisdictions, in particular the GIGESC Act in Malta."

In Malta, the Gender Identity, Gender Expression and Sex Characteristics Act 2015 (GIGESC) defines Gender Identity as:

"Gender identity refers to each person's internal and individual experience of gender, which may or may not correspond with the sex assigned as birth, including the person sense of the body (which may involve, if freely chosen, modifications of bodily appearance and, or functions by medical, surgical or other means) and other expressions of gender, including name, dress, speech and mannerisms;" (6)

What is clear from this definition is that the word “gender” appears on both sides of the definition. For any definition to be coherent in law the word being defined should not appear as both:

- a) The thing to be defined, and;
- b) As part of the definition itself

The GIGESC’s circular and inadequate definition has been the subject of wide criticism since it was enacted in 2015.

The GIGESC definition for gender identity is adopted from the Yogyakarta Principles (to which the HRC recommends) and it is important to note these principles only briefly mention intersex people. They are wholly insufficient to address the issues facing the intersex community. (See recommendations 2, 3, 4 & 5).

IMPACTS ON SEX-SEGREGATED SPACES

I will use only one example, in the interests of submission length, of a service provided to New Zealanders that will be affected by gender self-identification and declaration. There are many examples that could be given, however.

An important question to consider is - does the politics of gender identity present us with laws and policies that actually operate to benefit the groups they are supposed to benefit and that represent a fair and reasonable balance among competing interests and groups?

Currently, New Zealand Department of Corrections has a process for determining the housing of transgender prisoners. This process takes into account the protections of all prisoners and therefore is accommodating to prisoners who wish to be housed with the sex to which they identify; but for obvious reasons, will not consider rehousing of a transgender prisoner if they are serving for a serious sexual offence, under remand for such, or have previously served a sentence of imprisonment for a serious sexual offence committed against a member of the sex to which they identify.

The impact on Corrections of self-identification legislation (especially as it pertains to birth certificates) would mean that new and current prisoners who have committed a serious sexual assault against the sex to which they identify will *automatically* be housed with the sex on their birth certificate. When it comes to the determination of prisoner housing placement, birth certificates are the main and ultimate form of identification considered. (7) (See recommendations 6 & 7)

A one-step, administrative self-declaration process as promoted by The Greens and the Governance and Administration Committee Report would have an impact on departments like Corrections, with potential life-threatening consequences.

In submission to parliament, The British Association of Gender Identity Specialists warned that some biological men convicted of sex crimes have falsely claimed to be transgender, for nefarious reasons.

“It has been rather naïvely suggested that nobody would seek to pretend transsexual status in prison if this were not actually the case. There are, to those of us who actually interview the prisoners, in fact very many reasons why people might pretend this. These vary from the opportunity to have trips out of prison through to.... a desire to make subsequent sexual offending very much easier, females being generally perceived as low risk in this regard.” (8)

A process that relies entirely on self-declaration, where identification is dependent on the veracity of the subject, and the subject only, could be exploited by a prisoner to demonstrate diminished risk and for other specific reasons. It would be reckless to pretend that this would or could never happen.

FINAL RECOMMENDATIONS

- 1) *I would like to formally request that any amended clauses that seek an approach predicated on gender self-identification and declaration be returned to public consultation as well as all government departments and organizations that may be impacted by these amendments.*
- 2) *A clear, robust and non-circular definition of “sex” and “gender identity” be included as a preamble to s 28 and 29 of the BDMRRA and that all mention of “nominated sex” be replaced with “gender identity”.*
- 3) *That it is made clear in the BDMRRA that the marker on birth certificates is a reference to “sex” (male, female or indeterminate). In the case of successful applications for altering birth certificates, a marker referencing “gender identity” (masculine, feminine or non-binary), be applied in addition to the sex marker; not in replacement of it.*
- 4) *In the case of intersex people, where sex has been incorrectly recorded at birth, that the process for changing birth certificates be simplified. For instance, that only a medical diagnosis and a recommendation from a doctor would be required. However, the intersex community should be consulted on what approach should look like.*
- 5) *That organisations that exist to advocate for the rights and protections of intersex people be consulted, as a priority, before any consideration is taken to adopt the Yogyakarta Principles - or laws such as the GIGESC, which have adopted these principles.*
- 6) *That the Minister for Corrections be fully informed as to the potential impacts and risks posed by gender self-identification and declaration to prisoners and staff within his/her remit.*
- 7) *That the Governance and Administration Committee request the Minister of Corrections to instruct officials to review any proposed amendments to section 28 and 29 of the BDMRRA. Especially those that may be predicated on self-identification.*

I am willing to appear before the committee to answer questions about my submission.

Yours sincerely

Wilfried under s9(2)(a)

REFERENCES

- (1) https://www.parliament.nz/en/pb/sc/reports/document/SCR_74921/petition-20140086-of-allyson-hamblett
- (2) https://www.parliament.nz/resource/en-NZ/51SCGA_EVI_51DBHOH_PET71439_1_A553623/01d30face64cb281d04c2bbb238d467a51156a01
- (3) http://action.greens.org.nz/document_dignity
- (4) <https://www.parliament.nz/en/pb/bills-and-laws/bills-digests/document/51PLLaw25331/births-deaths-marriages-and-relationship-registration>
- (5) https://en.wikipedia.org/wiki/Yogyakarta_Principles
- (6) <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12312&l=1>
- (7) http://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Movement/M.03-Specified-gender-and-age-movements/M.03-4.html
- (8) <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/transgender-equality/written/19532.pdf>

Document 27:

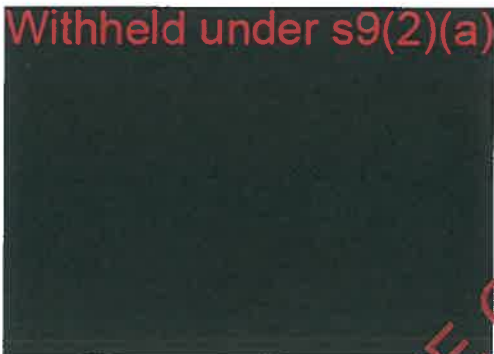
From: Withheld under s9(2)(a)
Sent: Thursday, 4 October 2018 1:26 PM
To: Erica Mangin <Erica.Mangin@parliament.govt.nz>
Subject: Re: Ministerial correspondence: Hon Tracey Martin

Thank you for the response. This is an interesting stance given the Human Rights Commission noted a conflict between female rights and a self-declared process in their earlier reports. The move to a self declaration system is not evidence based and has been abused overseas including the recent case with Karen White in the UK.

We will trust Hon Tracey Martin and if a male with a penis insists he can enter a female only space (or lesbian space) anytime soon because he will be legally seen as female we will make it clear she allowed this to happen.

It's been disappointing to see how Hon Tracey Martin has refused to engage with women, including many lawyers, on this issue.

Withheld under s9(2)(a)



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Document 28:

From: Bevan Marten [<mailto:bevan.marten@vuw.ac.nz>]

Sent: Monday, 8 October 2018 4:58 PM

To: T Martin (MIN) <t.martin@ministers.govt.nz>

Subject: Births Deaths Marriages and Relationships Registration Bill

Dear Minister,

Please see the attached letter.

Kind regards,

Dr Bevan Marten

Senior Lecturer

School of Law, Victoria University of Wellington

PO Box 600, Wellington 6140

New Zealand

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Mobile: + 64 (0)274 411 511

<http://www.victoria.ac.nz/law/about/staff/bevan-marten>

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Document 28B:

Hon Tracey Martin MP
t.martin@ministers.govt.nz
Parliament Buildings
Wellington
8 October 2018

Dear Minister,

The Name "Justice"

I am a legal academic in Wellington, and I am hoping to convince you to champion a short SOP on your current Births Deaths Marriages and Relationships Registration Bill for a good cause – one that I believe aligns closely with your principles.

In recent weeks I have been in the media (The Spinoff, TV3's The Project, Newshub, Radio Live) arguing that people should be able to name their child "Justice".

It's a name that is often rejected by the Registrar of Births as it is potentially confused with an official rank/title. In fact it is the single most banned name in New Zealand (65 families affected in the last 5 years), and I think it's ridiculous.

I made a submission on the Bill asking the Select Committee to make an amendment, but the submission was not accepted. I do not think the officials' advice (page 4 of the departmental report) is very well reasoned. For example, the current law is being applied inconsistently not because of some internal process failure, but because some families are allowed to use the name and others are not. Further commentary on the advice is attached.

An amendment to correct this would be very simple - one line in fact; I drafted it in my submission - and promoting it would tie in with your background as a campaigner for children and their families. This is a case where the official advice should take a back seat to the Minister's gut response, as a person representing diverse communities.

The feedback I have received throughout this little campaign is very positive - people think the ban is silly. Meanwhile, the issue means a lot for those families who can't name their kid after a lovely virtue that we all strive towards.

Yours sincerely,

Dr Bevan Marten

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Response to departmental advice

[20] *The public interest exceptions, including the “ranks and titles” rule, are principles-based. Making an exception for any one name or title has a high risk of unintended consequences. It is also highly likely to result in calls for other exceptions.*

Barring some people’s names for confusion with ranks and titles, and not others, is not the hallmark of a principled stance. It is a policy decision that Parliament has decided to enact, and which the Registrar carries out on a case by case basis. Not a single example of an unintended consequences are suggested by the officials, and the report shows that no other calls for exceptions have been made. There is no harm identified here. Furthermore this is not a policy adopted in countries such as the United States, or the United Kingdom (the place from which many of New Zealand’s ranks and titles originate).

[21] *Our records indicate 65 requests for the name “Justice” or a name resembling Justice (with various spellings) have been received in the last five years. Eight are pending awaiting further information from the parent/s. In 17 cases, the parent/s chose another name. Thirty-five of the remaining 40 applications were approved where “Justice” was a second name.*

This shows how many families are affected by this – and also how many have to wait on the naming of their child for a bureaucrat’s decision, which could go either way!

[22] *The submitter suggests the law is being applied inconsistently. However, the process for handling such applications is intended to minimise that risk. A name that may contravene the “public interest” exception is flagged automatically as part of the registration process. The application is then referred to a specialist team, which, as a first step, asks the parent/s why they want to name their child “Justice”, for example. Some parent/s choose another name at this stage.*

If one child is allowed to be called “Justice” and another is not, then the law is inconsistent. Regardless of the process being followed by the Registrar, which appears to intimidate some parents out of their first choice of name.

[25] *For completeness, we note the public interest exceptions, including the “ranks and titles” rule, applies only to a person’s official, registered name. There is no restriction on the use of “Justice” on an informal basis. Nor is there any restriction on someone with Justice as a registered second name being commonly known by that name.*

The fact people can still go about their lives being called “Justice” goes to emphasise the lack of harm being done by people using the name, and the lack of any principled basis for excluding it as a name.

Document 29:

From: **Withheld under s9(2)(a)**
Sent: Wednesday, 10 October 2018 2:03 PM
To: Hon Tracey Martin <Tracey.Martin@parliament.govt.nz>
Subject: BMDRR

To: Tracy Martin, New Zealand First MP

Ahiahi marie, Tracy,

We are writing in concern about the proposed changes to the BDMRR act. These are as follows:

1) The unintended consequences of this Bill'

Firstly, Sex Offenders who self ID would then be placed in Women's Prisons. This has happened in the UK. One transgender prisoner sexually assaulted four women this year. One worrying example is that of Malcolm/ Morganna Platt

<https://www.stuff.co.nz/national/crime/102887756/rapist-back-in-prison-for-plotting-to-train-girl-as-a-prostitute>

We believe vulnerable women deserve better. They should NEVER have to share a cell with a male.

2) The lack of consultation/ lack of transparency about the changes. We only found out by reading concerns and worrying news articles about what is going wrong in the UK, the US and even in Canada where a vulnerable woman in a refuge was forced to share a room and showers etc with a male.

We firmly believe that there needs to be a careful analysis of all the risks undertaken before any such law change is made.

3) The process has not been entirely democratic. It seems that women and girls, who would be most affected by the change - having to share changing rooms, refuges and prison cells with males- have not been consulted nor even considered in this proposed change. This appears to be an instance of significant social engineering, effectively losing the meaning of the words - men, women, girls and boys. This will have negative effects on vulnerable women and girls, as is already happening in the UK.

Finally, we believe that NZ laws should reflect evidence, science and facts. They should not be changed to reflect fiction. That way lies coerced totalitarian law-making.

We would appreciate you speaking to your fellow MPs about this matter.

Nga mihi,

Withheld under s9(2)(a)

Withheld under s9(2)(ba)

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Document 31:

From: **Withheld under s9(2)(a)**
Sent: Tuesday, 6 November 2018 5:58 PM
To: Rt. Hon. Winston Peters <Winston.Peters@parliament.govt.nz>; W Peters (MIN) <W.Peters@ministers.govt.nz>
Subject: Births, Deaths, Marriages and Relationships Registration Bill

Dear Hon Winston Peters,

I am writing to you as a supporter of the campaign by **Speak Up for Women**.¹ This letter does not denote membership or affiliation with **Speak Up For Women**.

Speak Up For Women is a non-partisan group of diverse New Zealanders that formed in response to the "self-ID" proposals in the Births, Deaths, Marriages and Relationships Registration Bill (Reported by the Governance and Administration Committee on 10 August).

I am writing to you because I'm hoping you will be able to take some time to meet with me to discuss proposed changes to the Births, Deaths, Marriages and Relationships Registration Act 1995, which have been proposed by New Zealand First MP Tracey Martin. I am writing to you because it is my understanding that Ms. Martin has not responded to requests for a meeting with her about her Bill from either **Speak Up For Women** or its supporters.

For your information, some background and the details of my concern, including references, are attached to this letter to Tracey Martin written by **Speak Up For Women**:

<https://speakupforwomen.nz/letter-to-tracey-martin/>

The focus of my concern is twofold:

1. The rushed and non-consultative process that has led to the Select Committee's recommendations; and
2. The unforeseen impact of the proposed changes, particularly on existing sex-based exemptions under the Human Rights Act.

I urge you to vote against the administrative change made to the BDMRR Bill at the Select Committee stage. The administrative change deleted Part 2, Subpart 7 of the Bill as introduced and inserted new clauses 22A -22J. These changes have not been the subject of any public consultation. To vote against this administrative change may require two actions:

1. Voting against the Bill at its second reading;
2. Tabling a Supplementary Order Paper at the Committee stage of the Bill to ensure the original wording of the Bill is retained.

I would very much appreciate if you could review and support the Supplementary Order Paper that is already garnering signatures of support from New Zealanders from all walks of life:

<https://speakupforwomen.nz/to-all-members-of-parliament/>

This SOP is supported by a petition to parliament made by Charlie Montague that gained 1610 signatures. I understand that Anne Tolley is to present this petition:

https://www.parliament.nz/en/pb/petitions/document/PET_79009/petition-of-charlie-montague

For comparison, the petition that prompted Tracey Martin's self-id bill only received 56 signatures.

I urge you to support public consultation around this significant proposed change to the legal definition of "female," and a review of how the proposed changes will affect sex-based exemptions under the Human Rights Act.

I look forward to hearing from you on the action you will take to affirm the importance of female-only spaces and services. I hope you will agree to meet with me and talk to your colleagues about this matter.

Yours sincerely,

Withheld under s5(2)(a)

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Document 32:

Withheld under s9(2)(ba)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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Document 33:

From: **Withheld under s9(2)(a)**
Sent: Friday, 16 November 2018 11:49 PM
To: T Martin (MIN) <T.martin@ministers.govt.nz>
Subject: DNA

Dear Minister

I am concerned about the proposed change to sex on birth certificates. I understand that people wish to be recognised and respected for who and what they are. I think it would be better to go down that path.

My concern about this proposed change is that it may well be a breach of human rights. When you change your sex in this way you do not change your dna. Recent events have brought to the fore the importance of our DNA in much publicised cases of killers identified by the DNA and family trees of their relatives posted online. When you post your DNA online you are posting the DNA of everyone who shares that DNA with you.

Like many people who do their ancestry I have come across numerous cases amongst peers in genealogy groups of people who are adopted or have non paternity issues. The tricky bit is how to work out how people are related once a match has been established. For example if two females have a match on the X (the sex) chromosome it could be they match for both their Mothers or one Mother and the other Father etc etc

The X chromosome a man passes on to his daughter is his Mother's X chromosome. So every female on the planet has one X chromosome from her Mother and one from her Father's Mother. When women inherit their X chromosome from their Mothers it is usually a combination of the X chromosome they inherited from both their parents.

So if someone for example had the sex on their birth certificate changed to male and down the track someone thought that person's X chromosome was their Mother's because of that one X chromosome a man inherits, it could set the hunt for a parent down the wrong track. This might make it almost impossible to track the correct information and therefore in effect deprive someone of their parent or knowledge of same.

In tracking unknown relatives who are a DNA match you use a good paper trail or a part paper trail plus the DNA. You may sometimes have to ask other descendants to whom you are related in an X match event to put their DNA up to a site which shows an X match (most of the commercial DNA sites do not show that) in order to find out in what way you are both related to a third relative. To see if their match is for a Mother or a Father on one side of the tree to narrow the search. You triangulate in this way.

It has been an education for me how harrowing it remains throughout life, even into their 80's, if people are unsure of their parentage and even grandparentage. And this is something which also has practical ramifications in today's world. It is not just a matter of how people feel.

The human rights legislation is not keeping pace with modern science. For example work has been done to transplant the mitochondria in cells if someone has a mitochondrial severe illness in the family and the parents wish to have a baby without that condition. Current commercial DNA testing tests for mitochondrial haplotype. The mitochondrial haplotype is something Mother gives to all her children so if the mtDNA does not match and no one told the child how they had been conceived they might discover down the track that something does not add up genetically and wonder whose child were they anyway.

I cannot emphasise how important it is for people to know who they are and where they come from. That is a basic human right. Anything which interferes with that breaches that human right. Please consider the wider ramifications of your proposed legislation.

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Document 34:

From: **Withheld under s9(2)(a)**
Sent: Wednesday, 21 November 2018 1:40 PM
To: Hon Tracey Martin <Tracey.Martin@parliament.govt.nz>
Subject: Does this help with the discussion

Hon Tracey Martin

What does Government need to record on a birth certificate to carry out it's services. And why does it matter to anyone what is recorded. What matters is that services provided by the state are provided without prejudice.

A friend has a poodle that sort of miaows and purrs. It never barks. Turns out it was reared by a cat. It's DNA and biology is dog. It's sociology and probably an aspect of DNA causes it to identify as cat.

I might have been born as Chinese and raised by Navajo Indians. My DNA would show me to be of Chinese race. But sociology would likely cause me to strongly identify as Navajo.

I have human DNA and biology which comes in one of two sexes, male or female. As time progresses DNA and sociology may make me want to identify somewhere along a femininity-masculinity spectrum which uses the same labels as the sex categories, ie. female, male, but also needs to include other non-binary labels for anything in between. It is this femininity-masculinity spectrum that in recent discussions gets confused with biological sex. I might for sociological reasons and through DNA expression eventually be compelled to identify as somewhere along this spectrum. However, how I identify doesn't change my biology in relation to my sex.

Government's birth certificate records the facts as they're known at a point in time. Presumably someone decided what was useful data to record at birth. On the face of it, it would appear to be data that enables Government to uniquely distinguish me from others, ie. date-time, sex, biological parents, and location.

Maybe the data that is collected should be reviewed? Should sex not even be recorded? Does Government need to know my gender identity". If so, for what purpose. Government doesn't need to record my sexuality for any services provided. If it's decided they do need to know gender identity, then wouldn't it make more sense to add a new data element such as "gender identity" which enables me to record my place on the femininity-masculinity spectrum.

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Document 35:

From: **Withheld under s9(2)(a)**
Sent: Thursday, 22 November 2018 6:06 AM
To: Rt. Hon Jacinda Ardern <Jacinda.Ardern@parliament.govt.nz>
Subject: Births, Deaths, Marriages, and Relationships Registration Act 1995

Dear Prime Minister Ardern,

I write to you with some distress from the wave of anti-transgender rhetoric that is emerging from New Zealand. I was delighted to learn about the upcoming bill to amend the Births, Deaths, Marriages, and Relationships Registration Act 1995. However, I fear that the toxicity of a similar 'debate' raging here in the UK will reach our home shores.

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There is currently a push from the UK government to make a similar change to the Gender Recognition Act here to streamline the process by which trans people can have their gender identity recognised in their legal documents. However, this has been met with some toxic opposition by various groups who argue that this would compromise the rights and safety of women - particularly with the hypothetical scenario of cisgendered men taking advantage of it to gain access to women's safe spaces.

I write with the fear that this type of scaremongering and public demonising of trans people will soon reach NZ. Articles such as this: <https://www.stuff.co.nz/national/health/108740984/bill-on-transgender-birth-certificates-creates-big-issues> (by Whaleoil bloggers) are already tightening the screws. There are a number of groups (some right wing pot-stirners and some feminists) who want a 'debate' on this. A debate on any contentious political issue is usually not a bad thing. However, in a scenario like this where the evidence of misuse of the systems which support transgender people is so minute, a debate can only be a catalyst for misinformation. I must say that I am relatively immune to what goes on in NZ these days, but I have some dear friends in NZ who are transgender and are set to lose so much of their freedom and right to public services and facilities from such negative propaganda. I write with the reminder that you must protect the weakest members of your society.

Could I please ask that you take great care in getting this bill through safely and that you do your best to dull this type of mis-information? A number of transgender pioneers (e.g. Georgina Beyer, Dr JJ Eldridge and Prof AW Peet) call NZ home. Please do not let this turn into a political football. If you need any information or assistance on this matter, I would be happy to oblige.

With best wishes,

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