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## Women in Queensland. Back to the Future.



The public and private lives of women have come under scrutiny in Queensland in the last couple of months, including in a series of statements by LNP parliamentarians and advisers. What is the status of women in Queensland in mid 2012, a few months after the swearing in of the Newman government?

### The Masculine Parliament

The overwhelming majority of the LNP government in the new Queensland parliament, following the March election, also represents an overwhelming majority of men in parliament. Having posed the question as to why this is, feminist author Carole Ford was attacked in a private email sent by Max Tomlinson then-adviser of liberal Senator Ian McDonald. The email also posited Tomlinson's belief that women were not capable of being leaders because of their lack of testosterone.

While Tomlinson has since resigned, that this view was expressed even privately represents a worrying trend in the Queensland majority parliament. Member for Cairns Gavin King has, for example, written (albeit before his election to parliament) that women are at least partly to blame for a sexual assault if they have been drinking. At best, this represents a fundamental misunderstanding of the nature of sexual assault and the nature of consensual sexual relations.

At a June seminar at QUT women were put in their place again. When asked why there were so few women preselected for the LNP in the recent Queensland election, former LNP state secretary Michael O'Dwyer said that women were not preselected because the LNP operated on merit, not on quotas. Further, in a breathtaking example of stereotyping, he said that if women were more interested in policy and less about shoes, then perhaps they would have a better chance at preselection. Women are, according to O'Dwyer, 'their own worst enemy'.

I like to think that my interest in shoes, or the fact that I sew would not disqualify me from seeking public office. I have even given birth three times and

### ABOUT ME





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I lecture in land law at James Cook University and I write and think about the nature of property and its representations in the law; about issues affecting women; about justice generally; and about legal education.

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still manage to present my work around Australia and around the world. Once I even wore lacy tights and lipstick. My capacity as a professional does not seem to have suffered.

#### Whose Standard: Yours or Mine?

These examples represent a fairly consistent position on the role of women in the public and the private spheres. In the public sphere, the masculinist paradigm continues to be the yardstick. If women seek to be preselected for parliament for example, they need to have sufficient testosterone, sublimate their nurturing selves (their very *raison d'être*, apparently) and present themselves *just like men do* in terms of policy. Measure up 'girls', or miss out.

These statements demonstrate a singular lack of insight into the exclusion of women from even approaching the starting line for involvement in public life. This exclusive practice is replicated in the tedious and ongoing debate about women's appearance in the workplace, and in politics – look feminine, but not sexy because it's important to dress appropriately for the circumstances.

Translated, this means that it's important to meet the standard of the (heterosexual) male gaze. The same gaze that may, understandably it seems, sexually assault that woman if she's had a few too many to drink.

#### Controlling Private Life: Affiliation, Family, Fertility

And this leads us to the private sphere. Not only does the Newman Government seek to regulate women's involvement in the public sphere through the imposition of invisible and unacknowledged masculine benchmarks of suitability, but it also believes that relationship status, an essentially private issue, is a legitimate means of control of a person's fertility and family life. This is achieved very effectively through the winding back of the former government's civil union legislation and proposals to restrict access to altruistic surrogacy.

While these issues may seem primarily targeted at same-sex couples, the elevation of relationship status as a determinant of rights of any kind is concerning also for women. The purpose in this post is not to debate surrogacy itself: on the basis that altruistic surrogacy is permitted under Queensland law, the question is rather to whom is surrogacy open. The Queensland proposal is to disallow surrogacy to singles, same-sex couples and those in a relationship for under two years.

I have written before about the problematic nature of marriage at law, and the law's capacity, having created or validated such an institution, to use it as a tool of control in either the public or private sphere. So long as marriage remains available at law and viewed as *the* foundational social institution, one's relationship status (ie married or not) can be used by the law as a means of discrimination.

The claim is made that same-sex couples and de facto partners now enjoy 'the same rights' as those who are married – for example, in terms of settling property disputes, the *Property Law Act 1974* (Qld) de facto provisions apply likewise to same-sex de facto couples. The fact that the Queensland Government refuses to elevate same-sex relationships to the status of marriage demonstrates that this is untrue. Instead this is an example of how the law can use marriage as a means of control of life the private sphere. Watering down the civil union legislation is one way to shore up the exclusion of same sex-couples from surrogacy - simply on the basis of the parties' relationship status.

There is apparently an argument that the proposed surrogacy restrictions are in the best interests of the child - namely that every child has the 'right' to a mother and a father. Such arguments are spurious. A one-night stand with an anonymous sexual partner can produce offspring; death of a partner can result in a one-parent household; and the courts will award to a widow a possessory

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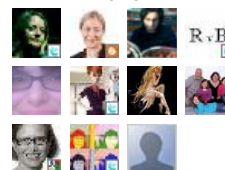
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right to the sperm of a deceased husband for the purpose of procreation.

Exactly what or whose rights are being protected by the Newman government's surrogacy restriction proposals is unsure. In spite of an implied contention by the Australian Christian Lobby to the contrary, the UN Convention on the Rights of the Child do not mention parental gender identity or relationship status as a right. On the other hand, the International Covenant on Civil and Political Rights recognises the right of men and women to marry and found a family (Art 23). The Health Minister, Lawrence Springborg, has helpfully said that his best friend is gay and he doesn't support 'gay surrogacy'. This is somewhat missing the point.

That proposals have included a potential jail term for those entering into an arrangement for altruistic surrogacy is of particular concern. The Queensland Law Society has voiced its own concerns about the proposed changes, pointing out that they are discriminatory. With personal liberty at stake, this is an important point. A similar inconsistency between discriminatory state laws and Commonwealth anti-discrimination laws was resolved in the Commonwealth's favour in *McBain v State of Victoria*. Relevantly in this case, a state law discriminating against women based on their marital status was found unconstitutional.

In addition to erosion and proposed erosion of substantive rights based on relationship status, the Newman Government has cut back funding for front line screening and education services concerning sexual and reproductive health for women, LGBTI people and prisoners. Dismantling such services represents a disregard for the importance of education and support for personal autonomy in matters sexual health.

#### Back to the Future

Exclusion of women from the public sphere and the use of relationship status as a means of allocating personal rights to citizens represents a serious regression in women's status in society overall. The masculine heteronormative aspects of this regression are also playing out in the status of LGBTI citizens in terms of self-actualisation or autonomy in personal and family decision making and sexual and reproductive health.

How have we come to this?

Posted by Kate Galloway at 11:26

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