

Katharina Rose
Geneva Representative
Global Alliance of National Human Rights Institutions (GANHRI)
UNOG CH – 1211
Geneva 10
Switzerland

12th May 2023

Dear Ms Rose

We are a UK human-rights organisation campaigning for clarity about sex in law and policy. We are writing together with 24 UK organisations.

We believe that clarity about sex supports everyone’s human rights, including rights to freedom of expression and belief, freedom from humiliating treatment, freedom of association and privacy.¹

Female-only spaces are crucial to enable women to participate in public life. Our survey on the importance of single-sex services revealed how much single-sex spaces and associations matter for many women (including older women, disabled women, lesbians and women from faith communities).² Reasonable accommodations for people who feel uncomfortable with their sex must not destroy the dignity, privacy and autonomy of others.

The UK has a well-established system of laws protecting against discrimination. At its heart is the Equality Act 2010. When this law was enacted it reformed and harmonised existing protections against discrimination on the basis of sex, age, race, disability, pregnancy and maternity, religion and belief, sexual orientation, marriage and civil partnership and gender reassignment.

Each of these is a separate protected characteristic, but recently the legal concept of sex has become confused with being transgender. Efforts to maintain the distinction are misrepresented as “transphobia”.

Clarity about the law is fundamental to human rights. The law, on sex discrimination, must be sufficiently predictable that individuals and businesses know when and how to apply it. The current ambiguity over whether the relevant categories for sex discrimination provisions refer to biological sex or sex as modified by a gender-recognition certificate creates uncertainty.

¹ [Sex Matters \(2022\). *Why sex matters for human rights – our organisational framework.*](#)

² [Sex Matters \(2022\). *Why single-sex services matter: privacy, dignity, safety and choice \(key findings\)*](#)

Sex Matters is a human-rights organisation campaigning for clarity about sex in law, policy and language | sex-matters.org | info@sex-matters.org

Directors: Michael Biggs, Rebecca Bull, Julia Casimo, Naomi Cunningham, Maya Forstater, Emma Hilton

The Equality and Human Rights Commission (the UK's independent national human-rights watchdog) has found that service providers and employers have difficulty in understanding and applying the laws as they relate to sex-based protections for women. Problem areas include sports, refuges for victims of violence and health services. After undertaking a broad analysis it concluded that clarifying the Equality Act should be seriously considered in order to bring greater legal clarity and support fairly balancing rights in practice.³

A gender-recognition certificate was never intended to remove the existing protection from sex discrimination from a trans person (such as a transman being discriminated against because of being a mother), or to be an "access all areas" pass to spaces provided for members of the opposite sex.

The rights of trans people sometimes have to be balanced with the same rights for others, including the unqualified right to freedom from inhuman or degrading treatment (Article 3) and freedom from interference with private and family life (Article 8). Degrading treatment can include being made to undress or share intimate spaces with members of the opposite sex (Valašinas v Lithuania, 2001, § 117). Where such treatment does not reach the minimum level of severity to breach Article 3, it may still breach Article 8, which includes autonomy over an individual's sphere of personal interaction.

In recent years, people who express the "gender critical" belief that sex is real, immutable and important have faced discrimination, harassment and bullying in employment and in public life: they have had meetings cancelled by venues, faced investigations at work, been called in for police questioning because of comments made on social media, and faced violent and intimidating protests.

GANHRI has recently received a letter from Stonewall and several associated organisations⁴ complaining because the Equality and Human Rights Commission has recommended that the UK government gives serious consideration to clarifying the definition of sex in the Equality Act. It incorrectly suggests that this is "restricting the Act's protections to 'biological sex'" and "excluding trans people, in particular trans women, from everyday public spaces".

In fact, the proposal is to **clarify** the meaning of the protected characteristic of sex in the Equality Act. This would not restrict the Act's protection for transgender people, who are also covered specifically by the characteristic "gender reassignment". In fact, it would improve their rights, as it would ensure that they retain the protections afforded to them against discrimination based on their biological sex.

The GANHRI Sub-Committee on Accreditation has emphasised that regular and constructive engagement with civil society is essential for NHRIs to effectively fulfil their mandate, and we appreciate that the EHRC has engaged with us. Representatives from Sex Matters, Fair Play for Women, Safe Schools Alliance, Labour Women's Declaration, LGB Alliance, Lesbian Labour, the Gay Men's Network and For Women Scotland have also recently met the UN Independent Expert on SOGI.

We are writing to you, to the Office of the High Commissioner for Human Rights, to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, and to the UN Special Rapporteurs on violence against women and girls, on freedom of religion or belief and on the Torture and Other Cruel, Inhuman or Degrading Treatment.

³ [April 2023 letter from the EHRC Chair to the Minister for Women and Equalities.](#)

⁴ [May 2023 letter from Stonewall to GANHRI.](#)

We call on all of you to support Great Britain and its national human-rights institution, the EHRC, in protecting everyone's human rights and fostering dialogue between organisations that also respect rights.

We hope that as international institutions and experts on different aspects of human rights you will stand up for the principles of protecting everyone's human rights and of engaging in constructive dialogue, and not take the accusations about the UK's national human-rights institution at face value.

Yours sincerely



Maya Forstater
Executive Director



Helen Joyce
Director of Advocacy



Naomi Cunningham
Chair

Letter supported by:

LGB Alliance

Fair Play for Women

FILIA

Women's Rights Network

Woman's Place UK

Free Speech Union

Scottish Feminists Network

For Women Scotland

Merched Cymru

Conservatives for Women

Labour Women's Declaration Working Group

Liberal Voice for Women

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Lesbian Labour

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Lesbian Strength