

Meeting with Victor Madrigal Borloz

Sex Matters' Executive Director Maya Forstater is meeting with the **Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**, on May 4 2023 as part of his visit to the UK. the IE-SOGI Victor Madrigal Borloz is studying the different manifestations of violence and discrimination based on sexual orientation and gender identity". His mission is to identify good practices as well as challenges towards the elimination of violence and discrimination based on sexual orientation and gender identity during his visit, on the basis of which he will provide recommendations to UK authorities based on international human rights law and standards.

About Sex Matters

Sex Matters is a human rights organisation campaigning for clarity on sex in law and policy. In particular we are concerned with the human rights of people who are "gender-critical": that is who believe that sex is binary, immutable and important. This includes many gay, lesbian and bisexual people as well as people who identify as transsexuals, transvestites and transgender who may be same-sex attracted or are same-sex attracted.

Our human rights analysis

<https://sex-matters.org/posts/updates/trans-rights-are-human-rights/>

Key rights include **freedom of belief and freedom of speech**: People should be able to express themselves and live as they choose, while respecting others' rights.

Another key right is **Article 3: freedom from torture and inhuman or degrading treatment** (which includes being forced to undress in front of members of the opposite sex), and **Article 8 which also relates to bodily privacy and autonomy**.

It is sometimes argued that those who call for clarity on sex, for clear single-sex spaces and for protecting children from making life-long decisions that may harm their health are "anti-trans" or seeking to destroy "trans rights". This is false.

We recognise that trans people have human rights, but other people have human rights too, and in some situations these rights depend on being able to recognise that sex is immutable and important. For example:

- Male prisoners should not be placed in female prisons
- Everyone has a right to decide who gets to see and touch their body intimately
- No one should be required to pretend they can't tell what sex other people are
- Lesbians should not be forced to pretend that straight men are lesbians

We are deeply concerned about the practice of telling gender non-conforming children (who would often grow up to be gay) that they may be “born in the wrong body” and attempting to “convert” them to appear more like a member of the opposite sex with hormones and surgery.

Engagement with Mr Madrigal Borloz

We have previously written to and about Mr Madrigal Borloz’s mandate and we draw these submissions to his attention again:

- On 13 December Mr Madrigal Borloz sent **a letter to the Scottish Government** calling for legal change to the system of issuing Gender Recognition Certificates - we published **a response** on 18th December 2022
<https://sex-matters.org/posts/updates/act-of-compliance/>
- On 18 January 2023 we submitted a **response to a call for consultation on Freedom of Belief**
<https://sex-matters.org/posts/updates/freedom-of-belief-matters-2/>
- On 24 February 2023, in advance of this visit to the UK we sent “**Lesbians Without Liberty**” our report on how the UK discriminates against lesbians and gay men by denying them freedom of association.
<https://sex-matters.org/posts/single-sex-services/lesbians-without-liberty-2/>

The mandate of the special representative comprises two different kinds of rights. **Freedom from violence** and **Freedom from discrimination**. They are different, though both are important. .

There is no absolute prohibition on discrimination as such; only against discrimination that unacceptably infringes on the enjoyment of other human rights. Many of these rights are qualified and need to be balanced with other legitimate interests, and other people’s rights.

The danger with the formulation “violence and discrimination” is that it can be used to unjustly override protection for other people’s rights by conflating violence with discrimination, and wrongly equate not treating people as the opposite sex on demand (or not allowing them to change their legally recorded sex) with discrimination.

In the UK, the vast majority of people who identify as trans (some 100,000–250,000)

have not changed the sex recorded birth certificates, and there are no reports of killings, death threats, beatings, abduction etc. These people's right not to be discriminated against by the police, or in the provision of healthcare and public services, is protected by the Equality Act.

Argentina, by contrast, passed the world's first gender self-ID law in 2012, since when the country has seen 82 trans people die by violence. In the same period there have been five deaths of trans people by violence in the UK, none of which was linked to the individual having or not having a GRC.

The rights of lesbian, gay, bisexual and people and of transgender people in the UK are amongst one of the most advanced in Western Europe:

- Same-sex sexual activity - lawful, with equal age of consent equalised in 1981
- Civil partnership (2005) and same-sex marriage (2014, 2020 in Northern Ireland)
- Same-sex adoption
- Military service (Since 2000)
- Official pardon for previously criminal activities
- Anti-discrimination protection for both sexual orientation and transgenderism

The UK is rated as one of the safest places in the world to be LGB or T¹.

The UK's Equality Act protects everyone against discrimination and harassment including women (on the basis of sex), LGB people (on the basis of sexual orientation) and transgender people (on the basis of being trans "gender reassignment").

Our key messages:

1. **Single- sex services** (both specialist and everyday) are critical for the full inclusion of women and girls in public life. We have collected survey evidence from over 6,000 people about why single-sex services matter <https://sex-matters.org/posts/updates/why-do-single-sex-services-matter/>.
Where single-sex services are lost women and girls lose out .
2. In the course of the UK's national discussion about how to treat sex and gender identity in law and policy, and how to protect single sex services, many gender-critical people – overwhelmingly women, including lesbians, but also gay men – **have been subjected to personal abuse, threats, loss of jobs and livelihoods, and even physical assault.**
3. The UK government's current interpretation of the interaction between the Gender Recognition Act and the Equality Act (which views a GRC as changing a person's sex for the purposes of the Equality Act) **limits single sex freedom of association**

¹ <https://www.asherfergusson.com/lgbtq-travel-safety/>

- this means that lesbian associations cannot exclude heterosexual males who identify as women if they have a government certificate deeming them to be women (and vice versa for gay men). In practice freedom of association for lesbians and gay men is limited even where people do not have a GRC, by confusion and fear about distinguishing between sex and gender identity.

4. Alongside the environment of fear of talking clearly about sex and gender, there has been a **rapid increase in the number of children and young people identifying as transgender and seeking treatment with hormone blockers and hormones**. Most of these children are same sex-attracted. This medicalising of gender non-conforming children is often driven by homophobia and is a **modern form of conversion therapy**.

We are calling on the UK government to clarify the Equality Act so that the protected characteristics sex and "gender reassignment" are protected as separate characteristics, and are not confused.

This would protect women's rights and transgender people's rights.