

Submission to the Report on Gender, Sexual Orientation and Gender Identity

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Bio:

I am a Professorial Fellow in the School of Social and Political Studies at the University of Melbourne, where I taught from 1991-2015. I now live back in the UK. I have written 11 books on feminist and lesbian feminist theory and politics including *Gender Hurts: a feminist analysis of the politics of transgenderism* (2014) and numerous journal articles and book chapters on transgender politics. I have been active in feminist work nationally and internationally for 5 decades.

Aim of this submission:

To show that the concept of 'gender identity', when it implies that men can be included in the category women, threatens women's sex-based rights.

The importance of language

A reconsideration of the language used in UN documents that relate to women and sexuality is urgently needed. This report is unlikely to help, however. The opening paragraph of this call for submissions, entitled 'Background' is fundamentally confused and unfortunately this confusion continues throughout the document. It starts with the understanding of the difference between sex and gender that was, till the last decade, accepted in the human rights community i.e. that sex is biological and gender is a social construct. Gender is a harmful social construct, which is called in CEDAW, 'stereotyped roles'. Indeed, Article 5 of CEDAW says that 'States Parties shall take all appropriate measures', 'To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.' Sex stereotypes are not something to be celebrated but to be abolished in order to create women's equality.

It moves on to talk about 'gender identity'. Since 'gender' consists of sex stereotypes it follows that 'gender identity' consists of a mental condition constructed from sex stereotypes and should more properly be called 'sex stereotype identity'. 'Gender identity' is an entirely new concept which does not derive from women's human rights work but is actually opposed to it because it suggests that sex stereotypes are positive and in need of protection rather than abolition. Legislation which enshrines 'gender identity' in the law provides legal support for sex stereotypes. 'Gender' is seldom defined in this legislation probably because it cannot be explained outside of 'sex stereotypes' since there is no 'essence' or biological basis to 'gender'. 'Gender identity' is, therefore, a legal fiction. 'Gender identity' is the result of the subordination of women. Without the sex stereotypes constructed to subordinate women, now usually called 'gender', the female 'gender identity' that some men claim to possess could not exist.

The clash of rights

In the UK, as in many countries presently, there is a struggle taking place between those who believe in 'gender identity', and it is a belief rather than a matter of material reality, and a newly revived feminist movement which has developed precisely in reaction to the attempts to protect 'gender identity', particularly self-identified 'gender identity', in law. This new movement consists of hundreds of organisations and many thousands of individual feminists who are engaged in legal action, in petitions and submissions and much on the ground education work to protect women's rights from the incursion of men with female 'gender identities' into women's spaces and opportunities.

The recognition in law of 'gender or 'sex stereotype' 'identity', where this means that men can claim to be women, creates a very serious clash of rights. Women's human rights are based on sex. The inclusion of men with sex stereotype identities within the category of women threatens women's human rights on many fronts. It enables men to enter all the spaces set aside to protect women's dignity and safety such as toilets, changing rooms, and prisons. It enables men to take advantage of all special measures which seek to increase women's representation in politics such as all-women shortlists. The idea that people might have 'gender identities' has been extended to children with the effect that thousands of children have been treated with harmful puberty blocking drugs, cross-sex hormones and surgeries (Jeffreys, 2012). This practice has been seriously curtailed in the UK by a court case taken by a young lesbian who has 'detransitioned', Keira Bell, and led to an opinion that children cannot consent to these treatments and, if under 18 years old, would need the permission of a court to proceed (Transgender Trend, 2020). That which the document calls, in question No 11, 'gender ideology' has led to sexual education programmes in schools in the UK and many other countries that tell children that it is possible to change sex which can lead to serious harm to their developing bodies, such as infertility, and harm to their life chances.

Some of the most energetic transgender rights activists who promote the notion of 'gender (or sex stereotype) identity' are involved in a campaign to silence the women and organisations which seek to illuminate this clash of rights and protect the sex-based rights of women. This is increasingly taking the form of 'hate speech' legislation and 'conversion therapy' legislation which are likely to prevent women from saying that biological males with gender identities are actually men, and from questioning the conversion of young lesbians into heterosexual boys through drugs and surgery. There are many examples of women being sacked, receiving threats, being arrested or visited by the police and being taken to court for saying that men cannot become women. The campaign to intimidate women into silence is being waged against women politicians in particular. This campaign includes the hanging in a tree of an effigy of the Deputy Prime Minister of Spain, Carmen Calvo, on 19 February 2021 because she was critical of legislation allowing men to self-identify as women (El Comun, 2021). No other rights campaign in history has proceeded through threats and intimidation which extinguish the human rights of others to freedom of expression. This is something very different.

The legislation and policymaking that has taken place in the UK and other countries has been deliberately clandestine in order to avoid the possibility of critical public scrutiny. Transgender rights activists in some cases advocate stealth campaigning to achieve policy change (IGLYO, 2019). Women's and feminist groups have, in many cases, not been approached to make submissions. Where consultations have been public such as that on the UK's move to pass self-identification legislation, this has engendered fierce opposition from women and feminists.

'Gender identity' clashes with lesbian and gay rights

A fundamental problem with this document is that it runs together sexual orientation and gender identity. As a lesbian feminist who has researched and written on lesbian feminism amongst other topics of sexual politics for several decades, I am aware of the great importance of lesbian and gay rights. They need to be protected. The running together of these two concepts seriously undermines the ability to protect lesbian and gay rights. Lesbians and gay men are attracted to persons of the same sex, and that attraction has nothing to do with gender. Lesbian rights are seriously harmed when men with female 'gender identities' pretend to be lesbians and penetrate lesbian spaces, such as dating apps, and pressure lesbians to allow these men sexual access. Male gay rights are harmed when they are pressured to engage sexually with women who have male 'gender identities'. Young lesbians and gay men who are diagnosed with 'gender dysphoria' are being converted through drugs and surgery to be heterosexual. One study from the UK found that only 8.5% of girls referred to GIDS (Gender Identity Development Service) described themselves as 'primarily attracted' to boys (Griffin, Clyde, Byng and Bewley, 2020). The protection of 'sexual orientation' rights, which are based on 'sex', is undermined by the association with 'gender identity' rights and this association should be severed.

At this time there is an urgent need to protect women's right to free expression and for the UN to take notice of what women are expressing, i.e. the need to protect women's sex-based rights from the incursion of men with 'gender identities' into the category of women. The tinkering with language to include men's interests in that which concerns women should be brought to an end.

Recommendations

1. The word sex should be retained or adopted in all UN documents concerning women.
2. The word 'gender' should be used only where it refers to sex stereotypes and should be clearly defined.
3. Sexual orientation should be separated from 'gender identity' so that the rights of lesbians and gays can be protected rather than threatened.
4. Women's right to free expression must be offered the strongest possible protection so that women can challenge and criticise the way in which the language of gender and gender identity threatens women's sex-based rights.

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