

# Women's Human Rights and recent UN initiatives

In the past few years, various UN bodies and experts, leveraging their status as supposed guardians of human rights, have advocated for positions and legal frameworks that are patently harmful to women, particularly women that are vulnerable in terms of economic, social or political status. Throughout the world, laws that are ostensibly for the benefit of the rights of 'marginalised' groups have trampled and threatened women's human rights, while dismissing the concerns of women as being actuated by selfishness and prejudice. [Laws championing 'self ID'](#), i.e. the claimed 'right' of an individual to be recognised as being of the opposite sex, or none, if they demand it, have been passed in [several western](#) countries. Moreover, a [group of 28 nations](#) have gone as far as to demand that all other countries follow suit, by setting 'self ID' laws as a laudable goal that must be achieved for equality. With the lone exception of the Special Rapporteur on Violence Against Women, Ms. Reem Alsalem, no UN agency or other representative from the Office of the High Commissioner of Human Rights has even acknowledged the conflict of rights, nor attempted to meaningfully answer the objections, preferring instead to label well-founded concerns as mere prejudice, and even failing to substantiate those allegations. In fact, for carrying out her mandate of protecting women and girls from violence, particularly in their freedom to express concerns, Ms. Alsalem has also been [unfairly targeted](#). It can be seen in these criticisms that they are mere assertions, with none of them being able to refute concerns or point to inconsistencies, instead relying on vague allegations about 'weaponising women's rights'. A recent meeting with the Independent Expert for Sexual Orientation and Gender Identity, Mr. Victor Madrigal-Borloz, [revealed a shocking ignorance](#) of the impact on same-sex attracted people of the demands of the trans-identified gender movement, despite issues being highly publicised and the subject of governmental reviews such as the [Cass Review](#). This is all the more concerning given that rights of same-sex attracted people are a specific part of his mandate. The impact on the rights and dignity of women, in fact, is still unacknowledged.

Repeated attempts by certain women's rights organisations to request an audience with the UN bodies and experts pushing these policies went unheeded until recently, with no space given to challenge or even justify their position. This ongoing assault on the basic human rights of women has reached culmination with the publication of the '8 March Principles' by the International Commission of Jurists, propagating an indefensible set of principles towards sexuality and gender, and framing them as being based on human rights. The question has now become – whose human rights? Because it is certainly not those of women.

Mr. Madrigal-Borloz has been a [stout champion](#) of 'self ID laws', painted as being necessary for the basic human rights of the trans-identified demographic. There has been little to no assessment as to whether this claim is justifiable, both as to its basis in established international human rights law, and as to its legal defensibility. It is highlighted here that the notion of 'self ID' – whether it relates to sex, gender, race, ethnicity, or nationality - has no precedent in international law. In fact, it would be considered laughable with regard to race, nationality, ethnicity, or indigenous identities if the mere unsupported claim of an individual to be something was sufficient for them to be granted that identity. Yet, for reasons that have never been justified or defended, the Independent Expert has [repeatedly pushed](#) for such a claim to be accepted in the area of "gender identity" – a concept that itself is constantly shifting, based apparently on a person's believed 'innate' sense of self, which on examination is based on sexist stereotypes. In effect, these laws, claimed to be necessary for the human rights of trans-identified people, give free license to anyone to demand to be treated as of a certain sex merely on the strength of their claim. The inevitable and wholly predictable effect of such laws has been that men, even those without any medical treatment, are housed in women's prisons in various countries, leading to the rape and violation of the women housed there. The Special Rapporteur on Violence Against Women has [voiced this concern](#) and danger when the law on self ID was debated in Scotland, but, as with other women who have voiced objections, her voice was unheeded, and her position vilified as 'attacking a marginalised population'.

In this latest iteration of attacks on the rights of women by the institutions claiming to defend them, [the 8 March Principles](#), ironically published on Women's Day, further endanger women, by affording protection to predatory men and criminal organisations. Specifically, Principle 17 takes a strong, absolutist view in support of prostitution (euphemistically labelled as "sex work"), demanding that sexual services for money should not be in any way prohibited or criminalised, absent fraud or coercion. It is a laughable position to take, considering that money, our present currency for existence, functions as one of the most effective forms of coercion in society. Every day, people stay in jobs with horrifying conditions or ridiculous demands for, in fact, money. While the merits of the entire labour market (and working for money) can be debated, it is obvious that monetary benefit is one of the most effective forms of coercion in existence, particularly for a group historically excluded from the labour market and economically disadvantaged in every possible way. The fantasy of 'exchange of sex for money without coercion' is not substantiated or defended in any reasonable way – a collection of optimistic-sounding words have been strung together to make the ICJ's position seem logical. Yet the ICJ does not give facts to support its position, nor does it honestly engage with the reality – that poor, desperate women, frequently migrants, will be instantly and immediately susceptible to having their desperation monetised and branded as 'consensual sex work'. In addition, it is well established that the sex trade involves extremely high levels of physical coercion by third parties who profit from the prostitution of others, such as traffickers and pimps. Decriminalising third party profiteering from prostitution except in cases where it can be proven that coercion or fraud has taken place creates impunity in practice for traffickers and pimps, partly because of the very high risks of violent retaliation for those who give evidence against them, a reality blithely ignored in the ICJ's Principle. In their stated motivation to emphasise that criminal proceedings should be the last resort in society, the Principles advocate for an approach where horrifying harmful behaviour towards women and children will go unpunished.

In Principle 16, in similarly loose and indefensible language, the ICJ calls for a legal system where the rights and capacity of persons under 18 years of age (universally recognised in existing

child rights law as minors / children) to ‘make decisions about engaging in consensual sexual conduct’ should be recognised. Additionally, it claims the existence of ‘consensual sexual conduct’ between children under the age of consent in ‘fact’ if not in law. Completely denying the sound basis on which protections for children from being participants in sexual conduct has been based, the Principle advocates for a weak, unsupported approach to sexual conduct of children at a stage where they are not yet legally recognised as adults capable of making long-term decisions. Undoubtedly, law, particularly criminal law, has to take a uniform approach to behaviour that cannot account for differing capacities, but has to be based on accepted knowledge about the majority. International law does not treat individuals younger than 18 years of age as possessing the legal capacity to make complex legal decisions, particularly ones that can impact them long-term. It is well recognised that teenagers under the age of 18 are highly vulnerable, very susceptible to peer pressure and other negative influences, and most at risk of making decisions that can be harmful to themselves.

Arguably, there is a concern that sexual conduct between teenagers of similar age is being criminalised. If that alone were the concern, policy recommendations should have been specific and narrowly defined. However, the ICJ’s advocated Principle is loosely and expansively drafted, throwing open the door for the exploitation of vulnerable teenagers by people older and more influential. Considering the expertise that ICJ has at its disposal, it is hard to believe that the careless language was an accident. Rather, it is deliberate and in furtherance of current ideological movements that sexualise children prematurely. In a strange twist, the backlash to these Principles sent the ICJ and other stakeholders such as UNAIDS scrambling to respond. In their response UNAIDS clarify that the Principles are against criminalising consensual conduct between teenagers of *similar age*, a crucial distinction that did not make it into the published ICJ Principles. (See images 1 and 2 below.) In light of the number of experts who were reportedly involved in this project, the troublingly careless language that ultimately made it into the ICJ’s principles is rightly objected to.

## PRINCIPLE 16 – CONSENSUAL SEXUAL CONDUCT

Consensual sexual conduct, irrespective of the type of sexual activity, the sex/gender, sexual orientation, gender identity or gender expression of the people involved or their marital status, may not be criminalized in any circumstances. Consensual same-sex, as well as consensual different-sex sexual relations, or consensual sexual relations with or between trans, non-binary and other gender-diverse people, or outside marriage – whether pre-marital or extramarital – may, therefore, never be criminalized.

With respect to the enforcement of criminal law, any prescribed minimum age of consent to sex must be applied in a non-discriminatory manner. Enforcement may not be linked to the sex/gender of participants or age of consent to marriage.

Moreover, sexual conduct involving persons below the domestically prescribed minimum age of consent to sex may be consensual in fact, if not in law. In this context, the enforcement of criminal law should reflect the rights and capacity of

THE 8 MARCH PRINCIPLES FOR A HUMAN RIGHTS-BASED APPROACH TO CRIMINAL LAW PROSCRIBING CONDUCT ASSOCIATED WITH SEX, REPRODUCTION, DRUG USE, HIV, HOMELESSNESS AND POVERTY

persons under 18 years of age to make decisions about engaging in consensual sexual conduct and their right to be heard in matters concerning them. Pursuant to their evolving capacities and progressive autonomy, persons under 18 years of age should participate in decisions affecting them, with due regard to their age, maturity and best interests, and with specific attention to non-discrimination guarantees.

*Image 1, from the ICJ Principles found [here](#)*

## \*\*UNAIDS Report

I want to read something on behalf of our colleagues at the Joint United Nations Programme on HIV/AIDS (UNAIDS), because there has been a lot of — how to say — malicious misreporting on a recent report on the age of legal consent. And I can tell you that the report released by the International Commission of Jurists in March has recently been misrepresented on a number of websites. It did not call for the decriminalization of sex with children, nor did it call for the abolition of the age of consent. The International Commission of Jurists report set out legal principles to guide the application of the international human rights law to criminal law across a range of issues. In the application of law, it is recognized that criminal sanctions are not appropriate against adolescents of similar ages for consensual non-exploitative sexual activity. So, too, it is recognized that adolescents should not be prevented from accessing health services, which protect them. The UN is resolute in fighting the sexual exploitation of children, upholds that sexual exploitation and abuse of children is a crime, and supports countries to protect children.

*Image 2, from the UNAIDS response, found [here](#)*

Framing the move to allow those under 18 to engage in sexual conduct as being based on ‘their rights’ and cognisant of their ‘evolving capacities’, with no serious engagement of whether the average teen under 18 does in fact possess that level of gravity, is disingenuous, and dishonest. By placing the burden of decision-making on a group recognised for its vulnerability, the position advocated by the ICJ pivots away from the risk posed, or the likelihood that malicious and ill-intentioned people will exploit a vague legal framework to manipulate young teenagers. It should be noted here that the ICJ’s highly objectionable approach was roundly criticised by many and led to an uproar, prompting them to issue a clarification. The tone-deaf call for recognition of sexual conduct between minors below the legally prescribed age that ‘may be consensual in fact’ tacitly legitimises sexual conduct in child marriages, a horrific form of oppression still perpetrated on girls worldwide, without any acknowledgement of the complexity and indeterminacy of ‘consent’ in such situations.

Finally, in Principle 18, the ICJ calls for protection from criminal liability for those carrying out any procedures, medical or cosmetic, that may assist in the exploration or affirmation of “gender identity”, so long as “free and informed consent” is given. While it includes ‘sexual orientation’ within this, it should be noted that ‘sexual orientation’ does not require any procedures for affirmation or exploration, it merely requires the state to refrain from criminalising same-sex sexual conduct or relationships. ‘Procedures’ for ‘affirmation’ is an idea that is only pertinent to the concept of “gender identity and gender orientation”, involving extensive medical intervention, hormone therapy and surgery to alter the appearance of those who wish to look more ‘typically’ of the opposite sex. By combining it with sexual orientation, the ICJ deliberately muddies the conversation, implying this is a freedom necessary for non-typical sexual orientations. Further, while it allows for proscription where ‘medical negligence’ is concerned, it refuses to acknowledge that affirmative procedures to change outward appearances and removal of primary sexual organs are still experimental. Shockingly, the Principle does not demand a duty of care before such experimental options are presented to individuals, nor does

it exhort that 'affirming procedures' are subjected to rigorous scrutiny before being advertised. Fundamental ethics where medicine is concerned demands that decision-making with respect to high-risk, experimental treatments is not left up to the consent (informed or otherwise) of individuals in a vulnerable state. The casual reliance on 'consent' in such a fraught area, therefore, militates against such basic ethical concepts. It is impossible to verify that consent is "free and informed consent" where such experimental treatments are concerned.

In an all-out assault on women and vulnerable children, institutions that are supposed to safeguard human rights are in fact advocating for the interests and privileges of a few very powerful groups. One, those wishing to purchase sexual services, a demographic largely populated by men with disposable monetary resources, and a lucrative trade for those wishing to monetise the desperation of the poor. Two, those wishing to exploit the natural curiosity and susceptibility of teenagers to external influences by engaging in sexual conduct with a demographic not yet recognised as being capable of complex decisions. Three, a sub-group of medical practitioners and pharmaceutical companies who stand to make a great deal of money (the sex reassignment surgery market is projected to grow at a [compound rate of 11%](#), hitting [\\$6 billion by 2030](#)) from experimental procedures.

An organisation that is ostensibly supposed to be for the promotion and protection of human rights, particularly those of vulnerable groups or those who have been historically oppressed, is using confounding language and absurdist notions to decimate the entire framework of women's rights. While repeatedly claiming that their demands relate to 'gender' - typically understood as the roles and attributes associated with the two sexes, the demand by major UN agencies is in fact to decimate the significance of sex - for example, as the relevant marker in birth certificates and other important identification documents. It is the most vulnerable among women - abused women, raped women, incarcerated women, and women with special needs - who are excessively suffering from this series of disingenuous claims. It is hoped that at the very least, UN officials and experts will consider addressing the very well-founded concerns of women.

