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FORMS OF SEX-BASED VIOLENCE AGAINST WOMEN AND GIRLS: NEW FRONTIERS AND EMERGING ISSUES

We note that the Special Rapporteur on Violence against Women and Girls put out a call for input to her thematic report to the Human Rights Council at its 59th session in June 2025, on the new frontiers and emerging issues in sex-based violence against women and girls. On behalf of 39,104 individual signatories and 542 organisations across 160 countries, Women's Declaration International (WDI) submits the following to the Special Rapporteur:

Submissions

Key questions from the Special Rapporteur considered

Manifestations of sex-based violence against women and girls

3. *Are there emerging forms or evolving dynamics of sex-based violence against women and girls that call for a deeper and more nuanced understanding of such sex-based forms of violence?*

Expansion of the category of 'sex-based violence'

In her call for input, the Special Rapporteur defines sex-based violence as violence that has affected women and girls "disproportionately because of their female sex." We commend this definition in its broadest construction, as it describes a sex-contingent type of violence that is wider than only violence grounded in the act of sex or in sexual reproduction: it encompasses violence that *affects* women and girls disproportionately because of their female sex.

For instance, medical interventions performed on a girl who 'identifies' as male are dependent on biological sex: the interventions are directed to her sex markers and reproductive system, and girls are disproportionately likely to be young lesbians, the victims of sexual abuse or the trauma of sexual objectification, or a combination of these.

It encompasses new and emerging forms of violence including the following, in addition to the areas addressed in this submission:

- Relational violence in the workplace, enacted by men participating in fetish behaviour. This includes transvestitism and cross-dressing, but goes beyond that into BDSM performance and other paraphilic practices. Employment situations are structurally coercive, in that women cannot give either meaningful consent to participating in the cross-dressing male fetish of transvestitism, or to sharing single-sex spaces or her sex class with men who claim to be women; nor, however, can they deny their participation without suffering reprisals and their own rights infringements.
- Intimate relationship violence and coercive control exercised by men within heterosexual relationships who ‘transition’ and use claims of ‘female gender identity’ to support transvestitic behaviours and manipulate their partner’s perceptions of reality.

We submit that the concept of ‘sex-based violence’ is itself an area in which greater nuance is often required, as harms disproportionately suffered by women and girls can too easily be dismissed as sex-neutral because they are not overtly sexual.

Housing males in the female prison estate

Female inmates in prisons are victims of state-sanctioned violence by male prisoners being housed in the female estate, but this is currently analysed as protection of vulnerable trans-identified males rather than victimisation of vulnerable female prisoners.

Since 1982, Corrections Victoria in Australia has had a policy of permitting the transfer of men to women’s prisons if they identified as women; prior to 2017 a male inmate was only eligible if he had undergone genital surgery including a penectomy, but in 2017 this was expanded to permit *any* man – even a man convicted of sexual offences against women – to be transferred based on his self-identification as “female”. The March 2021 issue of the Commissioner’s Requirements for prisoner management provides that “Victoria’s prison system is currently separated into two systems that are based on gender: a men’s system and a women’s system. These two systems currently remain the only placement options for people who identify as trans, gender diverse or intersex,” but Para 6.1.1 provides that “As a guiding principle, a person should be imprisoned in the prison of their gender rather than their sex assigned at birth.”¹

65% of female prisoners in Victoria report being victims of domestic violence, mostly perpetrated by a man, and drug offences, minor assaults and property crime make up the majority of serious charges among female prisoners; male prisoners, on the other hand, are imprisoned in the majority for assault and sex offences.² In August 2022, female prisoners in the Dame Phyllis Frost Correctional Centre petitioned Victorian government departments for the removal of a man convicted of sexual offences against women and children, but he was not moved.³ Instead, more men claiming female ‘gender identities’ have been housed in the Centre, most recently in 2024.⁴ These policies are replicated across Australian jurisdictions, and the persecution of female prisoners in this way is even used by the Australian Government as evidence

¹ Department of Justice and Community Safety – Corrections Victoria, ‘Commissioner’s Requirements – Part 2: CR2.4.1 Management of prisoners who are trans, gender diverse or intersex’ (March 2021) State Government of Victoria, <https://www.corrections.vic.gov.au/commissioners-requirements-part-2>

² Department of Justice and Community Safety – Corrections Victoria, ‘Women in the Victorian prison system’ (January 2019) State Government of Victoria, https://files.corrections.vic.gov.au/2021-06/women_in_prison2019.pdf

³ Mark Buttler and Kieran Rooney, ‘Women inmates demand removal of trans prisoner guilty of attacking females while a man’ (11 August 2022) *Herald Sun* <https://www.heraldsun.com.au/truecrimeaustralia/police-courts-victoria/prisoners-fight-to-remove-transgender-inmate-with-history-of-sex-offences/news-story/f5bff0dc73ae0ce3af945c04eb38d7b7>

⁴ Media coverage of the matter: <https://reduxx.info/exclusive-transgender-pedophile-given-lenient-sentence-for-sexually-abusing-his-5-year-old-daughter-after-court-considers-transphobia-in-sentence/>

Sentencing remarks, indicating that the offender was treated as a woman and detained in the female estate: https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCC/2024/1328.html?context=1;query=maloney;mask_path=au/cases/vic/VCC

of its achievement under its CEDAW obligations because it classifies the situation as a protection of the rights of the “transwoman” – relying on a gender category rather than a sex one. This is not limited to Australian prisons: on 23 January 2025, the New York Times reported United States Bureau of Prisons data that showed 15% of inmates in women’s facilities were in fact ‘transgender women’ – aka, biological men.⁵

The implicit permission given to State parties by this new reliance on ‘gender’ over ‘sex’ has resulted in the oppression of women and breaches of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) 2010 and Rule 11 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

Normalisation of violence in sexual intimacy

We commend the remarks made by the Special Rapporteur in her 07 May 2024 report to the Fifty-sixth session of the Human Rights Council on the relationship between prostitution and violence, and the note that pornography is taken to be “filmed prostitution,” and is therefore encompassed by that report.⁶

The violence depicted in easily-accessible and mainstream pornography is continuing to rise, and that women and girls are conditioned to regard harmful practices including choking during intercourse and anal penetration as ‘normal’ and things they ought to consider ‘enjoyable’. Extensive research demonstrates the harms caused by exposure to pornography – both primary, in the sense of consumption, and secondary, in the sense of the impact on women and girls who engage with men who have been conditioned by use of pornography.⁷

The ability for pornography to shape the acceptance of victims of sexual harm is an area that requires more nuance.

4. *What forms of sex-based violence against women and girls are underrecognized or underreported, and what measures can be taken to identify and address them?*

‘Gender affirming’ interventions

‘Gender-affirming medicine’ is, in itself, a form of harm enacted against vulnerable girls and young women.

There is no established standard to determine the requisite elements of informed consent, or the way in which consent processes should be conducted.⁸ Experts in child psychology question whether even experimental clinical trials for ‘gender-affirming’ medical interventions such as puberty blockers could be conducted ethically, as they necessarily involve the introduction of iatrogenic disease and are inherently antithetical to ethical medical treatment.⁹ If informed consent, using the current dominant model, is broken

⁵ <https://www.nytimes.com/2025/01/23/us/trump-transgender-inmates-prison.html>

⁶ Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, ‘Prostitution and violence against women and girls’ (07 May 2024) Report No A/HRC/56/48, para 3

⁷ Studies include, but are not limited to: J Peter and P M Valkenburg, ‘Adolescents and pornography: a review of 20 years of research’ (2016) 53 *The Journal of Sex Research* 4-5, p99-122; M Flood, ‘The harms of pornography exposure among children and young people’ (2009) 18 *Child Abuse Review* 6, p384-400; J Springate and H A M D Omar, ‘The impact of the Internet on the sexual health of adolescents: A brief review’ (2013) 6 *International Journal of Child and Adolescent Health* 4, p469-471; Z D Bloom and W B Hagedorn, ‘Male Adolescents and Contemporary Pornography’ (2015) 23 *The Family Journal* 1, p82-89.

⁸ W Byne, S J Bradley, E Coleman, A E Eyler, R Green, E J Menvielle, H F L Meyer-Bahlburg, R Pleak and D A Tompkins, ‘Report of the American Psychiatric Association Task Force on Treatment of Gender Identity Disorder’ (2012) 41 *Archives of Sexual Behavior* 4, 759-96

⁹ Dr Dylan Wilson, Australian paediatrician, has given evidence in Australian family courts on this topic, and published an open letter calling for other medical professionals to join publicly in criticism of practice of childhood ‘gender’ interventions: <https://drdylanwilson.substack.com/p/an-open-letter-to-australias-doctors>

into its three core constituents – disclosure, assessment of understanding, and communication of assent – it is arguable that any of them is capable of being met. Since social transition, hormones and surgeries are all “unproven,”¹⁰ and studies worldwide are impaired by inadequate follow-up times and high drop-out rates, full and proper disclosure cannot be made. The impacts of social contagion and the nature of trans-identification as a *response* to trauma or social dysregulation then further impair the capacity of any child or vulnerable teen to give the free assent envisaged when a signature is asked for.

Recent research conducted by the University of York showed that fifty times more children in England were diagnosed with gender dysphoria in 2021 than 2011, with twice as many girls than boys receiving a diagnosis – childhood dysphoria has shifted from being a rare claim made by boys, to a much more common claim by predominantly girls.¹¹ More than half of the children had comorbidities of anxiety or depression, or had self-harmed. Interviews with a select group of these children demonstrated that the children themselves were eager to start medical interventions immediately, and were commonly frustrated by the caution demonstrated by their parents: parents who have decades more development of their frontal cortexes, and who are not subject to the same adolescent social pressures.

‘Gender-affirming’ interventions differ from other experimental interventions, or interventions where the possible side-effects cannot be known – for instance, from neurological interventions in treatments for epilepsy, which ask for informed consent to effects that are significantly unknown. There are not, however, deep social forces conditioning children to self-identify as epileptics, and *rewarding* children for doing so. Epilepsy also does not manifest consistently with other mental health conditions or as a reaction to traumatic events such as parental neglect or abuse; and treatments for epilepsy are done with the aim of producing a child at the end who is *more* healthy than before, and who enjoys *less* impairment of their lives. None of these is true for ‘gender’ interventions.

Medical interventions for claims of gender dysphoria have consequences that are too great, and outcomes are too unknown or hand-waved in favour of ‘identity’, and exist in an environment of highly coercive social contagion and celebration.

5. *How are language and terminology today being used to describe and address sex-based violence against women and girls? What are the implications and consequences of this usage?*

Erasure of the concept of biological sex from language

As noted by the Special Rapporteur in her informal statement published on 02 December 2024, we are seeing an “increasing onslaught on women-specific language, which seeks to erase the reality of womanhood itself and deny its innate and sex-related specificity.” This onslaught, as the Special Rapporteur observes, is seen across state bodies, media outlets, nonprofit organisations and corporate entities, and academic and health institutions – even the United Nations itself, as in the development of General Recommendation No 41 by the CEDAW committee, ‘Gender stereotypes’.

A key emerging trend related to and facilitated by this is the practice of States privileging a non-biological understanding of sex in preference to a biological understanding, and thereby obviating or undercutting sex-based protections they owe under international and domestic law.

¹⁰ This is the language used by Stephen B Levine, E Abbruzzese and Julia W Mason, ‘Reconsidering Informed Consent for Trans-Identified Children, Adolescents, and Young Adults’ (2022) *Journal of Sex & Marital Therapy*, p2, <https://doi.org/10.1080/0092623X.2022.2046221>

¹¹ S W Jarvis, L K Fraser, T Langton, et al, ‘Epidemiology of gender dysphoria and gender incongruence in children and young people attending primary care practices in England: retrospective cohort study’ (24 Jan 2025) *Archives of Disease in Childhood*, <https://adc.bmj.com/content/early/2025/01/19/archdischild-2024-327992>

This is effected by substituting the language of ‘sex’ in law and policy with the language of ‘gender’, and permitting individuals access to a ‘legal sex’ or ‘certificated sex’ that corrupts the sex class being protected. See, for instance: the legal provisions allowing for the issuance of a ‘Gender Recognition Certificate’ in the United Kingdom; the effect of Article 1 ‘Law on Self-Determination with respect to Gender Recognition’ (2024) in Germany, which provides for a documented ‘gender entry’ (Geschlechtseintrags) to be changed for almost all purposes in law; or the ability in all eight Australian state and territory jurisdictions for a person to change the sex marker on their birth certificate. The matter of *For Women Scotland Ltd v The Scottish Ministers UKSC/2024/0042* was heard in 2024 in the United Kingdom for the express purpose of asking the court to define the situations in which a GRC is taken to determine, or override, sex.

It is also effected by States retaining the term ‘sex’ in law and policy, but redefining it in policy guidance and precedent to mean a self-identified sex based on gender identity, including in situations where the document was originally drafted and created with a biological definition intended.

In the recent Australian case of *Tickle v Giggle*,¹² the Federal Court declared that “sex is not confined to being a biological concept” or “a binary concept, limited to the male or female sex.” He instead defined the word ‘sex’ in the *Sex Discrimination Act 1984* (Cth) as a changeable concept determined by “a range of factors, including biological and physical characteristics, legal recognition and how they present themselves and are recognised socially.”¹³ The meaning given to the word ‘sex’ in the Act was then relied on by the Administrative Appeals Tribunal in *Lesbian Action Group Inc v Australian Human Rights Commission* to deny the applicant lesbian organisation an exemption from the Act to meet in a woman-only space to discuss lesbian concerns: the ART supported the view of the Commission and determined that assembly could only be permitted if males who identified as lesbians were included in the category and permitted to attend as *lesbian women*.

During the International Law Commission’s April 2024 session on the Draft Articles on Prevention and Punishment of Crimes Against Humanity, the quorum agreed to exclude the definition of ‘gender’. The ILC’s stated reason was to allow “the term to be applied for the purposes of the present draft articles based on an evolving understanding as to its meaning.” Portugal, for instance, noted that they welcomed the removal of the gender definition “which allows great flexibility and protection compared to previously adopted solutions”; and Australia observed that the exclusion of a gender definition “enables States to apply such definitions [...] used within their national systems.” This is a deliberate act of constructive ambiguity, designed to allow States to undercut protections afforded on the basis of biological sex.

As the Special Rapporteur has noted, this linguistic erasure is a new form of violence against women.

National, regional and international legal and policy frameworks to prevent and respond to sex-based violence against women and girls

3. *What are the challenges, (especially gaps in legislation), opportunities and best practices in combating sex-based violence against women and girls?*

¹² <https://www.fedcourt.gov.au/services/access-to-files-and-transcripts/online-files/roxanne-tickle-v-giggle-for-girls>

¹³ *Tickle v Giggle for Girls Pty Ltd (No 2)* [2024] FCA 960, at 55 and 57

Data corruption

Sex-disaggregated data is necessary for policy development.¹⁴ The conflation of sex and gender, or the ambiguity over whether the data records the sex or claimed gender identity of the involved persons, leads to the collection of data on violence against women and girls that is inaccurate and misleading.

In the United Kingdom, a series of Freedom of Information requests were submitted by Fair Play for Women in 2019 to 46 regional police forces and five national forces, asking whether crimes were recorded according to sex or claimed 'gender'. Over half the forces that responded replied that crimes data was recorded under self-declared gender rather than biological sex – only one force qualified that the crime of rape would be an exception. In the UK, rape may only be committed by penetration of the penis, and it is therefore an exclusively male offence; however, in their Crime Survey Statistics for England and Wales for the period March 2017 to March 2020, the Office for National Statistics reported that 1.5% of rapes by penetration had been committed by people recorded as women.¹⁵

Similar data obscurity is found in other jurisdictions. In a parliamentary question posed on 03 May 2023 by Australian MP Moira Deeming to the Victorian Minister for Corrections, Deeming asked for an estimate of the total number of “biologically male criminals that are currently housed in women’s prisons in Victoria”. The Minister declined to answer, on the basis that it was a matter for Corrections Victoria to determine on the basis of privacy and safety, and slighted her question as representing a “populist stance.”¹⁶

These behaviours by member States makes a mockery of the data requirements inherent or express in multiple international documents.¹⁷

¹⁴ As affirmed by documents including the Gender Equality Glossary maintained by UN Women, as at December 2020: “Sex-disaggregated data is data that is cross-classified by sex, presenting information separately for men and women, boys and girls. Sex-disaggregated data reflects roles, real situations, general conditions of women and men, girls and boys in every aspect of society. [...] When data is not disaggregated by sex, it is more difficult to identify real and potential inequalities.” <https://wrd.unwomen.org/practice/resources/gender-equality-glossary>

¹⁵ ONS, ‘Dataset: Nature of sexual assault by rape or penetration, England and Wales’ (18 March 2021) <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/natureofsexualassaultbyrapeorpenetrationenglandandwales>

¹⁶ Victoria, *Questions without notice and ministers statements*, Legislative Assembly (03 May 2023) <https://www.parliament.vic.gov.au/parliamentary-activity/hansard/hansard-details/HANSARD-974425065-21359>

¹⁷ Such as Article 4(k) of the UN Declaration on the Elimination of Violence against Women, 1993, which requires State parties to: “Promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress violence against women; those statistics and findings of the research will be made public.”