

# Declaration on Women's Sex- Based Rights

Summary



Women's Human Rights Campaign

# Declaration on Women's Sex-Based Rights

On the re-affirmation of women's sex-based rights, including women's rights to physical and reproductive integrity, and the elimination of all forms of discrimination against women and girls that result from the replacement of the category of sex with that of 'gender identity', and from 'surrogate' motherhood and related practices.

## INTRODUCTION

The Declaration reaffirms the sex-based rights of women which are set out in the Convention on the Elimination of all Forms of Discrimination against Women 1979 (CEDAW), which were further developed in the United Nations Declaration on the Elimination of Violence against Women 1993 (UNDEVW), and other human rights documents.

It reaffirms women's rights to physical and reproductive integrity, and calls for the elimination of all forms of discrimination against women and girls that result from the replacement of the category of sex with the category of 'gender identity', and from 'surrogate' motherhood and related practices.

The Declaration uses the UN Women's Gender Equality Glossary's definition of sex as "*the physical and biological characteristics that distinguish males from females.*"



The Glossary defines gender as “*the roles, behaviors, activities, and attributes that a given society at a given time considers appropriate for men and women...*” It states that gender roles are “*socially constructed and are learned through socialization processes.*”

Recent changes replacing references to the category of sex, which is biological, with the language of ‘gender’, which refers to stereotyped sex roles, in some United Nations documents, and in national law and policy in many countries, undermine the protection of women’s human rights.

Women’s rights, which have been achieved on the basis of sex, are now being undermined by attempts to incorporate the concept of ‘gender identity’ into international human rights documents, and into national law in some countries.

The concept of ‘gender identity’ makes socially constructed stereotypes, which organize and maintain women’s inequality, into essential and innate conditions, thereby undermining women’s sex-based rights. This concept is enabling men who claim a female ‘gender identity’ to assert that they are members of the category of women in law, policies, and practice.

Women’s sex-based rights are also being undermined by the practice of ‘surrogate’ motherhood, which involves the commodification of women and their reproductive capacities. It often involves coercion, and in many situations it amounts to a form of trafficking in women.



## MAIN POINTS

### **THE FORMS OF DISCRIMINATION AGAINST WOMEN WHICH THE DECLARATION ADDRESSES**

The Declaration aims to re-affirm women's sex-based rights in the following areas:

#### **The definition of 'woman' in law and policy**

The concept of 'gender identity' is used to challenge women's rights to define themselves on the basis of sex, and to challenge individuals' rights to define their sexual orientation on the basis of sex rather than 'gender identity'. Men who claim a female 'gender identity' seek to be included in the category of woman in law and policy. They also seek inclusion in the category of mother, and the category of lesbian. The inclusion of men within these categories threatens to remove all meaning from them, as it constitutes a denial of the biological realities on which the status of being a woman, being a mother, and being a lesbian are based. If women cannot name themselves accurately as a sex, they cannot challenge sex-based discrimination.

#### **Motherhood and reproductive rights**

Maternal rights and services are based on women's unique capacity to gestate and give birth to children. The inclusion of men who claim a female 'gender identity' within the legal category of mother erodes the social significance of maternity, and undermines maternal rights.

The Beijing Declaration and Platform for Action (1995) states that,



*“The explicit recognition and reaffirmation of the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment”.* (Annex 1, 17)

This right is undermined by the use of ‘surrogate’ motherhood, which exploits and commodifies women’s reproductive capacity.

## **Women’s rights to freedom of belief, freedom of expression, freedom of association, and freedom of assembly**

In many countries state agencies, public bodies and private organizations are attempting to compel people to identify and refer to individuals on the basis of ‘gender identity’ rather than sex. Sanctions such as termination of employment are being used against individuals for stating biological facts, such as the fact that men cannot become women.

Organizations that promote the concept of ‘gender identity’ challenge the right of women and girls to assemble and organize on the basis of their common interests as a sex, and insist that men who claim a female ‘gender identity’ must be included in women-only events and organizations.

These developments constitute forms of discrimination against women, and undermine women’s rights to freedom of belief, freedom of expression, and freedom of association and assembly.

## **Special measures designed to achieve equality for women**

Men who claim a female ‘gender identity’ are being enabled to access opportunities and protections set aside for women, such as political parties’ women-only shortlists, which are aimed at increasing female representation in public life.

When men claiming female ‘gender identities’ are included in special measures designed to increase women’s participation in public life, the purpose of these measures in achieving equality for women is undermined.



## **Single-sex sports**

Men who claim female ‘gender identities’ are increasingly participating in women’s single-sex sporting activities. This places women at an unfair competitive disadvantage, and may place them at increased risk of physical injury. This undermines women’s and girls’ ability to have the same opportunities as men to participate in sports, and therefore constitutes a form of discrimination against women and girls.

## **Violence against women and girls**

The conflation of the category of sex with the category of ‘gender identity’ hinders the protection of women and girls from violence perpetrated against them by men and boys. It increasingly enables men who claim to have a female ‘gender identity’ to access female single-sex victim support services and spaces, as both service users and as service providers. This includes specialist single-sex provisions for women and girls who have been subject to violence, such as shelters and health care facilities. It also includes other services in which single-sex provision is crucial to the promotion of the physical safety, health, privacy, and dignity of women and girls, such as prisons. The presence of men in female single-sex spaces and services undermines the role of these services in protecting women and girls, and could make women and girls vulnerable to violent men who may claim a female ‘gender identity’.

The replacement of sex with ‘gender identity’ leads to the collection of data on violence against women and girls which is inaccurate and misleading because it identifies perpetrators of violence on the basis of their ‘gender identity’ rather than their sex. This creates a significant impediment to the development of effective laws and policies aimed at the elimination of violence against women and girls.

## **The ‘gender reassignment’ of children**

The concept of ‘gender identity’ is increasingly used to ‘reassign’ the ‘gender’ of children who do not



conform to sex stereotypes, or who are diagnosed with gender dysphoria. Medical interventions that carry a high risk of long-term adverse consequences on children’s physical or psychological health, such as the use of puberty suppressing hormones, cross-sex hormones, and surgery, are used on children who are not developmentally competent to give full, free and informed consent. These medical interventions can cause a range of permanent adverse physical health effects, including sterility, as well as negative effects on psychological health.

# The Declaration articles: Summary versions

## ARTICLE 1

### **Reaffirming that the rights of women are based upon the category of sex**

States should maintain the centrality of the category of sex, and not ‘gender identity’, in relation to women’s and girls’ right to be free from discrimination.

The inclusion of men who claim to have a female ‘gender identity’ into the category of women in law, policies and practice constitutes discrimination against women by impairing the recognition of women’s sex-based human rights.



In all law, policies and practice the category of woman should mean adult human female, the category of lesbian should mean an adult human female whose sexual orientation is towards other adult human females, and the category of mother should mean a female parent. Men who claim to have a female 'gender identity' should not be included within these categories.

## ARTICLE 2

### **Reaffirming the nature of motherhood as an exclusively female status**

States should ensure that the word 'mother', and other words traditionally used to refer to women's reproductive capacities on the basis of sex, continue to be used in constitutional acts, legislation, in the provision of maternal services, and in policy documents when referring to mothers and motherhood. The meaning of the word 'mother' shall not be changed to include men.

## ARTICLE 3

### **Reaffirming the rights of women and girls to physical and reproductive integrity**

States should recognize that harmful practices such as forced pregnancies, and the commercial or altruistic exploitation of women's reproductive capacities involved in 'surrogate' motherhood, are violations of the physical and reproductive integrity of girls and women, and are to be eliminated as forms of sex-based





discrimination.

States should recognize that medical research which is aimed at enabling men to gestate and give birth to children is a violation of the physical and reproductive integrity of girls and women, and is to be eliminated as a form of sex-based discrimination.

## ARTICLE 4

### **Reaffirming women's rights to freedom of opinion and freedom of expression**

States should uphold women's rights to hold opinions without interference and to freedom of expression. This should include the freedom to communicate ideas about 'gender identity' without being subject to harassment, prosecution or punishment.

States should uphold the right of everyone to describe others on the basis of their sex rather than their 'gender identity', in all contexts. States should prohibit any form of sanctioning, prosecution or punishment of persons who reject attempts to compel them to identify others on the basis of 'gender identity' rather than sex.

## ARTICLE 5

### **Reaffirming women's right to freedom of peaceful assembly and association**



States should uphold women’s rights to peaceful assembly and freedom of association with others. This should include the right of women and girls to assemble and associate as women or girls based upon their sex, and the rights of lesbians to assemble and associate on the basis of their common sexual orientation, without including men who claim to have female ‘gender identities’.

## ARTICLE 6

### **Reaffirming women’s rights to political participation on the basis of sex**

All measures taken specifically to improve women’s access to voting rights, eligibility for election, participation in the formulation of government policy and its implementation, the holding of public office, performance of all public functions, and participation in non-governmental organizations and associations concerned with public and political life, should be based upon sex and not discriminate against women by the inclusion of men who claim to have female ‘gender identities’.

## ARTICLE 7

### **Reaffirming women’s rights to the same opportunities as men to participate actively in sports and physical education**

States should ensure the provision of opportunities for girls and women to participate in sports and physical education on a single-sex basis. To ensure fairness and safety for women and girls, the entry of boys and men who claim to have female ‘gender identities’ into teams, competitions, facilities, or changing rooms... set aside for women and girls should be prohibited as a form of sex discrimination.



## ARTICLE 8

### **Reaffirming the need for the elimination of violence against women**

[States have an obligation] to take appropriate measures to promote the safety and physical and psychological rehabilitation of women subjected to violence, and their children. These measures should include the provision of single-sex services and physical spaces for women and girls to provide them with safety, privacy, and dignity. Single sex provision should include specialized services for women and girls subject to violence, such as rape support services, specialist health facilities, specialist police investigation facilities, and shelters for women and children fleeing domestic abuse or other violence. It should also include all other services within which single sex provisions promote the physical safety, privacy, and dignity of women and girls. These include prisons, health services and hospital wards, substance misuse rehabilitation centres, accommodation for the homeless, toilets, showers and changing rooms, and any other enclosed space where individuals reside or may be in a state of undress...These facilities should not include men who claim to have female 'gender identities'.

[States should recognize] that accurate research and data collection relating to violence against women and girls requires that the identification of both the perpetrators and victims of such violence must be based on sex and not 'gender identity'.

[States should recognize] the right of women and girls to accurately describe the sex of those who have perpetrated violence against them. Public bodies such as the police, state prosecutors, and the courts should not impose an obligation on victims of violence to describe their assailants according to their 'gender identity' rather than their sex.



## ARTICLE 9

### **Reaffirming the need for the protection of the rights of the child**

States should recognize that medical interventions aimed at the ‘gender reassignment’ of children by the use as puberty suppressing drugs, cross-sex hormones and surgery do not serve the best interests of children. Children are not developmentally competent to give full, free and informed consent to such medical interventions, which carry a high risk of long-term adverse consequences to the physical and psychological health of the child, and which may result in permanent adverse consequences, such as sterility. States should prohibit the use of such medical interventions upon children.

