

From: AWID, CREA, Count Me In consortium, ILGA World, IWRAP Asia Pacific, Sexual Rights Initiative

To: Special Rapporteur on Violence Against Women, Ms. Reem Al Salem

CC: Chief, Special Procedures Branch, Office of the United Nations High Commissioner for Human Rights, Ms. Beatriz Balbin

Object: official communication to the mandate

November 30, 2022

Dear Ms. Al Salem,

We, the undersigned organizations, have noted the publication of the letter of 23rd of November 2022 sent by your mandate to the UK government, regarding the Gender Recognition Reform (Scotland) Bill (GRR) currently before the Scottish Parliament.

As a coalition of feminist and international women's rights organizations, we firmly believe in bodily autonomy for all people - cis, trans, and non-binary alike. We see the changes proposed in the GRR as positive steps towards recognising, protecting and fulfilling trans people's human rights. We see this advancement to be in line with important UN documents¹. We also share your proposal to acknowledge and recognize non-binary identities, such as gender identities that are neither "man" nor "woman".

We can see that your intention may have been to present a balanced view that takes into account multiple positions. However, we are concerned by the seeming watering-down of international human rights standards, which will ultimately cause more harm than good.

¹ [Amicus Curiae brief of High Commissioner to the Inter-American Court of Human Rights](#), 2017 [Born Free and Equal: Sexual Orientation, Gender Identity and Sex characteristics in International Human Rights Law](#), Second Edition 2019, UN OHCHR

CEDAW Committee, [General Recommendation 35](#)

CEDAW/C/GC/35, para. 12

CEDAW/C/GC/35, para. 23|

CEDAW/C/GC/35, para. 31(b)

CEDAW/C/GC/35, para. 34(a)

By qualifying the application of international human rights law and dismissing the Yogyakarta principles' call for the legal recognition of each person's self-defined gender identity, the letter waters down and contradicts the well-established body of international standards, including from your own mandate.² Further, your recommendation for more scrutiny and barriers for legal gender recognition also deviates from good practices on bodily autonomy that have been established and recognized by the UN HR bodies, and that are increasingly adopted by states and regional human rights bodies around the world. Within the last decade 16 UN member states³ have adopted legal gender recognition legislation that is based on self-determination and another four⁴ have passed such legislation in sub-national jurisdictions.

Your letter comes at a time when the anti-trans agendas at play in the UK and transnationally are demonizing an already marginalized group of people, with very real impacts. At the source of some of the most common anti-trans narratives in the UK are coordinated groups with a track record of vehemently opposing trans rights⁵. As the SR on VAW, you are surely aware that there is a **continuum of violence from the discursive level to physical violence**. In the period surrounding the Gender Recognition Act consultation in the UK, when misinformation and anti-trans narratives proliferated in the media, transphobic hate crimes quadrupled in the UK (2018-2021)⁶. Referring to so-called "predators" and "violent males" when discussing the GRR legitimizes dangerous anti-trans narratives that fuel the targeted violence and discrimination against trans people.

Parts of the letter suggest a connection between the removal of barriers for legal gender recognition with increased risk of "male violence" and "retraumatization and revictimization" of survivors of violence. This **lacks empirical evidence and does not reflect the lived experiences** of either trans people or those interacting with them, including cis women

² <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26484>

³ Argentina (2012), Belgium (2018), Brazil (2018), Colombia (2015), Costa Rica (2018) Denmark* (2014) [Self-ID, however: granted only after a 6-month "reflection period" at the end of which applicants must "confirm" their application], Greece* [Self-ID, however: married applicants must divorce because there is no same-sex marriage], Iceland (2019), Ireland (2015), Luxembourg (2018), Malta (2015), New Zealand (will enter into effect in 2023), Norway (2016), Portugal (2018), Switzerland (2022), Uruguay (2018).

⁴ Australia, Canada, Mexico, USA

⁵ For example, a submission opposing reform during the Gender Recognition Act consultation in the UK, Women's Human Rights Campaign (now known as Women's Declaration International) refers to trans women as "men", as well as stating that "transgenderism" is based on "stereotyped roles for men and women", while referring to CEDAW's call to eliminate all practices based on such stereotypes.

<https://committees.parliament.uk/writtenevidence/17510/pdf/>

The same organization has held events at the UN Commission on the Status of Women that promoted extreme anti-trans misinformation:

<https://www.awid.org/news-and-analysis/trojan-horses-human-rights-spaces>

For more on the anti-trans climate surrounding the GRA, see:

<https://awid.org/sites/default/files/2022-08/Final%20EN%20Web%20-%20Gender%20Ideology%20Brief%20-%20July%202022.pdf>

⁶ Sian Norris, Far-Right Co-optation of the Transgender Rights Issue, Byline Times, 30 September 2021. <https://bylinetimes.com/2021/09/30/the-far-right-co-option-of-the-transgender-rights-issue/>

accessing services or in settings of incarceration. It also overlooks the 16 countries⁷ where gender recognition laws based on self-identification have been implemented without any evidence of negative consequences in the last decade. Similarly, the threat of fraudulent use of gender certificates identified as a “potential risk” in page 8 of the letter is unsubstantiated. In addition to scapegoating trans people, it emphasizes and exceptionalizes interpersonal violence perpetrated by strangers in specific hypothetical situations when the data on gender-based violence would point to other priorities, such as violence by intimate partners,⁸ family members or other known people, as well as the whole gamut of economic, social, psychological and political structures and norms that maintain binary gender categories and roles (including the many barriers to legal gender recognition). Indeed, the continuing prevalence of gender-based violence at all these levels shows that men do not need access to women’s shelters to perpetrate gender-based violence.

Parts of the letter also wrongly suggest that there is a conflict between fulfilling the rights of trans women and cis women. **Not only does this pit the rights of cis women against trans women, it undermines the principle of the universality and indivisibility of rights.** We affirm that the fulfillment of the rights of all marginalized groups is intrinsically linked, and universality and indivisibility must remain at the heart of all human rights work. In our view it as well conflicts with the affirmation that trans women are women - a position common to several UN Special procedures mandates and the CEDAW Committee.⁹

One of the recommendations proposed by the letter is to differentiate “single-sex” and “gender-based” services. In addition to being highly unrealistic and impractical for a gender-based violence sector that is perpetually under-resourced and de-prioritized across the world, this differentiation is not consistent with international human rights standards. Under international human rights law, **the notion of discrimination being prohibited on the grounds of “sex” has evolved considerably to address discrimination based on the social construct of gender stereotypes, rather than based on narrow understandings of physiological characteristics.** Yet, the recent ‘sex-based rights’ agenda, originating from anti-trans groups, seeks to establish a new - and extremely patriarchal - meaning of what being a woman is, based on the idea that women experience oppression in society not because of their gender, but because of an outdated and essentialist idea of biological sex.

⁷ Argentina (2012), Belgium (2018), Brazil (2018), Colombia (2015), Costa Rica (2018) Denmark* (2014) [Self-ID, however: granted only after a 6-month "reflection period" at the end of which applicants must "confirm" their application], Greece* [Self-ID, however: married applicants must divorce because there is no same-sex marriage], Iceland (2019), Ireland (2015), Luxembourg (2018), Malta (2015), New Zealand (will enter into effect in 2023), Norway (2016), Portugal (2018), Switzerland (2022), Uruguay (2018).

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<https://www.un.org/en/desa/world%E2%80%99s-women-2020-intimate-partner-violence-most-common-form-violence-against-women>

⁹ In its General Recommendation 35 on gender-based violence against women, the CEDAW Committee cites being trans among the factors that affect women’s lives and are inextricably linked to the discrimination they face. [CEDAW/C/GC/35](#), para. 12.

Our concerns must be understood also within the wider context of extensive infiltration of multilateral human rights spaces by anti-rights actors¹⁰, with clear objectives of lowering international standards and promoting retrograde views. These anti-rights forces work jointly against the rights of women, LGBTQI people and minority groups, attempting to undermine universality and weaken the ability of multilateralism to hold the violators of rights to account. As such, we cannot counter any part of this problem in isolation. Our organizations have extensively documented¹¹ connections between anti-trans groups that employ women's rights arguments with Christian fundamentalists groups, for instance. Some of the groups mentioned in the letter were set up with the sole purpose to oppose rights-affirming law and policy for trans people, and as such should not be treated as legitimate sources of information on women's rights standards. One group referenced in the letter (For Women Scotland) has collaborated with a Christian group (The Christian Institute) that has defended the practise of conversion therapy.¹² This is extremely worrying and clearly indicates that these are not agendas that should be influencing human rights norms on violence against women. We worry that some of these actors could use the communication to further their discriminatory agenda without it being the initial intention.

We believe in the strong role that Special Procedure mandate holders can play in protecting the integrity of the UN system and in advancing human rights.

We strongly hope you will reconsider your position and uphold established human rights standards regarding legal gender recognition and gender identity throughout your work and ensure that any work undertaken does not cause harm nor support the very retrogressions and violations that Special Procedures are mandated to challenge and report on. We would also welcome the opportunity to be in a deeper discussion with you about this.

Sincerely,



¹⁰ OURs Trends Report 2021 [Rights at Risk: time for action](#)

¹¹ OURs Trends Report 2021 [Rights at Risk: time for action](#) and OURs brief 2022 [Gender ideology narratives: a threat to human rights](#)

¹²

https://www.christian.org.uk/press_release/christians-threaten-legal-challenge-to-conversion-therapy-ban-if-prayer-outlawed/

<https://www.pinknews.co.uk/2022/01/26/christian-institute-conversion-therapy-ban/>

<https://www.christian.org.uk/banner/conversion-therapy-briefing/>

<https://www.supremecourt.uk/cases/uksc-2015-0216.html>