

ANTI-GENDER POLICIES DO NOT PROTECT US: REFLECTING AS FEMINISTS ON THE RECENT UK SUPREME COURT RULING ON WHO IS A “WOMAN”

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Written by the Just Futures Collaborative^[1]

On 16 April 2025, the UK Supreme Court ruled that the term “women” in the 2010 Equality Act is limited to those who are “born as women.”^[2] The court claims that it does not seek to define the term in

general, and asserts that its interpretation is limited to the use of the Equality Act.^[3] They claim that they sought to find a meaning for the term “woman” that is “constant and predictable”.

However, it is evident from press coverage and public reaction, that this so-called “limited” definition of who is a “woman” will have much wider currency. It is hard to conceive of this ruling being of “limited” consequence when the court’s ruling was made in a highly polarized context, with large groups of women’s rights activists cheering, weeping tears of joy, embracing each other triumphantly, and celebrating with champagne.^[4]

In reality, this recent UK court decision is unfortunately quite likely to reinforce harmful biological essentialist conceptions of “sex,” and a limited understanding of “gender,” both of which can be easily reinterpreted to work against gender justice – if the pretext of safeguarding groups based on their “sex” is translated into laws and policies that limit bodily autonomy in the name of protection. It can also be utilized to do harm through stigma and discrimination.

The UK Supreme Court’s findings, which align with an “anti-gender” feminist playbook on gender and sex, are deeply rooted in outdated pseudo-scientific beliefs about sexual dimorphism as baked into our anatomy, physiology, and psychology.

Make no mistake: these beliefs are used to justify ideologies of power. They threaten the rights of trans and gender-diverse persons, and all who are perceived as defying traditional gender norms. Furthermore, it poses the serious risk of reinforcing the idea that “sex” and “gender” are man/woman binary constructs: in this world-view, women’s and

girls' bodies are weak and femininity is necessarily coupled with a desire to be subjugated. Women and girls are thus, perpetual, and “natural”, victims.

At Just Futures Collaborative, from our global vantage point, and as feminists concerned with the rapid expansion of criminalization systems and narratives across contexts, we've been observing how anti-trans and anti-gender rhetoric has increasingly infiltrated legal, policy, and public debates. Anti-trans rhetoric is becoming more than a powerful narrative trend – in many contexts, rhetoric is turning into potent legal proscriptions. The UK Supreme Court ruling is a clear example of this dangerous trend. Rulings such as this one not just impact lives across the UK – it will impact lives across the world. This includes the lives of all women who may find their gender and sexuality severely circumscribed.

While this is posed as a “feminist” agenda, many feminists – like us – disagree and reject this vision for our world.

We know that despite the court's disclaimers, the ruling does not land in a vacuum. In fact, the court's findings occur against the backdrop of a full-scale war against the use of “gender”. The term “gender” was developed as a relational concept and a way to understand and articulate how power circulates in our societies. Today, powerful state and non-state actors work together to block the use of this term in international agreements, national law and policy, educational curricula, and other legal, policy, social and cultural settings. What we are witnessing is a multi-pronged strategy to erode human rights and block historic achievements made by feminist movements.

The global context in which the UK Supreme Court ruling has been made is alarming. Right-wing coordination to counter so-called “gender ideology” is having an impact across the world – from Latin America, to North America, to Europe, to the African continent. As a result, in many contexts, conditions are deteriorating for sexual and gender-diverse persons, and women’s and girls’ autonomy and access to health, education and legal protection are being attacked.

Whether it is the emergence of new laws criminalizing sexual and gender identity diversity, freedom of expression and LGBTIQ+ activism, new and more severe restrictions on abortion and reproductive rights, or attacks on Comprehensive Sexuality Education, the weight of anti-gender mobilisation falls on our communities. These tactics are all part of a broad common agenda: to concentrate power in the hands of a few, undermine our rights and dismantle the pathways we have for participation and decision-making.

The recent Executive Order by US President Trump on countering “gender ideology” provides another important cautionary tale. On January 20, 2025, President Trump issued an Executive Order titled, “Defending Women From Gender Ideology Extremism And Restoring Biological Truth To The Federal Government”^[5] (herein, the EO). The EO declares that “[i]t is the policy of the United States to recognize two sexes, male and female.” The EO explicitly rejects what it terms “gender ideology,” which, according to the EO, includes the notion “that males can identify as and thus become women and vice versa” and the idea that “it is possible for a person to be born in the wrong sexed body.”

President Trump’s EO goes a step beyond dismantling existing

protections against discrimination – it ensures that trans, intersex and gender-diverse persons in the United States are *marked* for discrimination, harassment and potentially, criminalization. For example, the EO calls for government-issued identification – passports, visas and federal employment records – to reflect the holder’s so-called “biological sex” as defined in the EO (in practice, that would be the sex one is assigned at birth). This puts trans, intersex and gender-diverse persons in grave danger as they interact with law enforcement, border enforcement and/or other powerful actors. It goes against numerous international human rights experts’ recommendations^[6], and defies substantive evidence which shows that providing unburdensome pathways to legal gender recognition creates significantly better health outcomes for trans and gender-diverse persons. Moreover, it enshrines an essentialist understanding of sex and gender, it limits our autonomy and freedom, and therefore affects all of us.

Furthermore, at present, we are seeing a visible increase in public discourse and popular interest on the issue of gender. Take for example, the 2024 Paris Summer Olympics – one of the world’s most widely watched events – where anti-gender and anti-trans rhetoric gathered momentum. This moment brought together anti-gender and anti-democracy actors as well as anti-trans feminists (self-described as “gender critical feminists”).

In this example, a disingenuous concern for “women’s safety” was twisted and weaponized in a vicious attack on Algerian boxer Imane Khelif, whose spectacular climb to the top of her sport on the global arena was marred by media scrutiny and social media harassment aimed at discrediting her. The attack on Khelif was both racist and

sexist at its roots, and follows in the footsteps of other similar attacks against elite women athletes from the global South, who have been targeted by unjust regulations which violate their human rights.^[7]

Prominent public figures such as JK Rowling and Elon Musk were quick to use that moment to regurgitate commonly held anti-trans myths across their platforms, purposely conflating sex and gender, and spreading harmful disinformation which endangers the lives of trans and gender-diverse persons.

The accomplishments of women like Imane Khelif in her particular field (boxing) demonstrate what scientific evidence and experience support: sex and gender binaries and well-socialized assumptions about what makes “men” and “women” do not explain our bodies, our abilities or how our rights are protected and restricted. We do not live lives that are simple or easy to categorize into two neat categories.

Indeed, major health organizations, such as the World Health Organization (WHO), and a growing body of scientific research support the complexity of sex beyond a simple “female/male” binary. This acknowledgement is part of a growing medical consensus that supports the concept of sex as a spectrum. To be clear, this does not imply that sex and gender have no social or material importance, as discrimination against women, girls, sexual and gender diverse people and others continues unabated.

In this context, the UK Supreme Court ruling is another validation for an unjust global campaign against bodily autonomy, women’s rights, gender justice and human rights. It empowers anti-gender and anti-trans actors in their mobilisation, with serious, material impacts on all

people's lives. Indeed, violent attacks against trans people are currently on the rise in the UK.^[8]

This rhetoric – reflected in the UK court's ruling, and in US EO on so-called “gender ideology” – further emboldens misogynistic, patriarchal leaders who are corrupt, anti-democratic and violent, and permits them to dominate our social and political landscapes.

The connection is clear: when there is a withdrawal of state support for trans and gender-diverse persons' rights and wellbeing, and there is social and political divestment from a holistic gender justice agenda, we are all less safe. We drain necessary resources and attention away from the real problems, and towards false solutions because of these “scapegoat” tactics.

Rulings such as this can create legal, state-approved discriminatory gaps in service provision. Along with trans, intersex and gender-diverse persons, many already marginalized women – immigrant and racialized women, undocumented women, those in informal labour like sex workers, disabled women, or those who simply do not meet expectations about what a “woman” looks like – will fall through the cracks or find themselves on the frontlines of attack. Meanwhile, while anti-trans feminists distract us with fear-mongering tactics, gender-based violence is not being met with the coordination and investment it so badly needs. States are increasingly less interested in accountability, and many of us are living in contexts of total state impunity on the issue of gender-based violence.

We cannot look to anti-gender feminists to show us the way. Anti-gender feminists – who, in places like the UK, spearhead the anti-

gender agenda – ally themselves with powerful state and non-state actors to push their anti-gender, anti-trans and anti-democracy agenda, often through the expansion of carceral and punitive systems and policies. They form alliances with actors who are conservative, supremacist, racist, colonial, anti-migration, anti-democratic, and who advocate for women to “return” to their “traditional” roles – outside of the public sphere, emphasizing heteronormative femininity and subordination. And, they do it in the name of “women’s safety”, often also instrumentalizing lesbian identity in their propaganda. We must reject these tactics.

We – feminist, queer, human rights and other social justice advocates, including lesbians – should know better than most what it means to pay the price of exclusion and ostracization for defying gender and sexuality norms. For example, we only need to look to our histories and to our communities to remind ourselves of how butch lesbians were (and in some contexts, are) criminalized, punished and even killed for failing to meet social expectations which come with being a “woman”.

We must stand firm against these mobilisations and this language.

We understand discrimination because we have experienced it. Movements for gender justice are propelled forward precisely because of the experiences in our communities of persistent police harassment and brutality, criminalization of non-normative sexuality and gender expression, and on-going state and social violence against sexual and gender-diverse persons and all those who defy heteronormative sex and gender categories.

Our diversity and our collaborations make us stronger and they are

essential for our movements: a major driver behind our gains. We will continue to work together towards true safety, rights and wellbeing for all.

References

[1] Just Futures Collaborative is a global feminist initiative cultivating global cross-movement strategies for challenging criminalization, promoting human rights, and protecting democracy (<https://justfuturescollaborative.org/> (<https://justfuturescollaborative.org/>))

[2] The court further clarifies that a “biological woman” is someone who was “at birth, of the female sex” (para 6)

[3] The court further explains that “statutory interpretation involves an objective assessment of the meaning which a reasonable legislature as a body would be seeking to convey in using the statutory works which are being considered” (para 9)

[4] See here, for example: <https://www.youtube.com/watch?v=HszAB2hylrY> (<https://www.youtube.com/watch?v=HszAB2hylrY>) (Sky News, April 16, 2025)

[5] See here: <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/> (<https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>)

extremism-and-restoring-biological-truth-to-the-federal-government/)

[6] Numerous UN human rights experts, such as the UN Independent Expert on Sexual Orientation and Gender Identity (IE SOGI), and UN instruments and agencies, such as the Office of the High Commission for Human Rights (OHCHR) and UNDP agree that legal gender recognition is a cornerstone of ensuring the human rights of trans and gender-diverse persons

[7] Karkazis, K. & Krech, M. What do oral contraceptive pills have to do with human rights abuses in sport? *Sexual and Reproductive Health Matters*. 2024. <https://www.tandfonline.com/doi/full/10.1080/26410397.2024.2342105#d1e1111> (<https://www.tandfonline.com/doi/full/10.1080/26410397.2024.2342105%23d1e1111>)

[8] Stonewall. New data: Rise in hate crime against LGBTQ+ people continues, Stonewall slams UK Gov 'inaction'. 2023. *Stonewall.org*. https://www.stonewall.org.uk/news/new-data-rise-hate-crime-against-lgbtq-people-continues-stonewall-slams-uk-gov-?gad_source=1&gclid=Cj0KCQjwzYLABhD4ARIsALySuCQ7iWYxTxU5GEZ15M (https://www.stonewall.org.uk/news/new-data-rise-hate-crime-against-lgbtq-people-continues-stonewall-slams-uk-gov-?gad_source=1&gclid=Cj0KCQjwzYLABhD4ARIsALySuCQ7iWYxTxU5GEZ15M)

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