

## For Women Scotland response to the List of Issues on the International Covenant on Economic, Social and Cultural Rights (ICESCR), United Kingdom of Great Britain and Northern Ireland Review

### About us

For Women Scotland is a not-for-profit group campaigning to protect and strengthen women and children's rights in Scotland. We believe that "sex" is a biological term referring to the two immutable categories of male and female. This aligns with the UN definition of sex as "the physical and biological characteristics that distinguish males and females"<sup>1</sup> and is reflected in Article 1 of CEDAW which protects women against discrimination on the basis of sex.<sup>2</sup> While Scotland has taken an independent approach to the implementation of some UN covenants, it is, nevertheless, the case that the UK bears the ultimate responsibility for implementing ICESCR. In recent years, the Scottish Government has, on occasion, overstepped its competency with regard to UK law<sup>3</sup> and, some experts believe, has contravened UN conventions.<sup>4</sup>

### Article 3: the equal right of men and women to the enjoyment of all economic, social and cultural rights.

In response to the demands of organisations representing the transgender lobby, government, public bodies and organisations have, in recent years, reneged on their commitment to Public Sector Equality Duty in tracking economic disparities within the category of sex. The upshot has been that robust data has not been collected on the economic status of men and women as a sex class. In data collection guidance issued in 2021,<sup>5</sup> the Chief Statistician argued that "the disclosure of a person's biological sex may be an unjustifiable breach of privacy" and that "The most likely scenarios where data on biological sex is required would be on a case-by-case basis in a medical context; in a criminal context where a serious sexual offence is being investigated." This overlooks the implications of the failure to accurately record sex in order to track economic equality and, potentially, renders this information valueless. We believe that, in order to measure disparities and ensure compliance with Article 3, this information must be non-falsifiable.

Violence Against Women and Girls (VAWG) creates some of the biggest barriers to achieving social equality. Rates of rape<sup>6</sup> and domestic violence continue to be high - albeit the latter has

---

<sup>1</sup> <https://trainingcentre.unwomen.org/mod/glossary/view.php?id=36&mode=letter&hook=S&sortkey=&sortorder=>

<sup>2</sup> <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cedaw.pdf>

<sup>3</sup> <https://www.scotcourts.gov.uk/media/0a1plqgo/court-of-session-judgement-reclaiming-motion-by-for-women-scotland-limited-against-the-lord-advocate-and-others-18-february-2022.pdf>

<sup>4</sup> <https://substack.com/home/post/p-153772017>

<sup>5</sup> <https://www.gov.scot/publications/data-collection-publication-guidance-sex-gender-identity-trans-status/pages/5/>

<sup>6</sup> <https://www.gov.scot/publications/recorded-crime-scotland-2023-24/pages/6/>

fallen back to pre-Covid levels<sup>7</sup> - and conviction rates low.<sup>8</sup> Despite the proven links between pornography and VAWG,<sup>9</sup> attempts to tackle pornography, especially through education at school age, have been lukewarm (see Article 13). The social ills created by prostitution are also widely known, studies of men who buy sex show that they are significantly more likely than other men to rape and engage in all forms of violence against women.<sup>10</sup> The SNP Government nominally hold that prostitution is VAW, however, they have been slow to introduce measures to tackle men's demand. A 2019 consultation brought forward by then minister Ash Regan came to nothing after the SNP entered a coalition with the Scottish Green Party.<sup>11</sup> Ms Regan has subsequently sought to introduce a Member's Bill.<sup>12</sup>

### **Article 7 the right of everyone to the enjoyment of just and favourable conditions of work**

*(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work*

As set out above, it is impossible to ensure equal pay without accurate records of sex. This is exacerbated in smaller organisations where a single high earning executive has the potential to skew pay gap information if allowed to falsify their sex on official data.

*(b) Safe and healthy working conditions*

The UN defines sex as "the physical and biological characteristics that distinguish men and women". The UK ratified CEDAW in 1986 and the UK Government considers the provisions of the convention are largely legislated for by the UK-wide Equality Act 2010. This Act defines sex as a reference to a man or a woman, where woman means a female of any age.<sup>13</sup>

Despite this legal framework, policies and a lax approach to legal requirements have meant that the safety, dignity and privacy of women in the workplace has been compromised. Policies of several NHS boards materially misrepresent the law and create unsafe environments for female staff. NHS Lothian, for example, allows staff to use facilities "in line with their gender identity"<sup>14</sup> and erroneously claims that not doing so would leave them open to a claim for discrimination. In fact, as the Equality and Human Rights Commission guidance makes clear, it is perfectly lawful

---

<sup>7</sup> <https://www.gov.scot/publications/domestic-abuse-statistics-recorded-police-scotland-2022-23/pages/4/>

<sup>8</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2024/04/conviction-rate-data-for-rape/documents/conviction-rate-data-for-cases-of-rape-and-attempted-rape-pdf/conviction-rate-data-for-cases-of-rape-and-attempted-rape-pdf/govscot%3Adocument/Conviction%2Brate%2Bdata%2Bfor%2Bcases%2Bof%2Brape%2Band%2Battempted%2Brape.pdf>

<sup>9</sup> <https://www.gov.uk/government/publications/the-relationship-between-pornography-use-and-harmful-sexual-behaviours/the-relationship-between-pornography-use-and-harmful-sexual-attitudes-and-behaviours-literature-review#:~:text=sexually%20violent%20pornography.,Perpetration%20of%20sexual%20aggression,the%20use%20of%20violent%20pornography.>

<sup>10</sup> <https://nordicmodelnow.org/facts-about-prostitution/fact-buying-sex-makes-men-more-prone-to-violence-against-women/>

<sup>11</sup> <https://www.holyrood.com/news/view.scottish-government-delayed-prostitution-law-change-to-avoid-row-with-greens-ash-regan-claims>

<sup>12</sup> <https://www.parliament.scot/bills-and-laws/proposals-for-bills/proposed-prostitution-offences-and-support-scotland-bill>

<sup>13</sup> [Equality Act 2010, Section 11](#) and [Section 212 - Equality Act 2010](#)

<sup>14</sup> <https://org.nhslothian.scot/foi/wp-content/uploads/sites/22/2024/05/8616.pdf>

to exclude biological males from female only spaces.<sup>15</sup> In February, the Employment Court in Edinburgh will hear a Tribunal brought by a female nurse who was suspended after she complained of the presence of a male doctor in the changing rooms designated for female staff. In her submission, she records that, on one occasion, she was only wearing a bra and trousers, while on another, the male doctor began to strip in front of her.<sup>16</sup>

In 2024, an Employment Tribunal ruled in favour of Roz Adams, a support worker at Edinburgh Rape Crisis Centre, and awarded her nearly £70,000 in compensation.<sup>17</sup> The judge found that Ms Adams had been subjected to a “heresy hunt” after she expressed support for rape victims who wanted reassurance they would be seen by female staff.<sup>18</sup> The centre, at that time, was managed by a trans-identifying male CEO, despite the fact that the job was reserved under Schedule 9 of the Equality Act for female applicants. Ms Adam is not the only woman who has won a case after being persecuted at work for legally protected beliefs.

The Scottish Prison Service issued revised guidance for the treatment of transgender prisoners in 2023.<sup>19</sup> Unfortunately, this did little to correct some of the issues created by the previous 2014 guidance.<sup>20</sup> Under the new guidance, prisoners will still be entitled to be “searched in line with their affirmed gender identity, unless there are overriding risks or concerns”. Research has shown that trans identified prisoners are significantly more likely to be imprisoned for serious sexual or violent offences.<sup>21</sup> Expecting female officers to conduct intimate searches on these prisoners is, therefore, an infringement on their rights. While there is some allowance in the new guidance for the concerns of staff in conducting these searches, we are unconvinced it is robust enough to forestall the sort of situation which arose in the case of the late Andrew Burns/Tiffany Scott. Burns/Scott was convicted in 2017 of five charges of assault and was one of the few prisoners in Scotland subject to an Order for Lifelong Restriction, under which prisoners are only released once no longer considered an “unmanageable risk to public safety”. One appearance at court had to be abandoned after Scott was deemed too dangerous to be tried in public, yet female officers were required to give the prisoner, who was not undergoing any medical treatment to transition gender, intimate body searches.<sup>22</sup>

Any environment where women are bullied or coerced into silence about policies and practices which may materially impact co-workers or clients, is far from safe and healthy. Until such

---

<sup>15</sup> <https://www.equalityhumanrights.com/equality/equality-act-2010/separate-and-single-sex-service-providers-guide-equality-act-sex-and#when-you-can-provide-a-separate-or-singlesex-service>

<sup>16</sup> <https://sex-matters.org/wp-content/uploads/2025/01/Redacted-Peggie-Case-Management-Order-06.01.2025.pdf>

<sup>17</sup> <https://www.bbc.co.uk/news/articles/c6248z383x7o>

<sup>18</sup> [https://assets.publishing.service.gov.uk/media/66618ed3fa3a410907e67be7/Ms\\_R\\_D\\_Adams\\_v\\_Edinburgh\\_Rape\\_Crisis\\_Centre\\_-\\_4102236\\_2023\\_-\\_Judgment.pdf](https://assets.publishing.service.gov.uk/media/66618ed3fa3a410907e67be7/Ms_R_D_Adams_v_Edinburgh_Rape_Crisis_Centre_-_4102236_2023_-_Judgment.pdf)

<sup>19</sup> <https://www.sps.gov.uk/sites/default/files/2024-02/Management%20of%20Transgender%20Prisoner%20Operational%20Guidance%202024.pdf>

<sup>20</sup> <https://forwomen.scot/wp-content/uploads/2021/07/SPS-Gender-Identity-and-Gender-Reassignment-Policy-2014.pdf>

<sup>21</sup> <https://www.telegraph.co.uk/news/2024/12/31/almost-two-thirds-of-trans-women-prisoners-sex-offenders/>

<sup>22</sup> <https://transcrimeuk.com/2017/10/31/andrew-burns-tiffany-scott/>

policies and practices are brought in line with law, and until women no longer have to fear that they will be required to risk their jobs or compromise their own safety or freedom of belief, Scotland cannot be said to be upholding working conditions which comply with Article 7.

**Article 13: the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms**

This year, we produced two major pieces of research: What's Happening in Your Child's Classroom<sup>23</sup> and What's Happening to Your Child's School Toilets.<sup>24</sup> We found that, in order to accommodate children who claimed to be trans or non-binary, schools were watering down protections for girls around changing rooms, toilets, accommodation, and sport. According to a legal opinion from KC Aiden O'Neill, these schools were exposed to potential legal action for their failure to prevent an intimidating, hostile, degrading, humiliating or offensive environment for pupils on the grounds of their sex.<sup>25</sup> In December of 2024, a Dundee schoolboy was charged after a hidden camera was found in the mixed sex toilets.<sup>26</sup> According to the mother of the girl who found the phone, it contained hundreds of images of girls in various states of undress, taken in both changing rooms and lavatories.

In 2020, we wrote to the then Education Secretary, John Swinney (now First Minister), drawing his attention to some of the problematic materials in the Relationship, Sexual Health and Parenthood (RSHP) syllabus.<sup>27</sup> In light of the 2019 analysis of 135 peer-reviewed studies on the effects of pornography which found that it encouraged, "regressive attitudes towards women", "sexual aggression" and "social maladjustment",<sup>28</sup> we questioned the use of a video called 'WTF is Porn?' which stated porn is fun and listed the different types of porn available online. Although some of this material has been reviewed, there has been an ongoing tendency to allow those with a relaxed approach to pornography to influence classroom conversations. Almost inevitably, this has resulted in an increase in news stories about the proliferation of pornography in the classroom.<sup>29</sup>

We are concerned that external providers are providing legally illiterate material to schools which leave girls ignorant of their rights. In our report, we note that LGBT Youth Scotland, which receives huge sums from the Scottish Government, NHS, and local authorities, runs a 'charter award' for schools which requires them to sign up to revised equality policies which are not consistent with the law.

---

<sup>23</sup> <https://forwomen.scot/wp-content/uploads/2024/08/Whats-Happening-in-Your-Childs-Classroom.pdf>

<sup>24</sup> <https://forwomen.scot/wp-content/uploads/2024/09/Whats-Happening-to-Your-Childs-School-Toilets.pdf>

<sup>25</sup> <https://forwomen.scot/wp-content/uploads/2024/05/Aidan-ONeill-KC-Single-sex-school-toilets-May2022.pdf>

<sup>26</sup> <https://www.thetimes.com/uk/scotland/article/mothers-anger-after-girl-finds-camera-in-schools-unisex-toilet-k0m79r0jb>

<sup>27</sup> <https://forwomen.scot/29/09/2020/rsdp-education/>

<sup>28</sup> <https://www.tandfonline.com/doi/full/10.1080/00224499.2016.1142496>

<sup>29</sup> <https://www.telegraph.co.uk/news/2025/01/08/gilruth-porno-ipads-school-scotland-primary-pupils-security/>

Girls are known to skip school during their periods due to shame or stigma.<sup>30</sup> Anecdotal evidence suggests that mixed sex toilets further compromise the dignity and privacy of girls, with reports saying that girls feel “embarrassed” to use them and complaints of “boys peeing all over the seats” and floor, and graffiti aimed at female pupils.<sup>31</sup> Girls are also reported to be avoiding drinking during the day, causing dehydration or leading to bladder infections.<sup>32</sup> Impact assessments seem to have also overlooked the implications for pupils from religious or ethnic minorities who may be unable to use mixed sex facilities.



*For Women Scotland*  
13 January 2025

---

<sup>30</sup> <https://plan-uk.org/press/two-million-girls-in-the-uk-miss-school-because-of-their-period>

<sup>31</sup> <https://www.tes.com/magazine/archive/mixed-gender-toilets-have-negative-impact-girls>

<sup>32</sup> <https://womansplaceuk.org/2018/11/12/mixed-sex-toilets-ins-chools/#:~:text=lf%20girls%20feel%20too%20embarrassed,potentially%20leading%20to%20bladder%20infections.>