

Women and Equalities Committee

Oral evidence: Reform of the Gender Recognition Act, HC 884

Wednesday 21 April 2021

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Members present: Caroline Nokes (Chair); Elliot Colburn; Angela Crawley; Alex Davies-Jones; Kim Johnson; Kate Osborne; Bell Ribeiro-Addy; Nicola Richards.

Questions 124 - 165

Witnesses

I: Dr Nicola Williams, Director, Fair Play for Women; Raquel Rosario Sanchez, Spokeswoman and Trustee, FiLia; and Judith Green, Co-founder, Woman's Place UK.

Written evidence from witnesses:

[Fair Play for Women](#)

[FiLia](#)

[Woman's Place UK](#)



Examination of Witnesses

Witnesses: Dr Nicola Williams, Raquel Rosario Sanchez and Judith Green.

Q124 **Chair:** Good afternoon and welcome to this afternoon's session of the Women and Equalities Committee and our inquiry into the reform of the Gender Recognition Act. Can I start by thanking our witnesses, Dr Nicola Williams, Judith Green and Raquel Rosario Sanchez, for joining us this afternoon? I would also like to state for the record that we invited Trans Widows Voices to give oral evidence this afternoon, but, due to concerns about potential identification, we will instead be sending our questions in writing. We will treat this evidence in the same way as evidence received orally this afternoon. Can I remind our witnesses about the House of Commons sub judice rule and that we cannot refer to any cases that are currently live in UK courts?

I would just like to ask each witness in turn if they would give us a very short introduction. I will start with Nicola Williams, please.

Dr Williams: My name is Nicola Williams. I am the director of Fair Play for Women. Our purpose is to defend the existing sex-based rights of women and girls. Our focus is understanding when and how gender identity and sex conflict in law and policy, and making sure that everyone's needs are fairly balanced and that women and girls are not forgotten.

We have been very active in the Gender Recognition Act debate. We did a street campaign a couple of years ago. We are also experienced stakeholders for sex-based rights and are regularly invited to participate in policy discussions when sex and gender identity need to be balanced. It is sometimes necessary for us to defend sex-based rights in court, so we have been expert witnesses in judicial reviews. We also recently won a High Court challenge against the ONS to stop it unlawfully conflating sex and gender identity in the census.

In a nutshell, our principles are that everyone has a sex and some people have a gender identity, but we should not conflate those two things. Sex is fixed at birth. It is not chosen and cannot be changed. Sex is real. It has a material impact on our lives, and particularly women and girls, which is why sex is protected in law. Sex is binary—male and female—and so we need to be able to talk about the differences between those two things. We need to be able to count the differences and to make good decisions based on those differences.

It is for that reason that most of the answers that you will hear from me today will be framed within the context of sex. When I use the words "male" and "female", I will be meaning sex, not gender identity. While I understand that that is distressing for some people, it is only through this framework that we can discuss the impact on women and girls. That is why I will be using that type of language today.



Raquel Rosario Sanchez: First of all, thank you for the invitation to FiLia. My name is Raquel Rosario Sanchez and I am a researcher into male violence against women, on which I am doing a PhD. My previous professional experience was in the Ministry of Women in the Dominican Republic, where my work focused on shelters and refuges for women and girls who were escaping male violence.

As you mentioned, I am the spokeswoman and a trustee of FiLia, which is a grassroots, volunteer, women-led, feminist organisation and, since 2015, a charity. Our work is very broad. We are not a campaigning group that was established to focus on this issue particularly, but because of what we will discuss today we felt compelled to step up and address this matter. Our aims as a charity are building sisterhood and solidarity among women in order to amplify the voices of women, particularly those who are less often heard or purposefully silenced, and to defend women's human rights.

The topics we cover are very broad in nature. We talk about reproductive rights, lesbian rights, the issues of refugees and immigrants, surging Latin American communitarianism and women's health. We are a very broad charity and feminist organisation. We come to the conversations about the conflict between women's sex-based rights and the concept of gender identity as a result of the thousands of women who have been telling us, "This is a problem and we need you to step up." That is why we are here.

Judith Green: I am Judith Green, a founder of Woman's Place UK. I am a victim and survivor of male violence who has needed female-only, single-sex spaces. I was personally concerned about the impact of proposed gender recognition reform. In 2017, when women were being attacked, sometimes physically, for wanting to talk about the impact of proposals of gender recognition reform on women's rights, because there was such a concerted attack on those women, I and other longstanding campaigners and trade unionists founded Woman's Place UK. It was to help women to have a voice on law and policy that affects us as women, and to campaign for single-sex protections to be upheld and for integrity on data collection about sex.

We had 27 physical meetings prior to Covid, most of which were before the close of the consultation on the Gender Recognition Act. We held a conference with 1,000 women attending and continue to do work on webinars on a range of related topics.

Q125 **Alex Davies-Jones:** Can I ask the witnesses to be quite succinct in their answers? I know we are short on time today. My questions are predominantly for all of you so, if you could be short and snappy, that would be perfect. How suitable is the Gender Recognition Act in its current form?

Dr Williams: I need to explain what the Gender Recognition Act is and why there are problems. We see that there are already existing problems



HOUSE OF COMMONS

with the Gender Recognition Act. The Gender Recognition Act is one of the ways that the Government recognise our legal sex status. That means that, whereas in the past the state used to recognise legal sex according to someone's birth sex, the Gender Recognition Act introduces an alternative way for someone to recognise legal sex, and so that breaks that connection between legal sex and birth sex. That matters to women and girls, because our needs and the impacts on our lives are based on the sex with which we were born.

Legal sex has now become an umbrella term involving two different groups. The female legal sex includes people who were born female and can now also include people who were born male. Although that benefits one group of people who were born male and who may wish to hide their birth sex so that no one knows they were born male, the cost is that it obscures and disadvantages the group of people who were born female. Throughout the session, I will evidence how that disadvantages women who were born female.

The point here is that the GRA, as it exists, already causes problems for women and girls, so we must look at both the process and the consequences of the Gender Recognition Act. When I look at what reforms are being proposed, I look at this through quite a simple lens: would allowing additional groups of people who are underneath the trans umbrella make the existing problems worse for women and girls? If they did, we would not want to agree to them. In a nutshell, the existing Gender Recognition Act is already a problem, and so additional reforms would only make a bad problem worse.

Raquel Rosario Sanchez: FiLia's position is that the GRA works for the intended purpose that it had at the time the legislation was drawn up. It was meant to address the privacy of transsexual individuals and individuals who were experiencing severe gender dysphoria. For that purpose, there is not a problem in that sense. However, what we have seen and are hearing about from women who come to FiLia, now that we have expanded the definition of "transgender" and the word "trans" itself, is a disturbing surge, particularly for teenage girls, in young people who fit into this category of trans that addresses pretty much everyone.

For that purpose, it does not fit, because now you have just expanded it to address all individuals in society. We have to have separate conversations about the legislation and the purpose for which it was conceived, which was to address severe gender dysphoria, and the current political debates that seek to expand that, to involve not only people who identify as trans, but other definitions that broadened it to a point at which it becomes unsuitable.

Judith Green: I would agree with what has been said about it being suitable for its intended purpose and the protections it provides, so I do not want to go over that topic. Originally, when the GRA was proposed, it was said by Press for Change—you have had Stephen Whittle as a



witness already—that about 5,000 people would benefit from the GRA. The Government have similar figures and, indeed, that is about the number of gender recognition certificates that have been issued, which demonstrates that, in terms of the intended purpose around protection of privacy and family life for people with gender dysphoria, it has been a good match.

Q126 Alex Davies-Jones: The Government opened the consultation on the GRA in 2018 and responded to it in 2020. Some of the evidence that this Committee has received argues that this two-year gap was problematic. What is your view of the time taken for the Government to respond to the consultation?

Dr Williams: Decision making done swiftly is better than decision making that is delayed. Perhaps you are referring to some comments that were made at the last session by Nancy Kelley from Stonewall, who said that the delay had caused some frenetic anti-trans organising. I would say that that is a fundamental misunderstanding of what has happened here. The Gender Recognition Act reform issue is just a very small aspect of the overall set of concerns that women and girls have. What is really happening is that there is a shift in the debate about how we balance sex and gender identity. There is a paradigm shift, essentially, that gender identity should replace sex, and women and girls are concerned about that.

Although the Gender Recognition Act discussions and decision making were delayed, that is not why we are talking about it. We would have been talking about it anyway, but the Gender Recognition Act consultation was a channel that allowed this to come into the mainstream. Previously, discussions had been behind closed doors and women were shut out, but the public consultation really broke that stranglehold and meant that women were seen as valid stakeholders.

The Government took a long time to come to that decision, but the discussion needed to happen. Although they have now made their decision and struck a fair balance, the problems still exist, so more discussions will still have to be had. I do not see that the delay in the Government decision has caused this problem; the problem already existed and we need to work together to solve it.

Raquel Rosario Sanchez: Our position at FiLia is that we want carefully considered policy that works for everyone. We do not want to rush something as important as national public policy. The core of your question goes to what the democratic process is about and what all of us expect from the Government. Although the past two to three years have been intense and, at points, virulent, it allowed for democratic discussion. That, as Nicola just said, would have been prevented if these conversations kept taking place behind closed doors and happened without women being stakeholders at the table and being listened to.



HOUSE OF COMMONS

From our point of view, we have been hearing from women that that gap allowed for democratic discussion, which has now enabled the Government to strike a decision on policy that is balanced. The intensity of the past two or three years is not a positive, but the gap has allowed for democracy to work. Otherwise, lobby groups such as Stonewall would have been able to impose a policy that they wanted, because it benefited their vested interests, but to the detriment of half of the population in the UK, which is women and girls.

Judith Green: I am not surprised that there was a long gap between the announcement of the Government's intention to consult and then the Government's response. First of all, the Government Equalities Office realised that women were stakeholders in the legal definition of sex only in around autumn 2017. Women had not given oral evidence at the Women and Equalities Committee in 2015, for example, so there was a bit of catching up to do from that point of view.

They then had a consultation with 100,000 submissions, which have to be weighed. That is weighing not just the numbers but the arguments and evidence that were submitted. The Government then had to make a response. They have had Brexit and Covid, so it is understandable that there may be a delay there as well. It is not the length of time that has made the debate toxic; what has really toxified the debate has been an insistence that any questioning or dissent from the idea that we must proceed to self-identification is viewed as transphobic. In this atmosphere of #NoDebate, anyone who wants to object or question has been described in that way.

There has been a failure of bodies that have a responsibility to step up and protect the right of the public to discuss current law and proposed legislation. The EHRC and other organisations that have a duty to foster good relations have not opened up that space, and it has been left to grassroots women's groups to take huge personal risks. Our meetings have been attacked. We have really struggled to be able to have this conversation, which is not good for scrutiny of legislation or for democracy.

Q127 **Alex Davies-Jones:** Nicola, Fair Play for Women collected responses to the Government's GRA consultation. Are you able to explain why and how you went about doing this?

Dr Williams: We did a street campaign. We had hundreds of women going out across the country with leaflets, getting out on the streets and talking to people about this for the very first time. One of the things that we were pleasantly surprised by was that, when we spoke to people about this, rather than being called transphobic and hateful, we were praised by people on the street saying, "Thank you for explaining to us what the real issues are". One of the problems with this issue is that the narrative is that anyone who wants to talk about the interplay between sex and gender identity is, in some way, hateful. Of course, they are not, and the effect on women and girls does need to be discussed.



Essentially, our campaign was about ordinary women very bravely going out to speak about this. We wrote advice and guidance for how people might want to answer the consultation, in a detailed form, and we also had a one-click response, where people could respond to register their concerns. This was something that the other side were doing as well, so it was important that we were also counted, essentially. That is what we did and we were able to generate the second largest number of responses in that way.

It is no surprise that the well-funded, dominant trans pressure groups were able to mobilise majority support through that, but what surprised a lot of other people was how much small, new grassroots groups could mobilise. That should be ringing alarm bells around what public opinion is on this issue, because we were able to, from a standing start, generate a very significant response to that consultation. That has had a big impact on how the Government looked at this and the decisions that they made.

Q128 Alex Davies-Jones: What discussions, if any, did you have with the GEO prior to the consultation and following the collection of your responses?

Dr Williams: I had two meetings with the GEO. We were able to talk about our issues directly with staff at the GEO and we made a written submission.

Q129 Alex Davies-Jones: What is your view on the Government's proposed changes that arise from the current consultation on the GRA?

Judith Green: It is right and proper that a statutory process that has been in place for 15 years should be subject to review, and we broadly welcome the Government's proposals. They strike the right balance between simplifying and reducing the barriers to a GRC for eligible trans people and restating the importance of women's sex-based rights.

The Minister has made really clear that the law enables single-sex services and protections for women on the basis of biological sex. That is important because, in the discussion, where it was expected that self-identification would become law, many organisations have made policies that have leapt ahead of the law and created policy that is in breach of the Equality Act. It is really great that the Government have committed to clear guidance from the EHRC and Government about single-sex exemptions, and we would like a clear statement about the relationship between single-sex exemptions and the interaction with the GRA.

Q130 Alex Davies-Jones: Some of the written evidence that we have had to the inquiry has argued that there was very little of substance in the proposed changes. Is this your view?

Raquel Rosario Sanchez: I would like to add to what Judith just mentioned. We agree with Woman's Place UK on the position that there has to be a balance. The Government have sought a balance between the rights of advocates who are asking for a process of self-ID and the protection of single-sex spaces and sex-based rights for women and girls.



HOUSE OF COMMONS

I also just want to take a moment to talk about the intention of the Government to make the process of obtaining a gender recognition certification kinder. Our position at FiLia is that we want the process and the bureaucracy that people engage in to be kinder to all citizens and to all people trying to obtain proper documentation from the state. We know that obtaining a GRC is not particularly burdensome, if you compare it to other processes in the state bureaucracy; for example, when it comes to disability benefits or the personal independence payment, or when it comes to foreign nationals seeking residence status or trying to obtain citizenship. The process of obtaining citizenship of the United Kingdom costs over £1,000.

Because of the women we deal with in our feminist organisations, we do a lot of work when it comes to immigrants, refugees, working-class women and single mothers. We want the Government to be kind to them too. Our position is that, if the Government are to create a simpler or kinder process for people who identify as trans, we also want simpler and kinder processes for all women and girls who are struggling in society.

Q131 Alex Davies-Jones: On that point, it has been reported that the Government could be reducing the fee for a GRC to single figures. What is your view on the fee currently and the proposed reduction?

Raquel Rosario Sanchez: We recommend that the fee should be retained, because of what I have just mentioned. Comparable to other bureaucratic processes in society, it is not that burdensome. As I just mentioned, people applying for citizenship in the United Kingdom have to pay about £1,000 and probably more. People applying for a GRC can already apply for a reduced fee, so it is comparable to the paperwork required for the involvement of the state, for example, when you are trying to get a passport or something like that.

Q132 Alex Davies-Jones: We have heard from applicants who have already had to face additional costs, such as submitting two medical reports on top of the existing fee. You are arguing that the current fee should be retained as well.

Raquel Rosario Sanchez: Yes, we are.

Dr Williams: The fee is not a key issue for us. The principle is that, if there are ways to streamline the process and to make it easier for the people who are already eligible to get a GRC, there is no reason why that should not be looked at. The key here is that we must not get confused with making a process easier to people who are not already eligible. We do not want to see any expansion of the number or type of people who can have access to changing their legal sex.

As Raquel said earlier, the original GRA was designed for a very specific purpose and for a very small group of people. It was for people who had severe gender dysphoria, who had lived in role for a significant amount of time and who were adults. That was what it was for, but the trans



HOUSE OF COMMONS

umbrella is much broader than that. There are children under it. There are people without gender dysphoria. There are people who have not lived in role, for example.

Expanding the eligibility process to include those people would increase the number of people who would have access to legally changing their sex, and that is something that we would not want to see. Yes, make the process more streamlined for people who are already eligible, but do not increase the eligibility categories.

Judith Green: At Woman's Place UK, our view is that lack of means should never be a barrier for these kinds of processes. In principle, we support low or no fees in general but, as Raquel has pointed out, women will look at this 95% reduction from £140 to less than £10 as being extraordinarily generous in the context of those other bureaucratic processes. We have just had the Domestic Abuse Bill presented to Parliament, where absolutely no concession was made by the Government on the issue of no recourse to public funds. That has a direct relationship with the accessibility of being able to regularise your citizenship, your leave to remain and so on.

The fee can already be waived, and the gender recognition panel user group suggests that the majority of applicants have the fee waived entirely. The protected characteristic of gender reassignment applies for people who do not have a GRC, so there is definitely a disparity there with the issue of nationality. There are greater implications, in a way, to not having that access. It is just that context that should be looked at.

Q133 **Bell Ribeiro-Addy:** Some 78.6% of respondents to the Government's consultation argued that the requirement to live in the acquired gender for two years should now be removed from the GRA, partly because it was seen by many as humiliating and dehumanising, but also because, in practical terms, it proves to be quite difficult to provide official documentation over the two-year period, particularly for young people, who may not have bills in their name, for example. What is your view of this requirement and would you have any concerns if it were removed or reduced?

Judith Green: Woman's Place UK was part of that 78.6% of respondents who think that the living in acquired gender requirement should be removed. That is because we do not agree that this idea of living in a gender makes any sense. It inscribes sexism and sexist stereotypes into law. There is no particular correct way to live as a man or as a woman, so that part of the law does not make any sense.

That does not mean that there should not be a period of reflection. If the period of what is called "living in role" were to be replaced with a period of reflection that allows the applicant to be sure of their decision—it is a significant thing to change your legal sex—and to show consistency and commitment to that change, that seems reasonable. The idea of living in an acquired gender is putting sexism into the law.



Raquel Rosario Sanchez: We disagree with Woman's Place UK on this issue. We understand that the requirement to live in the acquired gender is a sexist concept. When you say, "I am living as a woman," is that a working-class woman with a couple of kids who is really struggling, or is that about femininity and stereotypes? We understand the basis of their concern.

At the same time, we go back to what the purpose of the gender recognition certificate is. It is about addressing those who have been diagnosed with severe gender dysphoria. We agree that there has to be some sort of commitment. We want clear evidence of a demonstrable commitment to live in the concept of an acquired gender. Otherwise—and we definitely agree with the point about sexism—there is no justification for a gender recognition certificate. How do you justify this legal fiction, if there is no requirement to prove anything about it?

Dr Williams: We agree with what Judith said about sexism and how you live in role as a woman. In a similar way to FiLiA, the process of who is eligible is to define a very small group of people. It was set up in 2004 to address a problem that was identified with people who were transsexuals and who had very severe gender dysphoria. Some sense of having lived in role over time was part of defining that group of people.

The concern is that, if you take that away, it opens up the process to another group of people who have not lived in role or shown any commitment or persistence over time towards wanting or needing to live in a different way. We are really concerned about removing the eligibility requirements that would increase the number of people who would be able to change their legal sex.

I just want to look back at what was in legislators' minds in 2004, when the Gender Recognition Act was devised. We looked back at some of the discussions that were being had at the time and it was definitely about a fair balance between different groups of people. A lot of the discussion at the time was about it being a very small group of people, about 5,000, and how the impact on wider society was acknowledged, but it could be tolerated. Although it would be an inconvenience to wider society, by which they meant women and girls, it could be offset by the greater good of the benefits that would come to the people who needed it.

If we start to increase the number of people who become eligible under the trans umbrella, that changes that fair balance, so we need to look at the fair balance again. We cannot do anything that would increase the number of people who would be eligible to change their birth certificates.

Q134 **Bell Ribeiro-Addy:** Raquel, touching on your last answer, you have argued that obtaining a GRC should not be undertaken lightly given the long-lasting and serious implications for the rest of society. Could you expand on what these implications might be?



Raquel Rosario Sanchez: Are we are opening the conversation about single-sex spaces?

Q135 **Bell Ribeiro-Addy:** Yes. What are the long-lasting implications for undertaking the GRC, such that it should not be given so lightly? What are the primary issues for not relaxing the rules around it?

Raquel Rosario Sanchez: As I have just mentioned, the purpose of the Gender Recognition Act was to address the severe gender dysphoria experienced by a small number of people in society, which has to be taken into account by the state and by the law. For those people, of course this is going to play an important and significant role in their lives, how they can conduct themselves in public and how they are perceived by people in public.

At the same time, because of the existing rights that women and girls have in society, our position is that, by creating the legal fiction that biological sex is mutable, we are infringing on the rights of women and girls who are defined in law as adult human females. There are a number of implications, but one of the most pressing ones, from our position as FiLia, is in regard to single-sex exemptions and permissions in the Equality Act 2010.

What we are witnessing right now is that, as things stand in 2021, we already have a conflict, because the balance between these two pieces of legislation in the UK does not have any clear guidance yet. We have a conflict between people in general who were advocating for a relaxation of the rules for obtaining a gender recognition certificate and the sex-based rights that women already have in law.

Any relaxation of the GRC is going to impact, because it already is impacting, the rights that women have to single-sex spaces and services, particularly when it comes to the provision of spaces that are created so that women can talk about violence against women. We believe that, instead of trying to modify the current legislation, we need clearer guidance on how these two pieces can interact, without infringing on either group's rights.

Q136 **Bell Ribeiro-Addy:** What are your views on the statutory declaration required for those wishing to obtain a GRC, bearing in mind that you can end up committing a criminal offence punishable by two years or an unlimited fine by making a false declaration?

Judith Green: Although making a false declaration would be a criminal offence, it is not clear what would count as a false declaration, especially under a system of self-identification, because the essence of self-identification is that that rests with the individual. A statutory declaration on the basis of self-identification can, by definition, never be false. We have to go with whatever anyone claims.

In our evidence, we have said that statutory declaration is insufficient to deal with a couple of particular situations. One of them would be having a



HOUSE OF COMMONS

gender recognition certificate for what you might call improper purposes. The law has to work for all possible eventualities and have provisions to deal with them.

The testimony to the previous inquiry of this Committee on transgender equality heard from the then president of the British Association of Gender Identity Specialists. In his submission, he said that it would be naïve to think that nobody would seek to pretend transsexual status, for example in prison, if that was not actually the case. He gave as examples a whole range of motivations, other than being gender dysphoric, that could reasonably be considered improper purposes, including a desire to make subsequent sexual offending easier. This is in reference to a specific group of people with convictions for violent and sexual offences, where it should be possible to say that it is not appropriate to grant that legal fiction of change of sex.

There is another, entirely separate group where the statutory declaration is an issue, because it is lifelong. It is right that it is a commitment for a permanent change, but there are an increasing number of people who have de-transitioned and who may have GRCs, and they should not be trapped in a legal decision if it no longer applies to them. I would really urge this Committee to speak with people who have de-transitioned and may be in that position.

The process for them at the moment, as I understand it, to return to their original birth certificate and to reflect their actual sex is to go through the gender recognition process again and get another diagnosis of gender dysphoria in the opposite direction. That does not really reflect those people's situations. Like with marriage, you hope it is going to be forever and permanent, but there needs to be a straightforward, legal way in which people who have a gender recognition certificate, and are then de-transitioned and want to return to their original birth certificate, can do so.

Q137 Bell Ribeiro-Addy: You have described quite well why it should be revoked if a person chooses to de-transition, but could you elaborate on any instances other than those you mentioned where it should be revoked because it has been acquired for improper purposes?

Judith Green: It would be useful for this Committee to look at the testimony in the previous inquiry, which listed a series of reasons where the motivation for wanting a gender recognition certificate would not have to do with gender dysphoria. I am happy to send the link to that.

Q138 Bell Ribeiro-Addy: That is very helpful. Nicola, do you have any different views on the statutory declaration?

Dr Williams: I have nothing to add. Judith has explained that extremely well, the concept being this: how can you determine what is a false declaration, if the declaration is based on a personal feeling?

Raquel Rosario Sanchez: I agree with both Nicola and Judith on this.



Q139 **Bell Ribeiro-Addy:** Raquel, in your written evidence, you also argue that the suggestion that a statutory declaration would genuinely prevent a person from abusing the process does not stand up to scrutiny. Could you expand on that?

Raquel Rosario Sanchez: One of our concerns as FiLiA is the idea of creating a legal fiction based on a sexist concept. We do not even have self-ID in the UK and we already have issues where it has been implemented by public bodies and even by state organisations, which are governed by the concept of self-ID gender identity, and that is impacting on women in a negative way. The idea of requiring you to sign a piece of paper that says, "This is the sex that I intend to live my life in," is not going to prevent the system from being abused.

The point we were making is that we need stronger permissions for that point, but the suggestion that we can resort to that statutory declaration in a self-ID system, and that that could resolve the issues that have been mentioned in this meeting, is not suitable.

Q140 **Kim Johnson:** Good afternoon, panel. My questions are on age limits and follow on from Bell's. Judith, in your written evidence, you argue that the age limit to apply for a GRC should not be lowered. Can you explain why?

Judith Green: There are very serious concerns about the exponential increase in the number of children who are being referred to gender identity services, and particularly girls suffering from gender dysphoria. That should prompt curiosity: what is behind the increase? In fact, when clinicians at the Tavistock have shown curiosity and concern about that, there has been quite a bit of whistleblowing about issues at the Tavistock with clinicians' concerns not being addressed. There is an ongoing NHS inquiry under Hilary Cass, looking at this issue.

It seems that it would be reckless to do something in the law with the Gender Recognition Act that would add to the potential medicalisation and pathologisation of gender non-confirming or gender identity issues, when, at 18, anyone who already has a diagnosis can get a gender recognition certificate. If the two years of living in the acquired gender were to remain, they could take place prior to the age of 18, when someone becomes an adult and can make an adult decision.

Q141 **Kim Johnson:** Do you have any explanations as to why there has been an exponential increase?

Judith Green: It is important to have research on that topic, which has been inhibited because, as we have talked about, there is a toxicity, particularly in academia. There are no simple answers, but anything that has that large an increase—we are talking about a 5,000% increase over a relatively short space of time—has to have proper research, looking at the reasons why so many young people are unhappy in their sex.



Raquel Rosario Sanchez: There are two points that we seek to make. First, our position as FiLia is that the age limit should not be lowered, in part because we know that there is neuroscientific research that points out that the brain does not fully develop until people are around 25 years old. The prefrontal cortex, which is where we assess how we manage, how we assess risks, our impulsive behaviour and how we regulate our emotions does not develop until later on in life, so we want more caution and prudence in managing that very delicate conflation when it comes to gender identity in children and teenagers.

We also want to point out that there is nothing preventing young people from expressing themselves and the right that people have to the free development of their personality. There is nothing preventing young people from expressing themselves in the way that they see fit. When it comes to the intervention of the state, which is what legislation does, we have to be a little more careful and examine other factors.

The question that you posed to Judith goes to the core of what FiLia is. As a feminist organisation, we interact not only with women who could be mothers, aunts, sisters and grandmothers, but also with girls and teenage girls. What we hear from them is that being a girl is really tough. There is a lot of male violence against women and girls. There are a lot of pressures to conform to femininity. There are a lot of demands that society makes of you because you are a girl, when it comes to eating disorders and self-harm. Girls face a very tough situation in society.

It is not unheard of or bizarre to see this surge of girls who think that they can escape patriarchy. Our position as a feminist organisation is that we want to speak to and welcome those girls. We want to have a conversation with those girls to tell them that they are not the problem; it is the patriarchy. In that context, we have pressure from lobby groups that are addressing those young and teenage girls, and talking to them and telling them that it is the opposite way around.

I agree that we need more scientific evidence and research on this topic, but we have been hearing from the research that has already been conducted, and from the women who come to FiLia and talk to us, that the pressure from too many different aspects of society to make sure that there is a disconnect between girls and their bodies, the way that they feel about themselves and the way that they conceptualise their bodies, is a little too much to bear for too many girls in society under patriarchy.

Q142 **Kim Johnson:** The minimum age at the moment for a GRC is 18, so can I confirm that you are saying that you think it should be older?

Raquel Rosario Sanchez: No, we think it should not be lowered.

Q143 **Nicola Richards:** What is your view of the spousal consent provision? Should it remain in the GRA?

Judith Green: It is really important that the spousal consent provision should remain. Marriages and civil partnerships are contracts between



two people, and both people have rights in relation to that. Prior to the Marriage (Same Sex Couples) Act, anyone married who wanted a gender recognition certificate, if the marriage was still in existence, would get an interim gender recognition certificate, because there was no way to convert a heterosexual marriage into a same-sex marriage. It was only once we had equal marriage in this country that spousal consent became an issue.

Prior to equal marriage, about 4% of GRC disposals were for an interim GRC, so this applied to a very small proportion of all applicants. Since same-sex marriage came in, about 2% of all applicants for a GRC have an interim GRC. Those are marriages or civil partnerships that still exist and where there has not been spousal consent. It is very important because women—it is usually women—should not be trapped in marriages entirely changed from the marriage that they entered. One in four women experience domestic abuse from a partner in their lifetimes, which is a consideration. What an interim GRC and this provision do is allow either party to annul the marriage.

I just want to come back to something said in the previous panel. I apologise, because I forget which panellist said it, but when you have an interim GRC nobody is trapped in the marriage, because either party can then annul it in order to move forward. It is often talked about incorrectly as a spousal veto. It does not veto gender transition and it certainly does not interfere with anyone's rights in relation to their medical treatment or their bodily autonomy. It is not a veto on going forward with a gender recognition certificate. It is consent to convert the marriage into a same-sex marriage, and operates as an exit clause for either party at that stage.

It was also said that annulment is as if the marriage had never existed, which is not quite the case. There are two forms of annulment: one is for marriages that have never been valid; and one is for marriages that have become possible to be voided. With an interim GRC, that is the latter type of annulment. Our concerns are for those women who need an exit route from a marriage, which is a very small proportion of applicants, and that is what an interim GRC provision does.

Q144 Nicola Richards: The Government's analysis of responses to the GRA consultation highlighted that 84.9% of respondents were in favour of removing this provision, so how would you respond to these people?

Judith Green: As I said, it is often referred to as a spousal veto. What is understood by that is that the spouse is vetoing the transition or the acquisition of a gender recognition certificate. That is not what the spousal consent is, so it is very commonly misrepresented. I note that that is 84.9% of those who gave an answer, and that quite a large proportion, about 30%, of those who responded to the consultation did not answer this question at all. Ultimately, this concerns people who are in marriages, not the 98% of those applicants who do not get interim



HOUSE OF COMMONS

GRCs. This concerns the spouses of those applicants who get an interim GRC.

Raquel Rosario Sanchez: I was just going to point out that how they are framed is detrimental to those rights of those women who want to retain the spousal exit clause. They refer to it as an exit clause, not as a veto. When it has been discussed in the media, and how it has been framed by lobbying organisations, it is like women will have the right to deny someone who identifies as trans their desire to live in a certain expression.

Why would we not retain the spousal exit clause? A marriage is a contract between two people, with the intervention of the state. It is a legal contract. If there are two people, one of them has to have the option of saying, "This does not work for me any more" or, "Under these conditions or this definition, this is not working for me". When it comes to the transitioning of a spouse, that changes the identity of one of the partners.

The spousal exit clause is about taking into account that the partner who is not transitioning has a right to have a say in their own identity. The idea that they should not have that right when it comes to issues of their marriage and their relationship could lead to an abusive situation, in which a partner wants to modify something that is intrinsic to the contract that they entered into but is somehow prevented from doing so. That should be the question: why should that clause not be there?

Dr Williams: Spousal consent is yet another example of where more than one group of people are impacted by someone choosing to get a gender recognition certificate. Spousal consent was added in, in recognition of the impact on spouses. It is extremely important that you listen to all the stakeholders here. The fact that 95% of respondents to the consultation said that they did not think that spousal consent was necessary is irrelevant, because they are not the stakeholders. The stakeholders are the people who are in the marriage. It needs to be the people who want to get a GRC and their spouses.

We do have good representation of the mostly women who are involved in marriages to people who want to change their birth certificate, and so I am glad that Trans Widows are part of this process and can speak directly. They are the stakeholders in this. The principle must be that no one should be trapped in a marriage. There must be a way for both parties to divorce or annul, if necessary, and no one should have a veto. My understanding is that no one does have a veto under the current rules. This is an exit plan for both parties.

Q145 **Nicola Richards:** Judith, in your written evidence, you argue that emotional support and legal advice must be available for the spouse or partner of someone who identifies as transgender. What support is currently available, and can you elaborate on what more support you would like to see?



HOUSE OF COMMONS

Judith Green: Our understanding is that, in terms of independent support and advice, there is currently only voluntary peer support through message boards and self-organising groups. The law and the issues are complex, so it is really important that that support is available. It needs to be non-judgmental and non-directive. The reason is that there is a very strong expectation that spouses and partners of people, usually husbands, who are transitioning must play the role of supporting the transitioning partner. There is quite a lot of hostility towards women partners who are distressed or who experience parts of the transition as pushing on their boundaries.

To give an example of a woman who spoke at one of our meetings, she was in a relationship with, at that point, a man who was cross-dressing part time. They went to couples counselling. She wanted to express her feelings about how some of the things that were being expected of her were pressing on her sexual boundaries. She felt that some of these things were a violation. In the course of that, she referred to her partner, whom she considered a man, as "he", and that provoked a walkout.

At that point, the couples counsellor said that she could not be involved, because she does not deal with domestic abuse cases. The woman was trying to talk about her feelings of her sexual boundaries being pressed upon, and she was being accused of being abusive, because of her use of pronouns. Therefore, they were not able to access the couples counselling. Following that, she went to a women's organisation that she would expect to be sympathetic, to talk about some of the issues in the relationship, and again it was not permitted for her to describe her experiences in her terms in that space, because of the policies of the organisation.

That is why the support for women in that situation needs to understand that they should not be expected to rewrite their entire life history and their entire experience of the relationship that they have had. They have experienced that relationship as being with a man who is male, and they are entitled to speak about their own experiences, including experiences of abuse in a marriage or relationship. That is the importance of that independent, non-judgmental, non-directive emotional support, as well as legal advice, because it is complicated. What are the implications of an annulment versus a divorce? What are the expectations around children and financial settlements? All those sorts of things could need to be addressed, and it would be good if women had somewhere that they could rely on and go to.

Q146 **Nicola Richards:** You said that, when one person in a married couple seeks to transition, it is usually the male and it affects the female in that relationship. Do you have any numerical data or evidence on this to back that up?

Judith Green: I do not have data to hand, but same-sex marriage has existed only since 2014, and civil partnerships a little before that. The tribunals and courts reports would probably be able to give that



breakdown. We know that 11% of applicants, plus the 2% for interim GRCs, are married or in a civil partnership. Whether or not the tribunals and courts reports break that down by sex, I do not know. I hope they do, because having sex data is really important to answer a question like that. Generally, in my understanding, female-to-male transition with a gender recognition certificate has an earlier age profile, and so they are less likely to be in a marriage or civil partnership.

Q147 **Nicola Richards:** Could you send over some of those stats to back up the point that you have included today?

Judith Green: Yes, I will.

Q148 **Nicola Richards:** Judith, you also state that the spousal consent clause prevents applicants who wish to coerce or deceive a usually female spouse into continuing a marriage. What evidence do you have for this statement, and is the same true for spouses of trans men?

Judith Green: At the time of same-sex marriage coming into law, there was quite a lively discussion on this within the trans community. Stephen Whittle, who has already given evidence to this Committee in a previous panel, wrote some really interesting blogs about this subject, which I believe are quoted in that submission, in which he describes the situation of a trans person who is married, and perhaps in a state of denial, not wanting to tell their spouse that they are going to transition.

The cultural or social expectation that the right and correct thing to do is for the wife to stand by her husband creates a coercive sense in society. We know that one in four women experience domestic abuse from a partner in their lifetime, so we cannot discount that. In terms of statistics, there is no research on that, but there is definitely personal testimony and I am sure you will hear some of that from other witnesses.

Q149 **Nicola Richards:** Just to clarify, is your answer that you do not have any evidence to back up that statement?

Judith Green: No. There is evidence from Stephen Whittle, who has described exactly that scenario of deception. There is evidence from individual women who have been in that situation and who have described that scenario. There is then my own observation of the social and cultural context that pushes women into a particular direction. What I said was that there is no good statistical evidence.

Q150 **Nicola Richards:** Can the same be said of the spouses of trans men?

Judith Green: In that situation, this is where sex matters. When we think about coercive control, for example, that has a sex dynamic. Although it cannot be excluded, there may be a different dynamic going on, but there are far fewer relationships in which a trans man who is married or in a civil partnership is transitioning.

Q151 **Nicola Richards:** Do you have evidence to back that up?



Judith Green: I have already said that I will send the stats.

Nicola Richards: That will be really interesting to see. Thank you very much.

Q152 **Angela Crawley:** Dr Williams, we have received evidence arguing for the introduction of a system of self-recognition. What is your view on this?

Dr Williams: The issue with self-identification is that it would open up the ability for any male, for whatever reason, to obtain a birth certificate to say that that person was born female. That is, in essence, the problem with the gender recognition certificate: it allows someone to change their birth certificate, and not only to do that but to hide the fact that they have done that. On paper, someone who was born male would appear to have been born female.

There is a fundamental problem there with the way that single-sex spaces work, because the Equality Act provides women with the opportunity to have female-only spaces, but based on their birth sex. It provides a way for spaces to be reserved for people who are born female. If there is then also a separate law that allows people to hide the fact of their birth sex, there is an incompatibility. We cannot have both laws without a conflict. We have the single-sex spaces based on birth sex, but there is another law that allows birth sex to be hidden.

That means that, although, on paper, it looks like women have a law on single-sex spaces, they cannot implement it in practice. That is one of the big problems with self-ID of sex. While it is on paper for women, it is worthless if they cannot implement it.

Q153 **Angela Crawley:** Is it not the case, though, that, under the Equality Act, there are provisions in place for single-sex space exemptions and that these can be used by exactly the type of example that you are outlining?

Dr Williams: I have just explained how those single-sex exemptions cannot be used, if you cannot distinguish between people who are born female and born male. If a service provider wants to have a single-sex space, they are able to do that based on birth sex. If a male person has a birth certificate that they have changed to say that they were born female, how does that service provider distinguish between the females who were born female and these new females who were born male? There is no way to do that.

Because it is difficult to do, it means that service providers do not try to implement the single-sex exemptions. What we have seen is that, because it is a complicated law, service providers no longer want to do single-sex spaces, and so we are seeing them being lost to women. Some people have converted to gender neutral, so that they do not have to address the single-sex issue. Some have allowed people to have a single-gender space, so that people simply identify into it. Some just have no rules at all, so that women do not know whether they have a single-sex space.



Raquel Rosario Sanchez: Thank you, Nicola, for explaining that we need accurate legal documents representing people's birth sex. We are having two conversations at once. As campaigners and feminist organisations, we have a lot to say when it comes to the rights that women already have in the Equality Act and in the single-sex exemptions. There are two conversations to be had. One is about what could happen under a system in which self-ID was already enshrined in UK law and what is already happening, because of the policy capture that we are witnessing across the UK in all sorts of environments. We want to point out two things.

The first is that it is already illegal to discriminate against transsexual people with a gender recognition certificate under the Gender Recognition Act, because they have a protected characteristic and are protected by the law in that sense. That being said, our position in this area is that we need not only clarity in the form of clearer guidance when it comes single-sex exemptions, but a strengthening of those single-sex exemptions that are already in law in the Equality Act 2010. What we are witnessing and hearing from women is that, because of the climate that has been fomented, as we have been describing—the toxicity, fear, threats and intimidation—women who want to exercise their right to use those single-sex exemptions are prevented from doing so.

I will give you just one example, which is something that I have experienced. You have a group of women who are mostly students at the University of Bristol, who want to have a space where they can speak about male violence against women, about sexual assault or about the reality of miscarriages or menstruation. Under the Bristol SU, which is a registered charity, we created a student society, where we can talk about these issues and have these conversations. That society, which is called Women Talk Back!, is perfectly legal and uses the Equality Act as it stands today.

We are witnessing organisations, institutions and entities, such as the Bristol SU in this case, saying that we cannot operate as a single-sex space, because that would violate the rights of people to self-identify into our space. It is not a legal right. The law does not enshrine self-identification in the statutes of how single-sex spaces operate, but you have institutions that, under policy capture and under the guidance that they have been receiving from Stonewall and the EHRC, think that self-ID is already the law. This means that women who want to exercise their right and who are doing nothing illegal, but are simply protecting the rights that women already have, are not only being prevented from doing that but being sanctioned as retaliation for enacting those protections.

Judith Green: I wanted to give another example of where self-identification is already coming in and interfering with women's single-sex spaces. I do not pick on Turkish Baths Harrogate particularly; there are lots of examples. It is just because it is recently reported. They wanted to get rid of single-sex sessions completely when they came back after



HOUSE OF COMMONS

Covid, and there was quite an uproar among the users of that facility, because users wanted single-sex sessions to remain. They had mixed-sex sessions as well.

They consulted with the users of the service and decided that they would retain single-sex exemptions but, in order to have what they think of as equal single-sex sessions, they would double the number of sessions available that are male only and reduce the female-only sessions by a third. Therefore, they would have 50/50 sessions for men and women, when the demand for the single-sex sessions was much more from the women users of that service. The Equality Act would say that, if you have a much greater demand or need from one sex, it is okay to have more single-sex sessions for that sex that has the greater need or demand. That is the first thing where they slightly misunderstood.

They have then changed the rules around attire for those single-sex sessions, saying that they want people to be a bit more covered-up than they have been historically. It is a very curious phrasing, but that is because they feel that, in those single-sex sessions, there may be someone of the opposite sex, or they cannot guarantee that there would not be a service user of the opposite sex. They are saying, "We are going to have single-sex sessions, but they might be mixed-sex, and therefore we are going to change the rules on attire".

There is a completely proper facility within the Equality Act that they could have recourse to, because it is a communal accommodation. There is a section of the exceptions that deals with that. There is also a section that deals with providing a service, so they can have recourse to the single-sex exemptions, but they are obviously not understanding them accurately. They also have an issue around staff, where they could have recourse to a genuine occupational requirement for particular sessions in how they recruit or deploy staff, and they have not used those. I am not picking on them, because there is an example every week, but it is current example.

Q154 **Angela Crawley:** Thank you for that example. Dr Williams, I have two specific questions, and then, by all means, please add in what you would like to say. In your written evidence, you argue that the Government's decision not to change the eligibility criteria for obtaining a GRC, including the need for a diagnosis of gender dysphoria, is fair and balances the need of all stakeholders. Why do you feel that this is the case? Given that many trans people support a system of self-recognition, where do you feel that this is, in any way, fair to all stakeholders?

Dr Williams: We need to be clear on what we are talking about. Self-identification of sex means changing your legal sex status and changing the sex on a birth certificate. That is a significant legal step and so, of course, there need to be strict eligibility requirements about who can do that. If we are talking about self-identification of gender, anyone can self-identify their gender. Nobody is stopping anyone doing that, and certainly the state has no part in determining what someone's gender should or



should not be. Trans people have access to protections under the protective characteristic of gender reassignment, so they cannot be discriminated against for expressing a gender that they wish to live as.

We have to ask what it is that transgender people want when they say "self-identification", because people already have trans rights. People can already self-express and self-define their gender. What we are concerned about is when that is conflated with sex and its legal definition. It really matters, because, if somebody gets a birth certificate changed, they are female for all purposes, except for some defined exceptions that have been put into the Gender Recognition Act. When legislators made this in 2004, they could not foresee all the circumstances and exceptions that needed to be put in there, so there are, inevitably, some problems that we are now seeing.

For example, there is a rule in prisons for searching. A prison guard, when searching a female prisoner, must be born female. If that person has a gender recognition certificate, it is legal for them to do that if they are born male. Surely that was not what the legislators intended when the Gender Recognition Act was created, so there are real consequences of having a birth certificate changed and, therefore, there do need to be some restrictions on who and which categories of trans people are allowed to have that.

Q155 Angela Crawley: You are right when you say that the Gender Recognition Act was brought in a number of years ago, and we would all agree that, for all concerned, there is probably a need to update that legislation to make it relevant to serve the needs that it does now. You also argued in your submission that any reform that increases the number and range of people able to change their sex on their birth certificate would exacerbate issues around single-sex and separate-sex provisions. Could you elaborate on that? I note that you gave the previous example within the prison setting, but could you give a wider example of where these interactions would present a problem or exacerbate your concerns?

Dr Williams: Birth sex matters to women and girls. That is what underpins our basic rights. If there is a conflation between someone's identity and their sex, it obscures the ability to know if somebody was born a certain sex, and so it makes it very difficult to implement single-sex exemptions. One issue that I need to throw in is about the privacy rules that come into play when someone gets a gender recognition certificate. They are not having a certificate just to say that they were born a different sex; it becomes a criminal offence to reveal the fact that they were born the sex that they were.

That presents a lot of problems for service providers when they want to use single-sex exemptions. Although it is lawful to ask someone for their birth sex, when necessary, it is a liability risk for those service providers to do that, and so they do not ask. Although there are only 6,000 people with a gender recognition certificate, the fact that nobody is asked their



birth sex any more has much wider implications. Because staff do not want to ask about birth sex, it means we cannot make decisions about spaces based on birth sex, and that shuts down a whole area of law for women and girls.

Q156 Angela Crawley: We have heard from, for example, women's refuges and other women's support services that they have been able to enact the Equality Act where they felt that an individual presented harm or danger to women in that setting. We have heard examples of where it is possible for organisations to enforce those rights. Raquel, in your written evidence, you suggest that a system of self-recognition would put the dignity, privacy, opportunities and safety of women and girls at risk. Could you perhaps expand on exactly what you mean by that?

Raquel Rosario Sanchez: We would ask if the Committee could listen to the voices of some other women's services. What we are hearing at FiLia is the complete opposite. We are hearing from women's services that want to use the single-sex exemptions that it takes a degree of courage even to say, "We want to draw this line. We want to prioritise the needs, privacy, safety and dignity of women by making this a single-sex space". Those women are saying to us that they are facing threats, intimidation and abuse, just because they want to enact the law as it already exists in the UK. We would ask you to broaden the range of women's services that you have been speaking to.

Going back to what Nicola was saying, one of the issues that we have with self-recognition and the concept of gender identity is that this is a new concept that has no set of definitions, not only in law but in theory. My personal background is in women's studies in academia, and there is a very intense debate in academia about how to define this concept, what it means, how it applies, whether people can change their gender day to day, and whether it is fixed. These are conversations that are very contentious and, as FiLia, our position would be that we do not want to make permanent legislation based on very contentious issues.

Going back to the point that you were making about women's services and women wanting to use the single-sex exemptions, I would like to return your attention to the violence against women and girls sector core shared standards, published in February 2017. In these core shared standards, the women's sector was asking people what the needs are of women experiencing male violence against women and girls. Research was conducted by the Women's Resource Centre with 1,000 randomly selected women on their needs and opinions of it. Over 97% said that women should have the choice of attending a women-only service, if they have experienced a sexual assault; 90% said that women should have the choice to report domestic and sexual violence to a female professional.

The point that I want to make regarding those statistics is that, when this research was conducted, the definition of "woman" was very clear. No one was questioning what they meant by "women". The law is very clear



as well. It talks about women being a female of any age, and about women being adult human females, but, when you have the intention of imposing a system of self-ID, those concepts and definitions become muddled. There is a desire among women to have single-sex services and a recognition that women who experienced violence against women need single-sex services because it is an issue of privacy, safety and dignity. You cannot implement that if the definition of “woman” becomes irrelevant or so vague that it is impossible to define.

Q157 Angela Crawley: I completely hear what you are saying. We can all agree on the prevalence and the incidence of male violence. It is often a male perpetrator against a female individual. Would you agree that a trans female who has transitioned is at equal or perhaps greater risk of the same violence and issues that you have expressed around patriarchy? Would it be possible for a women’s refuge to have a policy that is inclusive and provides that safety and those single-sex spaces, but also provides a service that recognises that individuals who are transgender may also be the victims of the very same violence and that they might also need protection through those very similar services that we are discussing?

Raquel Rosario Sanchez: As FiLia, we want to make two points regarding the question that you just asked. First, the application of single-sex exemptions in a space does not prevent any service provider from creating a space that is mixed-sex. From our position as FiLia, we want single-sex services for women who are experiencing or have experienced male violence against women. At the same time, trans people also experience violence. They need spaces where they feel welcome and respected, and where their rights are being upheld. We welcome and encourage that, and that is a way forward, without infringing on each other.

The second point that you make about violence against women is that we acknowledge that, under a patriarchy, men abuse people, including women, trans people and trans women, but the rates of that violence are not equivalent. I will give you an example. The last trans person to be murdered in the UK was Amy Griffiths, whose murder took place between 11 and 14 January 2019. At the same time, a woman is murdered in the UK once every three days, usually by her partner or former partner, or generally a man. Thankfully, we have not had a case of fatal violence against a trans person in the past three years. Meanwhile, in this country, once every three days, a woman is murdered.

As a specialist in male violence against women, I have to say that the women who are murdered are at the extreme end of male violence against women. For every single woman who is murdered, there are hundreds of others who have not yet reached that stage, so we need spaces where that is discussed and supported, and where women can talk about it. What we are witnessing with the imposition of self-recognition



and gender identity is that the very few spaces that exist are being taken away from those women.

Angela Crawley: I appreciate the point you have made about statistics, and it is quite difficult to compare statistics on violence against women and violence against individuals who identify as trans, because not all individuals who experience violence report it or are able to record it. I am not sure if it would be fair to give an exact comparison, but I absolutely accept the point that you have made that, statistically, women experience violence more prevalently.

Raquel Rosario Sanchez: I gave one incorrect statistic. From 2018 to date, nine people have been killed. From 2018 to date, trans people have killed 13 people. The statistic on male violence against women is that one woman is murdered every three days. I just wanted to get that on the Hansard record.

Q158 **Elliot Colburn:** Following on from Angela's questions and picking up on this theme of GRA in a context of violence against women and girls, what evidence is there that trans people, and particularly trans women, present a threat to women and girls or that reforming the GRA could lead to trans people presenting a threat to women and girls?

Raquel Rosario Sanchez: We would encourage you to look at the newspapers and at the reports that we are hearing from women in prison. Some of this is stuff that we cannot discuss, because there are legal cases that are active at the moment, but we are witnessing, in women's prisons, how women are experiencing what you have just described. I am not sure whether I can comment on active cases.

Q159 **Elliot Colburn:** We cannot mention active cases, but we just wonder, as a Committee, if you have statistical data that we can take away and look at that demonstrates that there is a higher threat from trans people towards women and girls.

Raquel Rosario Sanchez: There is not a higher threat from trans people. We would never want to insinuate that people who identify as trans are somehow more predatory than men who identify as men. What we are saying is that the same pattern of violence remains, whether someone transitions or not. The pattern of male violence against women is the same across both sections of the population. Those single-sex exemptions exist and they bar all men, even those who are not violent, which is the vast majority of men in society. We are saying that those spaces need to be protected and kept to the birth sex of people recorded at their birth. If the pattern does not change, we cannot implement that in a fool-proof way.

Judith Green: There is a fundamental misunderstanding about the function of single-sex spaces. Just to think about my own experience of using a genuinely female-only, single-sex space for counselling of survivors of childhood sexual abuse with other women, in terms of the safety concerns, it is a group therapeutic space. There are zero safety



HOUSE OF COMMONS

concerns. Nobody is going to leap up within the space and attack anybody else. In terms of psychological safety and the ability to do the work in that space, it was really important that we were all women and all had shared experience. These things happened to our female bodies.

Wanting not to do that in the presence of male people is not an insinuation about the threat that male people might pose. It has nothing to do with and is not an aspersion on the motives or intentions. It is just saying that there is a positive value to female-only space for certain purposes, when sex matters. That is one of the situations where sex matters, and you should not put women in the situation where they have to pretend not to notice the sex of other people in what is, ostensibly, a female-only, single-sex space. That would be my argument. It is absolutely not about saying that a trans person would come to that space with a bad intention, but just that it would affect the dynamics of a female-only space.

Dr Williams: There is no doubt that male violence is a problem in society, and that is why we have single-sex spaces for women. We exclude all males, not because all males are unsafe but because we cannot distinguish the safe and the unsafe males, so we make no exceptions. A female-only space is a female-only space only if all males are excluded. It has to be a male-free space.

Women are being asked or perhaps expected now to make exceptions for some people who were born male and who identify as women, but there is no evidence or even hypothesis as to why someone's personal sense of identity would impact that risk. It is really important to be very clear that no one is saying that people should be excluded because they are trans; it is because their sex is male. That is all it is about. We know that males have an increased propensity for crime compared to females. That is beyond doubt. The question then is whether that propensity for crime correlate with somebody's sex or with their gender identity. We can look at prison statistics to get a glimpse of that.

For example, sex offending by females is very rare. There are just over 100 female sex offenders in prison at the moment in England and Wales, compared to 14,000 male sex offenders. It is rare for females to sexually offend. In the UK, if we imagine that 1% of people are trans, and if trans women are women, we would expect one or two trans women to be in prison for sex offences, but we see 70. Those numbers cannot be ignored. It is pretty clear that the propensity for sexual offending among the trans woman population is not the same as in the female population, and that is the problem. It is not that we are saying that trans women are particularly more dangerous than any other male, but there is certainly no evidence to suggest that the risk that they pose to females is reduced because of their gender identity.

That really matters, because if anyone is allowed to self-identify their sex and get a gender recognition certificate, so if we had self-ID tomorrow,



what would that mean for those 70 male sex offenders, who identify as women, who are in prison? At the moment, most of them are in male prisons, but they would be allowed to go into female prisons, which would mean that we would have around 200 sex offenders who identify as or are women, a third of whom would have been born male.

We cannot ignore those types of observations. It is clear that trans women may also identify as women but need to be considered as males, unless we have evidence otherwise. At the moment, we simply do not, and so, because female spaces need to be male-free, it means that all males must be excluded, including those who identify as women.

Q160 **Elliot Colburn:** Nicola, in exploring the guidance that was issued by the Equality and Human Rights Commission on the use of single-sex and separate-sex exemptions, is better guidance needed? If so, what should it include? I would note that, in your written evidence, you argued that it goes far beyond any reasonable legal interpretation of the Equality Act. Perhaps you could explain a bit more about that theory as well.

Dr Williams: The single-sex exemptions require a proportionality test. Nowhere within the law does it determine how high that bar should be. Stonewall argues that that bar should be very high, in that the ability to exclude a trans woman from a female-only space should be on very rare occasions. The Equality and Human Rights Commission also sets that bar very high.

There has been no discussion with other groups as to where that bar should be set, and so the EHRC has gone beyond the interpretation of what is written in the law and set its own bar. It has added its own best practice to what the law allows, so that the problem that we have with the guidance. We need to look at the impact on all groups to determine how those single-sex exemptions need to apply. At the moment, the EHRC has, clearly, spoken to only one side of the debate.

Judith Green: The EHRC has had to correct and update some of its guidance in response to concerns from women that there were aspects that were unclear in terms of the legal comparator for a discrimination case on grounds of gender reassignment, for example. It has not proactively disseminated those updates, which is very necessary.

It has also continued to give guidance that has been interpreted in some very problematic ways. Scotland's chief statistician said that it was likely to be illegal to collect data on biological sex, quoting advice that had been received from the EHRC. Woman's Place UK was so concerned about that in the context of the Scottish census that we commissioned a legal opinion on that question, which said that, where sex is relevant, it is completely appropriate to collect data on biological sex.

When we went to the EHRC and said, "Your advice is being quoted in this way by others", its response was that it agreed with the legal opinion that it is legal to collect data on biological sex in situations where it is



relevant, but that it declined to put the record straight with the people who had perhaps misinterpreted what the EHRC had said. That is not a helpful way to clarify the law. The EHRC is a really important body. It is important that we have a national human rights institution and a body whose remit is to promote equalities and uphold the Equality Act, but we are very disappointed that it has not chosen to give evidence to this inquiry, for example, but simply resubmitted its 2018 submission to the consultation.

Raquel Rosario Sanchez: We have a number of points to make. The first is that this Women and Equalities Committee has already asked the EHRC to develop guidance in your 2019 inquiry on the enforcement of the Equality Act. So far, it has not produced that guidance. We find the EHRC guidance not only inadequate but unworkable because, at some points, it is conflicting and makes no sense. For example, it said that, when it comes to single-sex spaces, crossdressers can be excluded, but that people should be accepted based on their gender presentation. What does that mean? We need clearer guidance.

When it comes to the topic of clearer guidance, I want to touch on something that both Judith and Nicola have said in their previous comments. When constructing guidance and seeking to clarify these very complicated legal issues, some of the stakeholders are going to be women in prison or women in refuges. It would be excellent if the Women and Equalities Committee could seek their views as well and, in turn, if the EHRC also sought the views of women in prison, in shelters or in sports—in all these spaces where sex matters. I want to refer the Women and Equalities Select Committee to the work of researcher Maya Forstater, who has done a considerable amount of work particularly on the issue of policy capture and the EHRC.

Another point that we want to make is that, when the views of women in prison, in sports and in shelters are taken into consideration, we hope that it is not in the current climate of, “If you say you want a single-sex space that is only for females, that means that you are transphobic, that you are a hate group, and that you are an outdated, bigoted women on the wrong side of history”. The Government should seek the honest views of people. What we, as FiLia, are hearing from women in those positions, or the women who work with them, is that they desperately want clarity, so that they can protect and enact their right to single-sex spaces, because bodies like the EHRC that you would expect to have the guidance have so far failed.

Q161 **Elliot Colburn:** You have all come from a place where you say you are not anti-trans or transphobic, but that this is about striking the right balance. What is the balance? How do we make the GRA work better for trans people whilst addressing the concerns of others, including women, and the access to single-sex spaces?

Dr Williams: What are the problems that are facing trans people at the moment? They can self-identify as transgender. They have hate-crime



HOUSE OF COMMONS

legislation that protects them. There is also the protected characteristic of gender reassignment, which means that they cannot be unfairly discriminated against in service provision, work and education. What is the problem that needs to be solved now with Gender Recognition Act reform? We heard at the last session that the idea was that it should validate people's identity. Is that what birth certificates should be about? I would say that it is not.

If there are problems that trans people need to have solved to validate their identity, there must be other ways to do that, but to do that by changing a birth certificate is a step too far, because it impacts on other people, and we have talked about the impacts of that today. If there are ways to make the process easier, do it, but do not increase the number of people who could change their sex, and understand what the problems are that we are trying to solve.

Judith Green: It would be very useful if the conflation of sex and gender that exists in the Gender Recognition Act could be addressed in some way. It is quite complicated wording in the Gender Recognition Act. Via the recognition of your gender, you change your legal sex. It would help to have the expectations set out better, because that would balance things out and make it clearer for what purposes legal sex is changed.

There is a clause that says your sex changes for all purposes, and it is immediately followed by another clause that says "except for the exceptions within the GRA and in other legislation". It may be useful to write into that exactly what those exceptions are in the other legislation or to reference the other legislation. That would just help people to understand how that gender recognition certificate operates. That would very much help.

Section 22 on privacy needs to be urgently reviewed, so that there can be a balance, as Nicola talked about. Privacy should be protected, but, where one needs to know biological sex for the purpose of single-sex exemptions, there needs to be a mechanism where it is possible to get an answer about a person's biological sex.

Raquel Rosario Sanchez: We agree with Fair Play for Women and with Woman's Place UK on this matter. Our position, as FiLia, is that it is paramount that we do not obliterate the rights of women and girls in an attempt to ensure the protection of contentious, contested issues, such as gender identity or self-ID. There is no consensus on it, not even in academia or the legal profession.

We want to recommend to the Women and Equalities Committee that there needs to be guidance that clearly spells out to people that acquiring a legal recognition of their gender does not mean that they are, therefore, entitled to the safe-space rights of the opposite sex. We just need very clear guidance spelling out the interaction between protected characteristics and how they affect other characteristics, such as people's beliefs and religious issues.



Trans rights are human rights, which is why they are already protected in the Equality Act under the category of gender reassignment, so there is no disagreement from FiLiA on that. What we are saying is that, in the protection of those people who need or desire a GRC, we do not need to trample on the rights of women and girls.

Q162 **Kate Osborne:** Good afternoon, everyone. Judith, this follows on from what was being said before. Should there be statutory definitions to the terms “sex” and “gender”? Could you tell us why?

Judith Green: There is already a statutory definition of “sex” in the Equality Act, and that is adequate. In terms of “gender”, how we would view that is that sex is biological and gender is a social construct. It is like the earlier question about living as a woman or as a man, or living in an acquired gender. These are cultural associations with sex that we do not necessarily want to have written into law, because, if you write a definition of gender into the law that does not reference that it is a cultural association with sex, it is difficult to know what your definition would be.

There is a statutory definition in the Equality Act of gender reassignment, which is very broad-ranging and covers anyone proposing undergoing or having undergone a process, in whole or in part, of a physical or other attribute of sex, and the perception and association. It is a very broad definition, and that is probably where we would want to sit.

Q163 **Kate Osborne:** In your written evidence, you argued that it is a weakness of the GRA 2004 that the term “gender” is not defined and is conflated with sex.

Judith Green: It is the legal recognition of gender, which thereby changes a person’s sex, and that is a conflation that serves to remove the common understanding of sex as a biological term. That is the work that that linking is doing. We can all understand that someone has a deeply held personal gender identity, but we also need to be clear that biological sex is not changed by a legal document.

Dr Williams: Everybody knows what sex is. When we talk about sex, we mean the sex people were born. The problem with the GRA is that it has now made a disconnect between the legal definition of sex and the common understanding of the word “sex”. That makes it really difficult to communicate policies and for service users to understand what policies are. For example, it comes down to things like basic signage. If there is a door that says on it “female only” and if I go through that door, I would expect—it is a matter of consent—to encounter only other people who were born female. I am not consenting to people who are born male being in there. The problem is that nobody understands what “female only” means now, or it is certainly not clear what that sign should mean.

Women have lost the ability to talk about what our needs are, which is based on birth sex. We need to make sure that we stop conflating the



HOUSE OF COMMONS

terms “sex” and “gender”. When we mean “sex”, we need to say “sex”. If we talk about gender identity, we need to be very clear that we are not talking about sex.

Raquel Rosario Sanchez: Our position, as FiLiA, is that the Government should hold the minimum information about their citizens. We register sex when it comes to birth and on the census, and there is a very real and tangible reason why we do that. The reason is that sex is not only biological and immutable, but has material consequences on the lives of everyone—men, women, everyone—including when it comes to medical research.

We are witnessing increased clinical and scientific research into how sex works as a biological variable, because we know that this has consequences for how our bodies experience infectious diseases, cancer or cardiovascular disease. There is a very material reason why we want to know people’s sex.

At the same time, we want to make the point that we are a feminist charity and would not be doing our job if we did not point out that the Government do not record our gender, and there is a reason for that. Gender is a hierarchy that exists to legitimise the subordination of women and the supremacy of men over us. We want to be very firm when it comes to our opposition to the idea that the Government should be registering those categories and conceptualisations, especially on topics such as gender identity, which have no settled definition, even among academics or experts in the legal profession.

Q164 **Kate Osborne:** Some pieces of written evidence have called for the Government to clarify the definition of “gender reassignment” and “trans”. Do you agree that this is needed and, if so, why?

Judith Green: I have probably addressed this in my previous response, which is that there is a statutory definition of “gender reassignment”. It is very broad in the way it is drafted. The definition of “transgender”, as Raquel explained, is constantly evolving. Before the ink was dry, it would be out of date. The protections offered by gender reassignment as it is drafted are already very broad and serve that function.

Q165 **Kate Osborne:** Raquel, in your written evidence, you say that there is a growing concern in society about the prevalence of gender ideology. Can you expand on what you mean by that as well as covering the “gender reassignment” and “trans” definitions?

Raquel Rosario Sanchez: I want to make three points. First, the concept of gender reassignment is already fairly relaxed in the Gender Recognition Act 2004, so we would be against any further relaxation of that.

Secondly, where groups are lobbying for a legal definition of “transsexual”, “transgender” or “trans”, their definitions are highly problematic because, essentially, they encompass everyone. You had



HOUSE OF COMMONS

Stonewall on your panel, but Stonewall's definition says, "Trans is an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth". When it comes to sexist stereotypes, which is what gender is, none of us agrees with them. I do not agree that I should be a housewife whose mere job is to have children. Men do not agree that they solely have to project aggression and a desire to dominate the women in their lives. These sexist stereotypes should not be enshrined in law.

Thirdly, our concern is about the prevalence of what some people call gender ideology, but I would like to use the term "gender identity policies" that are being undemocratically imposed around the world. Sometimes you have people saying, "In this country, they have self-ID; in this other country, they have self-ID".

I want to make the point that I am not from the UK but from the Dominican Republic. Not only in my experience, but from what we are hearing from women in other countries around the world, these policies and legislation are not being enshrined in law in a democratic fashion. They are being pursued by lobby groups that have very vested interests to impose under secrecy, without scrutiny and without anyone in the population knowing about it. Therefore, we would question the idea that, because some other countries have it, the UK should have it as well, because that process is not benign.

We also want to say that the concern that women have is the same in these conversations that we are having right now. Here we are, in this very nice Committee. Everyone has been very polite to us and we can express our opinion freely, but that is not the experience of the women who come to our conferences. As FiLia, we host the largest annual feminist conference in Europe. This year, we are going to hold the conference in October in Portsmouth. What we are hearing from women is a collective sigh of relief, because when they come to our conferences they say, "I can finally speak. I can finally have a voice. I can finally say what I think about this issue".

When they talk about their ideas of sex-based rights that they already have enshrined in UK law, and how that conflates and creates conflict when it comes to self-ID and gender identity, they are labelled bigots and transphobic. They are harassed, bullied and abused. That is not acceptable, because that is just women talking about the rights that they already have. When we talk about the imposition of gender identity ideology or policies, we are referring to a climate of intimidation, threats, fear and abuse that women are being forced to operate in, which is unacceptable.

Chair: Could I just take this opportunity to thank all of our witnesses for having come and given evidence today? It is very much appreciated.