# UK Supreme Court ruling on 'woman' definition sparks calls for unified fight against sexism and transphobia



Last week, the UK Supreme Court ruled that for the purposes of the Equality Act, the definition of 'woman' applies exclusively to biological women. This ruling has elicited a variety of responses across the political and social spectrum, particularly within left-wing circles.

Elly Badcock, Rosie Legg, and Rob Horsfield have provided an analysis published by Counterfire, arguing that the ruling should be used as a catalyst for broader social campaigning that unites efforts to fight sexism and transphobia. They contend that the ruling's clarification offers an opportunity to address the material consequences faced by transgender people, especially those arising from misinterpretations of the law by reactionary groups and from austerity-driven neglect.

The authors suggest that addressing these issues would necessitate substantial investment in public services. They advocate for the introduction of widespread unisex public cubicles to benefit all users, enhancements in adult social care, and increased funding within the National Health Service (NHS) for talking therapies. Such improvements, they argue, would serve transgender men and women, alongside supporting mental health provisions for the population at large. Furthermore, they call for stronger employment laws featuring expanded discrimination definitions within the Equality Act, to better safeguard marginalised individuals.

These proposals are described as potential unifying demands for the UK's labour movement. However, the authors express scepticism about the current Labour government’s willingness to pursue this agenda. They note that Labour’s leader, Kier Starmer, has exhibited inconsistent approaches on transgender issues, which they attribute to attempts to appeal to a broader voter base, including potential Reform Party supporters, amidst ongoing austerity policies. This, they argue, risks perpetuating cultural divisions while limiting funding for services critical to both women and transgender individuals.

Beyond the immediate impact of the Supreme Court judgment, the authors highlight several pressing questions left unanswered by the ruling. For instance, how will workplaces address transgender employees regarding access to sex-segregated facilities? Will transgender women be exposed to potential dismissal or pressured to disclose their gender identity if they use female-only toilets? The ruling also allows domestic violence refuges to restrict access to biological women only, yet does not provide for the creation of refuges specifically for transgender women. This raises concerns about the legal protections available to transgender individuals in such vulnerable contexts.

Attention is also drawn to the role of the Equality and Human Rights Commission (EHRC) in interpreting the ruling. The EHRC has stated it would enforce NHS compliance with policies regarding single-sex wards, toilets, and changing areas. Currently, NHS women's facilities may be used by individuals presenting as female, regardless of their birth sex. Implementing the ruling fully may require the creation of gender-neutral facilities alongside single-sex ones, a challenging prospect given current NHS infrastructure deficits and limited capital spending. This uncertainty leaves many transgender patients and staff uncertain about their daily access, in what the authors describe as dehumanising conditions.

The authors also discuss a recent policy by the British Transport Police (BTP), which has announced that strip searches of arrestees will be conducted by officers sharing the arrestee’s sex assigned at birth. BTP presented this as a direct consequence of the Supreme Court's clarification of the Equality Act. However, the authors argue that this is a political decision rather than a legal necessity, noting that the policy might expose BTP to legal challenges. They emphasise that the Equality Act intends to protect individuals from unfair treatment, and enforcing searches based solely on birth sex could contravene these protections, particularly for transgender women.

The commentary further clarifies that the Equality Act permits but does not mandate the provision of single-sex spaces. For example, the NHS could theoretically choose to provide only gender-neutral toilets without violating the Act, though this might trigger claims that the needs of women as a protected group have not been sufficiently considered.

Taking these factors into account, the authors caution against framing the ruling purely as a 'victory for women.' They argue that without strengthened protections for transgender individuals, such as improved access to Gender Recognition Certificates (GRCs) and robust anti-austerity measures, the ruling risks deepening divisions and conflicts within society.

Finally, while acknowledging the diversity of opinions on gender identity and womanhood among socialists, the authors stress the importance of maintaining respectful debate without allowing these discussions to detract from collective efforts to combat sexism and transphobia. They warn that some institutions might adopt transphobic policies under the guise of complying with the Equality Act, despite lacking any legal obligation to do so.

In conclusion, the authors advocate for a unified approach that challenges any infringement on transgender rights and resists attempts by the state to drive wedges between biological and transgender women, emphasising the need to confront such issues beyond the divisions nurtured by capitalist structures.

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