
The Repercussions of a Bad Decision: How the *For Women* Judgment is in Fact, *For Men*

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“Why is freedom so frightening? Is that even the question? Or is it rather: How has freedom been made to seem so frightening that people find themselves longing for authoritarian rule?” (Butler 2024: 3)

Few concerns in our recent history have destabilised the public conscience more than the threat of changing what some see as immutable facts of life; the existence of the binary opposites of ‘man’ and ‘woman’. The UK Supreme Court (UKSC)’s [recent decision](#), which reasserts a biologically essentialist definition of ‘woman’ under the [Equality Act 2010](#) (EA), marks not just a legal clarification but a cultural inflection point in the UK’s gender politics. It signals a juridical retreat from the plural and lived realities of gender, reinstating a rigid binary that erases decades of scholarship and knowledge of gender – and sex – as social constructs and fluid concepts. As Butler’s quote suggests, the narrowing of legal categories is not merely administrative, but symptomatic of a broader cultural panic in which gender becomes a proxy for anxieties about social change, democratic plurality, and the erosion of traditional hierarchies. In this context, the law does not just define, it disciplines and reinscribes the boundaries of who counts, who is protected, and who is rendered illegible. The stakes are not abstract: they shape the conditions of recognition, care, and survival for those whose lives defy the neatness of legal sex. The ruling also inadvertently reinstates a gender binary that hinges on our social understanding of gendered roles, which traditionally and historically places men in a position of power over women (and any other gender for that matter). In this short reflection I will consider what the repercussions of this ruling are for people living gender in fluid and transformative ways, and challenge the assumption made by the claimant that the outcome of this case will benefit anyone other than cis men.

The *FWS* ruling interpreted the term ‘woman’ in the Equality Act 2010 to refer to biological sex rather than acquired gender, erasing the rights previously presumed to be held through Gender Recognition Certificates (GRCs) where lived gender served “for all purposes”, subject to a narrow exception (see Hunter, this issue). Despite the court’s insistence that transgender individuals retain their rights through the ground of ‘gender reassignment’ in the Equality Act 2010, the ruling’s real implications were seen following the subsequent [‘interim’ update](#) from the Equality and Human Rights Commission ([in](#)

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[review](#) at the time of writing), which set out parameters of how the ruling would be interpreted in real life situations. For example, the guidance stated that workplaces must provide single-sex toilets and changing facilities in line with the [Workplace \(Health, Safety and Welfare\) Regulations 1992](#) and that facilities must be ‘suitable and sufficient’, with some flexibility (e.g. lockable unisex cubicles). It also emphasises that public services and spaces with single-sex provision, such as refuges, hospital wards, leisure centres, may lawfully restrict access if they pursue a legitimate aim and they are a proportionate means of achieving that aim. The guidance makes clear that failure to provide single-sex options may constitute indirect sex discrimination against ‘women’ (based on biological sex, because transgender women will not experience discrimination?). A solution, the guidance claims, is the creation of third spaces for gender-nonconforming individuals. A ‘neutral’ space designated for the odd ones out; trans people, butch lesbians, feminine gays, basically anyone not fitting neatly into the categories of ‘man’ and ‘woman’, as societal opinion dictates. Of course, such neutral spaces, in reality, rarely exist. Services, hospitals, refuges, hostels and other spaces of care are already set up for a binary world.

The interim update has added fuel to an already toxic, misguided and inflammable debate on the legitimacy of existence for gender-nonconforming people. Social media in the last five years or so has been a dangerous space for trans and nonbinary people, where public figures such as celebrities and politicians openly negate the existence of genders beyond the binary ([Connolly et al. 2025](#)). The *FWS* ruling and the subsequent guidance added explosives to the fire, creating an unhinged environment of discriminatory language and outright hate speech. This is not limited to the digital world; trans and nonbinary people (and nonconforming cis people) are now seeing an exponential rise in hate crime and harassment in public life ([TransActual 2025](#)).

The hardest edge of discrimination is often seen among queer people experiencing social disadvantage, poverty and homelessness. For example, people with intersections of social disadvantage (such as minoritised ethnic groups, people with disabilities and queer people) are more likely to experience homelessness, and trans people are hugely overrepresented in homelessness statistics ([Tunåker et al. 2024](#)). Trans youth experiencing homelessness already face systemic exclusion from single-sex shelters, gatekeeping in service provision, and heightened vulnerability in public space. By codifying sex as immutable and excluding trans women from the legal category of ‘woman’, the ruling legitimises discriminatory practices that deny access to support when experiencing forms of hardship, which in turn makes contempt for nonconformity widespread and contagious. It emboldens some service providers to turn trans people away from refuges, crisis housing, and health services under the guise of compliance, whilst others are so worried about breaking the law that they implement restrictions against their own better judgement. As such, the *FWS* judgment is not a neutral

clarification, it is a juridical signal that trans lives are less worthy of protection, and it will deepen the precarity and [worsen the mental health](#) of those already navigating the margins of kinship, care, and survival.

We learned from the feminists of the 1970s and 1980s that indeed one is *not* born a woman (Wittig 1981), but rather the concept of woman is a construct of heterosexual ideology, and the product of a heterosexual framework is further enforcement of male dominance. Early feminist insistence that the biological family structure and women's role in reproduction within it causes women's oppression (Firestone 1970) has resurfaced as a movement of resistance in recent years, particularly through social media frenzies surrounding 'tradwives' and the 'manosphere'. Anti-feminist far-right propaganda is a re-entrenchment of the very biological and familial structures early feminists sought to dismantle. As Conaghan and Cruz argued earlier in this issue, affirming sex as an immutable biological concept does not advance women's rights; rather, it reverts to a view in which a woman's legal personhood is constrained by the social expectations embedded in early constructs of 'woman'.

The irony, of course, of campaign groups and individuals who want to protect 'women' by ensuring that the binary oppositions of 'man' and 'woman' remain unchanged, is that they are further fuelling the patriarchal norms that make women more vulnerable and less powerful in the first place, and even more so anyone who lives beyond binaries or who subverts them. The *For Women* ruling bolsters the social and ideological dominance of cis men, whilst undermining rights for an array of people including women, trans and gender-nonconforming people to varying degrees. It has worrying connotations for the future of women's rights even for cis women, thereby rendering the judgment inherently *for men*. It propels epistemic erasure, through extremist right-wing attempts to erase knowledge of 'gender' from the public sphere. It fortifies an authoritarian logic of 'us' and 'them' and strengthens the position of those already in power (cis men). The repercussion of the judgment will be, and already is, extreme violence, homelessness and death of those least powerful in society.

References

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