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Security: Not sensitive, private or confidential

***Re: Shadow Report to the UN Committee on the Elimination of all forms of
Discrimination against Women***

To Whom It May Concern,

TransgenderNI is a non-profit organisation which aims to promote and support the human and civil rights of transgender persons in Northern Ireland. We run and maintain the only dedicated transgender community space in the UK and Ireland, which is used to hold community events as well as providing an organising space for activists working on the promotion of transgender human rights and liberation.

This shadow report will explore a range of issues affecting transgender women and girls in Northern Ireland and across the rest of the UK.

Healthcare

The UK government acts in violation of Article 3 of the Universal Declaration of Human Rights – freedom from torture and inhumane or degrading treatment - in a number of ways specifically relating to the provision of gender-transition-related healthcare to transgender women. Gender Identity Clinics enforce a requirement for persons in their care having ‘lived experience’ as their acquired gender for a certain amount of time before they are afforded gender-transition-related healthcare. This requirement necessitates transgender persons coming out to every single person in their lives – including family or housemates – and “presenting as their acquired gender” in everyday life, not taking into account that it may be unsafe to do so for many transgender persons. This specifically harms transgender women, for whom there is a disproportionate risk of hate crime occurring in the instance of a transition and coming-out process not being fully controlled by the woman in question. This is a clear case of the medical system forcing many transgender women to experience hate crime simply in order to access necessary medical intervention.

The policies and procedures of statutory healthcare services across the UK have the potential to, and in reality, currently are, putting transgender persons – who may not be ready to come out for a myriad of reasons – at an increased risk of harassment, abuse or assault, including that of a sexual nature. This is disproportionately the case for transgender women, and inarguably falls under the definition of degrading and inhumane treatment. With reference to the List of Issues and Questions, in particular question 10 regarding gender-based violence against women, this is an explicit case of the UK Government enabling

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gender-based violence against transgender women to occur at higher rates as a direct result of the policies and actions of their healthcare system.

With further reference to the Issues and Questions – one of which being on the topic of discriminatory stereotyping (page 3/7, questions 7 & 8) – this practice is rooted in institutionalised stereotypes of what a man and woman is. The policy of a statutory organisation measuring a person’s experience as a woman on the basis of how they act and present to the world – including through using “gender appropriate” names and clothing – is an institutionalisation of gender stereotypes which the UK is actively enforcing on transgender communities. As mentioned previously, this has disproportionate effects on transgender women’s experience of hate crime and assault.

Furthermore, on the topic of healthcare, the treatment of transgender persons - including children - within Gender Identity Services constitutes at least degrading, if not inhumane, treatment. Interrogation of young persons on their childhood traumas, forcing transgender persons to confess their sexual experiences and masturbatory habits, while not acknowledging or adequately dealing with the power dynamic that exists between the clinician in question and the transgender person, is immensely cruel and degrading, and constitutes a violation of the rights afforded in Article 3 of the UDHR. While this can have a detrimental effect on the mental health of any person, including transgender persons of all genders, transgender women and girls are disproportionately harmed by this due to the higher rates of sexual harassment, assault and abuse experienced by this demographic.

Gender Recognition

While legal gender recognition mechanisms are currently – theoretically, although not practically - accessible through the Gender Recognition Act 2004, the reform of that Act and the mechanisms contained therein by the UK Government jeopardise this access. On the whole, we welcome the Government’s actions to reform the outdated and pathologizing methods through which Gender Recognition is currently afforded in England and Wales. However, the decision to not extend these reforms to the Northern Ireland law in the absence of a functioning Executive will result in transgender persons in Northern Ireland having no access to Gender Recognition. This is due to the Gender Recognition Panel – a key facet of the mechanisms set up by the 2004 legislation, based in Manchester – being considered for abolition, while legislation that still requires its input will continue to be active in Northern Ireland.

The inability to access these mechanisms - which would occur as a result of the cosmetically pro-transgender reforms - would result in the UK Government being in contravention of Articles 8 and 12 of the European Convention on Human Rights, the precedent for which comes from the *Goodwin & I v United Kingdom* 2002 ruling¹ by the European Court of Human Rights. The UK Government should be deemed to be currently in violation of this ruling given the inability of the vast majority of the transgender community in Northern Ireland to access these gender recognition mechanisms, which is a knock-on effect of there being no commissioned gender-transition-related healthcare provision in the region, and therefore no access to the medical reports required for the panel.

Further, transgender persons residing in Northern Ireland who wish to access a Gender Recognition Certificate while married are forced to divorce their partner in order to access this legal mechanism, due to same-gender marriage continuing to be disallowed in the

¹ <https://swarb.co.uk/goodwin-v-the-united-kingdom-echr-11-jul-2002/>

region. While we deem the absence of same-gender marriage to be, in and of itself, a violation of Article 12 of the UDHR, the affect of this policy on married transgender persons is a clear and unwelcome intervention into the family lives of transgender persons across Northern Ireland, and certainly constitutes a violation of this article.

Criminal Justice System

The treatment of transgender women in the criminal justice system in the UK is a severe violation of human rights, and in our view constitutes systemic abuse. Throughout 2017, 3 transgender women who were forcibly held in all-male prisons committed suicide, with others attempting or experiencing suicidal ideation. Marie Dean, who as of January 2018 was being held in HMP Preston – an all-male facility – entered into a hunger strike² against the forced detainment of her in an all-male prison. In a letter sent to her friends outside the prison, she confessed that she “decided yesterday that [she] didn’t want to be alive anymore” as a result of her identity not being respected.

This came after new policy guidelines on the treatment of transgender persons within prisons were implemented in 2017. These guidelines asserted that, for transgender persons to be housed in a prison which corresponds with their gender, they must either have a Gender Recognition Certificate (the issues with which I’ve explored above) or are able to show evidence of pursuing a permanent “actual life in the gender with which they identify”. This is another case of the institutionalisation of gender roles and stereotypes, and the abusive weaponization of these against, primarily, transgender women.

These guidelines also state that “it will be necessary to factor-in the impact on and risks to those in current or potential establishments especially, for instance, in the women’s estate where many prisoners will have been the victims of domestic violence or sexual abuse and may continue to be exceptionally vulnerable.” This, rather than recognising transgender women as a vulnerable group at higher risk of assault, abuse, and sexual violence, categorises them as a risk to other vulnerable women. The protection of all women needs to be in the forefront of the Government’s mind when writing these guidelines, however the results are more akin to the re-punishment and victimisation of transgender women in prison, a cruel and unjust punishment which violates transgender women’s Article 3 rights against torture and inhumane treatment.

The problem with the UK’s approach to transgender women in prisons is that it is both reactive and reactionary, rather than proactive and affirming. The guidelines introduced, supposedly to accommodate transgender prisoners, has done nothing to prevent the suicides of many transgender women in prison since their implementation in early 2017. Many of these suicides or deaths have been ignored by the Government – including Jade Eatough, who committed suicide in August 2017; over half a year after the above guidelines were introduced, while she continued to be held in an all-male prison. The government has, over the past year and a half, ignored calls for an inquest into her death.

On a separate but related note, many transgender women – including many of those accessing our community services – are inherently distrustful of the police and criminal justice system. This is magnified in Northern Ireland, where historic abuse and legacy issues are in the forefront of many persons’s minds. This, coupled with the current institutional abuse occurring at the hands of this system – as explored above – has caused many communities of transgender women across the UK to be distrustful of policing structures, or

² <https://www.theguardian.com/society/2018/jan/27/marie-dean-trans-prisoner-male-prison-hunger-strike>

completely reject police authority. The UK government needs to address both historic and current abuse of transgender women by the justice system, as well as addressing other issues which may intersect with gender to harm transgender women – including but not limited to institutionalised racism, ableism and classism.

Transgender women are also disproportionately affected by policies against sex work, including the Nordic Model as introduced in Northern Ireland under the guise of human trafficking legislation. Amongst transgender women sex workers accessing community services in NI, there is a widespread lack of willingness to report, for instance, hate crimes and assaults perpetrated against them to the police. This is for all the reasons explored above, as well as the effects of this legislation on how police treat sex work. This legislation and policy is widely viewed as indirect targeting of sex workers by police and the justice system, strengthening the antagonism felt by many transgender women towards these structures.

Welfare Reform

The disproportionately negative effects felt by women in general as a result of welfare reform is widely documented and researched. We would point in particular to the Equality and Human Rights Commission's 2017 report³ into welfare and tax reform by governments since 2010, which found that women were set to lose about £385 per year on average, partially as a result of the introduction of Universal Credit in Britain, in comparison to £27 yearly average loss experienced by men. Further, this report found that households with disabled adults and children would lose £6,513 per year as a result of these welfare and tax reforms, pushing 94,000 into poverty by 2021/22. As for disabled adults with no children, this report found that these reforms would push 123,000 more into poverty in the same timeframe.

Considering that 50% of transgender persons accessing community services in Northern Ireland are disabled, it is clear that the introduction of Universal Credit and these welfare reforms have hit transgender women hard. The intersection of institutionalised transphobia and misogyny, as well as ableism in a large number of cases, is used to target transgender women through these reforms. Strict requirements for ID, a 5 week wait prior to the first payment, as well as general reductions in payments have hurt many women that we work with in our community centre, while many work capability assessments have yielded inaccurate and false reports on many women's ability to work.

Overall, the persistence of the UK Government in targeting the poorest and most vulnerable members of society, culminating in many welfare reform measures introduced in the past decade, has disproportionately harmed working class and disabled transgender women. The welfare system requires drastic and urgent changes in order to address the harm done to transgender women by the introduction of these cuts.

Overview

Transgender women experience what often appears to be all-encompassing discrimination in all walks of life. Many experience harassment and abuse from a young age, as well as the harms that come with existing as a transgender person in gender-segregated schools – an incredibly common feature of the Northern Ireland education system. This, compounded with further discrimination in the workplace, generates poor employment and educational

³ <https://www.equalityhumanrights.com/en/effect-tax-and-welfare-reforms/how-will-tax-and-welfare-reforms-affect-different-groups>

attainment levels amongst transgender women, as well as high levels of self-exclusion from education and the world of work.

Alongside this, and the areas mentioned above, the public discourse around transgender women has reached fever pitch in the past year. All mainstream UK newspapers are editorially geared against transgender women, and publish a stream of transphobic articles on an almost weekly basis. In particular, articles published by the Telegraph, the Daily Mail and the Sun have continuously incited hatred against transgender women for the past few years, and the US Guardian was forced to publicly disassociate itself from a transphobic editorial published in their UK counterpart. The transphobic rhetoric was amplified in 2018, and ramped up around the time of the Government's consultation on the Gender Recognition Act 2004.

All this is to say that the discrimination and hatred faced by transgender women is truly all-encompassing – they are targeted in healthcare, in education, in the workplace, in the media, in all areas of life. The UK government must step up and protect, in particular, transgender women, but also transgender persons of all genders, from the incitement to hatred and institutional abuse that is currently rampant in our society.

In Northern Ireland, the transgender community sector has had to rapidly develop, in part to compensate for the almost complete lack of government support for the LGBT community more generally here. We have the only dedicated transgender community space in the whole of the UK and Ireland⁴, well-developed support services for young transgender persons⁵ and their families⁶, as well as consistent co-operation and excellent relations with the women's sector in the region. While the UK government continues to ignore transgender women and all transgender communities in Northern Ireland, the community and voluntary sector will be here to support them. We will continue engaging in open communication with the Government and the Committee in order to ensure that the rights and identities of transgender women in the region and across the UK are respected and upheld.

If you wish to get in contact regarding anything in this report, or with any other issues you wish to discuss, email info@transgenderni.org.uk or call (+44) 0300 302 3202.

Please don't hesitate to get in touch if you need anything.

Kind regards,



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⁴ <https://belfasttrans.org.uk/>

⁵ <https://genderjam.org.uk/>

⁶ <https://sailni.com/>