



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

BACKGROUND GUIDE

DISCUSSING THE NEED OF GENDER NEUTRAL REFORMS AND LEGISLATION IN LIGHT OF MODERN DAY PERSPECTIVE

KC'MUN 2023

27-29 October.

Letter from the Executive Board

I welcome you to KC'MUN Conference, 2023. This is not going to be a usual exhaustive guide but more of a capsule course, a stepping stone for more exhaustive research. This background guide in no way should be considered as a study guide. The links for further research and what the Executive Board expects from you to be discussed will be mentioned below. A study guide by the Executive Board wouldn't make much sense as it will be either inspired or taken from other reports mentioned in this document. Rather than reading things out of context we will provide all the links and sources required ensuring a well-structured discussion and debate from 27 to 29 August , 2023.

Please feel free to contact us via Instagram.

Good Luck!

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Chairperson

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INTRODUCTION TO THE COMMITTEE

The United Nations Human Rights Council (UNHRC) represents and protects the Human Rights of all persons in the world. The Council was founded in 2006 and have 47 seats, where the members are elected every three year.¹

The Council is mandated to promote and protect the enjoyment and full realization, by all people, of all rights established in the Charter of the United Nations and in international laws and treaties.² UNHRC is guided in its work by the UN Resolutions, Declarations and Treaties.

The mandate includes: preventing human rights violations, securing respect for all human rights, promoting international cooperation to protect human rights, coordinating related activities throughout the United Nations, and strengthening and streamlining the United Nations system in the field of human rights.³

UNHRC works closely with the Office of the High Commissioner for Human Rights and acts as the principal Human Rights Official in the United Nations.

The Council promotes the right to development, coordinate United Nations human rights education and public information activities.⁵ Its main priority is to strengthen Human Rights across the United Nations system and in the world. UNHRC works with determination to ensure the enforcement of universally recognized Human Rights norms, including through promoting both the universal ratification and implementation of the major human rights treaties and respect for the rule of law.

IMPORTANT TERMS

Gender Regressive

Gender-regressive legislation sits in direct opposition to global standards on women’s rights. Contrary to evidenced-based needs and interests of women and girls, such legislation overtly opposes a gendered response. Not only are gendered considerations ignored, but the legislation explicitly or implicitly places women in a less developed state in terms of their social, economic and political status and overall well-being.

Example

The criminalisation of abortion in several countries across the world¹ serves as an example of gender-regressive laws. Countries that not only deny women access to safe and legal abortion services but in fact criminalise women and their providers demonstrate complete disregard for women’s rights.

Gender Blind

Gender-blind legislation shows a lack of awareness of men's and women's specific and different needs and interests altogether. Overt gender issues and considerations have been clearly ignored.

Example

When regulating urban planning, a gender blind law may attempt to make low-cost public transport available for all, but would fail to consider women's specific needs such as reflected in a spate of global studies on women's experiences of unsafe cities.² This would include a failure to guarantee access to transport at hours relevant for women informal workers or those doing shift work; not ensuring adequate street lighting at night near bus terminals and other transport hubs; or a failure to criminalise sexual harassment in public spaces.

Gender Neutral

Gender-neutral legislation makes no effort and in fact might deliberately avoid making distinctions on the basis of gender or sex. There may be instances where a gender perspective may not be considered necessary, for example, a law that amends the definition of a legal term that seems inconsequential from a gender perspective. Often the term 'gender neutral' has positive connotations. However, such gender-neutrality may easily slip – particularly when it comes to enforcement – into a “gender-blind” response to an issue (see above), particularly where gender ought to have been considered. The GLI determines where such gender-neutrality may be justified for that particular sector and where that gender neutrality demonstrates a gap, resulting in a gender-blind law.

Example

A law may extend the operation of a previous law and a gendered perspective may simply not be applicable. To offer another example, a law that changes the name of a public high school from “Agricultural High School” to a “Vocational High School” may also be inconsequential from a gender perspective.

In the area of financial services regulation, a law that guarantees women access to a bank loan without needing the signature of a male counter-part would often be considered gender-neutral for guaranteeing neutral treatment of male and female applicants, countering past practices that tended to require a male relative's signature for a female's application.³ However, the GLI would not classify such a law as “neutral” as a gender-perspective is indeed required. Instead, the law may be classified as gender-blind, if it failed to recognise that, despite making the loan requirements the same for men and women, women often face other barriers to accessing credit, including not having sufficient collateral. Laws should be drafted in a way to reduce or eliminate these barriers.

Such a law could be classified as gender-responsive if, in addition to treating men and women equally in terms of the signatories required, it created additional pathways for women to more easily access credit, despite not having property or collateral in their name.

It is important to recognise that a seemingly gender-neutral law could in fact be gender-blind. For example, the decision to rename a street, district, province, hospital or school may simply not require a gender perspective. However, if ten main streets in a town were renamed to reflect male national heroes, without a single female national hero being included, such a law would quickly slip into the category of gender-blind.

Gender Responsive

Gender-responsive legislation makes legislative systems more responsive to explicit and implicit gender issues. It facilitates accountability – in legislative and policy implementation – to the specific needs of different sexes and to different gendered perspectives on pivotal social, economic and political issues.

Example

A regulation that simplifies banking practices to reach more women, including for instance, reducing the minimum deposit and other requirements for opening up a bank account for female applicants, would be gender-responsive.⁴ In some contexts, this type of legislation would be classified as positive discrimination.

In the area of health, a law that guarantees all women, both married and unmarried, adolescents as well as adult women, access to age-appropriate, scientifically evidence-based comprehensive family planning services and information would be gender-responsive.

ABOUT THE AGENDA

Legislation that is drafted in universal terms, ignoring gender-specific situations and power relations between women and men that underpin sex- and gender-based discrimination, including gender-based violence against women.

Gender Neutral Laws are those laws that do not discriminate on the basis of gender or sex, and treats individuals of all genders equally under the law. It is a common misconception that males are always accused of being the perpetrators and that women are always the victims, however, even men and transgenders can also be victims of sexual offences and false accusations. Globally there is a growing necessity and recognition for laws becoming gender neutral and this is becoming more widely acknowledged by the governments and the society. Regardless of gender a crime can be committed by a man or a woman. The number of crimes committed against men and transgenders is on

the rise and it is something that the government should look upon. According to the current legislation for a sexual offence to be committed it requires a male to be the perpetrator and female to be the victim. This exclusivity of gender causes grave injustice since it leaves out men and transgenders as being victims of these offences which is discriminatory in nature. The current law is inadequate and discriminatory leaving the victims without legal recourse. There arises a need to make laws gender neutral which will bring equality and abolish the idea of superiority of one gender upon the other.

Gender-neutral lawsuits

Jones v. Bon Appetit Management Company et al

In February 2014, former catering worker Valeria Jones sued employer [Bon Appetit Management Co.](#) in [Oregon](#) for US\$518,000 after co-workers repeatedly referred to Jones as female. Jones did not identify as either male or female and when applying to work at Bon Appetit, purposely never filled out the male or female identification question. They repeatedly informed co-workers that they did not want to be identified using male or female gender pronouns and asked managers to address the employees as a group and educate the others about gender identity.^[86] Jones's suit states that the complaint to human resources was never resolved and the managers did not follow through per their requests, prompting their resignation.^[86]

Zzyym v. Tillerson

In September 2014, [Dana Zzyym](#), an American U.S. Naval veteran, tried to apply for a passport. Instead of labeling their gender as male or female on the application form, they "wrote 'intersex' below the 'sex' category" and "requested 'X' as an acceptable marker."^[87] They presented a birth certificate which labels Zzyym as neither male nor female. Zzyym was born with ambiguous genitalia and identifies as intersex. The State Department declined Zzyym's application. Zzyym sued the State Department, "saying the federal government violated the Constitution's guarantees of due process rights and discriminated against Zzyym based on gender."^[88] In November 2016, the court issued the ruling in favor of Zzyym. But as of October 2017, the case has been reopened due to the State Department's continued refusal of a gender marker that is neither male nor female on its passport applications.^[89]

On 27 April 2016, [Elisa Rae Shupe](#) filed a petition in [Multnomah County, Oregon](#), to no longer be designated male or female. Shupe, a retired United States Army sergeant, was born with male anatomy and lived for a time as a transgender woman. She later began to self-identify as non-binary. The Oregon state statutes had been changed in 2013 to no longer require proof of medical transition before a change in legal gender status. The statutes did not specify whether the new status had to be a binary one. Two of Shupe's doctors wrote letters for her stating that she was neither male nor female. On 10 June, Judge Amy Holmes Hehn granted Shupe's petition.^[90] The ruling was a significant advance toward government recognition of non-binary individuals. In 2019, Shupe issued a statement explaining that she now disagreed with the concept of gender identity and was returning to living as a man.^[91] However, in 2022 she published a declaration that she was a trans woman, cutting ties with gender-critical feminists and conversion therapists. Shupe also changed her name to [Elisa Rae Shupe](#).

CASE STUDIES:

- Arizona Governing Comm. for Tax Deferred Annuity & Deferred Comp Plans v. Norris, 463 US 1073. (1983).
- *Baehr v. Lewin*, 852 P.2d 44 (Haw. 1993)
- *Bowers v. Hardwick*, 478 US 186 (1986).
- *Califano v. Goldfarb*, 430 US 199 (1977) (Stevens, J., Concurring in Judgment).
- *Coleman v. Court of Appeals of Maryland*, 566 US 30 (2012) (Ginsburg, Dissenting).
- *Concrete Works of Colorado, Inc. v. City and County of Denver*, 321 F.3d 950 (Tenth Cir. 2003).
- *Craig v. Boren*, 429 US 190 (1976).
- *E.E.O.C. v. Farmer Bros Co.* 31 F.3d 891 (Ninth Cir. 1994).
- *Frontiero v. Richardson*, 411 US 677 (1973).
- *Geduldig v. Aiello*, 417 US 484 (1974).
- *General Electric Company v. Gilbert*, 429 US 125 (1976).
- *Griggs v. Duke Power Co.*, 401 US 424 (1971).
- *In re Admin. Actions*, Dated June 26, 2015, 2015-Ohio-2568, 33 N.E.3d 68 (2015).
- *Kirchberg v. Feenstra*, 450 US 455 (1981).
- *Lawrence v. Texas*, 539 US 558 (2003a).
- *Lawrence v. Texas*, 539 US 558 (2003b) Brief Amicus Curiae of the Concerned Women for America in Support of Respondent (No. 02-102).
- *Lawrence v. Texas*, 539 US 558 (2003c) Brief Amicus Curiae of the NOW Legal Defense and Education Fund in Support of Petitioner (No. 02-102).

- *Miller v. Albright*, 523 US 420 (1998).
- *Obergefell v. Hodges*, 576 US 717 (2015a).
- *Obergefell v. Hodges*, 576 US 717 (2015b) Brief Amicus Curiae of Family Law Scholars in Support of Petitioners (Nos. 14-556, 14-562, 14-571, 14-574).
- *Obergefell v. Hodges*, 576 US 717 (2015c) Brief Amicus Curiae of Legal Scholars Stephen Clark, Andrew Koppelman, Sanford Levinson, Irina Manta, Erin Sheley, and Ilya Somin in Support of Petitioners (Nos. 14-556, 14-562, 14-571, 14-574).
- *Orr v. Orr*, 440 US 268 (1979).
- *Personnel Administration of Massachusetts v. Feeney*, 442 US 256 (1979). Brief Amicus Curiae of the National Organization for Women, NOW Legal Defense and Education Fund, The American Jewish Committee, Equal Rights Advocates, Inc., Federally Employed Women's Legal and Education Fund, League of Women Voters of the United States, National Federation of Business and Professional Women's Clubs, National Women's Political Caucus, Women's Equity Action League Educational and Legal Defense Fund, and Women's Legal Defense Fund in Support of Respondent (No. 78-233).
- *Phillips v. Martin Marietta Corp.*, 400 US 542 (1971).
- *Price Waterhouse v. Hopkins*, 490 US 228 (1989).
- *Reed v. Reed*, 404 US 71 (1971).
- *Sail'er Inn, Inc. v. Kirby*, 485 P.2d 529 (Cal. 1971).
- *Stanley v. Illinois*, 405 US 645 (1972).
- *Stanton v. Stanton*, 421 US 7 (1975).
- *Tuan Anh Nguyen v. I.N.S.*, 533 US 53, 82 (2001) (O'Connor, dissenting).
- *United States v. Alanis*, 335 F.3d 965 (Ninth Cir. 2003).
- *United States v. Windsor*, 570 US 744 (2013) Brief Amici Curiae of the National Women's Law Center, Williams Institute Scholars of Sexual Orientation and Gender Law, and Women's Legal Groups in Support of Respondents (No. 12-307).
- *Washington v. Davis*, 426 US 229 (1976).
- *Weinberger v. Wiesenfeld*, 420 US 636 (1975).

FURTHER USEFUL INFORMATION

The first step for making a good intervention during the debate is to research the topic itself, in a more general way. Make sure to not only attend to not only statistics, but also research information that identify the roots of the problems and effective policies that have been promoted both nationally and by the UN. After getting a general idea on the topic itself, you should research your state's policy about it. It is crucial to know what your country's aspirations are, and what kind of measures can be put into practice. Besides that, political alliances are one of the master keys to make sure that your state's goals will be successful. How is your state in terms of diplomacy? Is it more bellicose, strategist and likes to be a leader? Or is it more peaceful and gentle, more like a

follower, in an already formed block? These are some points that you should keep in mind to get information about the subject.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) website can also be useful tools for your research since you can look for information on Draft Resolutions about this topic or related issues, and some official speeches from your state, explaining its position about this problem. Beyond that, and if you have curiosity, you can also see other state's speeches to have an idea of which are the ones that are on your side and the ones that you have to convince with your views.

You should also keep in mind that not all sources are reliable. NGO's websites are always good choices for a good investigation because they usually have interesting articles and correct statistics. Then again, you must keep in mind that regarding social and political affairs, and particularly, if you search for media coverage, being impartial is almost impossible so it is likely to find more obstinate convictions about this topic. However, media articles are always very useful for your researches and you shouldn't forget to take a look at them too.

You, as a Delegate, are an official representative of your State in the UN. Therefore, you must share its views as faithful as possible.

Unity makes strength so don't forget that consensus must be a goal, and this can only be achieved through dialogue and tolerance. Finally, if every delegate is open to new suggestions, the Debate will be much more successful – and even if we don't find a solution to the problem, we are making efforts to accomplish one in the near future.