

Letter from Scotland

What is a woman? You would think we would know the answer after thousands of years of life on earth.

But it has taken the Supreme Court of the United Kingdom to decide the issue, because of years of uncertainty and arguments over “trans rights” and in particular the make up of public boards. The answer given by the judges this week was pretty straightforward, a women is defined by her biological sex, not her acquired gender.

The judges were ruling on a particular Scottish case brought by For Women Scotland but it has repercussions throughout the UK – in sport, in colleges, in hospitals and in the wider discussion between sex and gender.



Easter blossom marks the end of our latest culture war. It began when The Scottish Government under Nicola Sturgeon listened, perhaps too closely, to a group of transgender campaigners who complained that the process of changing their identity from a man to a woman or vice-versa was too bureaucratic and difficult. So the Gender Recognition Reform Bill was introduced which made it possible to self-identify and thereby acquire a gender recognition certificate. This allowed anyone over 16 to register as a man or woman and, for example, enter a changing room or toilet, or hospital ward or prison, in their chosen sex according to the government guidelines.

This provoked protests from women's rights groups who saw it as an attack on their women-only spaces. It also caused raised eyebrows, and a little shock, from those of us brought up in a different world where there were only two sexes. It turned to outrage almost as soon as the act was passed when a

particularly colourful trans-woman, Isla Bryson (previously Adam Graham), was housed in a women's prison. She/he was awaiting trial and was later convicted of raping two women.

At this point The UK Government and the Scottish Secretary of State, Alistair Jack, intervened and declared that the Gender Recognition Act was in breach of the UK Equalities Act which guaranteed women-only spaces. At this point too, the campaigning group For Women Scotland discovered that The Scottish Government were counting trans women as females when trying to balance the membership of public boards. They took the government to court and after a few wins and losses in the Scottish courts, it has ended with victory for them in The Supreme Court.

The leading judge Lord Hodge tried to soften the blow for the trans rights groups by pointing out that the Equalities Act also provides protection for trans people. They cannot be discriminated against or harassed, it's just they cannot qualify as women under the law. He appealed to both sides not to see the ruling as a victory or a defeat, rather a clarification of the existing law.

Nevertheless it has been regarded as a victory by the women's rights movement who have painted themselves as successors to the Suffragettes in fighting for equality with men but distinction from men. The case has indeed stoked a culture war with brick bats being thrown across social media by both the "suffragettes", prominent among whom has been the author JK Rowling and the trans rights campaigners, prominent among whom have been the Green Party.



Protest outside Queen Elizabeth House against the UK Government's proposal to block the Gender Recognition Reform legislation passed by The Scottish Government using S.35 ©2023

The Edinburgh Reporter

The SNP have been badly riven by the issue. Indeed it is one of the reasons for Nicola Sturgeon's downfall. She failed to recognise the toxicity of the sex versus gender discussion. So instead of regarding the plight of trans-people as a technical issue to be tucked away in subordinate legislation, she championed the "trans" side and then weaponised it in another battle with the Westminster government.

The current first minister John Swinney now looks like an embarrassed vicar trying to avoid the subject. He immediately accepted The Supreme Court's verdict (even though the government spent a large sum of money fighting the case) and said new official guidance would be issued on the subject in due course.

It remains to be seen whether Fife Health Board will now withdraw from the employment tribunal case it is defending against nurse Sandie Peggie. She's appealing against her suspension for refusing to share a hospital changing room with a transgender woman doctor.

It all goes to show that in politics, and indeed in life, sex, religion and race, are explosive materials. They need to be handled with care. They come close to who we are, as individuals and as a people.

This year's [Easter Play](#) in Princes Street Gardens which takes place on Saturday 19 April will question the over-bearing role of men in the traditional story of death and renewal. And Jesus will be played by a black actor for the first time. Let's hope this combination of sex, religion and race will not set the gardens on fire.



Pictured in Holyrood Park and with a backdrop of Edinburgh Castle, is Michael Ogidi who plays Jesus.

PHOTO Colin Hattersley Photography