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Opposing Self-Declaration

**A qualitative content analysis of the opposing organisational responses to the
Scottish Government's consultation 'Review of the Gender Recognition Act 2004'**

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I would like to take my point of departure from a question of power, the power of regulation, a power that determines, more or less, what we are, what we can be ... When we ask, what are the conditions of intelligibility by which the human emerges, by which the human is recognized, by which some subjects become the subject of human love, we are asking about conditions of intelligibility composed of norms, of practices, that have become presuppositional, without which we cannot think the human at all. So I propose to broach the relationship between variable orders of intelligibility and the genesis and knowability of the human. And it is not just that there are laws that govern our intelligibility, but ways of knowing, modes of truth, that forcibly define intelligibility.

- Judith Butler, 2004, p 57

Foreword

I would like to thank Erasmus+ for giving me the opportunity to go to Glasgow and write my dissertation. Thank you to Lynn Sheridan and the Department of Social Work at Glasgow Caledonian University for being so welcoming. Thank you to my mentor Anders Kassman for supporting me and giving me much needed guidance when things didn't go as planned. Lastly, a big thank you to Elsa who spent countless hours in the library with me. I am glad we went on this adventure together.

Glasgow, May 2024

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Abstract

The purpose of this dissertation was to provide knowledge of how issues of social work policy and practice are being raised in the responses to the Scottish Government's public consultation 'Review of the Gender Recognition Act 2004' from 2017. Further, the purpose was to understand how sex and gender were described in the responses, and how these descriptions may relate to concepts of power and discourse in regards to social work practice. The dissertation is based on the 32 opposing organisational responses to the public consultation. The material was processed through a qualitative content analysis, generating ten categories that this dissertation labels as *(1) sex as a biological reality, (2) on the post-structuralist view of gender, (3) gender mainstreaming, (4) the magnitude of the decision and regret, (5) diagnosis criteria as a quality assurer for trans care, (6) trans people without gender affirming surgery, (7) the challenge for professionals, (8) biological males, single-sex spaces and the risk for exploitation, (9) cis women's rights and (10) cis women's vulnerability*. The categories were later condensed into three themes labelled as *(1) understanding gender identities and self-declaration, (2) the shift towards self-declaration and (3) the threat to cis women*. The themes and categories were analysed through the theoretical framework of Judith Butler's queer theory. The analysis was followed by a discussion that integrated the theoretical framework with previous research, aiming to enhance the applicability of the findings to the dissertation's purpose and the future of social work research. The findings of the dissertations show that the opposing organisation's often described sex and gender using biological essentialist discourse, perceiving sex and gender as an innate biological feature that cannot be changed. Further, the findings show little mention of issues of social work in the organisation's responses to the public consultation. Drawing from previous research, the dissertation critiques this by arguing that civil society organisations should pay attention to discourse around legal gender recognition and its implications for the shaping of social work since they are key stakeholders for the development of social work policy and practice.

Key words: legal gender recognition, sex, gender, social transformation, Judith Butler, queer theory, civil society organisations, qualitative content analysis

Sammanfattning

Syftet med denna uppsats var att bidra till kunskap om hur frågor kring socialt arbete lyfts fram i remissvaren till den skotska regeringens remiss 'Review of the Gender Recognition Act 2004' från 2017. Syftet var vidare att förstå hur begreppen kön och genus beskrivs i remissvaren, samt hur dessa beskrivningar relaterar till begreppen diskurs och makt i förhållande till socialt arbete. Uppsatsen baseras på 32 remissvar från de organisationer som motsatte sig den skotska regeringens syn på juridisk könstillhörighet. Materialet bearbetades genom en kvalitativ innehållsanalys vilket genererade tio kategorier som i denna uppsats benämns (1) *kön som en biologisk verklighet*, (2) *om den poststrukturalistiska synen på genus*, (3) *genus-mainstreaming*, (4) *beslutets magnitud och ånger*, (5) *diagnoskriterier som kvalitetsgaranti för transvård*, (6) *transpersoner utan könsbekräftande kirurgi*, (7) *utmaningen för yrkesverksamma*, (8) *biologiska män, separatistiska utrymmen och risken för exploatering*, (9) *ciskvinnors rättigheter* och (10) *ciskvinnors sårbarhet*. Kategorierna kondenserades sedan till tre teman som i denna uppsats benämns (1) *förståelsen av könsidentiteter och självbestämmande*, (2) *övergången till självbestämmande* och (3) *fara för ciskvinnor*. Temana och kategorierna analyserades med hjälp av Judith Butlers queerteori. Analysen följdes av en diskussion som integrerade det teoretiska ramverket med tidigare forskning, med avsikten att öka tillämpbarheten av resultaten för uppsatsens syfte och den framtida forskningen inom socialt arbete. Uppsatsens resultat visar att organisationerna ofta beskrev kön och genus med hjälp av en könsdeterministisk diskurs, som förstår kön och genus som inneboende biologiska egenskaper som inte kan förändras. Resultatet visar vidare att frågor kring socialt arbete lyfts fram i låg utsträckning i organisationernas remissvar. Uppsatsen kritiserar detta genom att argumentera för att civilsamhällesorganisationer bör uppmärksamma remissens implikationer för utformningen av socialt arbete i relation till frågan om juridisk könstillhörighet eftersom civilsamhällesorganisationer är viktiga aktörer för utvecklingen av socialt arbete.

Titel: Att motsätta sig självbestämmande - En kvalitativ innehållsanalys av de nekande svaren rörande den skotska regeringens remiss 'Review of the Gender Recognition Act 2004'

Nyckelord: juridisk könstillhörighet, kön, genus, social förändring, queerteori, Judith Butler, civilsamhällesorganisationer, kvalitativ innehållsanalys

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I. Introduction

Background

Transgender people are often disadvantaged in relation to other groups in society. The Scottish charity Stonewall's report *LGBT in Scotland: Hate Crime and Discrimination* (2017, p 8) revealed that almost half of all transgender respondents had experienced some type of hate crime during the last 12 months. Furthermore, 3 in 10 transgender respondents had experienced discrimination against when accessing local public services in Scotland (Stonewall, 2017, p 24). Transgender people (hereafter trans people) can benefit from the recognition of trans specific social work to ensure that the needs of this often vulnerable group are met (Hudson-Sharpe & National Institute of Economic and Social Research, 2018, p 48). In Scotland, there is a long-standing relationship between the trans community and social work organisations (Morton, 2018, p 231). This applies both to the social work being done by the public National Care Services and to the work being done by charities.

Legal gender recognition laws have been a topic of discussion in many countries around the world during the last two decades. Most recently adding Germany and Sweden to the list of countries to pass legislation that is based on self-declaration (The Guardian, 2024). The Gender Recognition Act 2004 (hereafter the GRA 2004) is the current law for legal gender recognition across the United Kingdom. Gender recognition, which the GRA 2004 enforces, is the process in which a person can obtain a Gender Recognition Certificate (hereafter GRC) to change the legal sex on their birth certificate. The requirements for obtaining a GRC is: to be age 18 or over, to provide evidence of a diagnosis of gender dysphoria, to have lived in your acquired gender for two years or more and to declare that you intend to live in your acquired gender for the rest of your life (Scottish Government, n.d.-a). The GRA 2004 allows for a person to apply to be recognised as male or female, excluding non-binary genders. The GRA 2004 only concerns a persons birth and death certificate. You do not need a GRC to change the sex on your driver's licence and passport or your medical and employment records in the UK (GOV.UK, n.d.).

Since the law came into effect in 2005, the process of obtaining a GRC has been criticised for being too long and medicalised. Trans activist groups in the UK have called for an updated law that is based on self-declaration and that would include non-binary genders (Armitage, 2020, p 11). In 2017, then Prime Minister Theresa May announced the UK Government's plans to reform the GRA 2004 (Pearce et al., 2020, p 678). The purpose of the reform was to make it easier for trans people to attain legal gender recognition. A consultation on the reform set out by the UK Government in July 2018 found that "Many trans people feel that this process is overly intrusive, humiliating and administratively

burdensome. Further they argue that by requiring a diagnostic psychiatric report, the process perpetuates the outdated and false assumption that being trans is a mental illness.” (UK Government, 2018, p 21).

Ahead of this, the same discussion was taking place in Scotland. The UK is made up of England, Scotland, Wales and Northern Ireland. Scotland has two governments, the UK Government and the Scottish Government. The Scottish Government runs Scotland on matters that are devolved from Westminster (Scottish Government, n.d.-b). One of these devolved matters is gender recognition, which means that legislation on this may be made by the Scottish Parliament. In November 2017 the Scottish Government set out the public consultation ‘Review of the Gender Recognition Act 2004’ (Scottish Government, n.d.-c). This first consultation resulted in the Scottish Government formulating the draft ‘Gender Recognition Reform (Scotland) Bill’ (UK Parliament, 2022). In December 2019, the Scottish Government set out a second public consultation for the draft Bill (Scottish Government, 2019). Three years later, the draft Bill was passed by the Scottish Parliament on 22 December 2022 (Scottish Government, n.d.-a). Within four weeks, on 16 January 2023, the draft Bill was stopped by the Secretary of State of Scotland Alister Jack. Hence, the current framework for legal gender recognition in Scotland remains the GRA 2004.

It is important to note that the debate around the reform of the GRA 2004 has been greatly engaged with by the public, politicians, civil society and traditional and social media in the UK. In light of this debate the transgender community has suffered a long and harmful questioning of the right to live in safety and to access public spaces and services (LGBT Health and Wellbeing, n.d.). The social health of Scottish trans people has been greatly affected by the media shining a light on the rights concerning legal gender recognition. The NHS Greater Glasgow and Clyde published a full research findings report (Leven, 2022, p 5) which showed that attitudes towards trans identities had not felt to become more accepting with time. Instead there was a sense of a “backward step” due to the narrative concerning trans and non-binary people in regards to the debate around the GRA 2004. The Scottish Government’s two public consultations have been two of the largest consultations to ever be made by the government (Scottish Government, n.d.-a). The debate has been contentious and highly polarised, pitting trans rights against women's rights (Hodges, 2022, p 67 & 70). Since 2017, there has been a rise of anti-trans sentiment in the UK (Pearce et al., 2020, p 678). Some argue that the backlash against trans rights is linked to a group of trans-exclusionary radical feminists, other say that the anti-trans sentiment is part of a mainstream discourse being voiced by both left- and right-leaning outlets (Armitage, 2020, p 20; Pearce et al., 2020, p 685).

Problem statement

The debate surrounding a reform to the GRA 2004 has been thoroughly explored by British traditional and social media. Engaging great parts of the UK public as well as an international demographic. But what did the civil society organisations have to say about the changes that were proposed in the Scottish government's public consultation 'Review of the Gender Recognition Act 2004'?

Civil society's participation in public consultations play an important role in the development of policy and legislation, and furthermore to the development of social work policy and practice (Dominelli, 1997, p 81; Linde & Scaramuzzino, 2017, p 28; MacIver 2011, p 77; Okitikpi & Aymer, 2009, p 109). Therefore, one could argue that civil society's participation in public consultations play an important role in the development of trans rights. According to the International Federation of Social Workers (2014) the social work profession is based on the principles of social justice and human rights to address structures and enhance wellbeing for all people. By studying civil society's responses to the Scottish Government's consultation we can acquire a better understanding of how legal gender recognition, and specifically how sex and gender, is understood by these organisations in regards to GRA 2004. This can contribute to perspectives and knowledge on how legal gender recognition legislation is shaped and implemented in a Scottish context, and in a broader sense, in the shaping of such legislation in a global context. And further, how social work is shaped from legal gender recognition legislation. The perspective of the responses to the Scottish Government's consultation should be of interest for social workers and social work research in Scotland as well as in a global perspective, including the Swedish research field.

Purpose

The purpose of the dissertation is to generate knowledge of how issues of social work policy and practice are being raised in the opposing organisational responses to the public consultation 'Review of the Gender Recognition Act 2004'. Further, the purpose of the dissertation is to understand how sex and gender is described in the responses, and how these descriptions may relate to concepts of power and discourse in regards to social work practice.

Research questions

- Are there issues of social work policy and practice being raised in the opposing organisational responses to the public consultation 'Review of the Gender Recognition Act 2004'? If so, how are the issues being presented?
- How is sex and gender described and understood by the opposing organisations in the responses to the Scottish Government's public consultation 'Review of the Gender Recognition Act 2004'?

Literature review

The following chapter will present a literature review concerning the previous research that was found to be relevant for the dissertation's purpose and research questions. I have attempted to balance British literature with international literature, mainly drawing from the American and European research field. It is important to note that the literature review and further literature used in the dissertation is citing from a largely white and western centric body of academic literature. Despite this fact, the dissertation aims to generate new perspectives in understanding civil society organisations' descriptions of sex and gender as well as the responses impact in shaping social work.

The relationship between social work policy and practice and social change

A part of the literature review was understanding if there was research that had been done on the relationship between social work and social change. Two concepts were found in the area, one called "anti-discriminatory practice" (Okitikpi & Aymer, 2009, p 25) and one called "sociological social work" (Dominelli, 1997, p 81). Okitikpi and Aymer (2009, p 27) view that the modern day era of the concept of anti-discriminatory practice in social work is rooted in the 1960s civil rights movement in the United States and Britain. *Anti-discriminatory practice* in social work requires the social worker to have knowledge of societal structures, organisational systems and social policy (Okitikpi & Aymer, 2009, p 109). Anti-discriminatory practice also requires the social worker to see their own prejudice and biases towards other people. Reflecting on and evaluating social work practice is crucial in the development of making social work inclusive in practice. Okitikpi and Aymer (2009, p 112) propose that anti-discriminatory work is fundamental to social work since its ethical value base is the same upon which social work is built. The practice is not reduced to only structures, systems and organisations, but rather focuses on this and how the social workers' views and attitudes play a part in the anti-discriminatory social work being done (Okitikpi & Aymer, 2009, p 101). The importance of language use, body posture and non-verbal signals is emphasised in the practice (Okitikpi & Aymer, 2009, p 103). Communication, in all shapes and forms, is effectively one of the most important skills of the profession. Anti-discriminatory practice requires the social worker to be sensitive and aware of ongoing processes, external and internal, during interactions with service users.

Dominelli (1997, p 81-82) defines the concept of *sociological social work* as a form of social work practice that explores the impact of society's structural inequalities on service users' lives, and seeks to lessen the damage this causes in the client groups lives. Drawing from key theorists of critical sociology (Foucault, 1980, p 218; Gilligan, 1982, p 151), sociological social work was developed by feminist and black activists (Dominelli, 1997, p 82). With a dialectic view, sociological social work recognises society's structures as a product created, as well as being upheaved, by the actions of people

(Dominelli, 1997, p 81). The constant changing dynamic between people and structures is what makes social development and change possible. The value base on which sociological social work lies is the commitment to the service users and social justice (Dominelli, 1997, p 83). The goal is to help service users acquire the knowledge and resources to make informed decisions about their lives. This approach is challenged by the status quo not wanting to unmask the relations of domination and subordination (Dominelli, 1997, p 83). In terms of strategies for change, Dominelli (1997, p 222) argues that social workers have to engage service users in the evaluation of existing services. For there to be social change, it is paramount that the legal, statutory and organisational structures of social work are developed within a user-centred approach. Dominelli (1997, p 224-225) points out that the quality of the social work services being provided is threatened by social work's failure to accurately address social divisions in its practice. The default of traditional assumptions categorising all service users within one service as the same, suggesting that their challenges and needs would be the same, will inevitably deliver inappropriate services to the service users (Dominelli, 1997, p 225). If social workers do not challenge the idea of "sameness", ignoring a contextual approach to the service user, the sociological social work will cease.

In contrast, there is research that shows a different approach to social work and social change. In the article *Social work, the state and the university* Davies (1981, p 275) views social work as the maintenance of social change, rather than facilitating it. Going on to say that social workers do not need sociology in its practice. Rather, the social worker's task is to carry knowledge of the laws affecting social work and the practical "know-hows" of the field. Dominelli (1997, p 5) counters Davies view by stating that sociology's relevance to social work is based on the values of what the interdisciplinary brings to social work practice. Social work theory and sociological insights feed off each other in the academic and practical arena. In addition to Dominellis view on sociological social work, MacIver (2011, p 77) states in the book *The contribution of sociology to social work* that social work policy and practice largely emerges as a result of the ongoing process of social evolution.

Social work in civil society

In the book *Social work in a changing Europe* Lorenz (1994, p 17) writes "The social work belongs to the sphere of civil society - to the self-regulating structure of modern society that constitutes a link between the individual and the state". According to Linde and Scaramuzzino (2017, p 29), the development of modern society has created the way we understand civil society and social work today. The term *civil society* has carried different meanings depending on in which context it has been used (Johansson & Meeuwisse, 2017, p 47). Historically, liberal thinkers have frequently regarded civil society as a counterweight to authority, using civil society organisations to gain influence both politically and in the development of services. Meanwhile, conservative thinkers have focused on the local community and the

family. In contrast, left-leaning representatives have viewed civil society as an arena for political mobilisation and as an alternative to market forces (Johansson & Meeuwisse, 2017, p 47-48). In the book *Social work in civil society* Linde and Scaramuzzino (2017, p 28) highlights the importance of civil society organisations linking them to their position as advocates for social work. Organisations in civil society work as opinion makers and, by being a counterweight to the state, have given them an important role in the development of social work and of societal welfare and wellbeing. Therefore, Linde and Scaramuzzino conclude that civil society is an important actor in the development of social work policy and practice (2017, p 34).

Transgender sociology

Much of the research in transgender sociology is centred around the notion that social environments both empower and restrict individuals identities and life experiences. In Schilt and Lagos (2017, p 425) review article *The development of transgender studies in sociology*, the authors examine the diversities of transgender individuals identities in different social contexts, and those transgender individuals experiences with institutions and organisations. The review found that the “cultural logic of the gender binary”, meaning the cultural assumption that there are two innate male and female genders, affects trans people's experiences when interacting with institutional and organisational spaces (Schilt & Lagos, 2017, p 433). The cultural understanding of the gender binary system upholds the rationalisation behind gender-segregated spaces such as bathrooms, which leads to having a negative affect for trans people not feeling like they are included in those spaces. If social work strives to challenge the gender binary system, the sociological lens of queer theory and social constructionism provides valuable insights on this (Burdge, 2007, p 243). In the article *Bending gender, ending gender: Theoretical foundations for social work practice with the transgender community* Burdge (2007, p 243) writes that “social workers should reject a dichotomous view of gender in favour of more accurate and affirming conceptualizations of gender”. A sociological lens can be used in achieving this. McPhail (2004, p 17) agrees on this thought in the article *Questioning gender and sexuality binaries: What queer theorists, transgendered individuals, and sex researchers can teach social work*, and goes on to say that bringing in the influence of poststructuralist and queer theory to social work will help to problematize the categories of gender. McPhail (2004, p 17) also states that there are similarities between social constructionists and social workers as a group. Both groups question hegemonic discourses and knowledge structures, coming together in the sociological lens.

The importance of legal gender recognition

In the study *Legal gender recognition in Portugal: A path to self-determination* Moleiro and Pinto (2020, p 218) evaluate the social and psychological wellbeing of trans and non-binary people during the initial

5-year period of the new legal gender recognition law in Portugal. In 2011, Portugal passed the first law of legal gender recognition that met the standards of human rights principles (Moleiro & Pinto, 2020, p 234). This is in contrast to other countries' laws concerning trans and non-binary people that, at the time, had the prerequisite of sterilisation (Whittle, 2006, p 268). The study shows that there was a significant positive impact on the social and psychological wellbeing of trans and non-binary people due to the new legislation (Moleiro & Pinto, 2020, p 218). Data on the Satisfaction with Life Scale revealed that respondents that had accessed legal gender recognition evaluated their satisfaction with life statistically higher than those who had not. Furthermore, respondents reported that the legal gender recognition had had a “very positive” impact on their social and psychological wellbeing, as well as the impact on happiness (Moleiro & Pinto, 2020, p 229).

Szydłowski's article *Gender recognition and the rights to health and health care: Applying the principle of self-determination to transgender people* (2016, p 199) demonstrates that gender recognition is paramount for trans people to feel included in society. The acknowledgment of gender recognition is not limited to a trans persons community, but also includes the acknowledgement from medical professionals and the state. Szydłowski argues that legal gender recognition of one's identity by these parties is important to human functioning in social settings, and is therefore a fundamental human right (2016, p 200). Legal gender recognition can diminish social exclusion, and provide health benefits for trans people and the fulfilment of their lives, which consequently is beneficial to society as a whole.

The limitations of the Gender Recognition Act 2004

The fluidity of gender has been a topic of concern for many scholars since the GRA 2004 was first enforced in 2005. Grabham's article (2010, p 110) *Governing permanence: Trans subjects, time, and the Gender Recognition Act* looks at the damaging effects of the GRA's 2004 position on trans people being “too fluid”. According to Grabham (2010, p 109) the GRA 2004 emphasises commitment and permanence to gender, which requires trans people to “arrive” at the gender they recognise themselves as. Meaning, you either are a trans woman or a trans man, and you will be so permanently. McQueen (2016, p 682) reiterates this in the article *Feminist and trans perspectives on identity and the UK Gender Recognition Act* by saying that the requirement of having to remain in one's chosen sex or gender for the entirety of one's live presents an issue in relation to the feminist model of the self as fluid. Nirta (2021, p 220) echoes this by stating that this rigid understanding of gender neglects all possibility of gender fluidity. The model of the GRA 2004 takes away the spatial and temporal freedom to explore oneself through life. Jeffreys (2008, p 338) points out that trans people who construct their gender identities outside the gender binary system remain on the margins of citizenship in regards to the GRA 2004. Beyond citizenship, Hines and Santos (2018, p 2) points out that the gender binarism of gender identity

laws (in Portugal and the UK) goes hand in hand with the cultural precondition of recognition. The cultural expectation to remain within the gender binary system is being reproduced in the laws. Again, leading to the gender identity laws serving rights to some trans people and denying the recognition and benefits to others (Hines & Santos, 2018, p 18). Nirta (2021, p 228) continues to say that the GRA 2004 is structurally unfit for non-binary people and does not have the means to acknowledge anything deviating from the hegemonic trajectory.

The aspect of time in the GRA 2004 is something that has been contested by scholars. Grabham (2010, p 113) refers to Bourdieu's "politics of waiting", saying the GRA 2004 forces trans people into regulated periods of gender performance. This is in regards to the two year waiting period as well as any administrative waiting periods when getting your gender recognition certificate. Grabham (2010, p 112-123) argues that requiring a gender recognition certificate to be recognised in one's gender but limiting the way a person may do so is an exercise of power.

In regards to medical intervention, the GRA 2004 does not require a trans person to undergo surgery or hormonal treatment. However, the diagnosis *gender dysphoria* is required to obtain a gender recognition certificate. In this sense the GRA 2004 provides recognition to a broader spectrum of transgender identities than before, including certificated women with penises and men with vaginas (Jeffreys, 2008, p 337). In the article *A critique of the Gender Recognition Act 2004* Sharpe (2007, p 38) states that, as the GRA 2004 currently stands, legal gender recognition is dependent on being characterised as mentally ill. Grabham (2010, p 109) reiterates this by saying that trans people are perceived in terms of pathology due to the requirement of diagnosis. This adds to the broader discourse around trans people being mentally ill (Sharpe, 2007, p 38).

Critical feminist thought and trans-exclusionary radical feminism

The article *They know it when they see it: The UK Gender Recognition Act 2004* (Jeffreys, 2008, p 328) offers a critical feminist analysis of the GRA 2004. Jeffreys (2008, p 342-343) argues that the GRA 2004 should be a concern to all feminist scholars because it enshrines patriarchal constructs of gender roles within state laws and regulations. The GRA 2004 reproduces the notion that gender is real, rather than being a social construction. Jeffreys (2008, p 342-343) points out that this is the same thought that forms the subordination of women. Jeffreys goes on to say that, because the GRA 2004 is based on gender being something that the state can or cannot recognise, the people who consciously reject gender norms and live fulfilling lives outside the GRA 2004 might be socially affected by the state's authority to recognise gender.

Given the background to the dissertation the reader is aware of considerable criticism of the 'Gender Recognition Reform (Scotland) Bill' amongst trans-exclusionary radical feminist. Pearce et al.

(2020, p 677) article *TERF wars: An introduction* breaks down the two main points made by trans-exclusionary radical feminism regarding legal gender recognition. The first is the argument of “women’s sex-based rights” which emphasises the distinction of sex from gender (Pearce et al., 2020, p 679). This means that trans-exclusionary radical feminism views sex and gender as something that is a biological and immutable reality. This position disregards decades of feminist research that argues that sex and gender is socially constructed through discourse. The second is the argument that self-declaration enables “men” (referring to trans women) to access women's only spaces (Pearce et al., 2020, p 680). This position supports the exclusion of trans women and girls from spaces such as women’s toilets, rape crisis centres and feminist groups. Furthermore, this argument suggests the threat of cis women’s safety. Pearce et al. (2020, p 680) argues that the notion of trans women being dangerous stems from the categorisation of cis women as inherently fragile and vulnerable. Consequently, this supports misogynistic discourses that position women as “the weaker sex” in need of protection, by and from men. Pearce et al. (2020, p 680) adds that these discourses carry racist undertones, with the assumption of whiteness among the women in need of protection, perceiving black trans and non-binary people as masculine and thus potentially threatening.

Pearce et al. (2020, p 683) draws attention to the terminology and discourse being used in the debate around the reform of the GRA 2004. It is important, Pearce et al. (2020, 683) argues, to pay attention to the language being used as it consciously works to include or exclude power relations. For example:

Trans-inclusive feminist writers tend to prefer the term ‘trans women’, because this implies that a trans woman is a kind of woman (like ‘gay woman’). ‘Gender critical’ writers, however, generally use ‘transwomen’ and avoid using ‘cis’, which can (implicitly or explicitly) exclude trans women from the general category ‘women’, by conflating ‘women’ with ‘cis women’.
(Pearce et al., 2020, p 683)

Pearce et al. (2020, p 684-685) goes on to say that the “TERF wars” (trans-exclusionary radical feminism wars) should be understood as a discursive and ideological battle within feminism. Notions of “truth” and “neutrality” are used in the discourse to undermine feminist research.

II. Theoretical framework

This chapter will introduce the theoretical framework which the dissertation will use when analysing the result. The dissertation will use theory and concepts from the works of Judith Butler. Butler's theoretical framework may demonstrate both similarities and differences of concepts presented in relation to the results, and furthermore broaden the perspective of the dissertation.

Sex, gender and the body

In *Gender Trouble* Butler defines sex, gender and the body as discursively constituted (1990, p 2). Butler maintains the idea that there is no sex that is not already gender, meaning that there is no existence of the body that is not social (1990, p 25). Butler suggests that there might not be a distinction between sex and gender, stating that sex is *as* culturally constructed as gender (1990, p 7). Therefore, there is no "natural sex" or "natural body" that exists outside a cultural understanding, refuting notions of essentialism which claim that gender is a biological or innate feature (Butler, 2004, p 212). Butler writes that "gender proves to be performance - that is, constituting the identity it is purported to be. In this sense, gender is always a doing, though not a doing by a subject who might be said to pre-exist the deed." (1990, p 25). Here, Butler does not mean that gender is a performance, but rather that the concept of gender is constructed through *performativity*, such as language. Gender and gender identities are constructed by, amongst other things, language. Meaning that language and discourse *does* gender (Butler, 1990, p 145). Only then, through language and performativity, can we understand gender. If sex and gender are a social construct then so is the binary gender system. Butler writes "There is no reason to assume that gender also ought to remain as two. The presumption of a binary gender system implicitly retains the belief in a mimetic relation of gender to sex whereby gender mirrors sex or is otherwise restricted by it." (1990, p 6). Following Butler's thought, the restriction of the gender binary system is a product of what a given discourse is capable of understanding, what Butler calls *culturally intelligible*. Within the gender binary system, gender can only mimic "man" or "woman" in relation to sex, and vice versa. Therefore, non-binary identities can only be understood outside the gender binary system (1990, p 6). This does not mean, Butler argues, that non-binary gender identities are not always real. On the contrary, Butler defines non-binary identities as *as* real as "man" and "woman", but are not always able to be culturally understood. In *Excitable speech: A politics of the performative* Butler writes "Language sustains the body not by bringing it into being or feeding it in a literal way; rather, it is by being interpellated within the terms of language that a certain social existence of the body first becomes possible" demonstrating the ways which sex and gender is restricted to what is culturally intelligible (2021, p 5). Consequently, a person can only self-declare their gender identity within the existing social norms, since these norms enable the understanding of gender for oneself (Butler, 2004, p 7). The social norms which Butler speaks

of are ever changing through time. Butler notes that bodies are *too* ever changing. Bodies, and sex and gender, are not spatial givens (Butler, 2004, 217). She argues that, through ageing and altering shape, bodies and the “mode of becoming” is always underway. Over time, and through interactions, the body is constituted in the past, present and future.

Longing for recognition

The concept of being, or not being, culturally intelligible is something that Butler links to the concept of recognition (2004, p 2). Like sex and gender, the terms by which we as humans are recognised are socially articulated and changeable. In *Undoing gender* Butler argues that the desire to be recognised in one’s gender, and ultimately as human, are bound up with power (2004, p 2). What Butler calls the “schemes of recognition”, how a person fulfils the act of being recognised, are conditional to the social context a person finds themselves in. In the context of this dissertation, the schemes of recognition would be the GRA 2004 and the process of obtaining a GRC. This reiterates the idea of gender only being understood if it is culturally intelligible. A sense of humanness, Butler argues, is taken away from a person if they cannot be recognised (2004, 2). This creates a divide between the human and the less-than-human. Where the less-than-human suffers the exclusion from its social context. Furthermore, Butler argues, the schemes of recognition and the norms that decipher how gender is recognised have far-reaching consequences that impact the way in which we perceive who is entitled to rights and who is included in the participation of political liberation (2004, p 2). The schemes of recognition within a cultural understanding may enable recognition for someone and reject it to someone else. Butler goes on to say that it is a form of oppression if your gender identity is not recognised within what is culturally intelligible (2004, p 218). Here, Butler links this oppression to trans and non-binary gender identities. When Butler wrote *Undoing gender* in 2004 most legal gender recognition laws globally were, as they still are in 2024, conditioned to the diagnosis of gender dysphoria. This diagnosis, Butler writes, implies a pathologisation of trans and non-binary people. It is only by undergoing this pathologizing process a person who desires to be recognised in their acquired gender can be fulfilled (Butler, 2004, p 5). This means that if a person wants to attain recognition they are forced into a diagnosis that suggests that they are mentally ill. The scheme of recognition which Butler refers to is also conditioned to the gender binary system. A cis man may be recognised as a trans woman and a cis woman may be recognised as a trans man. This erases any non-binary gender identities. Butler concludes that this cultural intelligibility of gender may result in a non-binary person feeling as though they cannot live without recognition, because without recognition they are deemed less-than-human, but at the same time feel that the terms of which they can be recognised make life unlivable (2004, p 4).

Social transformation

The concept of social transformation is discussed within Butler's queer theory (2004, p 4). As described earlier on in this chapter, Butler notes that the ways in which recognition is regulated is bound up with power (2004, p 4). The conditions of recognition, just like cultural intelligibility, is composed of norms and practices. These norms govern not only our intelligibility of sex and gender but also, in a broader sense, the ways of knowing and the modes of truth in a given social context (2004, p 57). In *Bodies that matter* Butler writes "what is constituted in discourse is not fixed in or by discourse, but becomes the condition and occasion for a further action." (1993, p 187). Butler maintains that discourse has the power to materialise, and that the power of discourse can materialise both bodies and institutions. In regards to social transformation, Butler argues that the scheme of recognition is not something a single individual can choose to change on their own. One persons agency is bound up with the conditions of social norms and practices of institutions, and furthermore the law, within a given social context (2004, p 7 & 57). Butler argues that theory is in itself transformative (2004, p 204). However, for social and political transformation to happen there has to be an element additional to theory. Butler's examples include efforts at social and political levels that entail active engagement and ongoing effort (2004, p 204). In her theory, Butler also discusses justice and its relationship to recognition, intelligibility and the human (2004, p 58). As previously described, the act of not being recognised or not being culturally intelligible takes away a part of the "humanness" from a person (Butler, 2004, p 2). About justice Butler writes "Justice is not only or exclusively a matter of how persons are treated or how societies are constituted. It also concerns consequential decisions about what a person is..." (2004, p 58). Justice is not solely a matter of being treated fairly, it is also connected with the "humanness" that Butler speaks of. Social transformation of what is culturally intelligible in regards to gender identities is therefore also a matter of justice.

The theoretical framework's relevance to the dissertation

Butler's queer theory and the concepts of sex, gender, recognition and social transformation are relevant in regards to the dissertation's purpose since they help to understand the different ways civil society organisations describe the question of gender identities and legal gender recognition in regards to the GRA 2004. And furthermore, if and how these descriptions have a real effect on trans and non-binary people's position in society and within social work practices. Butler's queer theory maintains the idea that gender identities should not be understood as fixed or binary. They should also not be understood as a gender mimicking a sex, or a sex mimicking a gender. All sexes and all genders are constituted through performativity such as language and discourse. In regards to the GRA 2004, Butler's theory about social transformation and the power of discourse will help to analyse and understand the effect of civil society organisational responses to the consultation. In *Undoing gender* Butler writes that "communication itself

becomes both the vehicle and example of recognition” (2004, p 132). Through Butler’s understanding of communication the dissertation will draw conclusions to the ways in which descriptions of sex and gender generate norms that guide the cultural intelligibility of trans and non-binary gender identities.

III. Methodology

For this dissertation I have chosen a qualitative research approach. The reason for this choice is because the purpose of the dissertation is to attain a close understanding of the descriptions and perceptions of sex and gender in the opposing organisational responses of the Scottish Government's consultation. The qualitative research method I have chosen for the dissertation is a *qualitative content analysis*, also sometimes referred to as ethnographic content analysis. In a broader sense, Bryman (2016, p 375) describes the qualitative research field to be concerned with words rather than with numbers. The qualitative research field has an inductive view of the relationship between theory and research where theory is generated through research. Qualitative content analysis is a qualitative research method that is concerned with interpreting meaning within content and social context (Grbich, 2013, p 195). The method does this by analysing secondary data for their significance and meaning in context (Grbich, 2013, p 195). Secondary data is data that has already been collected and is available to the researcher. The secondary data in the dissertation is the organisational responses from the Scottish Government's second public consultation. Choosing a qualitative content analysis method for the dissertation is related to how the dissertation uses its theoretical framework. The method focuses on going between data and theory, the method utilises a "constant comparative process" always going back to the theoretical explanation when looking at data (Grbich, 2013, p 196). I too will go between the data from the opposing organisational responses and Butler's theory when analysing the descriptions of sex and gender in the context of the Scottish Government's consultation. Widerberg (2002, p 174) emphasises the importance of choosing a method that confirms the theoretical framework of a study. Butler's queer theory's discursive constructionist approach to understanding concepts relates well to the methods' way of interpreting data which gives meaning to the context in which the communication is taking place (Altheide & Schneider, 2013, p 26).

Selection and collection of material

As explained in the background of the dissertation, the changes to the GRA 2004 that the Scottish Government proposed in the draft 'Gender Recognition Reform (Scotland) Bill' in 2019 were consulted on in the first consultation 'Review of the Gender Recognition Act 2004' in 2017/ 2018 (Scottish Government, 2019). Because the responses from the first consultation had a direct effect on the outlining of the draft Bill that was later voted on in the Scottish Parliament in 2022, I find it more interesting to analyse the organisational responses from the first consultation rather than the second. In total, there were 15,697 responses to the consultation. 15,532 of the responses were made up of the public and 165 of the responses were from organisations. The Scottish Government has published an analysis of the responses

from the consultation (Scottish Government, 2018). This analysis does not make a distinction between the public and the organisational responses. In my dissertation, I have separated the organisational responses from the public's responses to get a closer understanding of what the organisation's views are on issues of social work and on the descriptions of sex and gender. The choice to look at the organisational responses comes from the importance of civil society organisations in the development of social work policy and practice that has been presented in the dissertation's literature review (Linde & Scaramuzzino, 2017, p 34). Further, I have limited the material to the 32 organisations that opposed the reform. This means that the dissertation will look at the organisations who did not agree with the Scottish Government's initial view. The reason for the selection of the 32 opposing organisations is because of the size of the dissertation. In a master's thesis it would be interesting to look at the complete body of organisational responses to compare and contrast the descriptions of issues of social work and of sex and gender. The material was retrieved from the National Records of Scotland Web Archive (NRSWA, n.d.). The consultation consisted of 16 questions. For the dissertation I have chosen to analyse the response to question 1. Question 1 is an introductory question that deals with the main purpose of the proposed change to the GRA 2004, that legal gender recognition should be based on *self-declaration*. The question was an open question that allowed for a free text answer which the dissertation will analyse.

Question 1. The initial view of Scottish Government is that applicants for legal gender recognition should no longer need to produce medical evidence or evidence that they have lived in their acquired gender for a defined period. The Scottish Government proposes to bring forward legislation to introduce a self-declaratory system for legal gender recognition instead.
(Scottish Government, 2017)

Method analysis

The qualitative content analysis method consists of searching for underlying themes in the material (Bryman, 2016, p 563). There is no one way to go about a qualitative content analysis, the method analysis for this dissertation is inspired by Kassman and Kneck (2021, p 80) and Graneheim and Lundman (2004, p 108). In a first step, the responses were read through in their entirety. As a second step, central parts in the responses that could be linked to the dissertation's literature review, purpose and research questions were marked. These quotes, so called meaning units, were then condensed into 10 categories. As a last step the categories were generated into three overall themes. See the next page for a table of the themes and categories. See the appendix for examples of the complete steps of the method analysis.

Theme	Category
Understanding gender identities and self-declaration	Sex as a biological reality On the post-structuralist view of gender Gender mainstreaming
The shift towards self-declaration	The magnitude of the decision and regret Diagnosis criteria as a quality assurer for trans care Trans people without gender affirming surgery The challenge for professionals
The threat to cis women	Biological males, single-sex spaces, safety and risk for exploitation Cis women's rights Cis women's vulnerability

Table I - Scheme of method analysis with themes and categories

Criteria of quality and the limitations of the dissertation

Reliability, validity and generalisability are often used as the criteria for the quality of quantitative research (Bryman, 2016, p 383). Since qualitative research does not engage in numbers or measurements the relevance of these components have been questioned within the qualitative research field (Bryman, 2016, p 383). An alternative to reliability in qualitative research is *trustworthiness*. Trustworthiness looks to whether or not other researchers could replicate a study and achieve the same result (Bryman, 2016, p 384). The issue of trustworthiness in qualitative research is that the premise of the research is based on the interpretation of the researcher. Qualitative research is by nature subjective which makes it difficult to achieve total reliability. The dissertation's method, a qualitative content analysis, consists of looking for themes and categories in the material. This interpretation can lead to bias if the method analysis is not available to the reader. In my dissertation I have tried to achieve trustworthiness by being transparent in all phases of the dissertation, including the dissertation's purpose and the way I interpret the material when I present the results. In the case of validity, one can discuss the word *credibility* in regards to qualitative research. Credibility considers whether or not the method examines a study's purpose and if the results are in accordance with the material (Bryman, 2016, p 384). In my dissertation I have tried to achieve credibility in the motivation of the chosen method and by being transparent in the presentation of

the method analysis. *Generalisability* or external validity is about whether or not the findings of a study can be generalised across context (Bryman, 2016, p 399). Small qualitative studies, such as mine, are often not generalisable in a traditional sense (Grbich, 2013, p 26). However, the purpose of my dissertation is not to achieve generalisability across context. The purpose of the dissertation is to understand the organisation's descriptions and perceptions of issues of social work and of sex and gender through the theoretical framework of Butler's theory. The results of the dissertation are bound to my interpretation of the material and to the theoretical framework I have used. Still, I argue that the method analysis of the dissertation can offer perspectives of the understanding of issues of social work and of descriptions of sex and gender in regards to the public consultation's responses.

Ethical reflections

The ethical principles of social research can be categorised into four main eras: *consent, avoiding harm to participants, invasion of privacy and deception* (Bryman, 2016, p 125). Ethical considerations in research are often about weighing between the interest of a study and the interest of the subject matter that is being researched. In this dissertation I have considered the ethical principles of research from the Swedish Research Council (2017, p 7) and the Law (2003:460) on Ethical Review of Research Involving Humans (original title: Lag (2003:460) om etikprövning av forskning som avser människor). The law (2003:406, 17 §) and the Swedish Research Council (2017, p 13) states that research may only be carried out if the research subject has consented to the study. For my dissertation I have analysed secondary data that had already been collected by the Scottish Government. The subject matters, the organisations, have consented to have their responses published on the government's website. Therefore, the criteria for consent is achieved in my dissertation. Avoiding harm to the participants, the invasion of privacy and the occurrence of deception is by the same standard considered in the choice of material and method of my dissertation. The subjects in my dissertation have voluntarily taken part of the government's consultation and have answered the consultations questions to the extent that they wish.

IV. Result and analysis

The results from the consultation's responses of the organisations who opposed the Scottish Government's view of the GRA 2004 are presented in three themes that address the dissertation's research questions from various perspectives. Within each theme there are a set of categories that will be presented one by one. The excerpts from the material aim to help the reader to understand the broader scope of the results. Quotes within one category may tangent another category. After one theme is presented I will analyse the results through the theoretical framework before moving on to the next theme. The reason for this is to make it easier for the reader to follow how I connect each theme to Butler's theory.

Theme 1. Understanding gender identities and self-declaration

The first theme identified in the material revolves around the critique of self-declaration legislation and its philosophical underpinnings. The organisations that oppose self-declaration argue that the proposed change to the GRA 2004 is misguided. There is a belief that describes the inherent connection between gender and biological sex, rejecting the notion that gender is fluid or changeable. Some organisations view that the reform is a shift from established truths, often connected to post-structuralist theories.

Sex as a biological reality

The opposing organisations often used the term *biological sex* as an argument to point out that the idea of self-declaration is wrong. In the responses to question 1 there is a focus on what some organisations call innate biological features and processes, such as chromosomes and fertilisation. Overall, the material reflects a strong belief in biological sex and the rejection of gender identity being a separate concept. In the category there are also concerns about the social and legal implications of recognising gender identity over biological sex.

Humans, being mammals, are of a body type that can only produce one of 2 gametes ... The female class of persons, whose bodies are identified at birth as being a potential ova producer can NEVER produce sperm but are vulnerable to fertilization by those of the sperm-producing body type ... It is no more possible for a boy or man to become a woman, than for me to become a giraffe. If self-ID were accepted, there would no longer be statutory rape, paedosadists or bestiality (people would self-identify in and out of being held accountable) and I would be able to claim the Men's Gold Decathlon Medal at the 1976 Olympics as my victory. (Lyons' Point Educational Coop, Other)

According to the quote it is not possible to choose a gender. Humans are seen as mammals who are divided into two categories - male and female. The quote equates the idea of a man becoming a woman to an impossibility similar to a human becoming an animal.

The hypothesis that gender identity is an innate, fixed property of human beings that is independent of biological sex— that a person might be ‘a man trapped in a woman’s body’ or ‘a woman trapped in a man’s body’—is not supported by scientific evidence. (Family Education Trust, Other)

Here the organisation argues that there is no scientific evidence for the transgender experience.

Women have XX chromosomes and are discriminated on the basis of their biology. If a man can simply declare they are a woman, the word loses its meaning ... Sex becomes a feeling in a man's head, not a biological fact. (Women's Spaces in Scotland (Edinburgh), Women’s Group)

Self-identification means it's easier for males to do this. Sex is based on a biological reality, and this applies equally to being a lesbian. Women-only spaces are important to lesbians. This legislation will make it harder to establish and maintain such groups. Someone with XY or XYY chromosomes is not a woman nor a lesbian. (Lesbian Strength Scotland, LGBT Group)

These quotes point to chromosomes being the definition of a man and a woman. Concern is also raised in regards to single-sex spaces. It is described that a reform is a threat to the word “woman” losing its meaning. The consequence of this would make it harder for women and lesbians to establish and maintain women-only spaces.

The Christian Institute opposes the existing Gender Recognition Act (GRA). Its fundamental premise is that a man can become a woman and that a woman can become a man. But this is a biological impossibility. The Act creates a legal fiction ... The claim that one’s actual sex is something other than biological sex is a radical and highly contentious statement. (The Christian Institute, Religious or Belief Group)

This organisation disagrees with the current standing GRA 2004, arguing that it is based on the premise that a person can change their sex from man to woman or vice versa. The organisation considers this biologically impossible which makes the GRA 2004 legally fictitious and controversial.

On the post-structuralist view of gender

Some of the opposing organisations critiqued a post-structuralist view of gender when disagreeing with a reform to the GRA 2004. These arguments were often in line with the descriptions of gender not being separate from a persons biological sex. Overall, there is a belief that self-declaration of gender would be harmful, making gender identity a matter of subjective feelings and reinforcing the idea that biological sex is a social construct. A view that is argued to lack scientific evidence.

Self-declaration, we believe, would be harmful for individuals, their families and society as a whole. It makes gender identity simply a matter of a person’s subjective feelings about themselves and changing legal gender simply a matter of personal choice. It encourages the view that gender identity defines reality and that biological sex is but a social construct, something ‘assigned’ at birth. This new ideological dogma has no evidence-base in science but self-declaration would appear to reinforce it as if proven fact. (Christian Medical Fellowship, Religious or Belief Group)

The idea that gender is something to be 'acquired', as distinct from genetically inherited, is in conflict with nature, and the idea that gender is a matter of subjective choice is a product of postmodern ideology rather than objective scientific reality. (The Apostolic Church (UK), Scotland, Religious or Belief Group)

The protected characteristic 'sex' is based on objective material reality - as are all protected characteristics - this proposed reform to the GRA would mean that for the first time a protected characteristic would be a subjective feeling in someone's head, no proof needed ... Legislating for the idea that one's sex may be chosen and is based on feelings, not biology, would be legalising a falsehood. (Transgender Trend, Trans group)

These quotes argue that allowing self-declaration of gender identity is harmful and problematic. They contend that it reduces gender identity to a matter of personal choice and a subjective feeling, rather than what the organisations view is an objective reality based on biological sex. These descriptions suggest that a shift to a self-declaratory system encourages the belief that sex is a social construct. The organisations claim that the idea of gender, as something that can be acquired or chosen, conflicts with nature and stems from postmodern ideology. The shift to a self-declaratory system would be legalising a false concept.

This is the result on the application of post-structuralist anti-foundationalist philosophy in which the leading thinker is Prof Judith Butler ... The basic definition of gender then is choice. It may relate to the body. It may result in a desire to change the body through surgery, but crucially that is not necessary. If we apply the gender mainstreaming post-structuralist philosophy of Butler the basic objective is not the desire to have a gender other than your biological sex because of illness, gender dysphoria. It is because of a desire to adopt a different gender from that normally associated with one's biological sex in order to find freedom in the realm of what she and other post-structuralist philosophers would describe as gender performativity. (CARE for Scotland, Religious or Belief Group)

This quote refers to the concept of self-declaration, the system which the reform suggests to adopt, and argues that it stems from post-structuralist philosophy, primarily influenced by Judith Butler. According to CARE for Scotland, Butler's philosophy claims that people might choose a gender different from their biological sex not because of gender dysphoria but as an act to find personal freedom and to entertain a specific philosophical view.

It is important to state at the outset that many do not believe that gender identity is a matter of choice, or something that may be entirely divorced from the biological sex in which we are born. Many believe rather that as individuals we are called to acknowledge and strive to accept our sexual identity and the physical, moral and spiritual differences and complementarities which flow from this. These differences and complementarities are naturally oriented towards the nature of marriage and the flourishing of family life. The Catholic Church therefore remains steadfast in its conviction that gender cannot be reduced to a mere construct of society that is fluid and changeable. (Catholic Parliamentary Office of the Bishops' Conference of Scotland, Religious or Belief Group)

The Catholic Church describes gender as something that cannot be separated from biological sex. It is not a choice, and it is not fluid or changeable. The differences and complementarities in biological sex are fundamental to marriage and family life, and should be accepted by all.

Gender mainstreaming

Found in the responses that disagreed with the reform was a concept described as “gender mainstreaming”. How it is being used in the responses seems to be a way of saying that the concept of gender has been watered-down. Meaning that gender has diminished in clarity and importance in regards to the organisation's perception of gender. The phenomenon is sometimes explained as a hidden motive of ideology or as the influence of radical voices. This is related to the critique of a post-structuralist view of gender. Some of the organisations described this but did not use the term “gender mainstreaming”.

The Yogyakarta Principles, by contrast, are the result of ‘gender mainstreaming’, the principle that gender is different from biological sex and should not be in anyway confined by biological sex. This is the result on the application of post-structuralist anti-foundationalist philosophy in which the leading thinker is Prof Judith Butler whose book *Gender Trouble: Feminism and the Subversion of Identity*, laid the foundation for the division between biological sex and gender. (CARE for Scotland, Religious or Belief Group)

In addition to compromising rational sex-based protections for females, “gender identity” legislation incorporates stereotypical ideas of “what is female” into law. I am concerned about the impact of this legislation on our community ... You cannot deny the implications of this legislation – and the radical shift in priorities it represents for females. Female reproductive vulnerability has a long history of exploitation by males in the form of sexualized violence. (Gender Identity Watch, Women’s Group)

The Scottish Government should come clean about some of the underlying reasons for the shift in the UK – and indeed across the western world – from ‘transsexual rights’ based on a medical definition of it as a mental illness for which the only solution is said to be physical transformation of the body to match the patient’s mindset, to ‘transgender rights’ based on self-declaration and no requirement for primary sexual characteristics (genitals) to be removed. (Christian Concern, Religious or Belief Group)

In the material organisations describe the concern of a reform shifting the view of gender as something separate from biological sex. Legislation that emphasises transgender rights based on self-declaration is not in line with the organisation's understanding of gender.

Analysing theme 1

It is quite clear that Judith Butler’s queer theory is far from the organisations’ descriptions of sex and gender in theme 1. Butler's (1990, p 2) theoretical framework can be seen as a critique of traditional notions of sex and gender, which contradicts the description of gender identities and the critique of self-declaration in the theme. The excerpts from various organisations' responses argue for a strict understanding of gender, insisting on the unchangeable reality of biological sex, a view that Butler (2004, p 212) would argue against. In Butler’s theory (1990, p 145), as presented in the dissertation’s theoretical framework, gender is not a pre-existing identity or reality but rather something that is continuously constituted through discourse and social interaction. Butler (2004, p 212) challenges the idea that there are natural biological sexes, suggesting instead that what we call sex is itself *as* culturally constructed as

gender. Applying the theory to the material, Butler (1990, p 145) would likely argue that the insistence on the unchangeable biological differences of sex is itself a form of performativity of societal norms that seek to maintain gender within the binary gender system. Several responses in the material show a strong belief in biological determinism and the binary gender system, ideas that Butler (1990, p 6) specifically critiques. Butler (2021, p 5) would suggest that the binary gender system restricts gender into categories that are culturally intelligible but not necessarily reflective of the nuances of possible gender identities. The organisation's opposition to self-declaration based on the belief that it argues against the biological basis of gender would be seen by Butler (2004, p 2) as an attempt to restrict the fluidity and performativity of gender. Recognition is central in Butler's theory (2004, p 2). She argues that our existence, identity and "humanness" is dependent on recognition within societal norms. Many quotes in the theme are rooted in fears that recognising gender identities through self-declaration could disrupt these societal norms and legal frameworks. Butler (2004, p 57) would likely argue that such fears reflect a resistance to the transformative potential of redefining recognition within a new GRA, to allow for a more inclusive understanding of gender beyond traditional binaries. The results in the theme about the dangers of self-declaration changing the system for recognition echo Butler's (2004, p 2) views on the power of language and discourse in constituting reality. For Butler (2004, p 2), the act of recognising diverse gender identities through laws such as the GRA 2004 is not just a symbolic gesture but an essential part of making these identities socially viable and real. The organisation's resistance to this can be seen as a resistance to changing the discourses that uphold the social understanding of gender. Butler (2004, p 218) would also argue that this is a form of oppression of trans and non-binary identities. Finally, the resistance to self-declaration also highlights a broader institutional and social critique that Butler (2004, p 204) advocates for in her theory. By challenging the norms that define which bodies are considered "real" we can begin to question and transform the institutions that enforce these norms. The fears and criticisms expressed in the theme reflect a broader societal struggle over who has the authority to define reality - a key point in Butler's theory.

Theme 2. The shift towards self-declaration

The second theme revolves around the organisations worry about what will happen if there is a change to a self-declaratory system for legal gender recognition. Many organisations describe that the decision to change gender should not be taken lightly and that the process needs to be medically supervised. The criteria for gender dysphoria is described as being a way of controlling the quality of trans care and making sure that people who suffer from the diagnosis get the help they need. Additionally, there are descriptions of how this may influence professionals working in public or third sector services.

The magnitude of the decision and regret

In the material there is expressed concern for a reform to the GRA 2004 in regards to making the process of getting a GRC faster. Overall, the excerpts reflect a cautious approach from organisations towards the process of changing legal gender, emphasising the need for careful consideration, support and reflection before making such a significant decision.

There is also a danger that speeding up the process of changing gender legally will increase the possibility of people making choices and commitments they will later regret. We cannot ignore the magnitude of the decision to change legal gender. It is a matter which cannot be taken lightly and before any such decision, appropriate holistic medical and psychological support for the person must be provided.

(Catholic Parliamentary Office of the Bishops' Conference of Scotland, Religious or Belief Group)

Self-declaration would make it both easier and quicker to change legal gender and thus encourage earlier medical transition. This would increase the possibility that people make choices they later come to regret.

(Christian Medical Fellowship, Religious or Belief Group)

These two quotes describe that a quicker process will increase the possibility of regretting the decision.

It also greatly increases the risk of enshrining in law a decision made by an individual which they later regret, such as someone who is subject to a temporary fixation which they later grow out of. The claim that one's actual sex is something other than biological sex is a radical and highly contentious statement.

(The Christian Institute, Religious or Belief Group)

In regards to regret, The Christian Institute argues that it could be so that someone who wants to change their legal sex is having a temporary fixation. Adding that the idea that a persons actual sex is different from biological sex is a radical statement.

Diagnosis criteria as a quality assurer for trans care

In the material there was expressed concern from various organisations regarding the proposed removal of medical supervision in a new GRA. Organisations argue against a self-declaratory model and emphasise the importance of involving medical professionals in the diagnosis and treatment of gender dysphoria.

Such an extraordinarily high degree of self determination of a person's gender regardless of or even contrary to the biological sex is incommensurable with state of the art psychological findings ... However, gender dysphoria is a serious, but extremely rare condition. This means that individuals with such presentations must receive access to the best possible standard of care. Diagnosing and helping those in need requires a skilled specialist and should not be left to the individual in order to avoid poor treatment and danger of worsening the condition if left without proper therapy options. (ADF International, Other)

By moving to a self-declaratory model and de-medicalising the wish to transition legally we may fail to provide the necessary support for those affected by gender dysphoria in the form of contact with health professionals.

(Catholic Parliamentary Office of the Bishops' Conference of Scotland, Religious or Belief Group)

The proposed changes would deprive these people of contact with mental health professionals at the time when their assessment and advice could be crucial. There is a real risk that individuals who require psychological support will not receive it. (Christian Medical Fellowship, Religious or Belief Group)

These excerpts highlight the seriousness of gender dysphoria, advocating for the best possible standard of care for people who experience it. The material suggests that granting individuals high degrees of self-declaration in transitioning gender without proper medical oversight could lead to poor treatment outcomes and potentially worsen the condition.

Disregarding the need for medical evidence is an abandonment of the recognition that desiring a gender change is a psycho-somatic disorder of some kind.
(Reformed Presbyterian Church of Scotland, Religious or Belief Group)

This quote emphasises that a person who wishes to change their gender has some sort of disorder.

Trans people without gender affirming surgery

In the material there were statements made about trans people who have decided not to undergo surgery when transitioning. The organisations often described these trans people as being less “real” or serious about their gender identity.

... most trans identified males do not have their male genitalia removed over 80% according to their own statistics (Gires 2015). If they truly wanted to be women why not? (Lesbian Rights Alliance, LGBT Group)

In this quote the Lesbian Rights Alliance raises doubts about the sincerity of trans people who do not undergo gender affirming surgery. The organisation question why these individuals would not pursue surgery if they truly desired to transition.

Self declaration will make it too easy for people who are not legitimately trans to access women's spaces. It will also make it too easy for people who are trans to access women's spaces whilst they still retain all of their biological characteristics. (Midlothian Women's Spaces, Women's Group)

It is important to be aware that some transsexuals who have been through gender reassignment are very much opposed to self-declaration because it effectively cheapens the process that they have been through... For example, Miranda Yardley states: “I am not anti-transgender, I am transsexual: but I acknowledge the need to recognise the material reality of biological sex. Self-declaration negatively impacts upon the freedom, safety and protection of girls and women. As a transsexual, self-identification removes my own protection of ‘gender reassignment’.” (CARE for Scotland, Religious or Belief Group)

It will introduce into the law the absurd notion that a ‘man’ can have biological female sexual characteristics (i.e. not given via gender reassignment surgery) and a ‘woman’ can have biological male sexual characteristics (likewise not given via gender reassignment surgery).
(Christian Concern, Religious or Belief Group)

In these quotes, doubts are again raised about the sincerity of transgender individuals who do not undergo surgery. Trans people who wish to keep their genitalia are described as contributing to “cheapening the process” for those who do undergo surgery. The notion that a trans woman could have biological male

genitalia is seen as absurd, and is not in agreement with the organisation's view of gender.

The challenge for professionals

In the material there was little mention of how a reform to the GRA 2004 would affect the shaping of social work policy and practice. A couple of organisations mentioned this in regards to the challenge for professionals. A reform was described as a problem for the clarity and safety of the professionals working with and supporting trans people, shining a light on the professionals' needs and not the trans person.

If Scotland introduces self-declaration medical staff will not be allowed to tell the truth about patients' sex and will be liable to reporting and prosecution for hate speech. This would lower the credibility and attractiveness of the profession. The same would be true of professions such as nursing, social work, teaching and probation. This is bound to affect recruitment as well as morale in the workplace. As recent events in England have shown, self-declaration would make a mockery of any attempts to appoint women to posts where women are required or deemed more appropriate. (Fair Play For Women, Women's Group)

This will only exacerbate the whole sphere of interpersonal relationships within civil society and third sector organisations providing counselling, therapy and relationships advice, as well as institutions involved in training mental health professionals, social workers, lawyers and educators. It will have the long-term effect of reducing levels of interpersonal trust especially among young people who are being forced to grow up with this confusion being spread throughout society. (Christian Concern, Religious or Belief Group)

Fair Play For Woman argues that introducing self-declaration would prevent staff from accurately recording biological sex because it would risk being accused of hate speech. Consequently, reducing the credibility of professions such as social work. This could potentially harm the recruitment for these jobs. Self-declaration is also described to undermine the idea of gender quotas in the workplace. In their consultation response, Christian Concern argues that the absence of medical support and intervention would bring confusion to civil society organisations working with trans people, and furthermore for it to have an impact on the understanding of sex and gender in society which is described as reducing trust between people.

Analysing theme 2

Butler's concept of gender as performative is central to understanding the critique of a reform to the GRA 2004 in the organisational responses. The resistance of self-declaration expressed in the theme reflects a fundamental misunderstanding of this idea. For instance, the concern that "speeding up the process of changing gender legally will increase the possibility of people making choices and commitments they will later regret" implies a static view of gender. Whereas Butler (2004, p 217) would argue that gender identity is fluid and constructed through ongoing social interactions. The organisation's insistence on keeping a medicalised process for obtaining a GRC highlights a reliance on the binary gender system, which Butler (1990, p 6) critiques as limiting. Statements like "the claim that one's actual sex is

something other than biological is a radical and highly contentious statement” reflects a rigid attachment to the binary system. According to Butler (1990, p 6), the binary gender system restricts our understanding of gender identities, thereby marginalising non-binary and other gender non-conforming identities. The organisation's responses reveal a fear that simplifying the process of legal gender recognition undermines the authenticity of trans identities, and may lead to regret. However, Butler (2004, p 2) argues that recognition is a fundamental aspect of human existence and social life. Denying or complicating the recognition of self-declared gender identities perpetuates a form of social exclusion, or even oppression, which increases the divide between those who are culturally intelligible (recognised within the existing norms) and those who are not. For example, the statement that “most trans identified males do not have their male genitalia removed... If they truly wanted to be a woman, why not?” questions the legitimacy of trans identities based on the adherence to physical transformation. This contradicts Butler’s (2004, p 212) understanding that gender identity is not tied to physical attributes but is performative and constructed through language, interactions and social norms. Butler’s (2004, p 57) concept of social transformation emphasises that changing social norms and practices is essential for true recognition and inclusion. The opposition to a reform is indicative of a reluctance to engage in the necessary social transformation that Butler’s (2004, p 204) theory advocates for. Organisations' concern about the impact of self-declaration on professionals in sectors such as social work could be understood as a fear of destabilising existing social structures. However, Butler’s (2004, p 5) theory would argue that these transformations are crucial for broadening recognition and achieving justice for marginalised groups, which is in line for the global definition of social work (International Federation of Social Workers, 2014). The opposition to a reform can be seen as a reluctance to extend this recognition and therefore perpetuating injustice against trans and non-binary people. The fears expressed in the material about the potential for regret and the undermining of professional integrity overlook the broader issue of social justice and the need for inclusive practices and services that recognise all gender identities.

Theme 3. The threat to cis women

The third theme revolves around the organisation’s responses and how they describe trans people's bodies, the threat to cis women’s rights and how cis women’s vulnerability play a part in the arguments to oppose a reform to the GRA 2004.

Biological males, single-sex spaces, safety and the risk for exploitation

In the responses from the opposing organisations there is concern that women-only spaces will be compromised if they have to include trans women who have not undergone gender assignment surgery. This is seen as an intrusion into women’s spaces. There are often descriptions that argue that

self-declaration prioritises “male-bodied individuals” over women’s comfort and safety, potentially putting the protection for women and girls at risk. There are also fears that sexual predators could exploit this to gain access to women and children. Self-declaration is seen as compromising safe spaces, fundamental rights of autonomy and creating a safeguarding issue due to the lack of medical supervision.

How male bodied people chose to identify should not be prioritised above women's comfort, safety or indeed material reality. (Critical Sisters, Women’s Group)

Public bodies, charities and businesses will be unable to provide women-only spaces without biological males who have a philosophical commitment to being female and have self-declared to that effect. Individuals with male genitalia will be able to access female changing rooms in leisure centres and schools, female toilets in shopping centres and women’s refuges. The fact that the impact assessment suggests that people with a new legal gender without surgery will greatly outnumber those who have had gender reassignment surgery, means that the intrusion of biological males into women only spaces will become much more common as a result of the proposed introduction of the self-declaration system. (CARE for Scotland, Religious or Belief Group)

In these excerpts there is concern that “male bodied people” or “individuals with male genitalia” will be allowed into single-sex spaces. The organisations describe that the safety of women would be put at risk in the case of a self-declaration system.

Self declaration has huge implications for women, in terms of accessing single sex wards in hospital, requesting a female health care practitioner, in prison and in women's and girls sports, refuges etc. (Women's Spaces in Scotland (Edinburgh), Women’s Group)

It is a huge safeguarding issue. The need for sex segregated areas has not gone away and without medical information is open to exploitation. (YES Matters UK, Children or Young People’s Group or Body)

In these quotes the organisations describe the impact of self-declaration on women’s access to single-sex spaces being an issue of safety. Women (assumed cis women) should for example be able to request a female health care professional, most likely referring to a cis woman.

Cis women’s rights

In the material many organisations mentioned the worry for cis women’s rights in regards to a reform to the GRA 2004. Self-declaration is described as a threat to “sex-based” rights that are exclusive to cis women. Allowing gender identity to override biological sex is seen as erasing cis women’s rights, resulting in the discrimination against cis women instead.

This review has been put out for consultation without due regard for the rights of women. We are concerned there has been no equality impact assessment. If it goes ahead then there must be safeguards to allow some services to remain single sex. (Midlothian Women's Spaces, Women’s Group)

As the scottish state you have a legal obligation under human rights legislation to safeguard children. You

also have responsibility to uphold the sex-based rights of the vast majority of women who are born into the female sex, as well as the sexual orientation rights of lesbians. The legal definition of a lesbian is a woman who is same-sex attracted to her own sex, not those who claim their gender identity as a woman. Lesbians are already being sexually harassed by males who self-identify as lesbians.
(Lesbian Rights Alliance, LGBT Group)

These quotes describe the rights of women to be put at risk within the reform to the GRA 2004. The material refers to sex-based rights being conditioned to those who “are” women and not to those who “claim” that their gender identity is a woman. There must be an assessment of the importance of some services remaining single-sex (single-cis-sex) in the reform.

To make a woman (Definition: adult human female) into an 'identity' takes away women's rights and protections as a distinct group with boundaries, and would therefore be an erasure of the protected characteristic 'sex' and an act of direct discrimination towards women who are the sex that need this protection. (Transgender Trend, Trans group)

This quote describes the consequences of gender transitioning being a possibility, saying it will erase women’s rights if that identity is open to anyone. The sex of women (cis women) is in need of rights and protection that will be compromised if the group is not defined with distinct boundaries.

Cis women’s vulnerability

In the material the vulnerability of cis women was raised as a cause for concern. Descriptions of cis women being vulnerable or being placed in a position of disadvantage is used to argue that sex-based (cis-sex-based) rights and single-sex (single-cis-sex) spaces must be protected.

But given the continued existence of power imbalances between men and women in society, women are particularly vulnerable to the loss of trust in same-sex provisions and facilities that self-declaration implies... (The Audacious Women Collective, Women’s Group)

Natal females suffer a unique type of discrimination and disadvantage due to their female biology and place growing up within a patriarchal system ... If changing legal sex becomes as easy as filling in a form this means that any man, if he chooses, can change legal sex ... and is strongly opposed by many women’s groups, including Fair Play For Women. (Fair Play For Women, Women’s Group)

In these examples from the material there are descriptions of ongoing power imbalances between men and women, which could result in women losing trust in same-sex spaces if self-declaration is allowed. The quotes highlight the discrimination and disadvantage faced by cis women due to their biology and the patriarchal structures of society. The opposition of self-declaration is argued to enable any man to change legal gender, potentially undermining cis women’s vulnerability.

Analysing theme 3

Applying Butler’s theory (1990, p 2) to the theme one could argue that the organisation's concern about

“male-bodied” people accessing women-only spaces is a way of claiming what a real “woman” is, and which spaces trans women should and should not be allowed to access. According to Butler (2004, p 212), this understanding of gender, a biological deterministic binary categorisation, reinforces a discourse that excludes trans people from gender categories that they might identify with. The concept that “male-bodied” people could pose a risk, or even a threat, if they are allowed into women-only spaces without medical “verification” challenges Butler’s notion (1990, p 145) that gender identity should be seen as something performative and not be conditioned to physical attributes such as what genitalia a person has. Furthermore, the arguments against self-declaration based on risking the safety of cis women constitutes trans people as dangerous. Butler’s theory (2004, p 218) would criticise this as discourse that perpetuates the exclusion and discrimination of trans people. In regards to gendered spaces, the theme describes cis women as inherently vulnerable. Butler (2004, p 57) might argue that this discourse is in itself a product of constituted societal norms that view women as victims. Pearce et al. (2020, p 680) article agrees that this notion supports a misogynistic discourse that perpetuates women as the weaker sex in need of protection. One could argue that the organisational responses both delegitimise trans people’s identities and at the same time undermine the status of women in society. The organisation's descriptions that self-declaration erases cis women's rights can be understood as the resistance to expand the category of “women” to include trans women. This can further be understood as the reluctance to detach gender identity from biological features. Butler’s theory (1993, p 187) would challenge this stance and argue for the potential of queering gender categories as a way of recognising and legitimising a broader spectrum of gender identities. Butler’s theory (2004, p 204) suggests that institutions, such as the state and civil society organisations, resistance to policies like self-declaration is rooted in cultural discourse around gender, power and recognition. This analysis reveals the one-sidedness of the organisational responses to the public consultation and a gender deterministic description and view of sex and gender. A post-structuralist approach to the result would conclude that there is a need for a more nuanced understanding of gender that includes trans, non-binary and non-conforming gender identities.

V. Discussion

While the selected methodology and theoretical framework in this dissertation aim to provide an in-depth analysis of the results, it is important to acknowledge that this represents just one possible interpretation. The analysis is an interpretation made by one student using one theory. Applying Butler's theory to the results offers a quite theoretically "heavy" analysis. The theoretical framework is placed on an abstract level, which can question how significant the analysis may be in regards to the dissertation's question of understanding if the organisations' responses are connected to issues of social work policy and practice. However, the analysis of the results reveal the complexities involved in understanding sex and gender, along with related concepts that are often intertwined. The organisation's descriptions are not solely about the definition of sex and gender, but also about other values that come with the organisation's definitions. Values that are significant for the organisations when discussing the issue of legal gender recognition. This is illustrated by the themes and categories identified in the result. The themes consist of the organisation's views on legal gender recognition in regards to questions such as women's rights, safeguarding issues and trans people's prerogative to undergo gender affirming surgery. This broadens the dissertation's findings and adds new perspectives to the understanding sex and gender and how it may or may not relate to social work. Furthermore, I argue that the literature review helps to connect the analysis to its relevance for social work. This serves as a bridge from an abstract level to a middle-range theoretical level, making the dissertation's findings on discourse around sex and gender in legal gender recognition legislation more applicable to social work policy and practice.

For instance, Butler (2004, p 4) critiques the gender binary system and advocates for its social transformation. The literature review indicates that anti-discriminatory practice and sociological social work is based on the reflection and evaluation of social policy and social work practice (Okitikpi & Aymer, 2009, p 109 & 112). Consequently, I argue that an essential component of making social work more inclusive is the recognition of all gender identities, including non-binary identities. In the current process of obtaining a GRC in Scotland, trans people often interact with social workers such as counsellors and mental health care professionals. For services to become more inclusive - specifically, by extending legal gender recognition to non-binary people and simplifying the GRC process without pathologising undertones - social workers must actively engage in discussions surrounding legal gender recognition. If social work policy and practice are indeed products of ongoing social evolution (MacIver, 2011, p 77), it is imperative that the social work field participate in the development of the legal gender recognition process in the UK, as well as in a global context. Additionally, this dissertation's relevance to social work is underscored by the global definition of social work, which is rooted in principles of social justice (International Federation of Social Workers, 2014). Achieving social justice necessitates that the organisational and legal frameworks of social work are developed within a user-centred approach.

Therefore, social work research should be invested in understanding the perspectives of legal gender recognition by civil society organisations, as exemplified in government public consultations on such legislation. I believe it to be concerning that the opposing organisational responses do not sufficiently address a reforms implications for social work policy and practice, given the significant impact that such legislation has on the field of social work (Burdge, 2007, p 243; Dominelli, 1997, p 83 & 222; MacIver, 2011, p 77; McPhail 2004, p 17; Schilt & Lagos, 2017, p 425). Civil society organisations are key stakeholders in the development of social work (Linde & Scaramuzzino, 2017, p. 34). Hence, social work research must consider these organisations' interpretations of legal gender recognition, as their insights contribute to the broader societal comprehension of the issue and influence legislation formation, and further ultimately guide social work practice. The organisation's lack may indicate a disinterest among these organisations in making legal gender recognition laws more inclusive. It also highlights a potential discrepancy between the objectives of certain organisations and the global definition of social work.

Many of the responses to the consultation express concern about the discourse of gender being a choice, and the potential for individuals to regret that choice. These concerns are rooted in descriptions of sex and gender tied to biological determinism, and are raised in regards to the proposed reforms that aim to expedite the process of obtaining a GRC. The dissertation's analysis, through Butler's theory (2004, p 217), understands this as the challenging of a post-structuralist approach that views bodies as fluid and ever-changing. Research in the literature review supports Butler's perspective, arguing that the GRA 2004 neglects the possibility of gender fluidity, providing neither spatial nor temporal freedom for recognition (Nirta, 2021, p 220). Grabham (2010, p 113) also critiques the GRA 2004 for forcing trans people to wait before being legally recognised in their acquired gender, framing this as part of "the politics of waiting" and the regulation of trans people as an exercise of power. I believe that the organisation's concerns are problematic and misguided. The organisation's concerns not only endorse the state's control over legal gender recognition, thereby undermining trans people's right to be seen as human equals, it also misinterprets the process of the proposed legal gender recognition system made by the Scottish Government. The Scottish Government's view of a GRA 2004 reform suggests eliminating the requirement for medical evaluation, making it a solely judicial process via a self-declaratory system. Consequently, if an individual regrets their choice, they would potentially only need to de-transition legally, not medically. Therefore, the removal of the medical requirements from the GRA 2004 should not be a cause for concern for the opposing organisations, as it would facilitate an easier de-transition to one's "biological sex". An outcome, although delegitimizing of trans people, I would assume the opposing organisations would support. I argue that the discourse around regret in the consultations responses is a veiled transphobic opposition to transgender and non-binary gender identities. I consider this stance to be misaligned with the objectives of social work and a way of diverting attention from the suffering of trans

people seeking recognition. Research in the literature review underscores the importance of legal gender recognition, highlighting its far-reaching implications. Recognition has been shown to reduce social exclusion and provide health benefits on an individual's level, which benefits society as a whole (Szydowski, 2016, p 199). McPhail's (2004, p 17) research connects Butler's analysis to social work, emphasising that the influence of post-structuralist and queer theory in social work will help to challenge the category of gender, which can be seen as favourable since both Butler's approach and the definition of social work aim to question hegemonic discourses and the structures of knowledge that support it.

The power of discourse, as discussed by Butler (2004, p 7), is evident in the results, where opposing organisations consistently refuse to recognise trans and non-binary gender identities as legitimate, or to include trans women in the category of "women". Pearce et al. (2020, p 683) identify this as a deliberate exclusion of gender identities. Like Butler, Pearce et al. emphasises the importance of terminology, as it constitutes what is perceived as real and culturally intelligible. I believe it is crucial to pay attention to the language we use, specifically for social workers engaging with trans people as service users. Okitikpi and Aymer (2009, p 103) argue that communication, in all its forms, is the most vital skill in the social work profession. Anti-discriminatory practice requires social workers to be sensitive and aware of both external and internal processes during interactions with service users. This dissertation analysis connects to these concerns and underscores its relevance to social work. The issues of social work policy and practice were inadequately addressed in the opposing organisational responses to the Scottish Government's public consultation. Nevertheless, the field of social work research should still participate in understanding civil society's descriptions of the concepts of sex and gender. This understanding contributes to a broader understanding of societal discourse, which social work must engage with to achieve social justice and the well-being of trans people, and indeed, of all people.

Future research

I propose that future research should take advantage of secondary data, such as public consultation responses, to generate further knowledge about how the public and civil society organisations perceive sex, gender and legal gender recognition. These documents provide valuable perspectives on broader societal discourse which scholars must consider to investigate the diverse understanding of legal gender recognition across context. Research shows that trans people are disproportionately represented in social and mental health services (Hudson-Sharpe & National Institute of Economic and Social Research, 2018, p 48). The lack of trans specific social work research deprives the profession of an evidence base necessary for developing best practices, a challenge that extends to trans service provision in general. This underscores the urgent need for all social workers to enhance their knowledge about the transgender experience. Consequently, social work research should prioritise issues related to trans people's right to

legal gender recognition. By incorporating the knowledge and experiences of service users into research, there is a greater chance of developing social services that are inclusive of trans people's needs. Furthermore, future research should address the dissertation's findings about the subject of women's vulnerability in regards to single-sex spaces. A post-structuralist approach such as Butler's may not be well suited to assess the potential risk for cis-women, whereas a more empirical approach may be a better choice. This to gain a better understanding of the underlying issues related to the exploitation of legal gender recognition by sexual predators. Such research would avoid unfair stigmatisation of trans people as inherently dangerous and instead focus on identifying and dealing with the actual cause.

Conclusions

The purpose of the dissertation was to generate knowledge of how issues of social work policy and practice were being raised in the opposing organisational responses to the public consultation 'Review of the Gender Recognition Act 2004'. Further, the purpose was to understand how sex and gender were being described in the responses, and how these descriptions may have been related to concepts of power and discourse in regards to social work. The findings show that the organisational responses often consisted of biological essentialist descriptions of sex and gender. The literature review in the dissertation identifies such descriptions as discriminatory and delegitimizing of trans and non-binary gender identities. By applying Butler's theory in the analysis, we learn that these descriptions matter. Butler's framework allows us to understand the opposition to self-declaration not only as a discrepancy over legal definitions but as a deeper cultural and philosophical battle over the nature of reality and gender identity. Butler's interpretation is an understanding of power and not of truth. In the context of this dissertation, legal gender recognition is about what organisations and the broader societal discourse believes to be true about sex and gender, and on a more abstract level, about what the human condition can and cannot be. This challenges us to consider how laws, language and societal norms play a role in the ongoing constitution of gender. Urging for a shift of how we recognise and validate human identities in a more inclusive manner. While this dissertation may not change the opposing organisations views on legal gender recognition, it aims to bring these views to light and further the conversation and research on their implications for trans people's lives and of services for trans people in society at large. It is important to approach the dissertation's analysis and findings with caution, as they are inherently biased in the organisation's opposition to self-declaration and are solely based on one theoretical framework. Evaluating the significance of the opposing responses is challenging due to the absence of the 133 agreeing responses to the public consultation. Nevertheless, the literature review acknowledges the role of civil society organisations in shaping social work policy and practice. The dissertation's conclusions suggest that the social work field should take note of previous research's emphasis on anti-discriminatory practices,

particularly in the process of obtaining a GRC and in other social services affecting trans people. Knowledge and inclusivity regarding trans people are essential for achieving the goals of social work, both within a Scottish and a global context.

VI. References

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Appendix

Scheme of the method analysis procedure with example of meaningful unit, central parts, category and theme

Meaning unit	Central parts	Category	Theme
Self-identification means it's easier for males to do this. Sex is based on a biological reality, and this applies equally to being a lesbian. Women-only spaces are important to lesbians. This legislation will make it harder to establish and maintain such groups. Someone with XY or XYY chromosomes is not a woman nor a lesbian.	Sex is based on a biological reality	Sex as a biological reality	Understanding gender identities and self-declaration
Self-declaration would make it both easier and quicker to change legal gender and thus encourage earlier medical transition. This would increase the possibility that people make choices they later come to regret.	Making the process quicker will increase the possibility of regret	The magnitude of the decision and regret	The shift towards self-declaration
But given the continued existence of power imbalances between men and women in society, women are particularly vulnerable to the loss of trust in same-sex provisions and facilities that self-declaration implies...	Cis women are particularly vulnerable	Cis women's vulnerability	The threat to cis women