

Why Now?

An unanswered question, carefully pursued

There is a question that deserves a full and honest answer, and that question is this: *why now?*

Transgender people have existed in every society for which we have historical records. They have existed throughout the modern era, long before the contemporary wave of what opponents call "*transgender ideology*" — a phrase that implies the phenomenon is new, manufactured, and ideological, rather than ancient, organic, and human. Trans people were here before the 2010s. We were here before the 2000s. Many of us (those of us who are older, who came of age in decades when the language was different and the hostility more naked) were here before the internet, before the current political formations, before the legal frameworks that now name and protect us.

And yet: something has changed. Not in us. Not in our fundamental nature. But in the texture, the character, and, above all, the *form* of the hostility directed at us. It has become more organised, more juridical, more systematised, and more *legalistic*.

That translation is the phenomenon requiring explanation. The brutality of the hate has always been there. What is new (what demands account) is that it has found institutional expression in the machinery of the state. That is not a small thing. It is not a continuation of the same old prejudice in new clothes. It is a qualitative shift in how that prejudice moves through society. Understanding why that shift has happened *now*, and not in previous decades, is not merely an academic exercise. It is a political necessity.

The Visibility Thesis

Every serious analysis of the contemporary backlash begins with the same observation: trans people did not suddenly become more numerous around 2018. What changed was *visibility*. Not visibility to each other, not visibility in the hidden spaces where trans people have always found one another, but visibility to the mainstream. To the media. To the political class. To the organs of institutional power.

This visibility came from several directions simultaneously. The slow but genuine liberalisation of cultural attitudes in the 2010s meant that more trans people felt able to live openly. Social media collapsed the distance between communities that had previously been separated by geography and circumstance. The mainstreaming of trans issues in popular culture (in television, in film, in journalism) meant that trans people became *legible* in a way they had not been before. We became people with faces, names, stories, and voices, rather than abstractions inhabiting the fringes.

This visibility created a political opportunity. In classical Gramscian terms, it disrupted the existing *hegemony* (the settled common sense) of how gender operates in British society. The old common sense was simple: there are men and there are women, and everyone knows which they are. That common sense was not merely descriptive. It was *functional*. It organised institutions, shaped law, and structured access to spaces and resources. Anything that destabilises that common sense is, from the perspective of those who benefit from it, a threat to the established order.

When a marginalised group becomes *visible*, it stops being invisible. And an invisible enemy cannot be politically useful. Trans people, once visible, became available as a *target*.

But visibility alone does not explain why now, rather than any other moment of visibility in history. We need something more.

The Political Economy of Distraction

Here we must be willing to look at what was happening in British politics in the late 2010s and early 2020s — and we must be willing to say plainly what the evidence supports.

The Conservative Party, from 2016 onwards, was in serious trouble. Brexit had fractured the party, the country, and the basic mechanisms of democratic legitimacy. Boris Johnson's government (installed through a catastrophically undemocratic internal party process) was structurally dependent on manufactured outrage and externalised conflict. A government with no positive programme, no credible economic policy, and a leader who had been fired from two previous jobs for dishonesty needed something to distract from its own failures.

This is the moment at which trans rights became useful.

The mechanism is not new. The British right has form on this. In the late 1970s and early 1980s, as the New Right under Thatcher sought to dismantle the postwar settlement (sometimes known as 'The Consensus'), the politics of *race* — manufactured, media-amplified, deliberately polarising, served a similar function. The National Front and then the Conservative Party weaponised fears about immigration, law and order, and 'alien' cultural values to distract the working class from its material interests. The point was not that immigration was unimportant. The point was that it was *more visible* and *more emotionally available* than the structural economics of deindustrialisation.

The same logic applies here, though with a crucial difference: transgender people are not an economic class. We are not a threatening *other* in the classical nationalist sense. But we are *culturally legible*, *morally salient*, and (crucially!) *politically costless to attack*. The average trans person has no institutional power, no financial resources, no media ownership, and no political party. We are the kind of minority that can be attacked without consequence, because we lack the power to retaliate.

This is the political economy of the culture war: the deployment of a marginalised group as a *screen* onto which the anxieties generated by material failure can be projected. The cost of living crisis of 2021–2023, the catastrophic handling of COVID, the steady erosion of public services, the collapse in real wages... none of this was the fault of trans people. But trans people could be made to *seem* like the fault if the right media apparatus worked on it hard enough.

And it did.

The data on this is striking. In a single week in July 2022, the *Daily Mail*, the *Times*, and the *Telegraph* published 123 articles on trans topics between them. A volume of coverage that cannot be explained by any organic news cycle. It represents a deliberate editorial decision to *manufacture* a crisis. When J.K. Rowling (a inordinately wealthy, culturally powerful figure with an enormous media platform) began publishing essays that reframed trans women as a threat to women's rights, she provided intellectual cover for a broader political project. The *Telegraph* published her work approvingly. The *Daily Mail* amplified it. The Conservative Party drew the lesson.

The timing is not accidental. This wave of coverage peaked precisely when the Johnson government was most beset by scandal. During Partygate, during the Owen Paterson affair, during the cost of living crisis. Every article about trans women in a changing room was an article that was not about the Prime Minister's illegal parties.

This is the second layer of the explanation: the backlash was *politically useful*. It served a distraction function. But again, this alone is not quite sufficient — because right-wing governments have found minority groups useful as distractors before, without the systematic institutionalisation we are now

seeing. We need a third layer.

Institutional Capture

The element that makes the current moment genuinely distinct is the *institutional* form that the backlash has taken. This is not merely a political campaign. It is not merely a media campaign. It is an organised effort to *capture the machinery of the state* and turn it against trans people.

The Equality and Human Rights Commission was Britain's national human rights institution, established by statute in 2006 as an independent guardian of equality and human rights law. But it has become, over the period roughly 2020–2024, something that its founders would not recognise.

The capture of the EHRC did not happen overnight. It was a process. The chair, Kishwer Falkner, was appointed in 2020. Under her leadership, and with the active involvement of commissioners whose ideological commitments were well-documented, the EHRC began to diverge from its statutory purpose. It issued guidance on single-sex services that went beyond what the law required. It intervened in cases in ways that disadvantaged trans people. It consulted on a revised Code of Practice that would, if adopted, significantly narrow the rights of trans people under the Equality Act 2010.

In 2022, 26 legal academics wrote to the EHRC to raise concerns about the legal basis of its positions. Former EHRC legal directors stated publicly that the organisation was risking its independent status. The EHRC's own staff — the people who understand equality law in granular detail — were being overruled by commissioners whose commitments were ideological rather than legal.

The EHRC is not an outlier. The shift in tone and direction at the Government's Equalities Office under Liz Truss (who was also Minister for Women and Equalities from 2021) was similarly stark. Truss oversaw the effective burial of the Gender Recognition Act reform process, which had involved a 2018 public consultation in which 70% of respondents supported reform and which had cross-party support. The reform was announced, consulted upon, and then simply not delivered. The equalities brief has remained a dead letter since.

The British government, during this period, was simultaneously managing a cost of living crisis, a broken NHS, a stagnant economy, and a political party in open civil war. The equalities infrastructure that *should* have been protecting trans people was being repurposed (deliberately, systematically, with legalistic precision) to do the opposite.

A politician who uses trans people as a distraction does not necessarily follow through — the distraction may serve its purpose and be discarded. But the *legal* infrastructure, once changed, is durable. A reinterpretation of the Equality Act, embedded in the statutory Code of Practice, becomes the baseline against which all future cases are decided. It shapes what lawyers advise, what employers do, and what hospitals implement. It *outlives* the government that created it.

The legalistic form is the *institutionalisation* of the hostility. It converts a political mood into a bureaucratic reality. That is what has happened now and not in previous periods of cultural hostility.

The Convergent Moment: Why 2024–2025

The question then sharpens to this: why did the institutionalisation crystallise in 2024–2025 specifically?

The *For Women Scotland* case reached the UK Supreme Court in November 2024 and was decided in April 2025. The Supreme Court, in a unanimous judgement, ruled that 'woman' in the Equality Act

2010 means biological sex. This was not a modest technical ruling. It was a fundamental revision of the legal meaning of a key concept. It was a revision that the EHRC had lobbied for, prepared for, and immediately moved to implement.

The EHRC's interim guidance, published within days of the ruling, went further than the ruling itself. The ruling had addressed the specific question of the Scottish Government's gender recognition reform. The EHRC's guidance applied the ruling broadly to the entire Equality Act framework and specifically to questions of single-sex services, spaces, and associations. This was a political act as much as a legal one.

The EHRC's consultation on a revised Code of Practice (opened in May 2025) is the current expression of this process. If adopted, the revised Code will make it significantly harder for trans people to access single-sex services, will create legal ambiguity around access to spaces, and will provide a quasi-statutory basis for discrimination that currently lacks it.

What *For Women Scotland* provided was a moment of legal *occasion*. The Court did not create the hostility. It *legalised* it. It gave the institutional backlash a judicial imprimatur and a procedural moment around which the machinery of the EHRC could be deployed.

Here we arrive at the convergence of all three threads:

- **Visibility** made trans people a *legible target* for political mobilisation.
- **Political crisis** made that mobilisation *useful* to a right-wing government in electoral retreat.
- **The EHRC's capture** provided the *institutional infrastructure* through which political hostility could be converted into legal reality.

None of these three threads alone is sufficient. Trans people were visible in the 1970s, when the Gay Liberation Front was challenging the same political establishment. But there was no coordinated right-wing backlash of the kind we are seeing now; because there was no institutional capture and because the political economy did not require it. Similarly, right-wing governments have always found cultural distraction useful, but distraction alone does not usually convert into statutory change unless the institutional infrastructure exists to absorb and formalise it.

The *convergence* of all three (visibility, political utility, and institutional capture) is what makes this moment genuinely distinct. It is not any one of these factors. It is the moment at which all three arrived at the same place simultaneously.

The Structural Logic

There is a final observation to make, and it is perhaps the most uncomfortable.

The backlash against trans rights is occurring, in Britain, at precisely the moment when the *gains* of the trans rights movement are most visible and most threatened by broader political shifts. The movement for gender recognition reform, for access to healthcare, and for legal and social recognition had reached a point of genuine, though limited, success. The Gender Recognition Act 2004 — inadequate as it was — had provided a framework. The GRA reform consultation of 2018 had demonstrated genuine public support for change. The medical establishment was slowly, grudgingly, updating its practices.

These gains were not threatening to most people. But they were threatening to those whose *authority* rested on a particular vision of gender. A vision in which the categories of man and woman were fixed, biological, and hierarchically organised. That vision is not merely ideological. It is *institutionally functional*. The sex-based exemptions in the Equality Act, the Gender Recognition Act's medicalised gatekeeping, the binary frameworks of the NHS, the organised resistance to GRA reform. These are

not accidental features of the system. They are the system. They are what the system *looks like* when it is functioning as designed.

The backlash is, in this sense, a *counter-reform*. It is what happens when a reform movement gets close enough to the institutional infrastructure of oppression to threaten it. It is the system defending itself.

The timing is determined not by the trans community's actions, but by the system's need to maintain its coherence. When reform threatened to make the system's binary architecture visibly untenable (when self-identification began to look like a real possibility), the system responded. Not with negotiation. With legalistic force.

What Follows From This

If the analysis offered here is sound, then several things follow.

First, the current wave of hostility is not a *departure* from the normal political weather. It is a *structural response* to a specific political moment — one in which the convergence of visibility, economic crisis, and institutional capture created the conditions for something more dangerous than the background noise of transphobia. That means it is, in principle, *reversible*. But only if the conditions that produced it change.

Second, the legalistic form of the current backlash is its most dangerous feature, precisely because it is durable. A newspaper article is read and forgotten. A revised Code of Practice governs what lawyers advise and what institutions implement for years. This is why the EHRC's current consultation matters so much. It is not merely a policy preference. It is the conversion of political hostility into legal infrastructure.

Third (and this is the hardest point) the answer to "*Why now?*" is not "*because of what trans people did.*" It is "*because of what the political system needed.*" The timing is determined by the political economy, not by the trans community. That is not a comfortable truth. But it is the truth.

The brutality is real. The legal jeopardy is real. The organised nature of the campaign is real. But it is not inexplicable. It is not irrational. It follows (step by step, from the visible to the useful to the institutional) from the logic of a political system under stress, turning the most vulnerable group it can find into the occasion for its own self-defence.

Understanding this does not make it less brutal. But it may help us see it more clearly — and seeing clearly is the first condition of responding well.

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