

The Lemkin Institute's Problematic Accusation of the Genocidal Nature of the Gender Critical Movement's Ideology and Practice

V1.0, comments are appreciated

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September 18, 2023

Abstract

The Lemkin institute for Genocide Prevention has issued a statement on the genocidal nature of the Gender Critical Movement. An evaluation of this claim leads to its rejection as being unfairly biased against various groups and individuals including certain feminist groups and trans groups.

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1 The LIGP Statement as an accusation

In what we will refer to as ‘The LIGP Statement’¹ The Lemkin Institute for Genocide Prevention (LIGP) suggests the existence of a so-called gender critical movement. As a warning signal the LIGP notices the ‘the growing number of laws introduced in the United States that target transgender individuals and the transgender community.’

The Lemkin Institute believes that the so-called “gender critical movement” that is behind these laws is a fascist movement furthering a specifically genocidal ideology that seeks the complete eradication of trans identity from the world.

We will criticise the wording of The LIGP Statement. The LIGP Statement incorporates a significant accusation in the direction of supporters or participants of ‘the gender-critical movement’. In the light of the accusation theory of [7] and [8] there is more to an accusation than the validity of the assertion making up the body of the accusation. LIGP is the accuser, and all individuals who self-describe as being gender-critical of who are portrayed as being gender critical qualify as accusees. Further all agents in scope of the accusation (an unlimited scope as the accusation is an open source statement posted on the LIGP website) may change their attitudes towards one or more of the accusees upon having taken notice of said accusation.

¹‘Statement on the Genocidal Nature of the Gender Critical Movement’s Ideology and Practice’: <https://www.lemkininstitute.com/transphobiaproject>

We will discuss several aspects of the LIGP accusation:

(i) What, if anything, is the core message of the accusation? We will use a ‘novel’ name (TD&TM) for a version of gender theory in order to highlight what we consider to be valid about the accusation in the LIGP Statement.

(ii) Why gender-critical should not be subsumed under the description of the accusees? And what gender-critical refers to instead of the meaning the LIGP Statement seems to assign to it.

(iii) Evidence that our understanding of gender-critical is shared by many.

We will first discuss (i). We agree with the LIGP that some versions of gender theory in particular versions characterised by uncompromising trans-denial and uncompromising transexclusion may be qualified as being of a genocidal nature. However, we claim that taking gender-critical as the key phrase that warrants such a momentous accusation is unwarranted and is detrimental for those who in good faith adhere views and beliefs which they understand to be gender-critical.

2 TD&TEM

We will first discuss to what extent the LIGP statement may be considered justified. For the sake of the discussion we first introduce a different name for a postulated movement: TD&TEM (trans-denying and transexclusionary movement).

Claim 2.1. *There are indications that a loose and informal (though perhaps well-connected) movement which might be qualified as TD&TEM is present on a world-wide scale.*

The term genocide comes with several unhelpful connotations, which call for attention. Moreover the concept is quite non-trivial at closer inspection and deciding about the classification of historic events as genocidal episodes may be a political matter.

(i) Genocide may but need not be connected with murder and physical destruction (an original insight of Rafael Lemkin, who supposedly introduced the term genocide which then was used in the Neurenberg trials and subsequently became incorporated in international law).

(ii) (As intended by Rafael Lemkin when he introduced ‘genocide’) ‘gen’ in genocide abbreviates genus (sort, kind) rather than gene.

(iii) Speaking of a “genocidal nature” of X is a reasonable way to express the risk of a development of X as a driving force in the direction of actual genocide.²

²The phrase ‘genocidal nature’ seems to be rather uncommon. The UCS Shoah foundation speaks of ‘The genocidal nature of anti-semitism’ (<https://sfi.usc.edu/hero/>

(iv) The concept of genocide prevention is intuitively obvious and acting in order to prevent genocide calls for a language helpful for describing circumstances from which actual genocide may come about; the mission statement of the LIGP is convincing and it is reasonable that the LIGP makes use of the phrase “genocidal nature” for indicating circumstances which might lead to a genocidal episode.

(v) Genocide is by definition directed against a group of humans who ought to be protected against genocide. There seems to be a circularity in the definition of genocide which calls for attention: which groups of humans are entitled to protection against the various actions which alone or in combination make up the pattern of genocide. In other words: which freedom does a society have to outlaw a group of people? For instance serial killers when understood as a human group seem not to be entitled to such protection, at least not in most current jurisdictions.

Claim 2.2. *It is an established result of scientific research as performed between 1950 and 2000 that transsexed persons exist, and these persons may be called transgender as well.*

Claim 2.3. *Moreover, there is no scientific or other indication or even proof that transsexed/transgender persons (individually or as a group) create any societal harm whatsoever.*

We find that being trans-denying is scientifically ungrounded, and that for that reason being transexclusionary incorporates the objective to negatively affect the existence of a group (kind), say G , of people, and in fact to prevent or bring to a closure the very existence of G .

Claim 2.4. *The arguments in The LIGP Statement (as further explained in [12]) suffice for the accusation that the objectives of TD&TEM are genocidal in nature.*

Claim 2.4 is far reaching and non-obvious, and risky, both conceptually and politically. However, we feel that the LIGP is entitled to maintaining this claim given the utter lack of evidence of adverse consequences of the existence of transsexed/transgender persons.

words-kill-genocidal-nature-antisemitism). The phrase ‘genocidal nature’ seems not to have any legal status, and there is no tradition of finding the constraints for its use. The phrase was used by the late Eric Markussen in <https://www.tandfonline.com/doi/full/10.1080/14623520701528882>. However in <https://www.ukrainianworldcongress.org/the-world-acknowledges-another-country-recognizes-holodomor-as-genocide-of-ukrainian-p> the phrase ‘genocidal nature’ is used as a proxy for genocide rather than as a indicator of its potential coming about. We assume that the latter use of ‘genocidal nature’ is not what the LIGP has in mind in The Statement.

3 The RCC version of gender theory risks condemnation

Having arrived at the above conclusions the following step is hard to avoid:

Claim 3.1. *The official policy of the RCC as given in [13] is both trans-denying and transexclusionary. The RCC provides ideological backing to TD&TEM (and so does the ROC).*

We see no way around the conclusion that by adopting the views as expounded in [13] the RCC actually runs the risk of participating in an international movement (TD&TEM) which might in the long run give rise to genocide, and the principles of which are ill-protected against leading to genocidal outcomes. The only way for the RCC to avoid being accused of participation in TD&TEM (in such a manner that the implicit accusation of a genocidal nature makes sense) is for RCC to deny Claim 2.2.

Claim 3.2. *The RCC assumes a formidable responsibility by adopting trans-denying and transexclusionary views. It is incomprehensible that in [13] the risk that the validity of Claim 2.2 has been mistakenly overlooked is simply taken for granted.*

The RCC cannot substitute belief (ideology, religion) for science. In other words:

Claim 3.3. *It is wrong (for the RCC) to assume that the RCC has the right (on account of freedom of religion) to deny the existence of a kind of persons, because these persons (when existing) are undeniably wronged by said acts of denial.*

Denial of existence (of a group of individuals) must be based on scientific fact (or at least on claimed scientific fact combined with a manifest awareness of the risk that such claims are invalid).

Now there is a matter of timing: the RCC needs time, sometimes centuries) to accommodate new scientific insights.

Claim 3.4. *Accusing the RCC of participation in a movement with a genocidal nature is unwarranted on the basis of the relative novelty of Claim 2.2.*

Nevertheless it is a responsibility of the official RCC to make sure that a sound process of adopting new scientific insights is in place. The RCC needs to actively investigate new scientific results as candidates for adoption. Leaning back until other societal forces have adopted new insights and adoption by the RCC has become unavoidable is an insufficient policy for dealing with the responsibility as stated in Claim 3.2.

It seems to be the case that the RCC fails to understand the gravity of the following observation: RCC positions may contribute to the coming about of policies of a genocidal

nature towards (the group of) transgender persons. For the RCC said risk (when assessed at this moment, say around the year 2000) is absent because the very existence of transgender persons is denied. But, in the light of Claims 2.2 and 2.3, denial of the existence of a group of persons is not merely a matter of religious belief, or of policy making, it is also a matter of taking science into account, and the latter is highly relevant for matters of gender.

The RCC runs the risk of denying the existence of a group of persons whose existence will nevertheless be accepted (i.e. not denied) on the long run. Looking back from a possible future the (official) RCC may now indeed be in phase where it contributes to a mindset which (in the future) may be understood as having been of a genocidal nature (and even worse may have led to a phase of genocide).

4 The problem of implicit quantification

Our criticism of The LIGP Statement is about the use of the phrase ‘gender critical’. As with all terminology in the area of gender theory different actors have different views on what being gender critical might mean. In particular a difficulty arises with implicit quantification, consider the assertion ‘ X are Y ’s’. Now two readings of this assertion stand out: ‘each X is an Y ’ and ‘some X ’s are also Y ’s’.

Definition 4.1. *A gender critical position is a position which is critical towards some (not necessarily all) forms or instances of transgenering, while (possibly) being permissive of other forms of transgenering.*

The LIGP understands the ‘gender critical’ position as being against (either denying or excluding or both) any instance of transgenering, while we understand being gender critical as being critical towards some (actual or proposed) forms of transgenering. The accusation of being transphobic has been used against individuals who favor transgenering (in the form of transsexing, and perhaps more liberal than that) but who resist the idea that gender identity always and necessarily determines gender categorization.

Claim 4.1. *Someone who is accused of being transphobic, is implicitly also accused of being gender critical.*

We hold that being gender critical is a legitimate position in gender theory, at least given the state of research to date. Torres [12] distinguished biological gender from psychological gender. The scientific basis of this distinction is problematic but the idea is clear. Now the question which Torres fails to address is: what is the residual of biological gender once a role of psychological gender has been established in a satisfactory manner. A casual approach the accusations ‘gender critical’ and transphobic creates w context in

which each use of or reference to biological gender is considered problematic. We agree with [10] that a sustained role of some notion of biological gender is to be expected and that a language must be used which supports such a role. We do not agree with [10], however, that it then follows that ‘a woman is an adult human female’, as we have illustrated in detail in [3].

In the Appendix we have collected some information on what we call moderate usage of ‘gender-critical’. In each of the listed cases we consider the suggestion that some link with genocide may be assumed to be entirely unconvincing.

5 The LIGP Statement has problematic side-effects

Not only is the LIGP position lacking precision, as a side-effect the LIGP statement is deeply offensive to a wide range of persons interested in gender theory. By subsuming the LIGP Statement (Statement on the Genocidal Nature of the Gender Critical Movement’s Ideology and Practice) under the heading “Transphobia Project” it is wrongly suggested that transphobia is characteristic of gender-critical attitudes. Given the seriousness of an accusation involving a ‘genocidal nature’ the LIGP may be accused of intentionally damaging the reputation of a group of persons (those who self-describe as having gender critical views). The mere addition of ‘movement’ to gender-critical does not add sufficient precision to avoid negative side-effects.

5.1 Example of a problematic side effect

In a tweet, dated 19 March 2023³ prof. S. Bracke (University of Amsterdam) writes:

As entanglements between anti-transgender & fascist ideologies become more visible everywhere (no surprise at Nazis turning up at the anti-trans rally in Melbourne), time to share this statement again on the genocidal nature of gender critical movements.

and provides a link to the Statement of the LIGP. We consider this tweet to contain an unacceptable disqualification of gender-critical thinking. Now Bracke’s text adds little to the LIGP statement, and it is of the same style, though even more unfriendly. Nevertheless we cannot understand that such utterances are an acceptable part of the general communication to the public at large from a reputable university.

³<https://x.com/sarahabracke/status/1637579088851353603?s=46&t=JcW4bZa3-kce0HmoHHY1aQ>, accessed on 16 September 2023

5.2 Second example of a problematic side-effect

Recently the UK EHRC wrote a letter to the UK government, and this letter has been disqualified as gender-critical (and beyond). In <https://www.equalityhumanrights.com/sites/default/files/letter-to-mfwe-definition-of-sex-in-ea-210-3-apr-2023.pdf> one finds an advice written on April 3th 2023 by the UK EHRC (Equality and human rights commission) about the notion of legal sex. It is not self-evident that said letter incorporates a gender-critical view. What it does is to propose that besides gender also biological sex will play a legal role. We agree, however, that such proposals may be in line with gender critical thinking. There are certainly difficulties with such a proposal if only the question how to define biological sex (as was already noticed in a reaction from the side of the UN). Whatever the merits of this proposal, we notice the style of a particular disqualification that may be traced back to the LIGP. On [https://www.lemkininstitute.com/single-post/the-genocidal-actions-behind-the-ehrc-s-](https://www.lemkininstitute.com/single-post/the-genocidal-actions-behind-the-ehrc-s-disqualification-of-the-ehrc-proposal-for-the-policy-direction-on-gender) one finds traces of disqualification of the EHRC proposal for the policy direction on gender, the disqualification being phrased in terms of the EHRC advise being as gender-critical, and indeed as to be linked to the notion of ‘genocidal-nature’.

What we find disturbing is that a mere reflection (by the EHRC) concerning policy proposals which comes about from a recent UK governmental advisory committee can be qualified as expressing a genocidal-nature without those who produce such qualifications being held to account.

5.3 Relevance of the mentioned side-effects

Obviously the EHRC will not be afraid or affected by the extremist hate speech (our qualification of how the LIGP labels ‘gender-critical’) as produced via the LIGP. That, same robustness, however, cannot be expected as a matter of daily routine from an academic in the lower ranks of the academic hierarchy. We conclude that the production (or favourable dissemination, as mentioned in the first example) of hate speech as produced by the LIGP runs the risk of constraining academic freedom for those who are not in the position to defend their theoretical views on a sustained basis. It takes time to recover from the side effects of malicious hate-speech.

6 Resisting LIGP’s hate-speech on ‘gender-critical’

We claim that, at least for the time being gender-critical is an adequate label for positions that accommodate transgendering while being less flexible w.r.t. unrestricted self-determination of gender, or at least w.r.t self-determination of gender in contexts where

gender attribution creates rights for those who self-determine their gender and creates obligations for others involved.

In the terminology of [5], being gender-critical amounts to opposing contra-essentialism (or co-essentialism for short) on gender. We summarise our findings in the following Claim.

Claim 6.1. *It is a matter of academic freedom that co-essentialism may be disputed (as a philosophical position) without running the risk of being linked to genocide, in particular not via the notion of a genocidal nature.*

Claim 6.2. *It is a matter of academic freedom that co-essentialism may be disputed (as a philosophical position) under the classification/label of ‘gender-critical’ even if on the long run a better classification/label for that particular dispute can (or must) be found.*

By accusing the so-called gender-critical movement of a background of a genocidal nature, unavoidably the phrase gender-critical becomes seriously contaminated. Without sufficient justification those who self-describe as having a gender critical position are brought in an untenable position, from which they may only recover by accusing the LIGP of (intentionally) producing wrong and seriously misleading accusations. We see no justification for LIGP’s attribution of a genocidal nature to a mindset specified so loosely as ‘gender-critical movement’.

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A Moderate usages of ‘gender-critical’

We will list some instances of usage of ‘gender-critical’. Together these texts demonstrate to our satisfaction that accusing a person holding a gender-critical view of sympathising with a movement that has an ideology of a genocidal nature is unreasonable.

1. From <https://modii.org/en/gender-critical-feminism/> we quote:

Gender critical feminism emphasizes that the sole political subject of feminism are cisgender women. In other words, only those who were biologically born with female genitalia encounter patriarchal oppression and, thus, must be the focus of the feminist fight.

This quote does not imply that the gender critical attitude is either trans-denying or transexclusive. Instead gender critical feminism is contrasted with what is called the gender diversity movement:

In contrast, the sexual and gender diversity movement, especially trans-feminism, includes the idea that, to be a woman, one need only recognize themselves as such. This is the case of trans women.

on https://en.wiktionary.org/wiki/gender-critical_feminism it is stated that gender-critical feminism is:

A branch of feminism that regards sex as a binary and unchangeable biological characteristic, rejects the concept of gender identity and generally views transgender people as belonging to the sex they were assigned at birth.

Implicitly it follows that gender-critical feminism accepts the existence of transgender persons (while assuming that b-sex and gender may differ).

2. The Open University indicates on its website (<https://www5.open.ac.uk/health-wellbeing/research-themes/gender-critical-research-network>) the presence of a ‘Gender Critical Research Network’.
3. The Gender Critical Academia Network (<https://www.gcacademianetwork.org/whats-the-problem.html>) contains a long list of stories written anonymously by academics who feel uneasy about their ability to discuss or promote gender critical views.

Gender critical staff and students describe a pattern of tactics of dominance employed to silence them. These behaviours were either directly experienced, or observed being directed at others. Public threats to gender critical staff and students operate as an intimidation tactic for all: careful, or you will be next.

4. Holly Lawford-Smith defends gender-critical thinking on <https://hollylawford-smith.org/what-is-gender-critical-feminism-and-why-is-everyone-so-mad-about>

Gender critical feminism is not ‘about’ trans. It is about sex. But because it is about sex, it clashes with gender identity ideology, which is at the heart of trans activism. Because it clashes with trans activism, it is catapulted into the spotlight.

5. Kathleen Stock self-identifies as gender-critical, see e.g. <https://indianexpress.com/article/explained/explained-culture/oxford-kathleen-stock-gender>

Uproar over Oxford talk by Kathleen Stock: Gender-critical feminism and its criticisms

At the talk, Kathleen Stock reiterated her views that while she wanted trans people to be protected from discrimination, she did not think it was ‘fair on females’ to share certain spaces with trans women

This quote is neither trans-denying nor transexclusionary.

6. <https://dictionary.cambridge.org/dictionary/english/gender-critical> gives for gender-critical:

believing that sex is a fact of biology that cannot be changed, and doubting the idea of gender identity (= a person’s feeling of being male, female, or another identity, especially when this is different from the sex they were said to have at birth):

This description of gender critical clearly does not exclude transgending. It merely suggests that being transsexed is a mistaken concept (suggesting a transition of b-sex) while transgending is an option (given a distinction between one’s notions of b-sex and gender).

7. On <https://commonslibrary.parliament.uk/employment-tribunal-rulings-on> we find an exposition of the degree to which the freedom to hold gender critical beliefs is legally protected. The conclusion reads as follows:

Firstly, that gender-critical beliefs can be protected from discrimination under the Equality Act 2010.

Secondly, however, that the ways in which such beliefs manifest themselves in behaviour might not be protected. It depends on what those

behaviours are and how they impact on the legal rights of others not to be discriminated against on the basis of their sex or gender reassignment.

Employers need to both avoid discrimination against people because of gender-critical beliefs and also avoid discrimination on the basis of gender reassignment.

See also <https://didlaw.com/gender-identity-v-gender-critical-beliefs-tl>
We quote:

So let's try and be clear:

A 'gender identity' belief is one that considers everyone has a gender that could be different from their birth sex and effectively overrides sex. Someone who holds this belief sees trans men as men and trans women as women. Their view is that the gender identified with takes precedence over sex assigned at birth.

This is entirely different from a 'gender critical belief' which sees that there are only two sexes capable in humans, male and female. This is the belief that sex relates to reproductive biology with men producing sperm and women producing ova (on the basis that the sexual organs are working effectively). A person who holds a 'gender critical' belief recognises women as adult human females and men as adult human males and that it is impossible for a person to change sex which is determined at conception.

It is however possible for someone to identify as being of the other sex and change their legal sex by acquiring a Gender Recognition Certificate (GRC). This however is not the same as being born into either sex.

Whatever your belief may be, if it is considered a philosophical belief for the purposes of the Equality Act 2010 you are afforded protection from any discrimination that you may suffer as a result of holding that belief.

As employment practitioners, we recognise that the two sides of the argument are hotly contested but consider that people should be able to hold different opinions/beliefs and engage in reasoned and rational debate.

The above quote is confusing in that it fails to acknowledge that gender and b-sex may differ also from a gender-critical perspective. As a consequence the gender-critical attitude is claimed to imply Byrne's AHM and AHF ('... recognises women as adult human females and men as adult human males') an implication which we contest in [3].

8. In <https://thecorrespondent.com/702/im-trans-and-i-understand-jk-rowling> Valentijn de Hingh reluctantly admits that J.K. Rowling (who claims a gender critical position) is neither trans-denying nor transexclusionary.

See also <https://www.independent.co.uk/arts-entertainment/tv/news/jk-rowling-jonathan-ross-trans-transphobic-tweets-a9553681.html>.

9. Mark Glendering (IEA) on <https://iea.org.uk/media/dont-outlaw-gender-critical> indicates that tolerance for expression of gender critical views is needed.

10. on <https://overland.org.au/2019/05/what-is-gender-critical-anyway-on-terf> Danielle Moreau seems to identify gender-critical with the TERF position. As an explanation gender-critical is written of as being anyhow devoid of relevant meaning:

It may be a good time, then, to examine what being ‘gender critical’ actually means.

At first blush, the phrase ‘gender critical feminist’ is essentially meaningless: all feminism is ‘gender critical’ by definition. The TERF label is at least partially descriptive, since exponents of this ideology are certainly trans-exclusionary, but it may be too generous to suggest that they are either radical or feminists. Feminism is a big tent, but it is hard to welcome into it a group so dedicated to returning us to the values of the Victorians.

In any case these lines don’t condemn gender-critical as being wrong.

11. On <https://www.theweek.co.uk/news/society/953619/what-are-gender-critical> we find in a text by Kate Samuelson:

The term “gender critical” has been at the centre of increasingly heated debates in recent months, as rows about trans and gender identity rage on. Gender-critical beliefs refer to “the view that someone’s sex - whether they are male or female—is biological and immutable” and “cannot be conflated” with their gender identity (whether they identify as a man or a woman), says The Observer.

Again this description of gender-critical is neither trans-denying nor transexclusionary (provided a conceptual gap between gender and b-sex is adopted).

12. On <https://www.lawsociety.ie/gazette/top-stories/2022/november/fears-that-hate-speech-law-may-target-gender-critical-views> one finds worries that gender-critical views will be silenced through anti hate speech laws.