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The Representation of Women in Language: An Analysis of Human Rights Declarations

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*A mio padre,
che ha sempre creduto
nelle capacità delle sue figlie*

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Introduction

The study conducted in this thesis will gravitate around three main topics: language, gender and sexism. The aim of the first chapter is to present an overview before delving into the following parts in which the analysis will go into greater detail on how gender issues can be treated. The choice of presenting the key points is to have at first a better understanding of the theory behind them but also to discover how the topics are connected and how they influence each other, but most importantly, how the views are vital for the purpose of this paper. The introduction of the issues will be combined with the work of scholars and linguists, which are the basis of the whole analysis. Many different voices will be considered in order to present the topic in the most unbiased way possible. The central focus is to analyze how women are represented through language and provide an overall view of whether the language that people use is sexist or not. As mentioned, each topic will be individually analyzed and then their connection will be explained as well in order to show how they are valuable for the aim of this work. Their connection will gradually show what will be discussed and argued in the second chapter.

This first chapter will highlight the main features of the field of language and gender by assembling the different opinions of scholars and reporting what studies have been carried out so far. The background knowledge will come from various writers who from the 1970s, starting with Robin Lakoff's work, have dealt with gender bias. With this literature review I will try to introduce the background knowledge with also a possible gap in the studies that I will try to fill with my corpus analysis at the end of this thesis.

The second chapter will explore the various solutions that have been proposed and which processes have been adopted to overcome sexism and gender bias in the English language. The possible outcomes will be explained, such as the concept of neutralization or specification, which were included in Anne Pauwels essay *Linguistic Sexism and feminist linguistic activism* (2003).

Finally, in the third chapter, another important key element of this work will be an analysis of a corpus made up of four different declarations of human rights. The corpus will include: *The Universal Declaration of Human Rights* published in 1948, *The Human Rights Act* published in 1998, *The Equality Act (Sexual Orientation) Regulations 2007* published in 2007 and *The Global Human Rights Sanctions Regulations* which came into force in 2020. The analysis will be managed through the help of Paul Baker's book *Using Corpora to Analyze Gender* (2014).

As mentioned above, one of the core questions that will be frequently repeated throughout this thesis is "how women are represented through language". The aim is to glean information and data from the declarations in order to understand whether language reflects the ideals behind what is written, but also how language use to represent women has changed over time. The analysis will be both at word-level and discourse-level and the study of this corpus will attempt to illustrate the changes, the choices and the usage of language in order to reveal how women are represented through acts and declarations.

The analysis of the corpus will be conducted through AntConc, a software which helps the user to create a better and quicker search on occurring terms inside a corpus. I have used it to search for all of the terms that I knew could be useful for my analysis and that could help to find a final answer to the question on how women are represented through language.

1 Language, Gender and Sexism

In this chapter I will introduce the three cornerstones of this thesis. The three main points are language, gender and sexism. I will try to explain how language is defined, by exploring the field of sociolinguistics which will play a vital role in the following chapters; with gender I will define the difference between it and sex and what actually differentiate man and women from each other; lastly, with sexism I will mention the different types of it and what is identified as sexist language. As regard language and gender, I will focus on two main aspects which are the perception of women speaking differently from men and the concept of sexist language and how to deal with it. The literature review of this chapter will offer a background knowledge on the topic, while highlighting possible gaps in the studies which I will try to fill with my corpus at the end of this thesis. New studies have shifted attention from language to discourse, because early studies focused on how individual words were to be considered sexist, but the latest studies analyze how a text can be sexist (Weatherall, 2002: 76). The idea is not to observe language and its single use of negative words towards women, but to analyze how gender stereotypes are created that ultimately create a disadvantage for women and eventually, how women are represented through language.

1.1 Language

1.1.1 Defining Language

The first topic involves the definition of language. From a linguistic point of view, Ferdinand de Saussure sees language as one way to represent reality. He identifies three types of language: “langage” which he divides into “langue”, the total language system and “parole”, the individual use (Mooney and Evans, 2015: 22). “Langue” represents the mental knowledge, the rules within languages, which are possessed as abstract knowledge by a linguistic community. “Parole” represents the individual speech act, which appears as a verbal message in a specific language (Berruto and Cerruti, 2011: 35). Language manifests itself through “parole”, but the linguist analyses the “langue” while using “parole” as a starting point (Berruto and Cerruti, 2011: 36). Saussure (2011) agrees with Whitney, that “language is a convention, and the nature of the sign that is agreed upon

does not matter”. Saussure criticizes the idea that language can be reduced to a naming-process only. The linguistic sign connects a concept to a sound-image, which is a psychological imprint of the sound, what our senses recall (Saussure, 2011: 9-10). This theory of sign provided by Saussure leads to the idea that meaning is constructed at word-level (Mooney and Evans, 2015: 20). The sign is made up of signifier, the sound, and signified, the concept connected to the sound. The link between langue and parole is quite important and the rules of langue can be modified, a new word and its meaning can be adopted by a community and people will start to understand it. That is the contribution of parole to the abstract system of langue (Mooney and Evans, 2015: 23). Other elements that are vital to the study of languages are the concept of synchronic, which refers to a specific moment in time, and diachronic, which is an analysis of language changes during time (Saussure, 2011: 83). The diachronic study will fulfill its vital role in the third chapter with its analysis of four different human rights declaration and their use of language.

Nolan Chomsky (2006), in his book *Language and Mind*, describes language as a “creative activity” and goes on to say that humans “use language as an instrument for the free expression of thought and feelings” (Chomsky, 2005: 89). Moreover, the linguist states that this creative aspect can be considered as a unique human possession and the ability to acquire languages is rooted in the human mind. Also, he sees language as an instrument of expression and free thoughts (Chomsky, 2005: 90). “A person who knows a language has mastered a system of rules that assigns sound and meaning in a definite way for an infinite class of possible sentences. Each language thus consists (in part) of a certain pairing of sound and meaning over an infinite domain” (Chomsky, 2005: 91).

Another perspective comes from Mills, who claims that language “is a product of negotiations over meaning in the past as well as in the present” (Mills, 2008: 124). Deutscher (2005) in Mills (2008) describes language as a “complex process of decay and renewal” (Mills, 2008: 125). Deutscher’s analysis includes general changes of vowels and pronunciation and in addition Mills states that it can be applied to society as well (Mills, 2008; 124). In her view, perceiving language as dynamic and heterogeneous, working between societies and language groups is relevant to her study at language and sexism

that will be unfolded in the next paragraphs. Deutscher (2010) reports the dominant view of language, by saying that it is an instinct and it is encoded in our genes and it is the same for every human being (Deutscher, 2010: 6).

There are so many different definitions of language that vary from expert to expert, depending on the field of analysis. Language is everchanging, is dynamic, it evolves and it depends on the social background of the speaker and at the same time identifies the culture of the speaker. It represents a country; a minority and it reveals someone's origin. The aim of this work is not to give a technical definition or a dictionary entry, but to unveil how language it is used. An example of this are the studies conducted by David Crystal (1991). In one of his lectures, held in 1991, he addresses the distinction between real and imaginary change in language use. His examples of imaginary change include comment clauses such as “you know, I see, frankly speaking” and speaking speed which has been contested by Crystal, because he does not believe that speakers nowadays speak faster even if studies of radio speaker might be misleading considering the fact that they pinpoint a different between formal and informal conversation. He then identifies real change which later in his lecture he will say is made up more of examples of phenomena that has ever been noticed before, within vocabulary change, especially with affixal construction and change in prosody, rhythm, intonation of the language. Peter Trudgill (2000) refers to language both as a tool to maintain relationships and as a first introduction of the speaker. From the way a person speaks, the interlocutor can examine the type of background someone has. He identifies two aspects of language behavior which are connected to a social point of view: the first one has to do with language establishing social relationships and the second the role played by language as an informative mechanism (Trudgill, 2000: 2).

1.1.2 Language and Society

First of all, sociolinguistics “is the field that studies the relation between language and society, between the uses of language and the social structures in which the users of language live” (Spolsky, 1998: 3). Also, Yule (2010: 254) and Lyons (2009: 266) describe sociolinguistics as the study of the connection between language and society, but they

also underline importance and the connection within sociolinguistics and ethnolinguistics, which is the study of language correlated to culture. Moreover, Yule (2010) describes culture as “socially acquired knowledge” that a speaker learns unconsciously. I will analyze sociolinguistics aspect of language, especially when referring to female and male use of language. Sociolinguists are interested in the “parole” because they investigate how people use languages (Mooney and Evans, 2015: 23).

Sociolinguistics first drew attention in the 1960s and it can be defined as a variation in time and space (Cameron, 1992: 30), this synchronic and diachronic distinction can be connected to the above-mentioned theory by Saussure. Moreover, in contrast with Chomsky, who believes that language and the communicating system should be divided to avoid confusion, Spolsky (1998) theorizes that sociolinguistics presents language as a system of variation, which can only be explain through social forces and facts (Spolsky, 1998: 4). The aim of this branch of linguistics is to find a correlation between the characteristics of speech types and the social background of the speaker, which might seem as a study of parole when it is actually a tool to reformulate the distinction between langue and parole. The analysis looks into detail on the different types of registers that a speaker can use depending on the interlocutor, age and place. (Cameron, 1992: 31). As sociolinguistics is an analysis of language and society, it can be used to work side by side with feminist studies, considering the fact that sociolinguistics can provide data about sex differences but can also investigate the source of the relations between language, power and social disadvantage (Cameron, 1992: 34). Pauwels (2003) believes that a sociolinguistics approach aims at a social change and she divides the process into four main stages: the “fact-finding stage”, which is the documentation over the issue; the “planning stage” analyzes the possibilities to have change and develops proposals for the change; the “implementation” stage promotes those changes; the “evaluation/feedback” stage looks into detail which processes have been successfully achieved from the “planning” stage (Pauwels, 2003: 150). Cameron (1992) defines sociolinguistics as a study of language variation that concentrates on the choices that “speakers make from the options available to them” rather than what is in the language (Cameron, 1992: 41).

As mentioned, the analysis will be conducted both at word-level but also at discourse-level. Norman Fairclough (2015) in his book *Discourse and Social Change* refers to discourse as what linguists have traditionally called “parole”. However, Fairclough unlike Saussure, portrays language as a social practice and not as an individual activity and discourse as socially constitutive. Discourse does not only represent the world and the social structures but it constructs them as well (Fairclough, 1992: 64). Another definition of discourse implies that it is “a term used in linguistics with a range of meanings.” Discourse is built on different layers, from conversation and written text, to what is hidden behind a text and also to bigger ideology that are defined as “dominant discourses” (Mooney and Evans, 2015: 234). Furthermore, Yule (2010) states that discourse is “language beyond the sentence” and discourse analysis is often concerned with the studies of conversations and texts (Yule, 2010: 142).

The concept of power is also closely related to language. Feminist linguists support the idea that power in language is held by men, who create language notions. Moreover, power is not to be seen as commodity, but an effect of discourse (Weatherall, 2002: 80). Power can be perceived as a way of talking about gender. Back to a more general context, power can be explained also as an attitude that people have towards language (Mooney and Evans, 2015: 14). The way in which language is used, gives someone the idea of a speaker’s intentions. Considering the following essays from Maltz and Borker’s (1982), the features of women conversation are performed as symbols of the secondary role of women compared to men. The power of man over women seems to be innate in language use from a young age. Even so, linguistics such as Cameron (1997, 2003) pursuit a different perspective on this matter.

Maltz and Borker (1982), in their essay *A cultural approach to male-female miscommunication* offer an approach and explanation to cross-sex conversation, which can be ideal when considering language from a sociolinguistic point of view. The aim is not to merely present language but to provide a better understanding of how language is used by men and women and to discover their similarities and differences by exploring the features of both women and men in cross-sex conversation (Maltz and Borker, 1982: 196). The power in their speaking style portrays how men use interruption and topic

control to display their power (Maltz and Borker, 1982: 203). They quote Robin Lakoff (1975) as concerns the idea that women are supposed to speak like “ladies” as a result of their role in society is displayed in their conversations features and requirements (Maltz and Borker, 1982: 199). Crawford (1997) reports Maltz and Borker’s study and explains what women and men learn to do with words: women learn how to maintain relationships, criticize other people indirectly and interpret other women’s speeches. Men instead confirm their dominant role, try to maintain the audience and try to get the floor (Crawford, 1997: 88).

Robin Lakoff (1975) described in *Language and Woman’s Place* what she believed to be women’s language. As Maltz and Borker (1982) will later maintain in their study, Lakoff (1975) underlines how women are taught to behave and speak like women “through childhood socialization” in order to maintain their “symbolic enactment of powerlessness” (Cameron, 1997: 26). Gal (1995 in Cameron 1997) proposes a shift, which involves perceiving women’s language as an “ideological-symbolic construct which is potentially constitutive” of women’s or men’s identity (Cameron, 1997: 28). Being a woman is talking as one and people produce their speech act on the basis of what culture confers to specific ways of talking (Cameron, 1997: 28). As Lakoff (1975) proposes a model in which women speakers are inferior to men, Cameron (2003) rebuts with the opposite idea and she theorizes that women can be considered superior to men in their use of language (Cameron, 2003: 461). Women are supposed to be better at language due to their concern with the personal relationship that they have with their interlocutors; also, what used to belong to the private sphere, linguistically speaking, now flow into the public one and gives women the capability of having better conversation skills (Cameron, 2003: 461).

Sociolinguistics does not restrict its analysis to sex and gender when studying language use. There are other many aspects that influence the communicating style of a speaker, such as social classes (Trudgill, 200: 23), social interaction (Trudgill, 200: 105), ethnic groups (Trudgill, 200: 42). Yet again, for the sake of this thesis I have considered only the aspects regarding language and gender.

1.2 Language and Gender

1.2.1 Sex and Gender

Correlated to the topic of language there is the concept of gender, which “is not something we are born with, and not something we have, but something we do, something we perform” (Eckert and McConnell-Ginet, 2003: 10). It is vital at this point to explain the difference between gender and sex. As mentioned above, gender has to do with society and how people perform their identity. Sex on the other hand is simply the biological aspect of the human being. However, gender can be seen as the result of sex, because science and society identify what is seen as male or female. To be even more specific, “sex” refers to a biological distinction, while “gender” is the term used to describe socially constructed categories based on sex” (Coates, 2013: 4). Trudgill (2000) considers sex as the first characteristic that a person notices after meeting someone else (Trudgill, 2000: 61). Cameron (1997) acknowledges that sex is easier to identify because of the gender divisions which are created by our societies (Cameron, 1997: 24). Also, Butler (1999) sets gender apart from sex and defines their distinction as the fight against the concept of “biology-is-destiny”. Their distinction attempts to prove that whatever the problem connected with sex, gender will always be culturally determined. Gender it is “neither the causal result of sex nor as seemingly fixed as sex” (Butler, 1999: 9-10). Gender is the identity worn by the body and it cannot follow the binary concept of sex, which is divided between male and female (Butler, 1999:10).

George Yule (2010), a British linguist, in his book *The Study of language* identifies three ways to classify gender: biological gender, the distinction between the male and the female species; grammatical gender, the distinction between masculine and feminine; social gender, the distinction made when using words such as “man” or “woman” to label people in terms of their social role (Yule, 2010: 274). Other linguistics, such as Hellinger and Bußmann (2001) have divided gender into four categories: grammatical, lexical, referential and social. Grammatical gender has the control over the agreement between the noun and some other “satellite elements” and it is usually divided in two or three gender classes (Hellinger and Bußmann, 2001: 22). Lexical gender, relates to a “extralinguistic” properties which are femaleness and maleness; specific gendered names

carry a semantic property, which identifies in male or female, that can be described as “gender-specific”, such as mother or son, in contrast to other nouns that are usually defined as “gender-neutral”, such as patient or citizen (Hellinger and Bußmann, 2001:22). Referential gender “relates linguistic expression to the non-linguistic reality”, this means that a noun can be gender-specific but in certain other linguistic situation can be used to be gender-neutral (Hellinger and Bußmann, 2001: 8-9). Social gender depends on the distinction made by society between women and men, but it also has to do with stereotypical assumption of appropriate roles for men and women; this aspect is shown particularly in the case of work-related nouns, where “male as norm” seems to be followed. Hellinger and Bußmann (2001) report the example of “female surgeon” and “male nurse” in which the concept of social gender can be perceived due to the distinction between what it is supposed to be a job for a man and which is supposed to be a woman job (Hellinger and Bußmann, 2001: 25-26).

In her paper *Theoretical debates in feminist linguistic: question of sex and gender*, Cameron (1997) quotes the work of Nicole-Claude Mathieu (1989), who identified three different paradigms on the relationship between gender and sex, in order to resolve issues. The first paradigm is called “homology”, which sets gender as an expression mediated through sex. People learn what is “masculine” or “feminine” through what is biologically considered as “male” or “female”. This idea does not identify gender as a consequence of sex; instead it suggests that sex is the grounds on which gender builds itself (Cameron, 1997: 22). The second paradigm is “analogy”, in which gender symbolizes sex. Gender collects its identity from cultural expectations and roles. This paradigm refuses to accept a direct relationship between gender and sex, because gender is a symbolic marking of sexual differences and not based on biological characteristics. The third paradigm is “heterogeneity”, which accepts the idea that gender and sex are different. We should not consider two different categories that forces individuals to identifies as “male” or “female”, but we should move the focus of what this division has done to enforce the power of one group over the other. In this paradigm gender constructs sex (Cameron, 1997: 23). Gender becomes both an identification for the social aspect of people’s life, but it also maps the categories in which people are divided (Cameron, 1997: 24).

However, in the linguistic field some scholars are trying to introduce the idea that gender should not be considered a strict distinction between male or female, because the debate over this topic should consider more variables. Bonnie McElhinny (2003) in her essay *Theorizing Gender in Sociolinguistic and Linguistic Anthropology* explains how the differentiation between the concept of gender and sex has been one of the foundations of the Western Feminist thought, which refers sex to the biological aspect and gender to the cultural aspect of a human being (McElhinny, 2003: 22). Moreover, she fights the idea that gender should be studied when and where is more salient, which is during speech interaction between same sex or cross sex interaction (McElhinny, 2003: 22). The issue of connecting gender to sex is implying that only two types of gender exist, which leads to heterosexuality as the normative. McElhinny quotes Judith Butler (1990) to discuss how “gender is not to culture as sex is to nature; gender is also the discursive/cultural means by which “sexed nature” or “a natural sex” is produced and established as “prediscursive” prior to culture, a politically neutral surface on which culture acts” (McElhinny, 2003: 24). According to Butler this means that gender is disconnected from the aspect of sex and it evolves the feminine or masculine identity through society and culture. The question is not centered around the difference of gender, but what are the differences made by gender and when an individual performs gender outside the binary distinction created by sex it is considered out of the ordinary (McElhinny, 2003: 24). McElhinny states that gender expresses significance not only to people who analyze it, but also to people who live their lives and identify in gender. She then reflects on the fact that most of conversational analysis are based on “gender fail”. Thorne (1990 in McElhinny) stresses the importance of knowing when gender is relevant, especially when it comes to conversational analysis, because a woman might not always speak as a woman (McElhinny, 2003: 33). To support this argument, she quotes Tannen studies (1989, 1990) on the concept of interruption, which asserts that women are often interrupted by men when speaking. Schegloff (1987 in McElhinny 2003) explains how gender, but also class and ethnicity, should not be considered as influential conversation elements, because linguists should focus on “variations in social identity”, which leads to individualism instead of perceiving gender as relevant or salient (McElhinny, 2003: 34). The question then shifts from when gender is relevant to how gender can be relevant and Schegloff (1987 in McElhinny 2003) denies the possibility of the existence of woman’s language.

However, Ochs (1992 in McElhinny 2003) critiques Lakoff and her idea of mapping language and gender, but at the same time she admits that linguistic features can index gender (McElhinny, 2003: 35). The final aim proposed by McElhinny (2003) is to sanction the traditional assumptions of gender as connected to sex and heterosexuality, to consider gender as an activity rather than a relation and search the relevance of gender, in order to create a new concept of gender (McElhinny, 2003: 36).

1.2.2 How gender influences language

To understand what links language and gender, an initial clarification needs to be presented. Stahlberg, Braun, Irmen and Sczesny (2007) identified three types of language, which were later agreed upon by Prewitt-Freilino, Caswell and Laasko (2011): genderless languages, natural gender languages, and grammatical gender languages. Genderless languages, language families such as Uralic or Turkic, do not express gender in either the noun or pronoun system but gender can be expressed through lexical means (Prewitt-Freilino, Caswell and Laasko, 2011: 269). In natural gender languages, like English or Scandinavia languages, the pronouns are the resources to identify gender because the majority of nouns do not carry gender themselves (Stahlberg, Braun, Irmen and Sczesny, 2007: 165). In grammatical gendered languages or gendered languages (Prewitt-Freilino, Caswell and Laasko, 2011: 269), instead language families such as Slavic, Germanic and Romance, all nouns are identified as feminine or masculine (or neutral) gender and dependent forms, such as articles or adjectives, carries the corresponding gender that has to agree with a noun (Stahlberg, Braun, Irmen and Sczesny, 2007: 166). However, they point out that it is impossible to find a sexless language, which lacks femaleness or maleness expressions, considering that sex is one of the most important social categories (Stahlberg, Braun, Irmen and Sczesny, 2007: 163).

1.2.3 Feminist Linguistics

Cameron (1992) describes how language and feminism are connected. The fight over an equal use of language is not to be considered a side issue, but another goal to the feminist movement (Cameron, 1992: 6). According to the European Institute for Gender equality,

“gender equality in language is attained when women and men – and those who do not conform to the binary gender system – are addressed through language as persons of equal value, dignity, integrity and respect.”¹

Feminists who are concerned with linguistics fight both for equal payment and fair representation through language, in order to dethrone one gender from the role of setting a standard of human value (Cameron, 1992: 7). The awareness on the topic was brought from the early second wave of feminism, who have studied language and gender (Sunderland, 2006: 20). Wodak (1997) identifies the feminist scholarship within linguistics and it concerns every criticism made towards the androcentric view (Wodak, 1997: 7). The androcentric rule is defined by Coates (2013) as the attitude to consider admirable and desirable what men do linguistically, and to perceive what women do as negative and reprehensible (Coates, 2013: 10). Hellinger (1990 in Wodak 1997) observes the aspects of feminist linguistics: it analyses the linguistics aspects of both women and men; it analyses the asymmetries inside language as expressions of discriminations to women; it attempts to find a solution to those discriminatory use of language in order to achieve an equal treatment of women and men (Wodak, 1997: 8). Feminist linguistic however, goes beyond a pure analysis, it searches for proposal change and an analysis of the relationship between language, sex and gender (Wodak, 1997: 8).

Cameron (1995) expresses her idea of a shift between the 1980s and the 1990s in the field of language and gender studies. She goes on by identifying three different approaches in feminist linguistic. The first one is the “deficit model”, in which women are at a disadvantage due to their sex roles (Cameron 1995: 33). Also, thanks to Lakoff (1975) women’s language is established within its characteristics of being perceived as weak and deficient when compared to the norm of male language. This model was later challenged because the idea behind was that women needed to talk like men in order to be taken seriously and their language was too weak to be used (Coates, 2013: 6); the second approach is the “dominance model”, in which women negotiate their powerless

¹ <https://eige.europa.eu/publications/gender-sensitive-communication/first-steps-towards-more-inclusive-language/terms-you-need-know>

role and acknowledge the male social privilege (Cameron 1995: 33), which perceives women's language as a subordinate state compared to men's dominant state (Coates, 2013: 6); the last approach is the "cultural difference model", which compares gender to other social divisions such as ethnicity (Cameron, 1995: 33) and reinforces the idea that women and men are part of different subcultures (Coates, 2013: 6). This third approach highlights the differences between men and women in order to strengthened women's language without comparing it to men's language or a subordinate and powerless state (Coates, 2013: 6). Weatherall (2002) presents the different approaches by stating that the dominance approach is the representation of the powerless position of women compared to men and the difference approach is presented as an alignment to a set of cultural values between women and men (Weatherall, 2002: 55). Moreover, Pusch (1990 in Wodak 1997) maintains that the target of feminist linguistic is the patriarchalism in the language system (Wodak, 1997: 10).

Cameron (1995) then proceeds with an explanation of the differences between two of the models, the dominance and the difference approaches. The first one highlights inequality as the root of every sex interaction and sees elimination of inequality as the goal. The difference approach uses the word "misunderstanding" and believes that women and men are not unequally portrayed but simply symmetrical. The solution is finding and exposing the roots of these misunderstandings and spreading awareness about them (Cameron, 1995: 34). This approach can be seen as more appealing because men are not portrayed as villains and feminist not as anti-male. Cameron writes that "both dominance and difference represented particular moments in feminism: dominance was the moment of feminist outrage, of bearing witness to oppression in all aspects of women's lives, while difference was the moment of feminist celebration, reclaiming and revaluing women's distinctive cultural traditions" (Cameron, 1995: 39). The aim for feminists is to find a new theory to respond to new conditions. In Cameron's opinion, what happened is that the concept of male power through dominance is to be considered obsolete, while women's differences now "seems either so essentialists or else so depoliticized as to be reactionary", which is why new studies and ideologies needs to be brought to light, otherwise the work that has been done so far will be needless (Cameron, 1995: 39). Then the concept of "theorizing gender" is introduced, because Cameron (1995) identifies an

issue in the feminist linguistics analysis: it follows the established practice that language “is the phenomenon to be explained” while gender is the explanation (Cameron, 1995: 39). Cameron suggests to overcome the stereotypical notion of “men do this, women do that” and by doing that she quotes Simone Beauvoir (1949) and her concept of becoming a woman (Cameron, 1995: 42), but how? Simone de Beauvoir in Butler (1999) believed that gender is constructed and someone becomes a woman under a cultural compulsion which is dissociated from sex (Butler, 1999: 12). Recent feminist theories report that someone never stops being a woman or man (Cameron, 1995: 43). People are constantly asked to challenge their identity through society and cultural elements that define masculinity and femininity (Cameron, 1995: 42-43).

1.3 How women talk

This section addresses the issue of how gender influences language use. Instead of conceiving “women’s language” or “men’s style” as defined markers, we could theorize that styles themselves are produced as masculine or feminine and that people conform to those styles in order to present themselves as gendered subjects (Cameron, 1995: 43). Coates (2013) opens her discussion with a key point: “Do men and women talk differently?”. She goes on to assume that speakers can be divided into women or men but also, she asks why we are talking about differences rather than similarities, even though she agrees on the fact that women and men may have differences in their speaking styles (Coates, 2013: 4). There have been different linguists who have studied language and gender over the years, starting with Robin Lakoff and her work *Language and Woman’s place* (1975). Moreover, Cameron (2003) believes that the analysis of male and female language use is often based on the fact that they are considered complementarity, because what men’s language is, women’s language is not (Cameron, 2003: 452). Mills (1995: 45) defines women’s language as a “sex-preferential usage which is determined by the power of difference between males and females”.

1.3.1 Language and Woman's Place

In 1975 Robin Lakoff published *Language and Woman's place*. In her work, she identifies what can be described as “women's language”, which has its own characteristics that girls learn during their childhood (Cameron, 1992: 70). She starts by observing the two different types of discrimination through language: how women learn to use it and how language itself treats women (Lakoff, 1975: 46). Lakoff's opinion is that after her analysis of both women's language and how women are talked about, the bias of language will emerge (Lakoff, 1975: 49). According to Lakoff (1975), a woman has two choices: being less than a woman if she does not learn how to act like a lady, or less than a human if she learns how to act like a lady, but at the same time she is not taken seriously in discussion (Lakoff, 1975: 48). Language is both “restricted in use to women” and “descriptive of women”, language does not give full access to women to express themselves properly in order to keep them in their place and it place them in a demeaning position. She goes on by introducing examples, such as colours or adjectives (Lakoff, 1973: 50-51) in women utterances whilst presenting the double-standard that characterizes the differences between the two genders. Lakoff (1975) then mentions the use of tag questions as a way of avoiding conflict, but also as a way of concealing confidence over a topic, which leads to the idea that women are seeking confirmation from their speaker (Lakoff, 1975: 55). According to Lakoff (1975) another feature of women's talk is the concept of politeness, which is connected to the idea of not imposing points of views on someone else's. Women are politer then man and the use of politeness “involves an absence of a strong statement, and women's speech is devised to prevent the expression of strong statements” (Lakoff, 1975: 57). This work is an analysis of women's language and Lakoff (1975) presents the characteristic of how women are taught to talk.

First of all, it is important to highlight the importance of Lakoff's work, because it can be considered one of the foundational texts of the feminist linguistic field (Bucholtz and Hall, 1995: 1). However, as I will explain later in this paragraph her work has been highly criticized for the lack of empirical evidence and her view of women as a passive speaker. Her essay has been the groundwork for the following studies and it has sparked different conversations and debates over the issue of language and gender. Even tough, as I will

explain below, her work has been overcome by new studies and linguistics who have identified new nuances of language, gender and sexism, Lakoff's work still remain one of the pillars of feminist linguistics.

Mooney and Evans (2015) returned to the subject of Lakoff's work by saying that women's language is characterized by avoidance of swear words, use of hedges, fillers and tag questions, empty adjectives, standard syntax, rising intonation and use of politeness (Mooney and Evans, 2015: 116). They perceive Lakoff's work as a representation of the expectations around women language instead of a list of features. According to Coates (2013) this work represented a symbolic moment in the linguistics field, because it opened a new research into women's talk, even though it was highly criticized for its lack of empirical evidence (Coates, 2013: 5). Crawford (1997) admits that Lakoff's work was a spark to identify sexism in language use, but she quotes Hill (1986) and Frank (1978) who have criticized Lakoff's empirical research (Crawford, 1997: 26). Hill (1986 in Crawford 1997) acknowledges that Lakoff has provoked further studies with her work and Frank (1978 in Crawford 1997) pinpoints the fact that Lakoff lacks empirical evidence in her studies (Crawford, 1997: 26). Cameron (1992) also stresses that Lakoff studies lack empirical evidence and explains this shortcoming as a consequence of Lakoff training in the Chomskyan tradition, which suggested collecting data from her own experience rather than collecting external data (Cameron, 1992: 44). Another criticism against Lakoff concerns the type of women on which she conducted her studies, considering that her analysis included the utterances of middle-class white American women (Kaplan, 1998: 62). Moreover, with her identification of "women's language" in contrast with "neutral language" instead of "men's language", Lakoff (1975) identifies a deviant case, which can be connected to Simone de Beauvoir's idea that women are defined as "Other" (Cameron, 1998: 216). Many of the criticisms concerns Lakoff's idea that women's language expresses women's powerlessness, insecurity and secondary position compared to men, which may have nothing to do with gender, but involves the idea of numerous hierarchies (Cameron, 1998: 220).

Maltz and Borker (1982) in their essay described the feature of intra sex conversation and by doing that they highlight what is supposed to be women's language and men's

language. In their study women use positive minimal responses and they adopt the strategy of silent protest when being interrupted and also use “you” and “we” in order to acknowledge the presence of the other speaker (Maltz and Borker, 1982: 197-198). On the other hand, men are more likely to interrupt and dispute what the partner is saying also, they make more direct declaration of opinions than women (Maltz and Borker, 1982: 198). A key element that is analyzed by the two scholars are minimal responses, as the authors suggest that they might have different meanings for men and for women.

Coates (2013) lists the features which can characterize conversation strategies: minimal response, hedges, tag questions and swearing (Coates, 2013: 86). The studies quoted by Coates (2013) show that women use more minimal responses than men in order to support the speaker (Coates, 2013: 87). Hedges, linguistic forms such as “I’m sure, I think” are used more by women to express certainty over a topic. It is however vital to understand the role played by hedging: as a matter of fact, Holmes (1984, 1987) divides hedging in two groups, expressions of certainty and confidence or uncertainty of various kinds (Coates, 2013: 88). Holmes (1984, 1987 in Coates 2013) shows that women use hedging to express confidence most of the time, which means that they are multifunctional. The investigation over tag questions, relies once again on Lakoff’s work (1975), who maintains that “tag questions decrease the strength of assertions” (Coates, 2013: 90). Siegler and Siegler (1976 in Coates 2013) confirmed through their tests that women are often attributed the use of tag questions, but it does not mean that women use more tag questions than men, it only confirms the speaker’s attitudes (Coates, 2013: 90). As far as swearing is concerned, Lakoff (1975) claims that men swear more strongly than women. However, Coates quotes different studies, in particular Gomm’s (1981). What was discovered, is that men swear more than women, yet, women are more likely to swear within same sex conversation and this applies also to men (Coates 2013: 97).

1.3.2 Man Made Language

In 1980, five years after Lakoff’s essay, Dale Spender published “Man Made Language”, which established the author’s radical position on feminism and language and gender matters (Cameron, 1995: 32). In her work she explores sexism in the English language

and gender differences in language use. Her idea that language has the power to influence the reality of the speaker is a strong representation of the Sapir-Whorf hypothesis (Cameron, 1998: 83). She reports how women are silenced and how men dominate the conversation, a theory that results in the “male dominance approach”, which characterized the study of language and gender in the 1970s (Sunderland, 2006: 14). Spender claims that men have kept control over language in order to assure their supremacy over women, while encoding sexism into the language (Weatherall, 2002: 3). Spender describes what can be called women’s “alienation” from language, a feminist view of language which exhibits language as a possession of the oppressor and for this specific reason it needs to be reclaimed (Cameron, 1992: 8). Language is described as one of the causes of oppression instead of a symptom of it and Spender believes that words embody sexism and their meanings are decided by men (Cameron, 1992: 104). One of the criticisms against Spender is that she has confused the “distinction between sexism in language and sexism projected on to language by systems of linguistic analysis” (Cameron, 1992: 98). Black and Coward (1981 in Cameron 1992) objects to the notion of power given by Spender, who believes that men have power over women. They pinpoint the fact that power regards not only gender, but also race and class. This idea creates a whole new set of relations and discussions over the concept of power itself (Cameron, 1992: 159-160). Another criticism involves the idea that men use language to force women into a subordinate place; power possesses different layers and linguists have criticized the idea of coercion expressed by Spender (Cameron, 1992: 160).

Mills (1995) summarizes both Lakoff and Spender’s idea of women’s language by writing that the two linguists both mark the female language as “less fluent, less logical, less assertive the men’s speech”. However, neither Lakoff or Spender have identified in their research the so called “male norm” from which women are seen as subordinate (Mills, 1995: 45). Mills (1995) also poses Coates above mentioned question on why linguistics looks into the differences between men and women instead of their similarities. Mills (1995) thinks that linguistics have followed the rules established by their male predecessors and accepted the idea of the inadequacy of women’s speech (Mills, 1995: 46).

1.4 Language and Sexism

Wodak (1997) recalls that the term “sexism” was invented in the 1960s and “it refers to discrimination within a social system on the basis of sexual membership” (Wodak, 1997: 7). The relationship between the two sexes, male and female, is not egalitarian because the category of men is considered the norm and female is represented as “other” or “abnormal” compared to male. It was with the concept of sexism that women started to see themselves as a “social groups and as suppressed minority” (Wodak, 1997: 7). Mills (2008) writes that sexism it is not only found in words but also in conversations and culture. Vetterling-Braggin (1981 in Mills 2008) identifies sexism as “the practice whereby someone foregrounds gender when it is not the most salient feature”. She goes on to state that sexism cannot be considered as a simple “slip” due to a lack of awareness, which can be adjusted. When introducing the different kinds of sexism, which will be analyzed below, Mills (2008) offers another insight that does not see “sexism as something which is imposed on women by men” but “as a site of struggle over access to resources and positions of power” (Mills, 2008: 43).

Many forms of sexism in language have been brought to our attention and Henley (1987) has identifies three types of it: “language that ignores women; language that defines women narrowly; and language that depreciates women” (Weatherall, 2002: 13). Language can make women feel invisible due to their absence in stories. This absence of women in academic or journalistic fields can be explained by the lack of opportunities that women were given and not the lack of intelligence. Women also were not given access to institutions that provided information (Weatherall, 2002: 14). Defying women narrowly means that they are talked about in terms of what they look like and their family relationships, whereas men on the other hand are talked about based on what they do. The concept of naming, which is defining women in terms of their marital status, is an example of world view and social hierarchies. It also gives an insight into the patriarchal nature of society (Weatherall, 2002: 19). Lastly, there is the depreciating aspect of language towards women. The idea has been identified as women’s derogation and it represents the fact that masculine forms can have a better connotation than the feminine ones (Weatherall, 2002: 23).

Xiaolan Lei defines language as sexist when it “expresses bias on favor of one sex and thus treats the other sex in a discriminatory manner” (Xiaolan, 2006: 87). According to Xiaolan (2006) a language is sexist because the sexism comes from society and that can explain why women are considered the “weaker” sex, because in the past they were supposed to stay home and remain powerless and subordinated to men (Xiaolan, 2006: 87). Then, two questions are asked: “Does language discriminate against women? More precisely, do the ways in which language allow us to refer to males and females discriminate against women?” (Xiaolan, 2006: 87). In the following sections I will report on the different kinds of sexist language and how sexism characterizes language.

1.4.1 Over, Covert and Subtle Sexism

Sexism in language does not only involve the choice of the appropriate pronoun to refer to both female and male, but it has to do with society and the way in which women are represented through language with stereotypes and statements. The issues do not lie only on a linguistic level but also, on a discourse level, which is the view of language beyond the sentence (Yule, 2010: 142). Sexism can be divided in two categories according to Mills, but I have decided to add another definition found in an essay written by Swim and Cohen (1997): overt, covert (Mills, 2008) and subtle (Swim and Cohen, 1997). Overt means direct and it can be identified with the use of words and clauses that have been seen to be discriminatory to women, such as generic pronouns and semantic derogation (Mills, 2008: 11, 47). Covert, on the other hand, means indirect and highlights a subtler use of sexist language, while at the same time denying doing so through expedients such as irony or innuendo (Mills, 2008: 12, 135). Last, subtle sexism refers to stereotyped phrases that are thought to be customary (Swim and Cohen, 1997: 104); Butler and Geis (1990 in Swim and Cohen 1997) present an example of this kind of sexism as they report that while rating female and male leaders both male and female participants in the survey had negative non-verbal behaviors towards female leaders. The chances are that the participants had no idea of treating male and female leaders differently (Swim and Cohen, 1997: 104). According to Mills (2008), overt sexism in public discourse it is stigmatized even though it has not been eliminated yet (Mills, 2008: 133).

Mills (2008) identifies a response to overt and covert sexism, which is political correctness (Mills, 2008: 124). Political correctness is defined “as an excessive attention to the sensibilities of those who are seen as different from the norm” (Mills, 2008: 100). It might be seen as a tool for pleasing people, in order to make sure that no one is offended and “political correctness” is generally used to demean and simplify what in certain context can be perceived as a problem (Mills, 2008: 102). Also, Doyle (2005), describes it as a tool of going against society and its status quo (Doyle, 2005: 152). Mills (2008) affirms that “political correctness” is a response to the feminist linguistic reforms, which have changed both how people refer to women but also how they feel about sexist utterances (Mills, 2008: 12). The term seems to have a negative connotation due to its connection to the feminist reform: the issues lies in the fact that feminists are accused of bringing politics into contexts where it is not necessary, contexts, including the linguistic field (Mills, 2008: 107). However, Burrige (1996 in Mooney and Evans 2015) lists three possible reasons why people do not like linguistic changes: people do not like to be told what to do with language and people do not like the idea that a word that they have been using and considering neutral is actually demeaning to someone else (Mooney and Evans, 2015: 39).

Moreover, Mills (2008) pinpoints a shift in sexism between the Second and the Third Waves of Feminism. The Second wave had an easier job in identifying sexist practice because it was thought as a set of specific attitudes towards women, but the work that the Third Wave has to face is more complex. Sexism is now perceived as a set of opinions that can be considered offensive to some and normal to others (Mills, 2008: 136). The analysis of sexism conducted as a part of the two different waves of feminism should not be seen as chronological but simply suitable for the specific type of sexism that they are facing (Mills, 2008: 137). As a matter of fact,

“Second Wave analysis can analyze those sedimented forms of overt sexism which seem to be embedded within the morphology of the language system itself, whereas Third Wave feminism is better able to analyze the ambivalences and uncertainties about and within indirect sexism, within particular contexts” (Mills, 2008: 137).

1.4.2 Stereotypes

Connected to the topic of sexism is the concept of stereotypes. A stereotype is a generalization of a group as a whole and Mills (2008) suggests that stereotypes are the basis for inequalities (Mills, 2008:126). They create a prototype, which incorporates what people perceive of both women and men, because standardized ideas can damage both males and females considering the fact that are based on assumptions and not truths (Mills, 2008:127). A stereotype is to be considered sexist when it has a negative representation of women, such as women being weaker or less intelligent than men (Mills, 2008:129). Talbot (2003) addresses the tendency of gender stereotyping which involves the idea that behavior and gender can be both generalized and linked (Talbot, 2003: 468). She defines stereotyping “as a representational practice” which “involves simplification, reduction, and naturalization” (Talbot, 2003: 470). The practice of stereotyping is linked to power, because stereotyping tends to be directed at subordinated groups, such as women. In the field of language and gender stereotypes are the representation of gender expectations (Talbot, 2003: 472). Talbot (2003) quotes Stanworth’s studies (1983). In doing so, she reports how in the school environment boys are taught to be assertive, while girls are taught not to dominate in classroom interactions. This example supports the idea that men are expected to dominate, while female should be subordinates (Talbot, 2003: 472). Connected to this example, the writer quotes another stereotype which comes from Spender’s (1980) book: the idea that women talk too much because the benchmark is silence and not how much men talk (Talbot, 2003: 473).

In summary, Talbot’s perception on stereotypes is based on the idea that a “good stereotypes” indicates how women should behave and a “bad stereotype” how not to (Talbot, 2003: 473). Again, Lakoff (1975) plays a role in the matter of stereotypes, because Cameron (1992) maintains that the work itself created a stereotype due to the fact that Lakoff identified what is referred to as “woman’s language”, which is subordinate to “neutral or men’s language” (Cameron, 1992: 44). Moreover, Crawford (1997) pinpoints the idea that Lakoff (1975) has created this stereotype by writing that women use fillers and hedges, which is a result of their hesitant and uncertain speech behavior (Crawford, 1997 :31). Another example of stereotyping is reported by Xiaolan (2006), as Xiaolan

lists images used to describe men and women. One example offered by the author has to do with stereotyped characters, because the adjective used to describe a driven man would be “forceful” and a driven woman would be “pushy”. This indicates the different perception of behavior that people might have when it comes to judging men or women (Xiaolan, 2006: 93).

1.4.3 Asymmetries and Lexical Gaps

As mentioned above, Stahlberg, Braun, Irmen and Sczesny (2007) have identified three different types of languages. They also address the concept of sexism. They point out that “expressing or concealing sex in language is not in itself sexist or non-sexist”, since genderless languages are believed to be non-sexist (Stahlberg, Braun, Irmen and Sczesny, 2007: 167). Their query is about the asymmetry between female and male linguistic expressions and, hence they explore different examples of linguistic features. Other examples of asymmetries are lexical gaps, which provide evidence of lack a of counterpart between male and female expressions, such as “family man”: a speaker would not use the term “family woman” because a woman is expected to cover the role of a mother, which means that there is no need for a definition as such (Stahlberg, Braun, Irmen and Sczesny, 2007: 168). Other examples of this asymmetry are terms such as “single mum, working mother, career women and unmarried woman” which do not have a male counterpart (Mills, 1995: 114). However, language asymmetry involves both women and men and, as a matter of fact, linguistic gaps stress the absence of reverses in other fields, such as job naming, both for men and women (Pauwels, 2003: 151). Female counterparts can be created from masculine forms with the idea that those are the more “complex” forms and it demonstrates that the masculine is the generic and the feminine forms need to be used to specify women’s involvement (Prewitt-Freilino, Caswell and Laasko, 2011,270). Example of asymmetries can be found in equivalent couples, such as master- mistress (Eckert and McConnell-Ginet, 2003: 69) bachelor- spinster (Mooney and Evans, 2015: 110) and fox and vixen (Eckert and McConnell-Ginet, 2003: 69). All the female counterparts have a negative connotation: mistress is someone’s lover, a spinster is an unmarried woman who is seen as having a negative status, and a vixen is used as a derogatory term towards women.

1.4.4 Generic “he”

One of the most widely discussed sexist elements in language is the masculine generic. The use of the male as generic refers to male persons, mixed group of people and people whose identity are unknown (Stahlberg, Braun, Irmen and Sczesny, 2007: 169). In grammatical gender languages, the pronoun and noun masculine form is used as the neutral form; in natural gender languages, it involves the use of male pronouns and lexical male forms, which means the noun is to be considered with its masculine form. Finally, genderless languages can experience lexical male forms, which means that the generic is male (Stahlberg, Braun, Irmen and Sczesny, 2007: 169). The “asymmetrical treatment” mentioned by Pauwels (2003) describes how women are reduced to a “subsumed” role compared to the male prototype for human representation when using masculine forms such as generics (Pauwels, 2003: 553). Women are made visible through marked language and derived forms from the masculine counterpart: an example of the former is identified with “female doctor” and the latter includes examples such as “actor-actress, poet-poetess, author-authoress” (Stahlberg, Braun, Irmen and Sczesny, 2007: 167). Traditionally, the argument behind the “he-man” language is that it is not used to specify gender because it is general (Mills, 1995: 87). However, the use of “generic he” to represent both men and women leads to the exclusion of women and the reference made at the pronoun cannot be perceived as fully generic (Mills, 1995: 88). To avoid this practice, one alternative is the use of the nongendered pronoun “they” (Eckert and McConnell-Ginet, 2003: 256). Baranowski (2002 in Mooney and Evans 2015) reports that the use of “they” is currently preferred to the use of “he” as the generic form (Mooney and Evans, 2015: 112). Moreover, Dorner (2010) explains three different possibilities of dealing with generic “he”: the first approach involves replacing it with “s/he, he” or “she”, “he/she”; the second approach uses “she” instead of “he” as the generic; the third is to use “they”, but there are some grammatical difficulties involved (Dorner, 2010: 5-6). Fasold (1990 in Dorner 2010) addresses that the idea that generic “he” should not be used as a generic pronoun only for convenience, because its use is a reinforcement of the patriarchal system and the superior state of men over women (Dorner, 2010: 18).

1.4.5 Marked and Unmarked Forms

Stahlberg, Braun, Irmen and Sczesny (2007) mention the markedness of female forms, such as “author-authoress”, but they also highlight the fact that femaleness is made more explicit than maleness (Stahlberg, Braun, Irmen and Sczesny, 2007: 167). Romaine (2001 in Stahlberg, et al. 2007) found 155 explicit female markings for doctor (lady doctor, woman doctor, female doctor), compared to only 14 instances of male doctor” (Stahlberg, et al., 2007: 167). Mills (1995) reports the example of “lady poet”, which again creates the idea that the unmarked term is male and when referring to women the term needs to be associated with gender (Mills, 1995: 95). This overt sexism (Mills, 2008) seems to imply that female references are necessary, when male references are not.

Eckert and McConnell-Ginet (2003) report a study by Langlois and Downs (1980) who mention children’s play styles. Girls tend to be neutral, while boys reject activities which are considered to be girly. This example highlights the idea that female activities are marked and appropriate for females only and boy’s activities are unmarked or normal (Eckert and McConnell-Ginet, 2003: 21). Again, Eckert and McConnell-Ginet (2003) highlight how the generic form of a term is the male version and the female equivalent becomes the marked term. Moreover, they observed how in English, but also other languages, affixes for masculinization are quite rare (Eckert and McConnell-Ginet, 2003: 259). One of the solutions offered is the idea of gender neutralization, which involves the switch to neutral words, such as “steward” and “hostess” that have become “flight attendant” (Eckert and McConnell-Ginet, 2003: 260). In the context of gender, the unmarked term is often the one referring to men, while the marked one is the one referring to women. This idea can be proven with different example such as “waiter/waitress, prince/princess” (Mooney and Evans, 2015: 110).

1.4.6 Semantic Derogation

Semantic derogation is defined as the “process by which a word comes to have negative meanings over time” (Mooney and Evans, 2015:115). Schulz (1975 in Spender 1980) reports her investigations into the fact that there are more positive words for males and more negative words for females in language, which have no semantic equivalent for the male counterparts (Spender, 1980: 16). Schulz (1975) refers to this phenomenon as the semantic derogation of women, because whenever a term is associated with females it is “pejorated” (Spender, 1980: 16). She pinpoints the importance of the relationship between semantics and sex and its influences, according to Spender (1980), all female marked words. Schulz (1975) in Spender (1980) reports the example of man and woman. If a woman is defined as an “old man” it is not considered as an insult, it is simply inaccurate. However, if you refer to a man as an “old woman”, still it is inaccurate but also an insult. This leads to the idea that woman is not equal to man in language (Spender, 1980: 17).

Schulz (1975) speculates that a word associated with women acquires a negative connotation, due to the “semantic rule in society which constructs male supremacy” (Spender, 1980: 18). Schultz (1990 in Mills 2008) reports three origins for pejoration: contamination, which has to do with the idea that terms acquire a sexual connotation when referring to women; euphemism, which is a tendency to not choose one of the many different specific terms designated for prostitutes but to opt for other terms referring to less sexually active women; prejudice is described as the “primary motivation of pejoration”, due to the fact that men need to describe women as a separate group and they focus on their sexuality (Mills, 2008: 61). Another trend however is the concept of reclaiming, which is what is happening to the word “slut”; the word “slut” first meant an untidy and dirty woman but also, it assumed the meaning of losing sexual morality. Nowadays women are deciding to call themselves “slut” in order to fight its sexist use (Mooney and Evans, 2015: 115). Another information about the word “slut” is that there is no male counterpart to the word and this case can be connected to the above-mentioned concept of asymmetries (Mooney and Evans, 2015: 115). Another example of semantic derogation are binary terms, in which the male term comes before the female term and it

represents the prioritized role played by men. Such terms include: “husband and wife, kings and queens and brother and sister” (Mills, 1995: 112- 113). However, there are cases in which the positioning is the reverse but they have to do with chivalry, like “bride and groom” or “ladies and gentleman” (Mills, 1995: 113).

Overall the issues behind language, gender and sexism have been widely studied in the field of feminist linguistics. The aim is to overcome the gender bias that affects language in order to eradicate terms which can be derogatory to women. All of the topics presented in this chapter point to the need for a shift in language use and better awareness of the stereotypes that affect both women and men and the alienation of a gender through the use of generic pronouns.

2 Dealing with Sexism

In this second chapter I will report on the processes and the results of the feminist language reform to avoid sexism in language. To be precise, I will be presenting background knowledge of what this reform has achieved and the different options that were given in order to fight all of the problems mentioned in the first chapter. Furthermore, this part of my work will also focus on the proposal mentioned in Pauwels's essay (2003) to deal with gender issues in language. Hence, I will be presenting the topic of gender specification and neutralization by introducing different examples which will lead to the analysis of the corpora that will constitute the third chapter.

In the sections contained in the first chapter I have explained the concept of sexism in language use. Once again, sexism is a discriminatory use of language towards women, but also the use of male generic forms as neutral and the use of terms like "mankind" to refer to both women and men (Doyle, 1998: 149). Doyle (1998) claims that most sexist terms have an inclusive counterpart that speakers can use to express themselves and that switching to more appropriate terms will highlight the fact that women's presence needs to be addressed (Doyle, 1998: 151). Moreover, language equality is supported by studies quoted by Prewitt-Freilino, Caswell and Laasko (2011) in their work, as they report how the use of male generics lead the speaker to visualize in their mind the image of a man when talking generically (Prewitt-Freilino, et al., 2011: 270). Once more, women are made invisible through language and this would enforce stereotypes and role behaviors, especially in the occupational titles (Prewitt-Freilino, et al., 2011: 271). Equality in language is achieved when speakers are willing to step out of line in order to create a better environment for neologisms which at first might be judged as negative or demeaning, but in reality, might need time to be adjusted to culture and society (Oboe, 2017: 6).

2.1 Linguistic Relativity

On the matter of language, many scholars have debated whether language shapes the way people think. Two different positions on the topic can be presented. One is linguistic relativity, a theory arising from Sapir and Whorf, which is presented, for example, both

in Lera Boroditsky's work *Linguistic relativity* (2011) and by Claire Kramsch (2014). First and foremost, the well-known Sapir-Whorf hypothesis tries to portray Whorf's views of the connection between language and thought and claims that language structures influence the manner in which people think and behave (Kramsch, 1998: 12). Kramsch (2014) introduces the two different claims made by Whorf and Sapir; she writes that Whorf strongly linked speakers to their grammatical and lexical structure, while a new field of research aligns with Sapir's claim, who saw language as "a guide to social reality" as he believed that language habits are unconsciously the foundation of the "real world" (Kramsch, 2014: 32). Kramsch identifies two different version of the Whorf-Sapir hypothesis, the strong and the weak version. The former comes from Whorf's claim that speakers are "prisoner of the grammatical and lexical structures of their language" while the latter trades Sapir moderate statement that "language is a guide to reality" and languages are not similar enough to represent the same social reality (Kramsch, 2014: 32).

According to Boroditsky (2011), a defender of the hypothesis, each language contains the perception of the world and depending on the language spoken, the speaker will have a different perception of it. As Kramsch (2014) mentions in her work, Boroditsky (2011) claims that the strong Whorf version has now been abandoned, but the discussion on whether language shapes thoughts and action is still highly debated (Boroditsky, 2011: 917). Boroditsky's essay explores the effects of language on space, time, substances and objects, but for the sake of this work I will quote the section on objects in which she explores the concept of gender. She asks a question before delving into the studies: "does talking about inanimate objects as if they were masculine or feminine actually lead people to think inanimate objects as having a gender?" (Boroditsky, 2011: 920). Through the example introduced in the paper the reader can learn that, according to the author, gender can influence the way in which people mentally perceive objects and which associations are made. She goes on to say that marking a noun with gender implies adding to that noun a whole category of words that stereotypically correlated to a gender specifically. During her TED Talk in 2017 Boroditsky presented her study of *How Language Shapes the Way We Think* where she claimed that speakers of different languages are likely to pay attention to different details of reality due to their language structures. Boroditsky's

opinion underlines the fact that having 7,000 languages pinpoints how ingenious the human mind can be. However, she states that we are currently losing one language per week and also that studies in linguistics are mainly conducted by American English speakers and this trend is restricting the real potential of the linguistic field².

On the other hand, there are linguists such as McWhorter (2014), who do not believe that every single language shape reality differently. As Boroditsky did, McWhorter quotes the Sapir-Whorf hypothesis but, he does not agree with the two scholars. He actually believes that the idea of language modeling thoughts can be interpreted as incoherent and dangerous (McWhorter, 2014: 23). It is important to point out that he does not believe that there is no connection between language and culture, but simply he does not believe that language can influence thoughts because he states that “language reflects culture” (McWhorter, 2014: 59). “Language is a part of a culture, and to speak, to express yourself, is what it is to be” (McWhorter, 2014: 64).

McWhorter challenges the ideas behind the linguistic relativity; he admits that language can influence thought partially, but he expresses three different concepts that goes against Whorfianism: “features of language do not correlate with what their speaker are like; many of the things we are taught as language influences thought are reverse; if Whorfianism is correct, then many things in language trash innocent people”³. As regards the second concept, McWhorter goes into detail by saying that culture is expressed in language and the two are linked. He briefly mentions the example of the word “snow”, which has been dealt with by Pollum (1989) in the essay *The Great Eskimo Vocabulary Hoax*. This essay presents an overview of the “myth” of the 20 or more words to say snow amongst Eskimos, which according to the scholar is not entirely correct. Linguistics who have brought attention to this particular myth explain how Eskimos might not be completely interested in the concept of snow, because snow represents their everyday life or their background “like sand on the beach” (Pollum, 1989: 279). This concept brings the conversation back to McWhorter’s speech, in which he explains that it is natural for

²https://www.ted.com/talks/lera_boroditsky_how_language_shapes_the_way_we_think?referrer=playlist-the_most_popular_ted_talks_of_2018

³ https://www.youtube.com/watch?v=yXBQrz_b-Ng

people who live in specific environments to have a different number of worlds, because they need to describe their reality. Finally, McWhorter states that culture demonstrates diversity and language demonstrate similarity, because it represents a way of doing the same things in different languages⁴. Moreover, determinism relates to “the prison house view of language”, because it implies that the limits brought by language are the limits of the world (Mooney and Evans, 2015: 28). If there is no linguistic sign, the concept is hard to imagine. However, language gives the opportunity to create new meanings.

How can linguistic relativity be connected to sexism? As mentioned above, linguistic relativity claims that language influences society, and the way in which people think and perceive reality affects the use of sexist language as well. Whorf’s tenet of language and culture having a reciprocal relationship has been helpful to studies of sexist language in the 1970s (Teso, 2010: 24). Moreover, Pauwels (2003) maintains that many feminist linguistic activists support the weaker version of the Sapir-Whorf hypothesis because it states that language both shapes and reflect reality (Pauwels, 2003: 554). This theory emphasizes the need for a language reform to find a starting point to reach equality in language use but also in society. Supporting stereotypes and pejorative terms through language reinforces clichés, which might be perceived by people as true. Reforming gender then, becomes the place for social change, and pinpointing sexist use is likely to be an effective strategy to eradicate unequal language, as I will report in the last section of this chapter.

2.2 Feminist Language Reform

Among the different linguistic and feminist activists who have worked for language reform and language planning in order to eradicate sexist language use in everyday vernacular, Anne Pauwels has been one of the main sources for this work. Her essay *Feminist Linguistic Activism – Non-sexist Language Reform* (2003) has been a great starting point for the development of this chapter, as it contains main topics that will be vital for the aim of this thesis.

⁴ https://www.youtube.com/watch?v=yXBQrz_b-Ng

As previously reported it was the conjoined work of linguistic activism and the feminist movement during the 1970s that started challenging the male dominance in language. One of the main steps made against sexist language was the development of a non-sexist language which would challenge the norm created by men (Pauwels, 2003: 551). Pauwels (2003) when quoting the case study from Cooper (1989) highlights that first, the debate around non-sexist language use is a form of language planning and second, that the work to eradicate sexist language has the characteristics of a language reform (Pauwels, 2003: 552). Pauwels (2003) creates a distinction between activists and planners' idea of language change, because planners maintain that language change is behind schedule compared to social change while for activists the main goal is to expose language biased use (Pauwels, 2003: 555). The difference between activists, or campaigners as Mills (2008) calls them, is that they are not usually organized by a government, while language planners are (Mills, 2008: 84).

As far as language planning is concerned, Liddicoat (2011) introduces the topic by presenting the two main concerns of feminist linguistics, which aim to expose the representation of women and men through language and to debunk the idea that women and men communicate differently. Liddicoat (2011) defines feminist language planning as “an active engagement with the ways in which language represent and reproduces gender” (Liddicoat, 2011: 2). The starting point of feminist language planning is that language allows both covert and overt sexism and identifying the expression of gender inequality has been one of the main goals for planners. The will to intervene on sexism is a fundamental part of language planning, because the idea of eradicating sexist language leads to the elimination of sexism in society (Liddicoat, 2011: 4).

The main mechanisms to deal with linguistic inequality are gender neutralization and gender specification. The former aims to reduce the expression of gender, to neutralize it and the latter aims to explicitly mark gender. Those two strategies are applied at word level, but the idea was that the word level would eventually influence the discourse level and eliminate sexism (Pauwels, 2003: 556). Language planning has the purpose of implementing language changes through mechanisms and pathways that can penetrate speech communities (Pauwels, 2003: 560). According to Pauwels (2003), however,

feminist language planning has faced different obstacles due to the lack of collaboration of the language authorities, which means that changes had to be spread through personal use in order to pressure the use of non-sexist language (Pauwels, 2003: 560). As a matter of fact, “Feminist publications – both academic and general - became vehicles for spreading feminist linguistic practices throughout the feminist community” (Pauwels, 2003: 560). Feminist activism aspired to eliminate semantic derogation and discriminatory naming practices towards women, such as the use of “Miss” or “Mrs” instead of the male equivalent “Ms”, which will be discussed later in this chapter (Pauwels, 2003: 565). Khosroshahi (1989 in Pauwels 2003) highlights that there is no change in imaginary if the speaker does not acknowledge the discriminatory nature of non-gender-inclusive forms and there is no real dedication to the linguistic change (Pauwels, 2003: 566-67). However, Pauwels does not fully agree with this statement because she believes in the power of awareness, which is spread by linguistic activism (Pauwels, 2003: 567).

Romaine (2001) pinpoints how society is connected to language, and the reform needs to come from both. As a matter of fact, language reform cannot exist without social change (Dorner, 2010: 7). According to Dorner (2010), a change in the vocabulary does not imply a change in culture because inequality’s entrenched deeper than a linguistic level (Dorner, 2010: 19). Romaine (2001) makes a distinction between the myth of male supremacy and the concept of male power, which is established in society and it needs more work to be defeated (Romaine, 2001: 128). Reform is needed to create a better self- image for women and to eliminate lexical gaps which do not allow women to express their experiences (Romaine, 2001: 128). One of the early challenges the feminist linguists faced was the use of “Mrs, Miss” that was planned to be replaced with “Ms” (Sunderland, 2006: 34). The asymmetry between the female and the male term (“Mr.”) highlights how women are judged and defined in terms of their marital status (Romaine, 2001: 131). Moreover, Romaine (2001) highlights how the introduction of the term “Ms” was not well received. One of the few arguments against “Ms” comes from the fact that there is no clear pronunciation, but mainly because it challenges the status quo (Romaine, 2001: 129). As mentioned above, the distinction between Mrs and Miss comes from women’s marital status and relationship with men. Romaine (2001) quotes different studies to pinpoint

how “Ms” has been misused: it was intended to replace the term “Mrs” but its meaning came to be associated with unmarried women. Romaine (2001) reports a study conducted in Canada which showed how “many people used Mrs for married women, Miss for women who have never been married, and Ms for divorced women” (Romaine, 2001: 131). Another study revealed how in the state of Pennsylvania some documents required women to specify in brackets whether Ms referred to Mrs or Miss (Romaine, 2001: 131). Once again, Romaine demonstrated how women are defined through the marital status and even with the introduction of a new term, women are still asked to specify their status. In addition, Cameron (1998) reports how Ms is not considered a “permissible freestanding consonant cluster in English” because there is no tradition of this type of pronunciation and what the abbreviation stands for (Cameron, 1998: 963).

Ehrlich and King (1998) in their essay *Gender-based language reform and the social construction of meaning* argue that feminist linguistics claimed the need for a reform due to the fact that language does not represent reality in a neutral perspective (Ehrlich and King, 1998: 165). As a matter of fact, the birth of the term “Ms” is located in the 1970s and it was created to “provide a parallel term to Mr.”. However, it has been misused or used to designate divorced women, even if it was created to be neutral (Ehrlich and King, 1998: 168). The reform was needed to expand vocabulary and give women the opportunity to express experiences that were unnamed (Ehrlich and King, 1998: 169). According to Ehrlich and King (1998) language reform might not always be successful, but it might start to sensitize individuals. Penelope (1990 in Ehrlich and King 1998) emphasizes that awareness on language inequality helps the speaker to reconsider linguistics choices and “unlearn patriarchal ways of thinking” and a reform can empower those who are at disadvantage (Ehrlich and King, 1998: 170). Once more, introducing non-sexist strategies does not mean that sexist language can be eradicated (Ehrlich and King, 1998: 171). One of the most famous attempts of language reform has to do with the English pronominal system and Baron (1986 in Ehrlich and King 1998) has proposed different neologism such as “thon (1884), hes (1935), hse (1945), hir (1975), E (1977), hiser (1984)” (Ehrlich and King, 1998: 171). Another example is the case of “herstory”, whose aim was to highlight the fact that “history” referred mainly to men and to emphasizes the contribution of women in history (Ehrlich and King, 1998: 171). As a

matter of fact, Daly created the neologism “herstory” to underline women’s contribution in history but also its aim was never to be an alternative to “history” and according to Mills (2008), it has been created as a playful neologism (Mills, 2008: 88).

Another standpoint comes from Mills (2008), who maintains that alternatives to sexist words is only one way of dealing with sexism in language. Hellinger and Bußmann (2001 in Mills 2008) claim that reforms concern a change in the relation between the sexes and not a change in word use (Mills, 2008: 78). Cameron (1995 in Mills 2008), as Ehrlich and King (2003), advocate that changing the vocabulary does not erase sexist language (Mills, 2008: 79).

2.3 Strategies for Linguistic Equality

Pauwels (1999) introduces the concept of feminist language planning and she starts by defining language from a feminist points of view as “a powerful instrument of patriarchy”⁵. However, one the main issues of the reform is the lack of a uniform approach, because within the movement women had different agendas and ideas. Exposing the patriarchal issue of language produces linguistic disruption, Pauwels (2001 in Liddicoat 2011) has describes three processes through which feminist linguistics is facing the issues of sexism in language. One of them is disruption. The idea of this method is to create a dissonance and to draw the reader attention to a specific issue, which in this case is gender inequality. Examples of this strategy is the word “herstory” or the use of “she” as the generic (Liddicoat, 2011: 4). Pauwels (2003) goes into detail when explaining linguistic disruption as a method to highlight subtle and not so subtle use of discriminatory language to represent women. As I have already mentioned, examples of disruption are the “herstory” neologism, using she as the generic pronoun, inverting gender stereotypes or reclaiming words that used to have a derogatory meaning such as slut (Pauwels, 2003: 555). Another example is given by Niedzwiecki (1993) who proposed a strategy to spot sexism in language, through the idea of reformulating a

⁵ <https://bop.unibe.ch/linguistik-online/article/view/1043>

sentence about women to discover whether it would have been said in the same way when referring to a man (Niedzwiecki, 1993: 54).

Once more, Pauwels (1999) explains the two different strategies to fight linguistic sexism, which are gender neutralization and gender specification or feminization. These two different strategies seem to be chosen in specific types of languages: gender specification is more likely to occur in grammatical gender language such as Italian or German, while gender neutralization will be used in natural gender languages like English or in languages such as Danish or Dutch in which suffixes are no longer or less used. The choice of strategies is not simply influenced by grammatical or linguistic systems, because even social arguments play an important role. The linguistic equality approach is, according to Pauwels (1999), the most popular one. Gender neutralization supporters aim at a society where sex does not play a role and it is not significant, but feminization proponents deem that expressing gender fairly can highlight the increase in women's presence in the field of work, which can only be represented through gender specification strategies⁶.

Therefore, language planning plays a vital role in the reform process, because planners are interested in the impact of linguistic change in speech communities. They are not interested only in the outcome, but also in the process and what they call "unplanned" linguistic change⁷. Briefly, what is defined as an "unplanned" feature is another part of language planning and the two are coexistent. "Unplanned" language planning involves all those aspects that are an effect of planning and Kaplan (1989 in Baldauf 1994) claims that in some situations and groups of people the outcome of language planning will create unplanned outcomes for others (Baldauf, 1994: 82-83).

Even though English is considered a genderless language, Engelhardt (2001 in Dorner 2010) claims that many terms in English are masculine, unless they are specified as feminine. Dorner (2010) names three different reforms that have been proposed to eliminate gender bias in the Second Wave of feminism (Dorner, 2010: 10). The first one is the aforementioned pronoun reform, which aims to eradicate the generic "he" as the neutral form. According to Dorner it is the most widely discussed reform, but still it does

⁶ <https://bop.unibe.ch/linguistik-online/article/view/1043>

⁷ <https://bop.unibe.ch/linguistik-online/article/view/1043>

not have proper guidelines (Dorner, 2010: 11). What emerges from Dorner's work is that the choice of a specific pronoun depends on the author's intentions or habits (Dorner, 2010:13). The second reform involves vocabulary reform. Dorner quotes authors such as Ehrlich, King and Lakoff to underline the idea, which has been mentioned before in this work, that a simple change in words will not overcome the use of sexist terms, because the social aspect of language plays a key role (Dorner, 2010: 19). However, authors like Spender support the idea that vocabulary reform is necessary and possible because she claims that the gender bias is located in language (Dorner, 2010: 21). Lastly, there is the language reform which suggests that languages might need new syntax and morphology (Dorner, 2010: 6-7). Elgin (2009 in Dorner 2010) describes how languages are inadequate to express women's perception's and a language made for women would create a new perception, but also what so far has been called "natural" has only being the male way of describing reality (Dorner, 2010: 25-26).

In the following sections I will present the two different strategies mentioned in Pauwels' essay (2003), by exploring both their strengths and problems. Teso (2010) specifies how both gender specification and neutralization are mainly used to fight sexism in occupation names due to the strong elements of sexism of this field (Teso, 2010: 41). The feminization of the lexicon has been one the main linguistic changes of the 20th century (Teso, 2010: 52). Furthermore, Pauwels (1999) reinforces this concept, as she discusses how gender biased language against of women has created a state of invisibility for women, but also, the use of the generic masculine in job offers convey the idea of a desire for a male applicant (Pauwels, 1999).

2.3.1 Gender Neutralization

Gender neutralization aims to eliminate the different aspects of sexist language use, such as the generic "he", marked feminine terms like "poetess", the creation of compounds with the use of the term "person" instead of man or woman. It also aims to decrease the relevance of gender in society, especially in the job field, where sex will not influence occupational names (Pauwels, 1999). Moreover, a gender-neutral language was one of

the strongest reference points of Second Wave feminism and yet one of the most criticized (Kramer, 2016: 73).

Teso (2010) describes the approaches. Neutralization implies using one term to describe both sexes, which means that the term will not carry gender relevance. Teso quotes Romaine (2001) as she has defined this strategy as “degendering” and then she also quotes Mucchi-Faina (2005) who has called the approach “inclusion”, because it eliminates the idea of excluding a sex from the other in a term (Teso, 2010: 41). The term in the gender neutralization strategy are unmarked, which involves the elimination of suffix. Also, terms that have been analyzed through gender neutralization strategies can be described as “unisex” (Teso, 2010: 41-42). The success of these strategies depends on the type of language to which they are applied. As mentioned above, in natural gender languages such as English, most occupational nouns are gender neutral and the strategy remains relevant to names which marked through suffixes. On the other hand, in grammatical gender languages, such as French, the process can be more complicated because the terms themselves express gender identification and using a neutral form most of the time means using the male term as the neutral (Teso, 2010: 42). One of the most well-known examples for these strategies is presented through the term “chairman” which has been replaced with “chairperson”. However, Dubois and Crouch (1987 in Teso 2010) report how “chairperson” is used when referring to a woman, while when the sex of the referent is known as male, the speaker will use “chairman” (Teso, 2010: 43). As far as opposition are concerned, Niedzwiecki (1993 in Teso 2010) points out the issue that using the generic as neutral, which is often the masculine, does not resolve the issue of sexism and Niedzwiecki (1993) claims that this strategy hides women by reinforcing masculine and excluding feminine forms (Teso, 2010: 44).

However, Romaine (2001) specifies that some studies have discovered how even gender-neutral terms can express sex-marked terms and questions whether this type of reform can actually be successful (Romaine, 2001: 131). As mentioned above, the issue stands with the term “chairperson”. The author’s examination of the word “chairman” highlighted how it is still used and preferred to its neutral counterpart. It can be defined as the counterpart because “chairman” remains the neutral term and “chairperson” is

likely to be used to refer to women (Romaine, 2001: 131). Moreover, Pauwels (1999) claims that one the reason why “chairperson” did not really stick in people’s vernacular is because of its gender association. While “spokesperson” achieved better results in everyday use, “chairperson” has faced quite the resistance. Pauwels (1999) argues that it is more likely to see a woman covering the role of a spokesperson which leads to better chances of using an unbiased term, but when it comes to a higher position such as “chairperson” it is more likely to be perceived as a male position, which means that there is no need to use gender fair terms⁸.

Neutralization aims to use genderless and sexless terms in order to diminish the importance of femininity or masculinity in language. This strategy has become more common in natural gendered languages, in which nouns or adjectives are not conjugated. Another strategy that belongs to neutralization is the creation of new words, to replace the gendered terms, such as police officer instead of police man (Lindqvist, Renström and Gustafsson Sendén, 2018:111).

According to Mills (2008) when referring to Pauwels’ work, it is better to make women visible in language rather than use a generic form. The ideal would be to create a new feminine term in order to avoid the negative perception of the already existing one, but Pauwels (2003 in Mills 2008) estimates that the negative connotations will fade over time (Mills, 2008: 84). In grammatical gender languages, such as Italian, the male term is considered the generic because it might be the case in which women have started working in that specific field recently or it is mainly man-dominated. In this case, the gender-neutral term will erase the visibility of women and enforce the male presence (Mills, 2008: 84). In this case, as Pauwels suggests, it is better to opt for gender specific terms (Mills, 2008: 85). An example for this case can be found in the Italian word for “minister”, “ministro”. It can be used to identify both women and men, but recently the feminine version of the word has entered the everyday vernacular, and now instead of using “ministro” both for women and men, women usually prefer to use “ministra”⁹.

⁸ <https://bop.unibe.ch/linguistik-online/article/view/1043>

⁹ <https://accademiadellacrusca.it/it/contenuti/la-crusca-risponde-il-ministro-o-la-ministra/6073>

Another example of gender neutralization is the switch in expressions which used to include “man”: in order to replace “the best man for the job”, “the best person for the job” has been suggested (Xiaolan, 2006: 91). In the occupational names field there have been different proposals in order to avoid sexism and to avoid male generic lexis:

Fireman	Firefighter
Statesman	Leader/State leader
Mankind	Humankind
Manmade	Handmade

(Xiaolan, 2006: 93)

As mentioned above, the strategy of gender neutralization aims to eliminate suffixes, such as “-ette”, “-ess” and “-trix” (Teso, 2010: 42). In English, it would create “unisex” terms. Teso (2010) proposes two different examples, which are “poetess” and “actress”. Those two terms will lose their suffix and they will also lose their gender marking (Teso, 2010: 42). However, Kramer (2016) reports some counter arguments towards this strategy and its “political correctness” behavior: neutralization can damage clarity, especially in the use of “they” as the generic pronoun because the reader does not know who “they” actually refers to: it can also come at the expense of precision, as one term to represent both genders can exclude information between interlocutors; lastly, using words such as “chairperson” can be seen as a pejorative of the beauty of language (Kramer, 2016: 73). Eckert and McConnel-Ginet (2013 in Kramer 2016), highlight how even if the male pronoun “he” is use as a generic, it will always represent male images (Kramer, 2016: 74).

2.3.2 Gender Specification

Gender specification aims to make women visible through language with gender marking with uses such as “he or she” and phrases as “police woman and man”. Gender specification supporters want to designate gender to increase the visibility of women, again especially in the job field (Pauwels, 1999). Pauwels (2003) presents this strategy as an achievement of equal treatment in language use through gender marking (Pauwels,

2003: 556). Teso (2010) quotes two different definitions from Romaine (2001) and Mucchi-Faina (2005) of this strategy after defining it “feminization”. The former describes it as “engendering” or “regendering” and the latter describes it as the “visibility principle”, whose aim is to note women’s presence in language (Teso, 2010: 45). In grammatical gender languages, such as Italian, when there is no feminine counterpart to a masculine term, it is created through a suffix or a neologism is created, which will become the norm (Teso, 2010: 45). This strategy acknowledges women’s presence and promotes the idea that everything is accessible to women as well, especially in the job field (Teso, 2010: 46). Again, Niedzwiecki (1993) highlights the downsides of this approach. Women are likely to use the masculine term in order to obtain prestige in what they do instead of the appropriate feminine form and those new feminine forms are difficult to adopt and accept (Teso, 2010: 46).

Niedzwiecki (1993) identifies the basic tenet of feminization with the correct representation of women and men through language, which means using the appropriate terms and pronouns. Semantic rules are not natural because they are created by society and they translate the absence of women into language. Niedzwiecki (1993) maintains that feminization represents the right to be a woman in a language which is male dominated (Niedzwiecki, 1993: 52). One of the gains of feminization is the elimination of pejorative terms and it aims to reduce the impoverishment of language, because its aim is to avoid the masculinization of language (Niedzwiecki, 1993: 53). According to Lindqvist, et al. (2018) gender feminization is considered the best strategy in grammatical gendered languages, but they also highlight how using paired forms of pronouns does not eliminate the male bias in language (Lindqvist, et al., 2018: 110).

A more radical strategy to achieve equality in language is called “total feminization”, which involves the use of feminine forms instead of the generic masculine forms (Teso, 2010: 46). This strategy is defined by Pusch (1990 in Teso 2010) as the “visibility strategy” or “positive strategy”. In this case, the feminine term becomes “the unmarked form in generic contexts” (Teso, 2010:47). This type of approach according to Pusch (1990 in Teso 2010) is an opportunity to show how women have been treated through language and have the opportunity to make men go through the same experience and

eventually to make women explicit through language (Teso, 2010: 47). Moreover, Pusch's (1990) proposal is described as simpler because it does not need the creation of new words. The author is well aware of her radical position on the topic, but she believes that this strategy could rectify all the years of male dominance in language. In Pauwels' essay (2003) this approach is defined as a "radical feminization" (Pauwels, 2003: 558).

2.4 The Results of Language Reforms

Niedzwiecki (1993) believes in the enrichment power of linguistic change. The work that has been done to achieve language change will affect social action and lack of equality will only lead to stereotyped behavior (Niedzwiecki, 1993: 50). Including feminine terms within the occupational field will change people's minds, and therefore society. Niedzwiecki (1993) claims that once people are made aware of sexist language, they will see how language is male dominated. She believes that is up to women to encourage the change, because she claims that language "is a living thing", which can explore new realities and eliminate gaps (Niedzwiecki, 1993: 52).

The two different strategies aspire to reduce and eventually avoid sexism in language, in order to use a gender fair language and to make women visible. According to Teso (2010) linguists are debating about the fact that combining the two strategies is the best strategy (Teso, 2010: 47). Furthermore, Pauwels (2003) pinpoints how the effects of non-sexist language it is still at the beginning and the changes are not completely accepted (Pauwels, 2003: 566). The effectiveness of language reforms is expressed through the changes that have been made through the years to set in motion equality in language. There are many examples of essays, works and pamphlets that aim to provide guidelines to speakers and readers, in order to avoid mistakes and to recognize the presence of all genders.

As a matter of fact, the University of Padua (2017) has published guidelines for administrative language for the three-year period of 2015-17. The guideline explores the different topics that were presented in this thesis, such as semantic derogation, the necessity to make women visible through language and the aim to use gender neutral language. Then it goes on to give a list of terms which belongs to the academic field with

both the feminine and masculine counterparts in Italian; in this way a speaker has access to the appropriate counterparts, since the table is divided into grammatical gender variation (2017: 13-15). A common element between the University of Padua guidelines and the studies mentioned above in the first chapter is debate over suffixes. It is highlighted that it might happen that feminine counterpart does not stand at the same level as the male term because the masculine represents the generic and the feminine term represents the subordinate word. However, the advice given in the guidelines is to keep using those forms, such as “dottoressa, professoressa” because those are common forms (2017: 15). Lastly, the document introduces the guidelines for addressing both genders when using the plural, but also how to address unknown people through indefinite pronouns or collective nouns instead of using generics (2017: 19).

Another example of a possible solution to sexist language use were the guidelines for nonsexist use of language in NCTE publications. In 1975, The National Council of Teachers of English published some guidelines to challenge sexism by highlighting linguistic patterns that should be avoided and by also providing non-sexist alternatives. In the introduction to the publication the council addresses the fact that vocabulary change is not enough to eliminate gender bias, but it is a starting point to change people’s mindset. Their aim is not to create new dogmatism, but to identify inaccurate use of language and to propose a solution (1975: 3). The guidelines are divided in two sections: general problems, such as the avoidance of “man-compounds”, marking terms with the “female” appellative, stereotyping (1975: 4-7); in the specific problems section the committee provides a few examples of the importance of giving women authors credit for their work and also of encouraging the introduction of materials by and about women (1975: 9). It is important to highlight that the guidelines were revised ten years later, in 1985. This newer version of the first manual recaps all the element mentioned in the 1975 version, but it also reports the editor’s duty of eradicating sexist language when encountered. There are many examples of the terms that should be used and the ones which should be avoided, plus it encourages the writers and the speakers to find the right balance between female and male terms. ¹⁰

¹⁰https://faculty.missouri.edu/~glaserr/3700s15/NCTE_Guidelines_for_Gender_Fair_Use_of_Language.pdf

Apart from the academic field, there are a great number of non-sexist guidelines for different organizations. The European Parliament guidelines (2018) define the purpose of gender-neutral language in avoiding “word choices which may be interpreted as biased, discriminatory or demeaning by implying that one sex or social gender is the norm. Using gender-fair and inclusive language also helps reduce gender stereotyping, promotes social change and contributes to achieving gender equality” (2018: 3). In the first chapter I have identified three different types of gender-languages and these guidelines consider the differences between them and try to give a possible strategy to defeat gender inequality. As I have already mentioned, a possible solution for grammatical gender languages such as Italian with the University of Padua’s guidelines, which are supported by the European guidelines is the use of specification over neutralization. I will report the strategy for natural gender languages such as English. The European guidelines suggest to reducing as much as possible the use of gender specific terms and to adopt the neutralization strategy, through the use of terms such as “chairperson, director, police officer” (2018: 5). Overall the guidelines identify the common issues connected to gender in language use, such as the generic use of masculine gender instead of including the feminine. At the end of the guidelines the different outcomes of the gender fair strategy are listed and when it comes to the highly debated “chairman” the offered solution is “chair” instead of “chairperson”. In this way the issue of the term “chairperson” used to identify women is avoided (2018: 11).

Another result of non-sexist guidelines come from a supranational organization like UNESCO, which during the 1980s also drafted its own “Guide to Non-Sexist Language” (2019). They offer alternatives to discriminatory terms and concepts such as stereotypes, generics, man-compounds, occupational titles, generic “he” and the marital status of women. The guidelines suggest avoiding assumptions of how women look or think, such as “weaker sex or lady like” or overall assumption of gender like referring only to “delegates wives” instead of the more correct “delegates spouse” (2019: 1). The concerns over women’s marital status are addressed as it is advisable to use “Ms” to refer to when in general instead of differentiate between “Mrs” and “Miss” (2019: 2). The importance of this document stands in the fact that is the “most widely recognized international

standard for GFL [gender-fair language]” and “it also regulates language use in internal documents and publications of UNESCO (Sczesny, Formanowicz and Moser, 2016: 5).

The goal of this chapter was to highlight the different possibilities that can be applied to deal with sexist language with a background knowledge of the theory behind feminist linguistic reform. Then after acknowledging the two main strategies of gender specification and neutralization I have presented different guidelines that should be considered when referring to people in order to make every gender visible through language. In the next chapter I will present four different declarations and I will present the linguistic changes and the strategies adopted by governments in order to deal with gender equality in language. Are women made feel visible through language in human rights declarations?

3 Human Rights Declarations and Sexist Language

In this chapter I will analyze the four declarations of human rights; the aim of this study is to discover whether women are made visible through language in those declarations, while bearing in mind the ground questions that have been asked throughout this thesis on language, gender and sexism and the representation of women through language over time. The study will be carried out with the support of Baker's book *Using Corpora to Analyze Gender* (2014), which has been helpful in the understanding of building and analyzing a corpus through a software which will be presented in the following sections. Moreover, I will explain the process and the steps of my analysis by presenting the problems and the strengths of each document, while using the literature of the previous chapter as both starting points and background knowledge.

3.1 Corpus Linguistics

I will now introduce the linguistic field which my corpus analysis can be included, as I will highlight other important notions that might be useful to understand the method of my study. First of all, Corpus Linguistics represents a change in the study of language towards an analysis of parole, which means that linguists are more interested in performances rather than competences, and the focus is the language use in a specific text, rather than a universal knowledge (Tognini Bonelli, 2010: 14-15). The birth of this type of analysis grew in the 1960s as the idea of collecting texts to analyze language became a rather new concept. At first the idea was not to collect culture elements, but to simply describe ordinary people's vernacular. The spread of this type of studies has the development of technology to thank, as the computer started to play a vital role for this analysis (Tognini Bonelli, 2010: 15).

A corpus is a collection of texts and its greatest characteristic is that it involves the use of authentic cases and not made-up sentences which might occur in linguistics books or studies in order to prove a point (Baker, 2014: 7). Hunston (2002 in Baker 2014) distinguishes between two types of corpora: "reference corpora", which are representative of a particular language variety, and "specialized corpora", which represent a specific text

type (Baker, 2014: 9). One of the greatest advantages of corpus analysis is that it allows one to identify and unveil the different nuances of a certain words (Baker, 2014: 10). As a matter of fact, Baker (2014) maintains that “corpora can therefore reveal something about hidden meanings associated with words and phrases, affording us a more robust way of pointing out biases” (Baker, 2014: 11).

Another distinction is between “corpus-driven” and “corpus-based” investigation (Baker, 2014: 15). The first one uses the corpus itself as data and its patterns are used to express regularities and exceptions in language, while the researcher is interested mainly in frequencies. A “corpus-based investigation” aims to prove an initial hypothesis or to analyze a term’s frequency in a smaller unit of data, while the researchers already know which terms or sentences to look for before delving into the research (Baker, 2014: 15-16). Another element introduced by Baker is the concept of “triangulation”, which involves the use of multiple sources in order to obtain a better overlook of phenomena (Baker, 2014: 157). The issues of language and gender will be linked to my analysis as I will try to investigate whether the chosen declarations adopt sexist language or not. As a matter of fact, I will use four human rights acts as the basis of the research, a characteristic that complies with the concept of triangulation just explained.

The analysis involves the use of a specific software, which according to Baker (2014) makes the research quicker and smoother (Baker, 2014: 11). As he suggested, I will use AntConc as my corpus tool. Baker (2014) mentions frequency lists, which are helpful in identifying linguistic patterns in corpora, although they reveal general use instead of specific cases, which might highlight unique features of the corpus. Another feature is the concept of concordances, which pinpoint how words are collocated in texts and how terms can vary their meaning based on context (Baker, 2014: 13). When the user searches for a term, s/he looks for every single grammatical role that the term can assume. Hence why, the context given through the software is such an important feature, as it clarifies the function of the term. Hunston (2002 in Evison 2010) clarifies how corpus linguistics does not give new information about language, but it gives a new perspective on it (Evison, 2010: 122).

As mentioned above, Baker (2014) suggests the use of multiple corpus in order to have a fuller grasp on the aim of the study. My corpus will be made up of four different declarations: The Universal Declaration of Human Rights¹¹, The Human Rights Act¹², the Equality Act (Sexual Orientation) Regulations¹³ and the Global Human Rights Sanctions Regulation 2020¹⁴. Evison (2010) maintains that at the beginning of corpus analysis, the corpora were larger and longer which would provide too much data, but more recently smaller corpora are becoming more and more useful especially in the study of pronouns and verb forms frequency and as a matter of fact, pronouns are one of the main features of my study (Evison, 2010: 123). In Table 1 I have summarized the sizes of each sub-corpora and it is clear how my documents are not very extensive, notably the first one which is The Universal Declaration of Human Rights.

The Universal Declaration of Human Rights was proclaimed in 1948 and it is viewed as a milestone for the human rights movement, considering the fact that it is the first example of a regulation of human rights. The Human Rights Act 1998 sets all the rights and freedoms for UK citizens, such as the freedom of expression or the right to marry and start a family¹⁵. The third declaration is the Equality Act (Sexual Orientation) Regulations, which came into force in 2007 and it provides protection to UK citizens against discrimination and promotes equality in society¹⁶. The fourth declaration is the Global Human Rights Sanctions Regulation 2020 that came into force in 2020 and it includes regulation on immigration and finances connected to the topic of human rights.

3.1.1 AntConc

AntConc, the software that I will be using for the analysis, was developed by Anthony Lawrence and it is a tool for analyzing frequency patterns and word sequences in a corpus. Before delving into the actual research, I will be explaining the main functions of the

¹¹ <https://www.un.org/en/universal-declaration-human-rights/>

¹² <https://www.legislation.gov.uk/ukpga/1998/42/contents>

¹³ <https://www.legislation.gov.uk/ukpga/2010/15/contents>

¹⁴ <https://www.legislation.gov.uk/uksi/2020/680/contents/made>

¹⁵ <https://www.equalityhumanrights.com/en/human-rights/human-rights-act>

¹⁶ <https://www.equalityhumanrights.com/en/equality-act-2010/what-equality-act>

software that were employed to examine the four declarations used to identify the linguistic representation of women in the field of human rights through time. The interface of the program is quite simple and easy to comprehend, which gives the user small space for errors and doubts. I have decided to organize the work in the following way: I have analyzed the declarations one at the time in order to be able to look at the specific terms in which I was interested, then I have used other functions of the software which involved the use of all the sub-corpora and at the end I have drawn my conclusions on the how their language has represented women.

First of all, I had to convert all the files in the “.txt” format, the only format that the program allows, and then I started familiarizing myself with the program’s features. As I read the declarations before uploading them on AntConc, I already knew which terms I was going to look for. As a matter of fact, I started my research with the generic “he” pronoun and its inflected forms, as I had noticed its being one of the main features in the declarations. In Table 2 below, I have listed the concordance hits of the third person pronouns that I have looked for in order to give a general idea on how many times they occur in the texts. In my opinion, the software can be quite useful for this type of research because it accelerates the process of counting the concordances, as it also presents the context of the terms. Another interesting feature is the idea of using colours to identify the words: the user will see in blue the term that s/he searched for, and then the following (or previous words, depending on the type of research and settings) term will appear in other colours in order to highlight what follows the term precisely. The basic features of the program allow the operator to see the words that surround the searched term in order to have a general context. Moreover, the operator can increase the number of characters and have a larger context if desired. In my case, I have searched for specific words instead of all the inflected forms of a term because I was interested in seeing the precise use instead of a more general utilization, considering that I already knew which terms I was supposed to look for. If the user wants to search for all inflected forms, all s/he has to do is to replace the suffix of the term with an asterisk. In Table 1 I have reported the word tokens and types which identify the length of each sub-corpora, because I wanted to present the types of document that I will be working with.

	Universal Declaration of Human Rights, 1948	Human Right Act, 1998	Equality Act, 2007	Global Human Rights Sanctions Regulation 2020	Total
Word Token	1,723	12,561	9,295	11,292	34,871
Word Types	506	1,092	1,044	1,076	2,204 (AntConc)

Table 1 Sub-Corpora sizes according to AntConc

3.2 Discussion of the Analysis

I have decided to open my discussion with a general overview of what is going to be touched on in the following sections, as in the tables below (Table 2 and 3) I have listed all the 3rd-person pronouns that I have searched for through AntConc and then the indefinite pronouns with other nouns which are often used as gender-fair terms. In this case, I was able to immediately highlight the most evident problems of each document, but also have a reference as I proceed with my analysis in this chapter. The reason why I have decided to include pronouns that I was not able to find in the documents has to do with the fact that it is vital for the success of the thesis to points out in which way women are represented through language in the corpus.

	Universal Declaration of Human Rights, 1948	Human Right Act, 1998	Equality Act, 2007	Global Human Rights Sanctions Regulation 2020	Total
He	2	27	24	0	53
His	21	38	29	1	89
Him	2	11	29	0	42
Himself	2	1	0	0	3
She	0	0	0	0	0
Her	0	7	2	1	10
Herself	0	0	0	0	0
They	2	5	9	9	25
Them	0	1	2	11	14
Themselves	2	0	0	0	2

Table 2 Use of Pronouns from Concordance Hits

	Universal Declaration of Human Rights, 1948	Human Right Act, 1998	Equality Act, 2007	Global Human Rights Sanctions Regulation 2020	Total
Person	5	43	94	263	405
Persons	0	3	22	26	51
People	2	1	1	0	4
Peoples	4	0	0	0	4
Everyone	30	13	0	0	43
Anyone	0	0	1	0	1
One	10	17	2	4	33

Table 3 Use of Pronouns and Nouns in the Corpora

I will now present the process of analyzing the four declarations, the concordances of terms and the frequency lists. As I have mentioned above, I have decided to read the documents before using AntConc, which means that I already had a global idea of the problematics and the different strategies used. Baker (2014) defines this type of process as a “corpus-based investigation”, which I have explained in the previous section, as the user is already aware of what s/he is pursuing inside the corpus and s/he already has a theory. As I was reading the documents I immediately realized the common features of the generic “he” and its inflected forms uses as the neutral pronoun in the first three acts, terms that I have then search in AntConc to discover the actual concordance hits and context.

I then uploaded one declaration at the time into the software, because if the user uploads all the documents together the search will cover every single part of the corpus. Then, I started typing the term that I was interested in, in order to observe their concordance hits and their context, which I have reported in Table 2 and Table 3. I had the opportunity to have a general look at the context of the terms in which I was interested, which has been one the most important recommendations that I have given myself before delving into the analysis. I have decided to report the concordance hits on the term “he” through the four Acts, as it is one of the most widely discussed features of sexist language use and also the hardest to eradicate, according to the literature mentioned in the previous chapter.

I have also used the feature of frequency lists, which allow the user to see how many times a specific term appear in the corpus and can be found in the software under the name of “word lists”. The lists work on the four documents at the same time and I decided first to look at the general frequency list, which involves all the words used in the act to see the most used term in general. The software automatically ranks the word order by frequency, but the user can change that and use the alphabetic order as s/he prefers. Overall, in the corpus there are 2204-word types and the most used are articles and prepositions. My interest was in discovering the position of the words on which I have based my analysis, which are the same as from Tables 2 and 3, and for that specific reason I have used searched for pronouns, such as “he”, “she”, “they” and their inflected forms

and other indefinite pronoun and nouns. Here in the table below I have reported the ranking of the terms I have searched for and the number of times they occur in the corpus.

	Rank	Frequency
she	-	-
herself	-	-
person	11	405
his	58	89
he	97	53
persons	104	51
him	125	42
they	224	25
individual	324	15
them	351	14
her	449	10
people	879	4
peoples	880	4
himself	1025	3
themselves	1453	2

Table 4 Data of the “Word List”

Another type is the frequency list per 10,000 which applies both to each sub-corpora and to the whole corpus as the user calculates how many times a term occurs every 10,000 words. In order to do this, I had to upload the documents in the software and then I went into the “word list” section to see the number of words of the corpus, which information is provided through “word tokens” at the top of the software’s interface. The evaluation that has to be done is: taking the number of times the word appears and divide it by the number of words in the corpus and then multiply by 10,000. In tables 5,6,7 and 8 I have reported the frequency per 10,000 words for each document and then I have decided to put the data in one table which compares and summarizes the work that I have done. In this way I was able to point out the frequency of each declarations and how the terms occur considering the different lengths, but then I have worked on the overall corpus

where I was able to provide a more general occurrence of the terms, because eventually the study that I was aiming at was a diachronic analysis of the language change. It is important to emphasize that the results have been rounded up and down depending on whether the decimal numbers were above or below fifty.

	1948	$\left(\frac{\text{word frequency}}{\text{words in the corpus}}\right)$ X 10,000
she	0	0
herself	0	0
person	5	29
his	21	122
he	2	12
persons	0	0
him	2	12
they	2	12
individual	1	6
them	0	0
her	0	0
people	2	12
peoples	4	41
himself	2	12
themselves	2	12

Table 5 Universal Declaration of Human Rights Frequency List per 10,000 words

	1998	$\left(\frac{\text{word frequency}}{\text{words in the corpus}}\right)$ X 10,000
she	0	0
herself	0	0
person	43	24
his	38	30
he	27	21

persons	3	2
him	11	9
they	5	4
individual	0	0
them	1	1
her	7	6
people	1	1
peoples	0	0
himself	1	1
themselves	0	0

Table 6 The Human Right Act Frequency List per 10,000 words

	2007	$\left(\frac{\text{word frequency}}{\text{words in the corpus}} \right) \times 10,000$
she	0	0
herself	0	0
person	94	101
his	29	31
he	24	26
persons	22	24
him	29	31
they	9	10
individual	1	1
them	2	2
her	2	2
people	1	
peoples	0	0
himself	0	0
themselves	0	0

Table 7 The Equality Act (Sexual Orientation) Regulations Frequency List per 10,000 words.

	2020	$\left(\frac{\text{word frequency}}{\text{words in the corpus}}\right)$ X 10,000
she	0	0
herself	0	0
person	263	233
his	1	1
he	0	0
persons	26	23
him	0	0
they	9	8
individual	13	11
them	11	10
her	1	1
people	0	0
peoples	0	0
himself	0	0
themselves	0	0

Table 8 The Global Human Rights Sanctions Regulations Frequency List per 10,000 words.

	1948	1998	2007	2020	Total	$\left(\frac{\text{word frequency}}{\text{words in the corpus}}\right)$ X 10,000
she	0	0	0	0	0	-
herself	0	0	0	0	0	-
person	5	43	94	263	405	116
his	21	38	29	1	89	26
he	2	27	24	0	53	15
persons	0	3	22	26	51	15
him	2	11	29	0	42	12
they	2	5	9	9	25	7
individual	1	0	1	13	15	4
them	0	1	2	11	14	4

her	0	7	2	1	10	3
people	2	1	1	0	4	1
peoples	4	0	0	0	4	1
himself	2	1	0	0	3	1
themselves	2	0	0	0	2	1

Table 9 Frequency List per 10,000 words.

Another feature involving the frequency lists are what can be called the “advanced lists”. Specifically, this type of list is a more in depth and precise research, as the user knows which words’ frequency to look for. Through the feature of “tool preferences” I was able to open the advanced section and create a list of words in which I was interested and then the software automatically produced the ranking and the frequency of the chosen terms instead of presenting the whole list of words in the corpus. Through this feature I was able to focus on the terms in which I was actually interested instead of having to look for every single one of them. This type of list was used to simplify the formation of the tables above. Overall, the general “word lists” was useful to see the most used term, but my analysis need to be more precise.

3.2.1 The Universal Declaration of Human Rights

The Universal Declaration of Human Rights is characterized by the use of the generic “he” and its inflected forms as the neutral and general pronoun used in the document. In Tables 2 and 3, I have reported the number of concordances of specific terms. The Act was proclaimed in 1948 which means that it was written before second Wave of Feminism and the Feminist Linguistics Reforms. As Baker (2014) pinpoints, the research should not stop at the single word use, but it should look also at the context. For this specific reason the use of AntConc has been vital for a proper analysis. One main advantage is that the software provides the context; more precisely, it gives an overlook of the sentence in which the reader can find the term. The generic “he” and the inflected forms are followed by nouns such as “rights, country and nationality” and as I have mentioned in the previous chapter it might give the idea that these articles and rights refers largely to men. Here I

have reported the concordance hits for the pronoun “he” in the Universal Declaration of Human Rights as it represents one of the biggest problematics of the documents.

Concordance Hits of “he” in Context	What it Refers to
presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.	Everyone
Resulting from any scientific, literary or artistic production of which he is the author.	Everyone

Table 10 Concordance hits of the term “he” in the Universal Declaration of Human Rights

In the declaration examples of indefinite pronouns such as “everyone” can be found as they are used to express a plurality. However, they are often followed by the generic “he” or its inflected forms, which actually dissolve a possible genderless sense of the articles because they exclude women from the intention of the declaration by making them appear invisible.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Everyone has the right to leave any country, including his own, and to return to his country.

More problematic and gender bias terms are “brotherhood”, “mankind” and “man” which might have been used as generics when the document was written but they represent the concept of making women invisible through language, as they might seem to be oriented more to men than women. In this specific case, the strategy of gender neutralization might be the best solution to deal with this kind of problems, as it aims at the elimination of gender to achieve a sense of fairness in language.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Baker (2014) introduces the concept of “male firstness”, which refers to binomial pairs and the order in which words are presented. Usually, the masculine term is placed as the first term of the pair, such as “men and women” which occurs in the universal declaration of human rights (Baker, 2014: 92). However, there are cases in which the feminine term is placed as first as a sign of chivalry, such as “ladies and gentleman” (Mooney and Evans, 2015:113).

Overall, this declaration and all its issues represents what could be eliminated or alleviated from the language of human rights declaration, in order to, as stated by the literature mentioned in the previous chapters, move towards equality between men and women in language through the acquisition of gender fair language. Later in this chapter I will present a possible solution to the sexist language that has been found in order to eradicate the problematics of this document.

3.2.2 The Human Rights Act

The Human Rights Act came into force in 1998, years after the feminist linguistic reform which was set into motion in the 1970s. However, the declaration still presents the use of the generic “he” and its inflected forms as the previous document did. Here in the table below I have listed all the example of the use of the masculine pronoun as the generic. The instances were taken from AntConc and I did for the Universal Declaration of Human Rights I have decided to highlight the pronoun and then to specify for every single example the reference for the masculine pronoun which has been necessary for the rest of the analysis.

Concordance Hits of “he” in Context	What it Refers to
amendments as he considers appropriate to reflect the effect	Secretary of State

Right or rights concerned in any legal proceedings, but only if he is (or would be) a victim of the unlawful act	Person
A sufficient interest in relation to the unlawful act only if he is, or would be, a victim of that act	Applicant
Interest to sue in relation to the unlawful act only if he is, or would be, a victim of that act.	Applicant
A person is a victim of an unlawful act only if he would be a victim for the purposes of article 34 of the	Person
Rules in relation to a particular tribunal may, to the extent he considers it necessary to ensure that the tribunal can provide an	Minister of the Crown
Considers that there is compelling reason for proceeding under this section, he may by order make such amendments to the legislation as he	Minister of the Crown
He may by order make such amendments to the legislation as he considers necessary to remove the incompatibility.	Minister of the Crown
That there are compelling reasons for proceeding under this section, he may by order make such amendments to the primary legislation as	Minister of the Crown
May by order make such amendments to the primary legislation as he considers necessary.	Minister of the Crown
His right to make any claim or bring any proceeding which he could make or bring apart from sections 7 to 9.	Person
Must by order make such amendments to Schedule 3 as he considers appropriate to reflect – (a) any designation order	Secretary of State
Must by order make such amendment to this act as he considers appropriate to reflect –(a) any designation order	Secretary of State
Must by order make such amendments to this Act as he considers are required to reflect that withdrawal	Secretary of State
Without being required to relinquish his office. But he is not required to perform the duties of his juridical office	Holder of a juridical office
Not required to perform the duties of his juridical office while he is a judge of the court	Holder of a juridical office
In respect of any period during which he is a judge of the court – (a) a Lord Justice of	Holder of a juridical office
(temporary appointment of sheriff principal) applies, while he holds that appointment, as if his office is vacant.	Sheriff Principal

For a temporary increase in the maximum number of judges he considers appropriate in relation to any holder of a juridical office	The Lord Chancellor or the Secretary of State
Or (b) make a statement to the effect that although he is unable to make a statement of compatibility the government nevertheless	Minister of the Crown
Who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest of any charge	Everyone
Minimum rights: (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the	Everyone charged with a criminal offence
Person or thought legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be	Everyone accused of a crime
(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court	Everyone accused of a crime
And (b) if, as a result of the representations, he considers it appropriate to make changes to the original order,	Person
As a member of that scheme; (b) the terms on which he remains a member of the scheme are those which would have	Judge
Of that scheme are those which would have been applicable had he not been appointed as an ECHR judge;	Judge

Table 11 Concordance hits of the term “he” in the Human Rights Act

In this case, the masculine pronoun is often associated with jobs and political figures such as “the Secretary of State”, “Minister of the Crown”, “Sheriff Principal” or “Lord Chancellor”. As stated in the literature of the previous chapters, English is a natural gender language and the nouns are usually not associated with a specific gender and this aspect brings back the issues on gender and occupational field. However, the fact that they are followed by a masculine pronoun could influence the reader to believe that those roles are limited to men and it might seem that the language use reinforce this concept while excluding women from those highest rank offices. As happened with the Universal Declaration of Human Rights, the problem of using “he” and its inflected forms as the generic might give the impression that those roles are often hold by men or that overall

the addressee of the documents does not include women. Again, when reporting figures such as “minor”, “person”, “judge” or “victim of unlawful act” the chosen pronoun is always masculine.

the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
 the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

3.2.3 The Equality Act (Sexual Orientation) Regulations

The Equality Act was issued in 2007, a reasonable period of time after the second Wave of Feminism and the Feminist Linguistic Reform. With this mind, my expectations of non-sexist language that have been published throughout the years at first were to encounter gender fair language, considering all the different guidelines, which I have presented in the second chapter of this thesis. However, in the act I found examples of use of the generic “he” and its inflected form as neutral forms. Once again, I will present the cases in which the generic “he” is used as the neutral form, while providing both the context and the reference.

Concordance Hits of “he” in Context	What it Refers to
Or any other person except A, A treats B less favorably than he treats or would treat others (in cases where there is no material	Person A
Person’s sexual orientation includes a reference to a sexual orientation which he is thought to have.	Person
If A applies to B a provision, criterion or practice – (a) which he applies or would apply equally to persons not of B’s sexual	Person A
(“A”) discriminates against another (“B”) if A treats B less favorably than he treats or would treat another and does so by reason of the	Person A

A person to discriminate against another – (a) in the terms on which he offers to dispose of premises to him, (b) by refusing to dispose	Person
Promises to discriminate against an occupier – (a) in the manner in which he provides access to a benefit or facility, (b) by refusing access to	Person managing premises
Anything done by a person as a participant in arrangements under which he (for reward or not) takes into his home, and treats as if	Person
Accept an application to admit him as a pupil or (c) where he is a pupil of the establishment – (i) in the way in which	Person who is a pupil
Under that section in respect of the publication of the advertisement if he proves that – (a) he published in reliance on a statement, made by	Person
Respect of the publication of the advertisement if he proved that (a) he published in reliance on a statement, made by a person causing the	Person
Member, by depriving him of membership, or varying the terms on which he is a member, or (c) in the case of an associate, by	Person member of an association
This regulation- (a) a person is a member of an association if he belongs to it by virtue of his admission to any sort of	Person member of an association
To which this regulation applies, not being a member of it, he has under its constitution some or all of the rights enjoyed by	Person member of an association
Provide benefits only to persons of a particular sexual orientation, if- (a) he acts in pursuance of a charitable instrument and (b) the restriction of	Person of a particular sexual orientation
As the circumstances require. (2) A respondent or potential respondent may reply (if he so wishes) to questions served under paragraphs (1)- (a) in the form set	Respondent
Under these regulations, (b) “potential claimant” means a person which- (i) thinks he may have been the subject of an act that is unlawful by	Person (potential claimant)
Commencement of the proceedings, or the part of the proceedings, from which he is excluded; (c) to take secret all or part	Claimant or representative
Paragraph (2) only- (a) in relation to proceedings in England and Wales, if he has a general qualification (within the meaning of section 71 of the Courts	Person to represent the interest of a claimant
Services Act 1990(a)), or (b) in relation to proceedings in Scotland, if he is- (i) in advocate or (ii) qualified to practice as a solicitor	Advocate or solicitor

Appointed under paragraph (2) shall not be responsible to the person whose interests he is appointed to represent.	Person appointed to represent
Which is unlawful under these Regulations. (2) A person commits an offence if he knowingly or recklessly makes a false statement, in connection with assistance sought	Person who commits an offence
Employee it shall be a defense for the employer to prove that he took such steps as were reasonably practicable to prevent the employee-	Employer
Receives less favourable treatment than another by reason of the fact that he has brought (or given evidence in or provided information in connection with)	Person
Otherwise done anything under or by reference to the Regulations, or because he intends to do so. Regulations 4 to 18 prohibit discrimination in the provision of	Person

Table 12 Concordance hits of the term “he” in the Equality Act (Sexual Orientation) Regulations

Nevertheless, this act differs from the others in what I presume to be a possible strategy of gender neutralization. When giving examples of types of discrimination, the documents introduces the adoption of “person A” and “person B” for the different scenarios. Unfortunately, what follows is the use of the generic “he” and its inflected forms in both cases. Once again, this might give the idea that the act against sexual discrimination appeal more to men than women, considering the fact that both “A” and “B” are followed by masculine pronouns. Even when the act is not portraying different scenarios of discrimination but presenting other cases belonging to the juridical field, terms such as “person”, “advocate” or “claimant” are followed by the generic “he”. Overall, there is still the practice of choosing one gender over the other as the feminine pronouns in this document are nowhere to be found and women are still made invisible through language use. There are again examples of male firstness with “brother or sister” (Baker, 2014: 92) but also example of gender-neutral language as in the document “spouse” and “civil partner” appear more than one time, as is shown by the example below. Other examples involving the masculine pronouns recall the issues of gender and the occupational field, as jobs such as “solicitor” or “employer” are associated with “he”.

(3) In paragraph (1) “near relative” means—
spouse or civil partner,
parent or grandparent,
child or grandchild (whether or not legitimate)
spouse or civil partner of a child or grandchild,
brother or sister (whether of full blood or half-blood), and
any of the relationships listed in sub-paragraphs (b) to (e) that arises through marriage,
civil partnership or adoption.

3.2.4 The Global Human Rights Sanctions Regulations

The Global Human Rights Sanctions Regulations 2020¹⁷ came into force in 2020. For the analysis I have proceeded in the same way as with the other three declarations that I have decided to include in my corpus. Having background knowledge on what the issues and lacks were for the other documents I immediately used the concordance hits features of AntConc in order to cover the biggest problematic: the generic “he”. The total absence of the generic “he” is the only reason why I was not able to produce a table in which I could show the difference instances and the references as I did for the previous declarations.

While bearing that in mind, I uploaded the “.txt” file in the software, as I did for the others, and then I started searching for the same term as those reported in Tables 2 and 3. As far as pronouns are concern, the only hit that I found included “his” and “her”, which are used together in a sentence to avoid the use of one gender only. There is no trace of the generic “he” or its inflected forms in the document. Therefore, I knew that it was not necessary to search for general nouns such as “minor” or “judge” as I did for the previous documents, because the total absence of both male and female pronouns meant that there no examples of non-gender-fair language. Other lacks that characterized the first three declarations, such as examples of male firstness or jobs associated to male pronouns are also absent in this document.

¹⁷ <https://www.legislation.gov.uk/ukxi/2020/680/contents/made>

The notice may be given to an individual—

by delivering it to the individual,

by sending it to the individual by post addressed to the individual at his or her usual or last-known place of residence or business, or (c) by leaving it for the individual at that place.

In these sections I have decided to discuss the most evident features of each declaration, which is the use of the “generic he”. As my process involved reading the documents and then uploading them in the software, some issues have captured my attention. In the following sections I will present a more precise analysis of the corpus, which together with what has been presented so far, represent my study on how women are represented through language in human rights declarations.

3.3 Other Results of the Analysis

It is important to emphasize that this study did not aim to address only lacks or problems within the declarations, but to unveil strengths and strategies which might reflect the solution of the issues presented in the previous chapters through the examples of non-sexist language guidelines. For this specific reason, I have tried to cover a wide range of time through the chosen declarations and specifically the last one was intended to show how the latest documents actually represent women through language. Even Baker (2014), points out the importance of starting the analysis with a neutral and unbiased mind set, instead of looking just for the problems and gender differences (Baker, 2014: 19). Another important fact is that this analysis aims to be a qualitative corpus analysis rather than a quantitative one, as with the former “no attempt is made to assign frequencies to the linguistic features which are identified in the data” and do not force a misleading interpretation (McEnery and Wilson, 2001: 76).

In the previous section I have underlined that one of the main problems of this analysis is the use of the generic “he” as the generic pronoun to refer to both men and women. It is vital to emphasize that I have chosen the term “he” because in the literature mentioned in the previous chapters, it represents an element of sexist language. However, the fact that

the Universal Declaration of Human Rights only has two examples of “he” as the generic does not mean that the document is gender-fair. On the contrary, there are many other examples of inflected forms that support the use of sexist language throughout the whole document (see table 2).

For this specific reason I have then decided to search for more gender-neutral terms within the corpus, such as “they” and its inflected forms. Starting with the Universal Declaration of Human Rights, I discovered that it occurs in the text, but it used for its grammatical function of plural pronoun referring to “men and women” and “human beings” and not as a strategy of gender neutralization.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

The very same thing applies to the term “themselves” as it refers to “member states”. Ultimately, the plural pronouns are not used as gender-neutral terms, but only to cover their grammatical role, as it happens in the other two declarations, which are the Human Rights Act and the Equality Act (Sexual Orientation) Regulations.

to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

In the Human Rights Act 1998, again, the plural pronoun and its inflected forms are used to refer to plural forms such as “articles”, “countries”, “persons” or “restrictions”.

This section applies if—
a provision of legislation has been declared under section 4 to be incompatible with a Convention right and, if an appeal lies—
all persons who may appeal have stated in writing that they do not intend to do so;

In the Equality Act (Sexual Orientation) Regulations the term “they” had more concordance hits, still it is never used a gender-neutral asset.

Nothing in these Regulations shall make it unlawful for any person to do anything by way of—
meeting special needs for education, training or welfare of persons on grounds of their sexual orientation, or

Lastly in the Global Human Rights Sanctions Regulations there is still a small presence of the plural pronoun “they” and its inflected forms, but in the act other types of strategies were adopted to avoid sexist language.

A “joint arrangement” is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.

I have also searched for feminine pronouns in each declaration because I wanted to make sure I had covered all the possibilities and scenarios for my study. I found one use of the feminine pronoun “her” in the Global Human Rights Sanctions Regulations, which I have reported in the previous sections. Then, I was able to find concordances hits in the Human Rights Act with the pronoun “her”, which according to AntConc occurs seven times, but it always used to mention “Her Majesty” the Queen. “She” or its inflected forms do not occur neither as a generic pronoun or as a reference to a feminine noun in any documents.

it appears to a Minister of the Crown or Her Majesty in Council that, having regard to a finding of the European Court of Human Rights made after the coming into force of this section in proceedings against the United Kingdom,

All of the claims made above are supported by the fact that instead of stopping at the general context given by the search section of the software, which provides a selection of characters before and after the searched terms, I have decided to have a more precise look in the “file view” section, where I was able to get a better context of the terms. Furthermore, I have used the Concordance Plot function of AntConc, which needs to be used when all the documents of the corpora are uploaded into the software. This function highlights in which part of the document the term is mostly used, while specifying when

the term occurs in the sub-corpora and gives the total number of characters of the document.

The most copious hit involved the use of the term “person” as it occurs 263 times in the Global Human Rights Sanctions Regulations. When I first discovered the amount of concordances hit for this term I immediately used the “file view” features to see where the term occurred. The reason why “person” appears so many times in this sub-corpus is because it is highly repeated. In the act there is the tendency to avoid the use of pronouns to elude the predominance of one gender on the other. Below I have reported an example of the term “person” which highlight the change of course in the choice of words. In the previous documents we would have found a high presence of pronouns instead of trying to neutralize the presence of one gender.

- (2) For the purposes of this regulation a person is “involved in an activity falling within regulation 4(2)” if—
- (a) the person is responsible for or engages in such an activity;
 - (b) the person facilitates, incites, promotes or provides support for such an activity;
 - (c) the person conceals evidence of such an activity;
 - (d) the person provides financial services, or makes available funds, economic resources, goods or technology, knowing or having reasonable cause to suspect that those financial services, funds, economic resources, goods or technology will or may contribute to such an activity;
 - (e) the person provides financial services, or makes available funds, economic resources, goods or technology to a person mentioned in sub-paragraph (a);
 - (f) the person profits financially or obtains any other benefit from an activity falling within regulation 4(2);
 - (g) the person is responsible for the investigation or prosecution of such an activity and intentionally or recklessly fails to fulfil that responsibility; or
 - (h) the person contravenes, or assists with the contravention of, any provision of Part 3 of these Regulations.

The method that I have adopted for this work has been to read the document before uploading it on AntConc to have a general background of what it is used and what is said. For that reason, I have started noticing how terms reoccurred. An example of this findings is the occurrence of the job title “Secretary of State” which appears 29 times in the document. The interesting discovery were not the hits because in the Human Rights Act it occurs 44 times, but the fact that in the 2020 Act it was never followed by a pronoun whether it was generic or not. Once again, the strategy used in this declaration is the repetition.

Designation criteria

6.—(1) The Secretary of State may not designate a person under regulation unless the Secretary of State—

- (a) has reasonable grounds to suspect that that person is an involved person, and
- (b) considers that the designation of that person is appropriate, having regard to—
 - (i) the purposes stated in regulation, and
 - (ii) the likely significant effects of the designation on that person (as they appear to the Secretary of State to be on the basis of the information that the Secretary of State has).

In the first chapter I mentioned Fernand De Saussure and his theory of the synchronic and diachronic study of language, which is strictly connected to the work that I have done in this chapter. The diachronic variation studies the change of language over time, which is one of the aims of this work. Through this corpus analysis I want to identify how the representation of women in human rights declaration has change throughout the years. As a matter of fact, Tognini Bonelli describes the corpus which presents an analysis of language over time as “diachronic corpora” and the first example of this type came from the 1960s (Tognini Bonelli E., 2010: 22). Moreover, having a diachronic study has helped me to create a parallel with the feminist linguistics reforms, in order to pinpoint whether the arguments of non-sexist reforms have actually influenced the language of declaration

to have a fair representation of gender. According to this logic, the Universal Declaration of Human Rights should be excluded from the analysis because it was written years before the feminist language reform. However, it creates a significant starting point for the research as it represents what should be changed or improved, and its gender bias elements have paved the way to the analysis of the following declarations.

These examples highlight both how I have worked, but also how the software has been useful and time saving. As I have already mentioned, one the best feature is the importance given to context, because the user can actually see where and when the term is used. For research purposes, I have also looked for feminine pronouns and all of the inflected forms but neither of them occurred in the documents, apart from the use of “her” associated with “majesty”. In the first chapter I have discussed the issues of language and sexism and how the masculine is used as the neutral form, which has been proven by the corpus of the three declarations. According to Hadidi, Gharibeh and Aleshzadeh (2015), second wave feminism bestow to the generic use of masculine pronouns as the norm one of the main sexist aspect of language (Hadidi, et al., 2015: 4). Another reason why the masculine pronouns are used as the norm is because the male generic might be used when gender is considered irrelevant or when it needed to address a mixed-gender group or “referents whose gender is unknown or unspecified” (Sczesny, Formanowicz, Moser, 2016: 1). Moreover, the use of non-sexist language does not come natural to people and making the effort of noticing sexist language is a necessarily step towards gender fair language (Hadidi, et al., 2015: 5).

This effort was made by Amnesty International in 2017 as they decided to rewrite the Universal Declaration of Human Rights on their website. Even though the articles have been simplified and the preamble has been excluded from their website, people should appreciate the turn in the recognition of gender-neutral language. An example of what I have just mentioned occurs in article 25, as the version from 1948 states:

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment,

sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”

And the renewed version from Amnesty International reports:

“We all have the right to enough food, clothing, housing and healthcare for ourselves and our families. We should have access to support if we are out of work, ill, elderly, disabled, widowed, or can’t earn a living for reasons outside of our control. An expectant mother and her baby should both receive extra care and support. All children should have the same rights when they are born.”¹⁸

Overall the strategy adopted by Amnesty International in their online version of the Universal Declaration of Human Rights is to eliminate the use of generic masculine as the neutral form and to use the plural forms with indefinite pronouns which never refers to a singular pronoun. They use “we” and its inflected forms to support gender neutralization and to make every gender visible in the fundamental human rights.

Moreover, Mucchi-Faina (2005) identifies different strategies to fight the use of the generic masculine: using “epicenes”, that is using a word to refer to both genders without acknowledging one such as “person”; pluralizing, which means using plural nouns and pronouns, which is what Amnesty International opted for; specify the gender when salient; using the “splitting” strategy with paired pronouns and nouns, such as “s/he”, as I tried to do throughout this thesis; using the feminine instead of the masculine as the generic pronoun or even alternate the genders in the text (Mucchi-Faina, 2005: 6-7). As a matter of fact, there are many different strategies which could be applied to the declaration in order to avoid the use of the masculine as the generic. The strategy of the “epicenes” of words such as “person, partner, spouse”, has been used in the declaration and through the concordance plot I was able to identify and portray the use of the word “person” specifically and its increase.

¹⁸ <https://www.amnesty.org.uk/universal-declaration-human-rights-UDHR>

This section of my thesis was need to highlight the problems of sexist language and in which way those issues have been eradicated through language reforms. What I have learned through my analysis is that the work that has been done by feminist linguists has been successful in the language use of human rights declaration. The process of reforming has been slow, because as I show up until 2007 the language was not gender fair and many sexist uses were still present. I have mentioned several times the aim of this work to report how women are represented through language and in doing so I have tried to report the different scenarios. A drastic change in language can be seen between the first and the last declarations of my corpus, which are The Universal Declaration of Human Rights and The Global Human Rights Sanctions Regulations, as in the latter there is no trace of sexist language. The chosen strategy is the gender neutralization one, because as I have already explained, is the best solution for natural gender languages such as English. The final result is a language were the gender is not present and there is no identification of occupational titles such as “judge” or “secretary of State” through one gender. The different types of frequency lists that I have reported in this chapter are very practicable because, especially when compared next to each other, report the change and the gradual decrease of sexist terms. Also, the concordances hits which are included in the frequency lists, helped me to identify the different uses of the terms that I have searched for, especially in the case of neutral terms such as “person” or “everyone” which in the first three documents were identified through the male pronoun. I believe that The Global Human Rights Sanctions Regulations represent the long-awaited change and the realization of the studies of language and gender which have fought for a fair representation of women in language. Within the analysis I was able to identify the topics that I have provided through the literature of the first two chapters, which have paved the way for my final work.

In conclusion, I think that my diachronic study has shown a small part of the linguistic change towards a non-sexist language use, and I believe that the study over human rights declarations has been very interesting, because I wanted to find out whether the ideas expressed in those documents of equality between humans was manifested through gender-fair language. That represented a gap in the study of language and gender which I hope to have filled even if partially.

Conclusions

At the beginning of this thesis I decided to ask two questions, which I have been trying to answer through my work and analysis: do women and men speak differently? Are women represented fairly through language? The former one has been central especially in the first chapter, in which I have quoted the work of Scholars such as Lakoff (1975) and Spender (1980), who have focused their work in the analysis of communication styles. The two of them together with other academics have focused mainly on the differences between the two genders instead of trying to eradicate the gap that has been dividing them. Authors such as Coates (2013) and Baker (2014) on the other hand tried to provide a different perspective on the subject as they support the notion that is better to study similarities instead of differences between the two sexes.

In the first chapter I have presented the three cornerstones that are vital to the understanding of the entire work, while at the same time introducing how they are connected and their problems. This literature constituted the background knowledge that I have considered necessary to proceed with my work in the following chapters. I opened my thesis with the presentation of the concept of language and then I went into details on the matter of sociolinguistics which represents the linguistic field in which my study places itself. Another key point is made by the image of power, especially in the analysis of cross-sex conversation, because it is believed that speaking styles belonging to women and men possess different levels of power.

I then moved to the topic of gender, which is strictly connected to sex as they are often confused with each other. Sex refers to the biological aspect, while gender is socially constituted. The common ground between language and gender is represented by the different types of language, such as gender natural, grammatical gender and genderless. This distinction has been key for the sake of the second chapter. Introducing the feminist linguistics was another a major step towards the explanation of the different models which have opposite opinions of how the issues of language and gender should be dealt with. I have always tried to present both arguments in favor and against in order to have an unbiased mind set on the topic. Another vital section has been made by Lakoff (1975),

whose work has paved the way for the analysis of women and conversational styles, which was then rearranged by Spender (1980) through a more radical point of view. Authors like Cameron (1995), which has been one of the backbones of this thesis, suggests the necessity to overcome this idea of differences between man and women, whose opinion as I mentioned above is supported by Coates (2013) and Baker (2014). Also, these authors highlight the necessity to stop perceiving women as they lack something in their speaking style and instead focus on their skills.

The last topic that I have presented in the first chapter is Sexism, which is probably the most important one out of the three. I have tried to give a definition of the phenomenon of sexism while explaining that one of the main downsides of it, is making women invisible through language. Sexism is strictly connected to the second and third chapter, as I have tried to report and eventually find the possible strategies to eradicate it in language use. There are many different types of sexist language, such as stereotypes, asymmetries, lexical gaps, generic “he”, marked and unmarked terms and semantic derogation, which have all been presented and illustrate in the first chapter. This chapter overall, presented some of the problematics that needed to be addressed in order to possibly overcome the issues of inequality in language.

In the second chapter I have introduced the second question, which gravitates around how women are represented through language, which has been supported by Pauwels’s essay (2003) and the two different strategies to fight sexist uses in language. The overview of the section includes the introduction of the feminist linguistic reforms, the possible strategies and a few examples of non-sexist guidelines. The connection between sexism, reality and society can be explained by the theory of linguistic relativity, which I have presented through both its supporters and critics. Choosing to mention Relativism is supported by the fact that it is believed that language influences society, which means that using a language that can be described as sexist, influences society but also culture and it might create stereotypes that could possibly damage a specific group of people, which in my work specifically are women.

As I already mention the importance of feminist reform, I went into details and report the two main concerns which are focused on exposing the representation of women through language and debunking the idea that men and women communicate differently. In order to do so, authors like Pauwels (2003) presented two different mechanisms: both the strategy of gender specification and neutralization are believed to be valid, but their outcome is believed to depend on the kind language seeking for a reform. As I presented the two strategies I tried to report both strengths and weaknesses. Neutralization aims to the elimination of gender relevancy in language, while specification aims to always clarify the gender. Here the two different strategies clash against each other, as specification believes in the importance of making women visible in language in order to highlight the presence of women in specific fields, while neutralization aims to a genderless language in which neither women or men are represented through language. A link between this section and the first chapter is created because each strategy is believed to have a better outcome depending on the language to which is applied. Gender neutralization might work at its best in natural gender languages such as English, while gender specification is more likely to be applied to grammatical gender languages such as Italian. Other key elements that were introduced in this chapter have to do with topics such as the elimination of the semantic derogation or the promotion of the “Ms” form instead of “Miss” or “Mrs”. In addition, a new question has arisen: can guidelines be helpful to eradicate sexist language use? I have listed a series of examples of non-sexist guidelines that were published in different years in order to highlight the efforts that have been made in different communities and organizations to prevent the use of biased language.

The first two chapters were needed to introduce the work that I was going to present in the third part of my thesis. I analyzed the language use in four different human rights declarations, while paying particular attention to which terms portrayed or avoided sexism in language. My analysis aimed to create a diachronic study and to highlight whether in more recent documents language can be consider non-sexist. I was able to find a recent regulation of Human Rights which presented many features of non-sexist language. Through my analysis I wanted to point out the progress of the language used in human rights declaration, and what I concluded from my corpus was that the adoption of

gender-fair language has been a slow process as up until 2007 there were still traces of gender biased with examples like the use of the generic “he” as the neutral forms, which has been the main characteristic of the first three declarations, while the fourth one was definitely a success of gender neutralization.

Moreover, as I have mentioned in the last sections of the third chapter, organizations such as Amnesty International rewrote the Universal Declaration of Human Rights with non-sexist language. Still, it is not an official document, but as Amnesty International is a worldwide known organization, this has made me think that people might look at their websites more than others. Despite the fact that there were traces of sexist language use, the Equality Act (Sexual Orientation) Regulations presented a strategy of gender neutralization or more in general gender unbiased with words such as “person A/B, spouse, partner”. This factor needs to be pointed out as the analysis of corpora should not focus only on problems and lack, but also on non-sexist strategies, especially when the aim of the study is to have an overlook of the transformation of women’s representation through language.

Overall, what I have learned through the analysis of the Acts is that there has been a change in language use, especially when comparing the Universal Declaration of Human Rights and the Global Human Rights Sanctions Regulations as they represent the opposite poles of the corpus. The former is definitely the more problematic one as there are many male oriented terms, while in the latter represent the success of a long-awaited process of fair representation of both women and men in official documents. Clearly, the use of the male generic as the neutral form has proven itself to be the hardest use of sexist language to be eradicated, which eventually has been substituted by other strategies, such as the adoptions of repetitions.

The mind process for the composition of this thesis has been to cover all the arguments necessary to be able to understand the importance and the value of the final study. The idea was to go deeper and deeper through each chapter while managing to keep a common thread on the overall topic of sexism. My aim was to make sure that different counterparts were heard in order to provide an unbiased background, but as I kept on

reading and writing I discovered to be quite the challenging task. While the gap that my thesis intended to fulfil is on whether the representation of women through language in human rights declarations is non-sexist, the aim was to prove through the analysis that language issues connected to the misuse of gender can be solved, considering all the different guidelines and books on the matter that have been drafted since the 1970s, when the study of language and gender began.

A possible criticism that can be moved against my work is that there is a difference in length between the first and the other three declarations. However, the language used in the four declarations is similar and they all belong to the same field and the aim was to look more into the quality of language rather than the quantity of characters contained in the documents. The first Act plays a vital role in the analysis because it almost represents a litmus test, as it includes different lacks in gender fair language, but also it represent all of those documents that were written before the 1970s and the study of Language and Gender. Even so, I reported the numbers of terms, but the goal was to give a better background to the reader, in order to cover all the aspects of the analysis. Eventually the first three documents present all the same issue of the male pronouns used as the neutral to represent both women and men, but they also highlight other issues and strategy, while the last one, as I already said, can be considered a success of the feminist linguistic reform.

This leads to a final question, which I do believe can summarize what I have being trying to prove through my work: why is gender-fair language so important? Whether is it masculine or feminine, one gender should never either prevail on the other or be excluded from language use. Especially in the case of women representation through language, the marginality of one gender does not permit a full portrayal and in the event of women it is more and more fundamental to create exemplars of female presences in job applicants, job nomenclatures or human rights acts. In my opinion both strategies of specification and neutralization are valid and I believe that they can coexist to reform language, because one does not exclude the other. It is important to use the appropriate term and the accurate gender when referring to people, because it will transmit a sense of importance and value through language, which eventually will hopefully help to eradicate all sexist cultures.

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Riassunto in Italiano

L'argomento trattato all'interno della mia tesi riguarda la questione della lingua, del genere e del sessismo. Specialmente attraverso quest'ultimo punto sono riuscita a costruire la discussione che ha effettivamente composto il mio intero lavoro. Questi tre argomenti sono stati le colonne portanti della mia tesi che è andata a costituirsi all'interno di tre capitoli che hanno avuto come principale scopo quello di presentare man mano l'argomento in modo sempre più dettagliato. La domanda iniziale che mi sono posta prima di iniziare la stesura è stata "come vengono rappresentate le donne attraverso la lingua?" e più in particolare, ho deciso di analizzare il linguaggio utilizzato all'interno di quattro dichiarazioni dei diritti umani creando uno studio diacronico sulle mutazioni linguistiche. Ho pensato che potesse essere una ricerca interessante, poiché la mia volontà era quella di capire se effettivamente la lingua utilizzata all'interno di questi documenti fosse inclusiva nei confronti delle donne, in modo da rendere il messaggio comunicato attraverso questi documenti universale per tutti i generi. Le fonti che ho adoperato come letteratura hanno come campo quello linguistico, per poi addentrarsi anche nel campo della sociolinguistica e della linguistica femminista. Ci sono stati dei testi che più di altri hanno influenzato la stesura del mio lavoro, tra cui il testo di Baker (2014) e di Pauwels (2003), il primo mi è servito come lingua guida per l'analisi del terzo capitolo, mentre il secondo è stato il punto di partenza della mia tesi. Il testo di Pauwels (2003) al suo interno racchiude diverse informazioni sul movimento femminista e su come andrebbe combattuto il sessismo all'interno della lingua, argomento alquanto importante per il mio lavoro che ha trovato una sua collocazione nel secondo capitolo. Altri autori e altri testi hanno costituito la letteratura di base che è stata fondamentale come conoscenza di base per iniziare ad addentrarmi tra le varie problematiche e questioni sollevate dalla linguistica femminista.

Ora presenterò in breve il lavoro che è stato condotto e come è stato strutturato. Il primo capitolo è sicuramente la parte della mia tesi nella quale ho concentrato la maggioranza delle informazioni di base per la comprensione dell'argomento. Sono partita dalla questione della lingua cercando di presentare un'infarinatura generale su la parte più specifica del linguaggio attraverso le teorie di Saussure e linguisti più contemporanei ai

giorni nostri come Chomsky ad esempio, per poi introdurre il concetto di sociolinguistica che abbraccia effettivamente il campo in cui si colloca il mio lavoro. Un'altra tematica importante è quella del "potere", inteso però come potere linguistico, che rappresenta una sorta di anteprima delle disuguaglianze tra uomo e donna all'interno della lingua, dal momento che le caratteristiche linguistiche conferite ad un determinato genere comportano anche un certo livello di potere all'interno della conversazione tra sessi.

Nel secondo capitolo ho introdotto il concetto di genere. Immediatamente ho riportato la differenza tra sesso e genere, dal momento che il primo rappresenta la componente biologica di un individuo mentre la seconda si costruisce socialmente. Ho inoltre presentato le diverse classificazioni di genere che spero diano una migliore comprensione dell'importanza della distinzione sopracitata. Un altro punto di vista molto interessante è quello di McElhinny (2003) che sottolinea come lo studio del genere e delle conversazioni tra generi opposti porti a contemplare l'eterosessualità come normativa. La questione ruota attorno al fatto che il genere si manifesta al di là della distinzione binaria tra maschio e femmina identificata attraverso il sesso, perché è importante non categorizzare un genere e identificare determinate caratteristiche che non possono essere modificate nel tempo e in base alle esigenze. È quindi errato definire il linguaggio di una donna "femminile" perché non è detto che sia sempre quello il caso, ma soprattutto è necessario considerare quando effettivamente il genere è saliente e quando crea una vera distinzione tra uomo e donna, invece che partire immediatamente con l'idea di differenza tra i due sessi. La connessione tra linguaggio e genere è rappresentata dalla classificazione delle lingue in tre: a genere naturale, a genere grammaticale e senza genere. Un esempio di lingua a genere naturale è l'inglese, dal momento che il genere viene espresso attraverso l'utilizzo di pronomi, mentre nel caso delle lingue con genere grammaticale come l'Italiano, il genere viene espresso attraverso desinenze e articoli. Infine ci sono le lingue senza genere, come il turco, il genere non viene mai espresso attraverso il linguaggio.

Dopo di che mi sono concentrata sulla linguistica femminista, in modo da iniziare a introdurre dei tempi più mirati e incentrati sul sessismo. Lo studio della lingua e del genere è iniziato a partire dagli anni '70 e si è concentrato su tutti quegli elementi che creavano un'asimmetria tra genere femminile e maschile, cercando di proporre delle

soluzioni attraverso le diverse analisi. Ho così riportato i diversi modelli che sono stati identificati da Cameron (1995): il “deficit model”, che vede la donna sempre in una situazione di svantaggio rispetto agli uomini, includendo anche in questa posizione di debolezza anche l'utilizzo della lingua; il secondo approccio è definito “dominance model”, nel quale le donne capiscono di avere questo ruolo secondario rispetto alla norma maschile; l'ultimo approccio è il “cultural difference model” che sottolinea come donne e uomini facciano parte di due subculture diverse e di come proprio per questo motivo bisognerebbe cessare il costante paragone tra i due sessi. Gli ultimi due in particolare vengono descritti come la rappresentazione di due diversi momenti del femminismo, poiché il “dominance model” rappresenta la messa in evidenza delle grandi problematiche femminili e l'oppressione del patriarcato mentre il “difference model” è la celebrazione del femminismo, cercando inoltre di reclamare tutti quei tratti culturali appartenenti alle donne.

Un momento molto importante dello studio della lingua e del genere è stato rappresentato dal saggio di Robin Lakoff del 1975 intitolato “Language and Woman's Place”. La questione di base ruota attorno al concetto di linguaggio stilistico, perché grazie al lavoro svolto dall'autrice si inizia a parlare di linguaggio femminile e a descriverne caratteristiche e limitazioni. Il lavoro di Lakoff (1975) non è passato inosservato, anzi è stato criticato per la mancanza di prove empiriche, scatenando però la nascita di quella che oggi viene considerata la letteratura sulla lingua e il genere.

Cinque anni il saggio di Lakoff (1975) viene pubblicato il testo di Dale Spender (1980) intitolato “Man Made Language” che rappresenta una visione più radicale della distinzione del linguaggio maschile e femminile. Le donne appartengono ad una classe secondaria della lingua e gli uomini hanno sempre avuto il controllo sulla conversazione. La lingua viene considerata come una delle cause dell'oppressione e non come un sintomo, dal momento che Spender ritiene che gli uomini esercitino un forte potere sulle donne. Sicuramente i testi di Lakoff e Spender rappresentano dei passi importanti nella linguistica femminista, ed è proprio per questo motivo che ho voluto dedicargli abbondante spazio all'interno della mia tesi.

Il primo capitolo si chiude con la presentazione del concetto di sessismo, che viene definito come un atteggiamento attraverso il quale si pone il genere come caratteristica più importante. In questo caso il sessismo viene presentato come la prevaricazione di un genere sull'altro. Una lingua può essere sessista se viene utilizzata per ignorare il ruolo o la presenza delle donne, descrivere le donne in modo semplicistico o denigrare le donne. Inoltre la presenza di atteggiamenti sessisti può essere identificata in tre diversi modi secondo Mills (2008) e Swim and Cohen (1997): "overt" (diretto), che comprende evidenti utilizzi di parole e frasi sessiste; "covert" (indiretto), cioè il linguaggio sessista viene mascherato da espedienti come l'ironia; "subtle" (discreto), con l'utilizzo di stereotipi che vengono giustificati come prassi. Sono stati inoltre identificati i diversi elementi sessisti che si possono incontrare. All'interno della mia tesi ho deciso di citare quelli tra i più importanti che spiegherò qui in breve, tra cui gli stereotipi, le asimmetrie e i gap lessicali, l'uso del maschile come generico, le forme marcate e non marcate e infine la derogazione semantica.

Uno stereotipo è la generalizzazione di un gruppo come un'unica entità, creando così un'etichetta o un prototipo. È da considerare negativamente quando è denigratorio nei confronti delle donne oppure generalizza un comportamento. Riprendendo l'idea riportata da Lakoff nel suo lavoro, lei stessa ha creato uno stereotipo identificando il linguaggio femminile come subordinato a quello maschile. Per quanto riguarda le asimmetrie e i gap lessicali, il loro utilizzo fa sì che l'assenza di alcuni termini per identificare un genere porti ad uno stato di invisibilità di un genere, che di norma è quello femminile, oppure al dare per scontato il ruolo come accade coi termini "family man" del quale non esiste una controparte femminile. Un esempio di asimmetria è riscontrabile nella coppia di parole "bachelor-spinster", in italiano scapolo-zitella in cui è evidente come nel caso del termine femminile ci sia una connotazione altamente negativa della donna non sposata. Uno degli esempi più importanti di sessismo all'interno della lingua è l'utilizzo del maschile come generico, ossia del "generic he". Viene quindi utilizzato il pronome maschile per identificare sia uomini che donne senza prestare però importanza alla necessità di rappresentare equamente entrambi i generi. Grazie alla riforma linguistica femminista di cui parlerò a breve, c'è stata un'inversione di marcia grazie alla promozione di strategie più neutrali, come ad esempio l'utilizzo del plurale oppure l'utilizzo di entrambi i

pronomi. Con forme marcate e non marcate si intendono tutti quei termini che necessitano la specificazione di genere, cosa che accade molto spesso nei nomi di mestieri sia nel caso maschile che femminile, dal momento che si trovano spesso specificazioni del tipo “infermiere maschio” e “chirurgo donna”. La derogazione semantica è l’acquisizione di un significato negativo di un termine nel corso del tempo, fenomeno che colpisce più spesso le parole di genere femminile. Esistono più parole per additare negativamente le donne rispetto agli uomini, per questo motivo negli ultimi anni un nuovo fenomeno sta prendendo piede, ossia la riappropriazione semantica. È la volontà di eliminare la connotazione negativa da un termine cercando di utilizzarlo in termini positivi.

Dopo aver presentato le diverse problematiche nel primo capitolo, l’obiettivo del secondo è quello di cercare di riportare le varie possibilità al fine di eliminare l’utilizzo di un linguaggio sessista. In questo capitolo il testo di Pauwels (2003) ha ricoperto un ruolo molto importante dal momento che ha rappresentato la base per la ricerca di questa sezione della mia tesi. Come prima cosa ho riportato la teoria della relatività linguistica, che vede nella lingua un mezzo per influenzare la realtà in cui viviamo. Ancora una volta, ho cercato di riportare sia testimonianze di autori sia a favore che contro, in modo da consentire la formazione di un effettivo pensiero critico sull’argomento essendo anch’esso molto dibattuto. Molti linguisti femministi sostengono la teoria di Sapir-Whorf, che va appunto a creare il relativismo linguistico, perché sostengono che l’utilizzo di un linguaggio sessista sia da supporto anche ad atteggiamenti dello stesso genere.

Lo scopo della riforma linguistica femminista è quello di eliminare l’idea che uomini e donne parlano diversamente e a sua volta, eliminare il concetto di subordinazione linguistica che ha perseguitato il genere femminile. Un esempio della riforma femminista è da ricercare nel termine “Ms” che doveva andare a sostituire il binomio “Mrs” e “Miss”. Il problema legato a quest’ultimi si cela nell’importanza che viene affidata allo stato maritale delle donne dal momento che non esiste una controparte maschile a questa distinzione. Sfortunatamente, secondo diversi studi che sono stati citati nel capitolo, ancora oggi viene richiesta la specificazione tra “Mrs”, che indica la donna sposata, e “Miss” per una donna celibe.

Pauwels (2003) identifica due diverse opzioni per l'eliminazione del sessismo all'interno della lingua, ossia la neutralizzazione e la specificazione di genere. Queste due strategie si pongono ai due poli opposti, dal momento che la neutralizzazione, come dice la parola stessa, mira a diminuire e quindi eliminare l'importanza di genere attraverso l'acquisizione di un linguaggio non di parte utilizzando termini neutrali, mentre la specificazione vuole aumentare l'importanza del genere assicurandosi un utilizzo corretto di pronomi, desinenze e nomi per designare le persone attraverso la lingua. In questo capitolo la distinzione tra i tipi di lingua legati al genere diventa di fondamentale importanza. In lingue dal genere naturale, come l'inglese, è più facile che la strategia della neutralizzazione abbia successo dal momento che il genere viene espresso attraverso pronomi, mentre per una lingua di genere grammaticale come l'italiano, sarà meglio adoperare la strategia della specificazione dal momento che è impensabile eliminare il genere. Per entrambe le strategie ho cercato di riportare sia gli effetti positivi che negativi in modo da, ancora una volta, avere tutte le informazioni necessarie per la formazione di un pensiero critico e personale sull'argomento.

Come conclusione del secondo capitolo ho deciso di inserire una serie di linee guida che sono state pubblicate in diversi anni per sottolineare il ruolo ricoperto dalla riforma linguistica, e di come le questioni sulla parità di genere abbiano avuto dei riscontri positivi. Ho deciso di citare una linea guida dell'Università degli Studi di Padova poiché credo che sia importante sottolineare l'impegno per un linguaggio neutrale anche in campo accademico. Considerando il tipo di analisi che avrei condotto nel terzo e ultimo capitolo ho deciso di citare due linee guida appartenenti alla Commissione Europea e all'UNESCO in modo da evidenziare come la volontà di una parità lessicale sia stata abbracciata anche da istituzioni sovranazionali e influenti.

Il terzo capitolo include la parte pratica della mia tesi, dal momento che attraverso l'utilizzo di un corpus di quattro documenti e del programma AntConc, ho deciso di analizzare la lingua utilizzata all'interno di dichiarazioni di diritti dell'uomo. Come ho già citato, l'obiettivo era quello di scoprire se le donne vengono rappresentate equamente anche all'interno di testi per i diritti umani, e se la lingua effettivamente rispecchiasse l'importanza dell'uguaglianza espressa dai concetti presenti nelle dichiarazioni stesse.

Prima di presentare la mia analisi ho deciso di introdurre il campo linguistico in cui si colloca lo studio dei corpus, in modo da evidenziare l'importanza di questo tipo di analisi e di come lo studio della lingua sia sempre in evoluzione. Ho poi presentato il programma adoperato per lo studio dei quattro documenti, introducendo tutte quelle funzioni di AntConc che avrei poi utilizzato nell'effettiva analisi.

Il mio corpus si compone di quattro documenti: The Universal Declaration of Human Rights del 1948, The Human Rights Act 1998, The Equality Act (Sexual Orientation) Regulations del 2007 e The Global Human Rights Sanctions Regulations del 2020. Lo studio che è stato condotto mirava ad un'analisi diacronica della lingua, quindi lo scopo era di osservare i cambiamenti linguistici avvenuti nel corso degli anni nell'eliminare tutti quegli elementi di sessismo all'interno della lingua.

Come prima cosa ho letto i documenti e poi ad uno ad uno li ho inseriti all'interno del programma. Avendo già avuto un'infarinatura generale attraverso la letteratura dei primi capitoli e conoscendo già alcune delle problematiche ho deciso di cercare come prima cosa i pronomi al maschile, al femminile e al plurale in modo da avere un quadro completo della situazione. Ho inoltre cercato altre parole che sapevo potevano essermi utili nella formulazione delle mie conclusioni. Nel terzo capitolo ho inserito numerose tabelle che riportano i dati raccolti attraverso la mia analisi, tra cui le liste di frequenza che mi hanno permesso di creare un elenco dei termini in base al numero di volte che vengono utilizzati nel testo. Ho deciso di concentrarmi sul pronome maschile "he" perché sapevo essere una delle problematiche maggiori del linguaggio sessista e conoscendone anche la difficoltà nel sostituirlo. Ho poi riportato i dati e i procedimenti che ho eseguito per altri termini assieme a spezzoni di testi in modo da rendere ancora più chiare le mie spiegazioni e le motivazioni che mi hanno spinto a formulare determinate ipotesi.

La dichiarazione più "problematica" è la "the Universal Declaration of Human Rights", dal momento che al suo interno compaiono sia l'utilizzo di pronomi strettamente maschili ma anche termini non inclusivi nei confronti del genere femminile. Per quanto riguarda sia "Human Rights Act" che "The Equality Act (Sexual Orientation) Regulations", l'utilizzo del pronome maschile si presenta ancora come una problematica essendo spesso

affiancato a ruoli di potere e lavori come “segretario di stato” o “giudice”. Questo elemento porta all’esclusione del genere femminile, poiché il rischio è che sembri che questi ruoli siano ricoperti da uomini e non da donne. L’ultima dichiarazione, “The Global Human Rights Sanctions Regulations”, invece rappresenta la riuscita della riforma femminista poiché al suo interno non sono presenti pronomi maschili utilizzati come generici o concordati con mestieri. Viene utilizzata la strategia della ripetizione per evitare di dover specificare il genere, infatti la parola “person” viene ripetuta ben 263 volte all’interno del documento.

In conclusione, l’obiettivo della mia tesi era quello di capire in che modo le donne venissero rappresentate attraverso lingua, ponendo sempre particolare attenzione anche a tutti quegli elementi che ho raccolto attraverso la letteratura dei primi due capitoli. È evidente come lo sviluppo della lingua all’interno dei documenti per i diritti umani abbia intrapreso un percorso lento ma adeguato al fine di dare spazio ad entrambi i generi in maniera equa, eliminando tutte quelle caratteristiche sessiste che sembrano far prevalere un genere sull’altro. Erano numerose le lacune presenti specialmente nel primo documento del 1948, che sono andate via via a dissolversi nel corso degli anni e dei documenti. Credo che sia stato comunque importante sottolineare il parallelismo tra le date di pubblicazione dei documenti e l’avvento dello studio di lingua e genere e la riforma linguistica femminista, poiché ha contribuito fortemente alla sostituzione di tutti quegli elementi sessisti del linguaggio in modo da rendere visibili anche il genere femminile e non solo quello maschile attraverso la lingua.

Appendix

Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations, Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and

observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article I

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

Everyone has the right to freedom of movement and residence within the borders of each State.

Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

Everyone has the right to seek and to enjoy in other countries asylum from persecution. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

Everyone has the right to a nationality.

No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

Marriage shall be entered into only with the free and full consent of the intending spouses. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

Everyone has the right to own property alone as well as in association with others.

No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

Everyone has the right to freedom of peaceful assembly and association.

No one may be compelled to belong to an association.

Article 21

Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

Everyone has the right to equal access to public service in his country.

The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

Everyone has duties to the community in which alone the free and full development of his personality is possible.

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

The Human Rights Act



Human Rights Act 1998

CHAPTER 42

An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights; to make provision with respect to holders of certain judicial offices who become judges of the European Court of Human Rights; and for connected purposes. [9th November 1998]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extent Information

E1 For the extent of this Act outside the U.K., see s. 22(6)(7)

Modifications etc. (not altering text)

C1 Act: certain functions of the Secretary of State transferred to the Lord Chancellor (26.11.2001) by S.I. 2001/3500, arts. 3, 4, **Sch. 1 para. 5**

C2 Act (except ss. 5, 10, 18, 19 and Sch. 4): functions of the Lord Chancellor transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Chancellor is entitled or subject to in connection with any such function transferred to the Secretary of State for Constitutional Affairs (19.8.2003) by S.I. 2003/1887, art. 4, **Sch. 1**

C3 Act modified (30.1.2020) by Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2), **ss. 2(8)**, 9(3)

Introduction

The Convention Rights.

In this Act “the Convention rights” means the rights and fundamental freedoms set out in—

Articles 2 to 12 and 14 of the Convention,
Articles 1 to 3 of the First Protocol, and
[^{F1}Article 1 of the Thirteenth Protocol], as read with Articles 16 to 18 of the Convention.

Those Articles are to have effect for the purposes of this Act subject to any designated derogation or reservation (as to which see sections 14 and 15).

The Articles are set out in Schedule 1.

The [^{F2}Secretary of State] may by order make such amendments to this Act as he considers appropriate to reflect the effect, in relation to the United Kingdom, of a protocol.

In subsection (4) “protocol” means a protocol to the Convention—
which the United Kingdom has ratified; or
which the United Kingdom has signed with a view to ratification.

No amendment may be made by an order under subsection (4) so as to come into force before the protocol concerned is in force in relation to the United Kingdom.

Textual Amendments

F1 Words in s. 1(1)(c) substituted (22.6.2004) by The Human Rights Act 1998 (Amendment) Order 2004 (S. I. 2004/1574), **art. 2(1)**

F2 Words in s. 1 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(1)**

Interpretation of Convention rights.

A court or tribunal determining a question which has arisen in connection with a Convention right must take into account any—

judgment, decision, declaration or advisory opinion of the European Court of Human Rights,
opinion of the Commission given in a report adopted under Article 31 of the Convention,
decision of the Commission in connection with Article 26 or 27(2) of the Convention, or
decision of the Committee of Ministers taken under Article 46 of the Convention, whenever made or given, so far as, in the opinion of the court or tribunal, it is relevant to the proceedings in which that question has arisen.

Evidence of any judgment, decision, declaration or opinion of which account may have to be taken under this section is to be given in proceedings before any court or tribunal in such manner as may be provided by rules.

In this section “rules” means rules of court or, in the case of proceedings before a tribunal, rules made for the purposes of this section—

- by ^{F3}. . . [^{F4}the Lord Chancellor or] the Secretary of State, in relation to any proceedings outside Scotland;
- by the Secretary of State, in relation to proceedings in Scotland; or
- by a Northern Ireland department, in relation to proceedings before a tribunal in Northern Ireland—
 - which deals with transferred matters; and
 - for which no rules made under paragraph (a) are in force.

Textual Amendments

F3 Words in s. 2(3)(a) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(2)**

F4 Words in s. 2(3)(a) inserted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, **Sch. para. 3**

Modifications etc. (not altering text)

C4 S. 2(3)(a): functions of the Secretary of State to be exercisable concurrently with the Lord Chancellor (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), **art. 3(2)** (with arts. 4, 5)

Legislation

Interpretation of legislation.

So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.

This section—

applies to primary legislation and subordinate legislation whenever enacted;
does not affect the validity, continuing operation or enforcement of any incompatible primary legislation; and
does not affect the validity, continuing operation or enforcement of any incompatible subordinate legislation if (disregarding any possibility of revocation) primary legislation prevents removal of the incompatibility.

Declaration of incompatibility.

Subsection (2) applies in any proceedings in which a court determines whether a provision of primary legislation is compatible with a Convention right.

If the court is satisfied that the provision is incompatible with a Convention right, it may make a declaration of that incompatibility.

Subsection (4) applies in any proceedings in which a court determines whether a provision of subordinate legislation, made in the exercise of a power conferred by primary legislation, is compatible with a Convention right.

If the court is satisfied—

that the provision is incompatible with a Convention right, and
that (disregarding any possibility of revocation) the primary legislation concerned prevents removal of the incompatibility,
it may make a declaration of that incompatibility.

In this section “court” means—

[F5(a) the Supreme Court;]

the Judicial Committee of the Privy Council;
the [^{F6}Court Martial Appeal Court] ;
in Scotland, the High Court of Justiciary sitting otherwise than as a trial court
or the Court of Session;
in England and Wales or Northern Ireland, the High Court or the Court of
Appeal.

[^{F7}(f) the Court of Protection, in any matter being dealt with by the President of
the Family Division, the [^{F8}Chancellor of the High Court] or a puisne judge of
the High Court.]

A declaration under this section (“a declaration of incompatibility”)—
does not affect the validity, continuing operation or enforcement of the
provision in respect of which it is given; and
is not binding on the parties to the proceedings in which it is made.

Textual Amendments

F5 S. 4(5)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 66(2)**; S.I. 2009/1604, **art. 2(d)**

F6 Words in s. 4(5)(c) substituted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 156**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

F7 S. 4(5)(f) inserted (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(1), 68(1)-(3), **Sch. 6 para. 43** (with ss. 27, 28, 29, 62); S.I. 2007/1897, **art. 2(1)(c)(d)**

F8 Words in s. 4(5)(f) substituted (1.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 14 para. 5(5)**; S.I. 2013/2200, art. 3(g)

Right of Crown to intervene.

Where a court is considering whether to make a declaration of incompatibility, the Crown is entitled to notice in accordance with rules of court.

In any case to which subsection (1) applies—

a Minister of the Crown (or a person nominated by him),
a member of the Scottish Executive,
a Northern Ireland Minister,

a Northern Ireland department, is entitled, on giving notice in accordance with rules of court, to be joined as a party to the proceedings.

Notice under subsection (2) may be given at any time during the proceedings.

A person who has been made a party to criminal proceedings (other than in Scotland) as the result of a notice under subsection (2) may, with leave, appeal to the [F9Supreme Court] against any declaration of incompatibility made in the proceedings.

In subsection (4)—

“criminal proceedings” includes all proceedings before the [F10Court Martial Appeal Court]; and

“leave” means leave granted by the court making the declaration of incompatibility or by the [F11Supreme Court]

Textual Amendments

F9 Words in s. 5(4) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 66(3)**; S.I. 2009/1604, **art. 2(d)**

F10 Words in s. 5(5) substituted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 157**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

F11 Words in s. 5(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 66(3)**; S.I. 2009/1604, **art. 2(d)**

Modifications etc. (not altering text)

C5 S. 5(2) functions made exercisable concurrently or jointly with the Welsh Ministers by 2006 c. 32, Sch. 3A para. 1 (as inserted (1.4.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 4 para. 1** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(p))

Public authorities

Acts of public authorities.

It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

Subsection (1) does not apply to an act if—

as the result of one or more provisions of primary legislation, the authority could not have acted differently; or
 in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions.

In this section “public authority” includes—

- a court or tribunal, and
- any person certain of whose functions are functions of a public nature, but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.

F12

In relation to a particular act, a person is not a public authority by virtue only of subsection (3)(b) if the nature of the act is private.

“An act” includes a failure to act but does not include a failure to— (a) introduce in, or lay before, Parliament a proposal for legislation; or (b) make any primary legislation or remedial order.

<p>Textual Amendments</p> <p>F12 S. 6(4) repealed (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 146, 148, Sch. 9 para. 66(4), Sch. 18 Pt. 5; S.I. 2009/1604, art. 2(d)(f)</p>
<p>Modifications etc. (not altering text)</p> <p>C6S. 6 excluded (5.3.2015) by Infrastructure Act 2015 (c. 7), ss. 8(3)(b), 57(1); S.I. 2015/481, reg. 2(a)</p> <p>C7 S. 6(1) applied (2.10.2000) by 1999 c. 33, ss. 65(2), 170(4); S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in arts. 3, 4, Sch. 2)</p> <p>C8S. 6(3)(b) modified (1.12.2008 with exception in art. 2(2) of commencing S.I.) by Health and Social Care Act 2008 (c. 14), ss. 145(1)-(4), 170 (with s. 145(5)); S.I. 2008/2994, art. 2(1)</p> <p>C9 S. 6(3)(b) applied (1.4.2015) by Care Act 2014 (c. 23), s. 73(2)(3)127; S.I. 2015/993, art. 2(r) (with transitional provisions in S.I. 2015/995)</p>

Proceedings.

A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may—

bring proceedings against the authority under this Act in the appropriate court or tribunal, or
rely on the Convention right or rights concerned in any legal proceedings, but only if he is (or would be) a victim of the unlawful act.

In subsection (1)(a) “appropriate court or tribunal” means such court or tribunal as may be determined in accordance with rules; and proceedings against an authority include a counterclaim or similar proceeding.

If the proceedings are brought on an application for judicial review, the applicant is to be taken to have a sufficient interest in relation to the unlawful act only if he is, or would be, a victim of that act.

If the proceedings are made by way of a petition for judicial review in Scotland, the applicant shall be taken to have title and interest to sue in relation to the unlawful act only if he is, or would be, a victim of that act.

Proceedings under subsection (1)(a) must be brought before the end of—

the period of one year beginning with the date on which the act complained of took place; or

such longer period as the court or tribunal considers equitable having regard to all the circumstances,

but that is subject to any rule imposing a stricter time limit in relation to the procedure in question.

In subsection (1)(b) “legal proceedings” includes—

proceedings brought by or at the instigation of a public authority; and (b)
an appeal against the decision of a court or tribunal.

For the purposes of this section, a person is a victim of an unlawful act only if he would be a victim for the purposes of Article 34 of the Convention if proceedings were brought in the European Court of Human Rights in respect of that act.

Nothing in this Act creates a criminal offence.

In this section “rules” means—

in relation to proceedings before a court or tribunal outside Scotland, rules made by ^{F13}. . . [^{F14}the Lord Chancellor or] the Secretary of State for the purposes of this section or rules of court,

in relation to proceedings before a court or tribunal in Scotland, rules made by the Secretary of State for those purposes,

in relation to proceedings before a tribunal in Northern Ireland—

which deals with transferred matters; and

for which no rules made under paragraph (a) are in force, rules made by a Northern Ireland department for those purposes,

and includes provision made by order under section 1 of the ^{M1}Courts and Legal Services Act 1990.

In making rules, regard must be had to section 9.

The Minister who has power to make rules in relation to a particular tribunal may, to the extent he considers it necessary to ensure that the tribunal can provide an appropriate remedy in relation to an act (or proposed act) of a public authority which is (or would be) unlawful as a result of section 6(1), by order add to— (a) the relief or remedies which the tribunal may grant; or (b) the grounds on which it may grant any of them.

An order made under subsection (11) may contain such incidental, supplemental, consequential or transitional provision as the Minister making it considers appropriate.

“The Minister” includes the Northern Ireland department concerned.

Textual Amendments

F13 Words in s. 7(9)(a) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(2)**

F14 Words in s. 7(9)(a) inserted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, **Sch. para. 3**,

Modifications etc. (not altering text)

C10 S. 7 amended (2.10.2000) by Regulation of Investigatory Powers Act 2000 (c. 23), **ss. 65(2)(a)**, 83 (with s. 82(3); S.I. 2000/2543, **art. 3**

C11S. 7: referred to (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), {s. 11(2)}

C12 S. 7(9)(a): functions of the Secretary of State to be exercisable concurrently with the Lord Chancellor (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), **art. 3(2)** (with arts. 4, 5)

C13S. 7(11): functions of the Secretary of State to be exercisable concurrently with the Lord Chancellor

(12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), **art. 3(2)** (with arts. 4, 5)

Judicial remedies.

In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.

But damages may be awarded only by a court which has power to award damages, or to order the payment of compensation, in civil proceedings.

No award of damages is to be made unless, taking account of all the circumstances of the case, including—

any other relief or remedy granted, or order made, in relation to the act in question (by that or any other court), and

the consequences of any decision (of that or any other court) in respect of that act,

the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made.

In determining—

whether to award damages, or
the amount of an award, the court must take into account the principles applied
by the European Court of Human Rights in relation to the award of
compensation under Article 41 of the Convention.

A public authority against which damages are awarded is to be treated—

in Scotland, for the purposes of section 3 of the ^{M2}Law Reform (Miscellaneous
Provisions) (Scotland) Act 1940 as if the award were made in an action of
damages in which the authority has been found liable in respect of loss or
damage to the person to whom the award is made;
for the purposes of the ^{M3}Civil Liability (Contribution) Act 1978 as liable in
respect of damage suffered by the person to whom the award is made.

In this section—

“court” includes a tribunal;
“damages” means damages for an unlawful act of a public authority;
and “unlawful” means unlawful under section 6(1).

Judicial acts.

Proceedings under section 7(1)(a) in respect of a judicial act may be brought only—

- (a) by exercising a right of appeal;
- (b) on an application (in Scotland a petition) for judicial review; or
- (c) in such other forum as may be prescribed by rules.

That does not affect any rule of law which prevents a court from being the subject
of judicial review.

In proceedings under this Act in respect of a judicial act done in good faith, damages
may not be awarded otherwise than to compensate a person to the extent required
by Article 5(5) of the Convention.

An award of damages permitted by subsection (3) is to be made against the Crown;
but no award may be made unless the appropriate person, if not a party to the
proceedings, is joined.

In this section—

“appropriate person” means the Minister responsible for the court concerned, or a person or government department nominated by him;

“court” includes a tribunal;

“judge” includes a member of a tribunal, a justice of the peace [^{F15}(or, in Northern Ireland, a lay magistrate)] and a clerk or other officer entitled to exercise the jurisdiction of a court;

“judicial act” means a judicial act of a court and includes an act done on the instructions, or on behalf, of a judge; and

“rules” has the same meaning as in section 7(9).

Textual Amendments

F15Words in definition s. 9(5) inserted (N.I.)(1.4.2005) by 2002 c. 26, s. 10(6), Sch. 4 para. 39; S.R.

2005/109, art. 2 Sch.

Remedial action

10 Power to take remedial action.

This section applies if—

a provision of legislation has been declared under section 4 to be incompatible with a Convention right and, if an appeal lies—

all persons who may appeal have stated in writing that they do not intend to do so;

the time for bringing an appeal has expired and no appeal has been brought within that time; or

an appeal brought within that time has been determined or abandoned; or

it appears to a Minister of the Crown or Her Majesty in Council that, having regard to a finding of the European Court of Human Rights made after the coming into force of this section in proceedings against the United Kingdom, a provision of legislation is incompatible with an obligation of the United Kingdom arising from the Convention.

If a Minister of the Crown considers that there are compelling reasons for proceeding under this section, he may by order make such amendments to the legislation as he considers necessary to remove the incompatibility.

If, in the case of subordinate legislation, a Minister of the Crown considers—

that it is necessary to amend the primary legislation under which the subordinate legislation in question was made, in order to enable the incompatibility to be removed, and

that there are compelling reasons for proceeding under this section, he may by order make such amendments to the primary legislation as he considers necessary.

This section also applies where the provision in question is in subordinate legislation and has been quashed, or declared invalid, by reason of incompatibility with a Convention right and the Minister proposes to proceed under paragraph 2(b) of Schedule 2.

If the legislation is an Order in Council, the power conferred by subsection (2) or (3) is exercisable by Her Majesty in Council.

In this section “legislation” does not include a Measure of the Church Assembly or of the General Synod of the Church of England.

Schedule 2 makes further provision about remedial orders.

Other rights and proceedings

Safeguard for existing human rights.

A person’s reliance on a Convention right does not restrict—

any other right or freedom conferred on him by or under any law having effect in any part of the United Kingdom; or

his right to make any claim or bring any proceedings which he could make or bring apart from sections 7 to 9.

Freedom of expression.

This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.

If the person against whom the application for relief is made (“the respondent”) is neither present nor represented, no such relief is to be granted unless the court is satisfied—

- (a) that the applicant has taken all practicable steps to notify the respondent;
- or (b) that there are compelling reasons why the respondent should not be notified.

No such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.

The court must have particular regard to the importance of the Convention right to freedom of expression and, where the proceedings relate to material which the respondent claims, or which appears to the court, to be journalistic, literary or artistic material (or to conduct connected with such material), to— (a) the extent to which—

- (i) the material has, or is about to, become available to the public; or
- (ii) it is, or would be, in the public interest for the material to be published; (b) any relevant privacy code.

In this section—

“court” includes a tribunal; and

“relief” includes any remedy or order (other than in criminal proceedings).

Freedom of thought, conscience and religion.

If a court’s determination of any question arising under this Act might affect the exercise by a religious organisation (itself or its members collectively) of the Convention right to freedom of thought, conscience and religion, it must have particular regard to the importance of that right.

In this section “court” includes a tribunal.

Derogations and reservations
Derogations.

In this Act “designated derogation” means— **F16**

.....
any derogation by the United Kingdom from an Article of the Convention,
or of any protocol to the Convention, which is designated for the purposes
of this Act in an order made by the [^{F17}Secretary of State]

F18

If a designated derogation is amended or replaced it ceases to be a designated
derogation.

But subsection (3) does not prevent the [^{F19}Secretary of State] from exercising his
power under subsection (1) ^{F20} . . . to make a fresh designation order in respect of the
Article concerned.

The [^{F21}Secretary of State] must by order make such amendments to Schedule 3 as
he considers appropriate to reflect—

any designation order; or (b) the effect of subsection (3).

A designation order may be made in anticipation of the making by the United
Kingdom of a proposed derogation.

Textual Amendments

F16S. 14(1): from “(a)” to “(b)” repealed (1.4.2001) by S.I. 2001/1216, **art. 2(a)**

F17 Words in s. 14 substituted (19.8.2003) by The Secretary of State for Constitutional
Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(1)**

F18S. 14(2) repealed (1.4.2001) by S.I. 2001/1216, **art. 2(b)**

F19 Words in s. 14 substituted (19.8.2003) by The Secretary of State for Constitutional
Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(1)**

F20S. 14(4): “(b)” repealed (1.4.2001) by S.I. 2001/1216, **art. 2(c)**

F21 Words in s. 14 substituted (19.8.2003) by The Secretary of State for Constitutional
Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(1)**

Reservations.

In this Act “designated reservation” means—

the United Kingdom’s reservation to Article 2 of the First Protocol to the Convention; and
any other reservation by the United Kingdom to an Article of the Convention, or of any protocol to the Convention, which is designated for the purposes of this Act in an order made by the [F22Secretary of State] .

The text of the reservation referred to in subsection (1)(a) is set out in Part II of Schedule 3.

If a designated reservation is withdrawn wholly or in part it ceases to be a designated reservation.

But subsection (3) does not prevent the [F23Secretary of State] from exercising his power under subsection (1)(b) to make a fresh designation order in respect of the Article concerned.

[F24Secretary of State] must by order make such amendments to this Act as he considers appropriate to reflect— (a) any designation order; or
(b) the effect of subsection (3).

<p>Textual Amendments</p> <p>F22 Words in s. 15 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)</p> <p>F23 Words in s. 15 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)</p> <p>F24 Words in s. 15 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)</p>
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Period for which designated derogations have effect.

If it has not already been withdrawn by the United Kingdom, a designated derogation ceases to have effect for the purposes of this Act— **F25**

.....
... , at the end of the period of five years beginning with the date on which the order designating it was made.

At any time before the period—

fixed by subsection (1) ^{F26} . . . , or

extended by an order under this subsection, comes to an end, the [^{F27}Secretary of State] may by order extend it by a further period of five years.

An order under section 14(1) ^{F28} . . . ceases to have effect at the end of the period for consideration, unless a resolution has been passed by each House approving the order.

Subsection (3) does not affect—

anything done in reliance on the order; or

the power to make a fresh order under section 14(1) ^{F28} . . .

In subsection (3) “period for consideration” means the period of forty days beginning with the day on which the order was made.

In calculating the period for consideration, no account is to be taken of any time during which—

Parliament is dissolved or prorogued; or

both Houses are adjourned for more than four days.

If a designated derogation is withdrawn by the United Kingdom, the [^{F29}Secretary of State] must by order make such amendments to this Act as he considers are required to reflect that withdrawal.

Textual Amendments

F25S. 16(1): words from “(a)” to “any other derogation” repealed (1.4.2001) by S.I. 2001/1216, **art. 3(a)**

F26 Words in s. 16(2)(a) repealed (1.4.2001) by S.I. 2001/1216, **art. 3(b)**

F27 Words in s. 16 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(1)**

F28S. 16(3)(4)(b): “(b)” repealed (1.4.2001) by S.I. 2001/1216, **art. 3(c)(d)**

F29 Words in s. 16 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(1)**

Periodic review of designated reservations.

The appropriate Minister must review the designated reservation referred to in section 15(1)(a)—

before the end of the period of five years beginning with the date on which section 1(2) came into force; and

if that designation is still in force, before the end of the period of five years beginning with the date on which the last report relating to it was laid under subsection (3).

The appropriate Minister must review each of the other designated reservations (if any)—

before the end of the period of five years beginning with the date on which the order designating the reservation first came into force; and

if the designation is still in force, before the end of the period of five years beginning with the date on which the last report relating to it was laid under subsection (3).

The Minister conducting a review under this section must prepare a report on the result of the review and lay a copy of it before each House of Parliament.

Judges of the European Court of Human Rights

18 Appointment to European Court of Human Rights.

In this section “judicial office” means the office of—

Lord Justice of Appeal, Justice of the High Court or Circuit judge, in England and Wales;

judge of the Court of Session or sheriff, in Scotland;

Lord Justice of Appeal, judge of the High Court or county court judge, in Northern Ireland.

The holder of a judicial office may become a judge of the European Court of Human Rights (“the Court”) without being required to relinquish his office.

But he is not required to perform the duties of his judicial office while he is a judge of the Court.

In respect of any period during which he is a judge of the Court—

a Lord Justice of Appeal or Justice of the High Court is not to count as a judge of the relevant court for the purposes of section 2(1) or 4(1) of the [F³⁰Senior Courts Act 1981] (maximum number of judges) nor as a judge of the [F³¹Senior Courts] for the purposes of section 12(1) to (6) of that Act (salaries etc.);

a judge of the Court of Session is not to count as a judge of that court for the purposes of section 1(1) of the M⁴Court of Session Act 1988 (maximum number of judges) or of section 9(1)(c) of the M⁵Administration of Justice Act 1973 (“the 1973 Act”) (salaries etc.);

a Lord Justice of Appeal or judge of the High Court in Northern Ireland is not to count as a judge of the relevant court for the purposes of section 2(1) or 3(1) of the M⁶Judicature (Northern Ireland) Act 1978 (maximum number of judges) nor as a judge of the [F³²Court of Judicature] of Northern Ireland for the purposes of section 9(1)(d) of the 1973 Act (salaries etc.);

a Circuit judge is not to count as such for the purposes of section 18 of the M⁷Courts Act 1971 (salaries etc.);

a sheriff is not to count as such for the purposes of section 14 of the M⁸Sheriff Courts (Scotland) Act 1907 (salaries etc.);

a county court judge of Northern Ireland is not to count as such for the purposes of section 106 of the M⁹County Courts Act Northern Ireland) 1959 (salaries etc.).

If a sheriff principal is appointed a judge of the Court, section 11(1) of the M¹⁰Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal) applies, while he holds that appointment, as if his office is vacant.

Schedule 4 makes provision about judicial pensions in relation to the holder of a judicial office who serves as a judge of the Court.

The Lord Chancellor or the Secretary of State may by order make such transitional provision (including, in particular, provision for a temporary increase in the maximum number of judges) as he considers appropriate in relation to any holder of a judicial office who has completed his service as a judge of the Court.

[^{F33}(7A) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(a)—

before deciding what transitional provision, it is appropriate to make, the person making the order must consult the Lord Chief Justice of England and Wales;

before making the order, that person must consult the Lord Chief Justice of England and Wales.

(7B) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(c)—

before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of Northern Ireland;

before making the order, that person must consult the Lord Chief Justice of Northern Ireland.

(7C) The Lord Chief Justice of England and Wales may nominate a judicial office holder (within the meaning of section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.

(7D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

a Lord Justice of Appeal (as defined in section 88 of that Act).]

Textual Amendments

F30 Words in s. 18(4)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148,

Sch. 11 para. 4; S.I. 2009/1604, art. 2(d)

F31 Words in s. 18(4)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148,

Sch. 11 para. 4; S.I. 2009/1604, art. 2(d)

F32 Words in s. 18(4)(c) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 6**; S.I. 2009/1604, **art. 2(d)**

F33 S. 18(7A)-(7D) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 278**; S.I. 2006/1014, **art. 2**, Sch. 1 para. 11(v)

Parliamentary procedure

19 Statements of compatibility.

A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill—

make a statement to the effect that in his view the provisions of the Bill are compatible with the Convention rights (“a statement of compatibility”); or
make a statement to the effect that although he is unable to make a statement of compatibility the government nevertheless wishes the House to proceed with the Bill.

The statement must be in writing and be published in such manner as the Minister making it considers appropriate.

Supplemental

Orders etc. under this Act.

Any power of a Minister of the Crown to make an order under this Act is exercisable by statutory instrument.

The power of ^{F34}. . . [^{F35}the Lord Chancellor or] the Secretary of State to make rules (other than rules of court) under section 2(3) or 7(9) is exercisable by statutory instrument.

Any statutory instrument made under section 14, 15 or 16(7) must be laid before Parliament.

No order may be made by ^{F36}. . . [^{F37}the Lord Chancellor or] the Secretary of State under section 1(4), 7(11) or 16(2) unless a draft of the order has been laid before, and approved by, each House of Parliament.

Any statutory instrument made under section 18(7) or Schedule 4, or to which subsection (2) applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

The power of a Northern Ireland department to make—

rules under section 2(3)(c) or 7(9)(c), or

an order under section 7(11), is exercisable by statutory rule for the purposes of the ^{M11}Statutory Rules (Northern Ireland) Order 1979.

Any rules made under section 2(3)(c) or 7(9)(c) shall be subject to negative resolution; and section 41(6) of the ^{M12}Interpretation Act (Northern Ireland) 1954 (meaning of “subject to negative resolution”) shall apply as if the power to make the rules were conferred by an Act of the Northern Ireland Assembly.

No order may be made by a Northern Ireland department under section 7(11) unless a draft of the order has been laid before, and approved by, the Northern Ireland Assembly.

Textual Amendments

F34 Words in s. 20(2) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(2)**

F35 Words in s. 20(2) inserted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, **Sch. para. 3**

F36 Words in s. 20(4) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, **Sch. 2 para. 10(2)**

F37 Words in s. 20(4) inserted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, **Sch. para. 3**

Interpretation, etc.

In this Act—

“amend” includes repeal and apply (with or without modifications);

“the appropriate Minister” means the Minister of the Crown having charge of the appropriate authorised government department (within the meaning of the ^{M13}Crown Proceedings Act 1947);

“the Commission” means the European Commission of Human Rights;

“the Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the

United Kingdom;

“declaration of incompatibility” means a declaration under section 4;

“Minister of the Crown” has the same meaning as in the Ministers of the **M14** Crown Act 1975;

“Northern Ireland Minister” includes the First Minister and the deputy First

Minister in Northern Ireland;

“primary legislation” means any—

public general Act;

local and personal Act;

private Act;

Measure of the Church Assembly;

Measure of the General Synod of the Church of England;

Order in Council—

made in exercise of Her Majesty’s Royal Prerogative;

made under section 38(1)(a) of the ^{M15}Northern Ireland Constitution Act

1973 or the corresponding provision of the Northern Ireland Act 1998; or

amending an Act of a kind mentioned in paragraph (a), (b) or (c);

and includes an order or other instrument made under primary legislation (otherwise than by the [^{F38}Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government,] a member of the Scottish Executive, a Northern Ireland Minister or a Northern Ireland department) to the extent to which it operates to bring one or more provisions of that legislation into force or amends any primary legislation;

“the First Protocol” means the protocol to the Convention agreed at Paris on 20th March 1952; **F39**

...

“the Eleventh Protocol” means the protocol to the Convention (restructuring the control machinery established by the Convention) agreed at Strasbourg on 11th May 1994;

[^{F40}“the Thirteenth Protocol” means the protocol to the Convention (concerning the abolition of the death penalty in all circumstances) agreed at

Vilnius on 3rd May 2002;]

“remedial order” means an order under section 10;

“subordinate legislation” means any—

(a) Order in Council other than one—

made in exercise of Her Majesty’s Royal Prerogative;

made under section 38(1)(a) of the Northern Ireland Constitution Act

1973 or the corresponding provision of the Northern Ireland Act 1998; or

(iii) amending an Act of a kind mentioned in the definition of primary legislation;

(b) Act of the Scottish Parliament;

(ba) [^{F41}Measure of the National Assembly for Wales;

(bb) Act of the National Assembly for Wales;]

Act of the Parliament of Northern Ireland;

Measure of the Assembly established under section 1 of the ^{M16}Northern Ireland Assembly Act 1973;

Act of the Northern Ireland Assembly;

order, rules, regulations, scheme, warrant, byelaw or other instrument made under primary legislation (except to the extent to which it operates to bring one or more provisions of that legislation into force or amends any primary legislation);

order, rules, regulations, scheme, warrant, byelaw or other instrument made under legislation mentioned in paragraph (b), (c), (d) or (e) or made under an Order in Council applying only to Northern Ireland;

order, rules, regulations, scheme, warrant, byelaw or other instrument made by a member of the Scottish Executive [^{F42}, Welsh Ministers, the

First Minister for Wales, the Counsel General to the Welsh Assembly Government,] a Northern Ireland Minister or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty;

“transferred matters” has the same meaning as in the Northern Ireland Act 1998; and

“tribunal” means any tribunal in which legal proceedings may be brought.

The references in paragraphs (b) and (c) of section 2(1) to Articles are to Articles of the Convention as they had effect immediately before the coming into force of the Eleventh Protocol.

The reference in paragraph (d) of section 2(1) to Article 46 includes a reference to Articles 32 and 54 of the Convention as they had effect immediately before the coming into force of the Eleventh Protocol.

The references in section 2(1) to a report or decision of the Commission or a decision of the Committee of Ministers include references to a report or decision made as provided by paragraphs 3, 4 and 6 of Article 5 of the Eleventh Protocol (transitional provisions).

F43

Extent Information

E2For the extent of s. 21 outside the U.K. see s. 22(7)

Textual Amendments

F38 Words in the definition of "primary legislation" in s. 21(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para.56(2)** (with Sch. 11 para. 22) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after

the end of "the initial period" (which ended with the day of the first appointment of a First Minister on

25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F39 S. 21(1): definition of "the Sixth Protocol" omitted (22.6.2004) by virtue of The Human Rights Act 1998 (Amendment) Order 2004 (S.I. 2004/1574), **art. 2(2)**

F40 S. 21(1): definition of "the Thirteenth Protocol" inserted (22.6.2004) by virtue of The Human Rights Act 1998 (Amendment) Order 2004 (S.I. 2004/1574), **art. 2(2)**

F41 Words in the definition of "subordinate legislation" in s. 21(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para.56(3)** (with Sch. 11 para. 22) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on

25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F42 Words in the definition of "subordinate legislation" in s. 21(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para.56(4)** (with Sch. 11 para. 22) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on

25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F43S. 21(5) repealed (28.3.2009 for certain purposes and prosp. otherwise) by Armed Forces Act 2006

(c. 52), ss. 378, 383, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059)

22 Short title, commencement, application and extent.

This Act may be cited as the Human Rights Act 1998.

Sections 18, 20 and 21(5) and this section come into force on the passing of this Act.

The other provisions of this Act come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.

Paragraph (b) of subsection (1) of section 7 applies to proceedings brought by or at the instigation of a public authority whenever the act in question took place; but otherwise that subsection does not apply to an act taking place before the coming into force of that section.

This Act binds the Crown.

This Act extends to Northern Ireland.

February 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Subordinate Legislation Made

P1S. 22(3) power partly exercised: 24.11.1998 appointed for specified provisions by S.I. 1998/2882, **art.**

2

S. 22(3) power fully exercised: 2.10.2000 appointed for remaining provisions by S.I. 2000/1851, **art. 2**

Textual Amendments

F44S. 22(7) repealed (28.3.2009 for certain purposes and prosp. otherwise) by Armed Forces Act 2006

(c. 52), ss. 378, 383, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059)

THE ARTICLES

PART I
THE CONVENTION

RIGHTS AND FREEDOMS

ARTICLE 2

RIGHT TO LIFE

Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- in defence of any person from unlawful violence;
- in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- in action lawfully taken for the purpose of quelling a riot or insurrection.

ARTICLE 3

PROHIBITION OF TORTURE

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

ARTICLE 4

PROHIBITION OF SLAVERY AND FORCED

LABOUR 1 No one shall be held in slavery or servitude.

No one shall be required to perform forced or compulsory labour.

For the purpose of this Article the term "forced or compulsory labour" shall not include:

any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;

any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

any work or service which forms part of normal civic obligations.

ARTICLE 5

RIGHT TO LIBERTY AND SECURITY

Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

the lawful detention of a person after conviction by a competent court;

the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

ARTICLE 6

RIGHT TO A FAIR TRIAL

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

Everyone charged with a criminal offence has the following minimum rights:

to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

to have adequate time and facilities for the preparation of his defence;

to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

ARTICLE 7

NO PUNISHMENT WITHOUT LAW

No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

ARTICLE 8

RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of

the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 9

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 10

FREEDOM OF EXPRESSION

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 11

FREEDOM OF ASSEMBLY AND ASSOCIATION

Everyone has the right to freedom of peaceful assembly and to freedom of

association with others, including the right to form and to join trade unions for the protection of his interests.

No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

ARTICLE 12

RIGHT TO MARRY

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

ARTICLE 14

PROHIBITION OF DISCRIMINATION

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

ARTICLE 16

RESTRICTIONS ON POLITICAL ACTIVITY OF ALIENS

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

ARTICLE 17

PROHIBITION OF ABUSE OF RIGHTS

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

ARTICLE 18

LIMITATION ON USE OF RESTRICTIONS ON RIGHTS

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

PART II

THE FIRST PROTOCOL

ARTICLE 1

PROTECTION OF PROPERTY

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

ARTICLE 2

RIGHT TO EDUCATION

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

ARTICLE 3

RIGHT TO FREE ELECTIONS

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

[^{F45}PART 3

***ARTICLE 1 OF THE THIRTEENTH PROTOCOL
ABOLITION OF THE DEATH PENALTY***

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.]

SCHEDULE 2 – Remedial

Orders

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PART III
THE SIXTH PROTOCOL
ARTICLE 1

ABOLITION OF THE DEATH PENALTY

ARTICLE 2

DEATH PENALTY IN TIME OF WAR

SCHEDULE 2

Section 10.

REMEDIAL ORDERS

Orders

1 (1) A remedial order may—

contain such incidental, supplemental, consequential or transitional provision as the person making it considers appropriate;
be made so as to have effect from a date earlier than that on which it is made;
(c) make provision for the delegation of specific functions; (d) make different provision for different cases.

The power conferred by sub-paragraph (1)(a) includes—

power to amend primary legislation (including primary legislation other than that which contains the incompatible provision); and
power to amend or revoke subordinate legislation (including subordinate legislation other than that which contains the incompatible provision).

A remedial order may be made so as to have the same extent as the legislation which it affects.

No person is to be guilty of an offence solely as a result of the retrospective effect of a remedial order.

Procedure

2 No remedial order may be made unless—

a draft of the order has been approved by a resolution of each House of Parliament made after the end of the period of 60 days beginning with the day on which the draft was laid; or
it is declared in the order that it appears to the person making it that, because of the urgency of the matter, it is necessary to make the order without a draft being so approved.

SCHEDULE 2 – Remedial Orders

Orders laid in draft

3 (1) No draft may be laid under paragraph 2(a) unless—

the person proposing to make the order has laid before Parliament a document which contains a draft of the proposed order and the required information; and

the period of 60 days, beginning with the day on which the document required by this sub-paragraph was laid, has ended.

(2) If representations have been made during that period, the draft laid under paragraph

2(a) must be accompanied by a statement containing—

a summary of the representations; and

if, as a result of the representations, the proposed order has been changed, details of the changes.

Urgent cases

4 (1) If a remedial order (“the original order”) is made without being approved in draft, the person making it must lay it before Parliament, accompanied by the required information, after it is made.

If representations have been made during the period of 60 days beginning with the day on which the original order was made, the person making it must (after the end of that period) lay before Parliament a statement containing—

a summary of the representations; and

if, as a result of the representations, he considers it appropriate to make changes to the original order, details of the changes.

If sub-paragraph (2)(b) applies, the person making the statement must—

make a further remedial order replacing the original order; and (b) lay the replacement order before Parliament.

If, at the end of the period of 120 days beginning with the day on which the original order was made, a resolution has not been passed by each House approving the original or replacement order, the order ceases to have effect (but without that affecting anything previously done under either order or the power to make a fresh remedial order).

Definitions

5 In this Schedule—

“representations” means representations about a remedial order (or proposed remedial order) made to the person making (or proposing to make) it and includes any relevant Parliamentary report or resolution; and

“required information” means—

an explanation of the incompatibility which the order (or proposed order) seeks to remove, including particulars of the relevant declaration, finding or order; and

a statement of the reasons for proceeding under section 10 and for making an order in those terms.

SCHEDULE 3 – Derogation and Reservation

Calculating periods

6 In calculating any period for the purposes of this Schedule, no account is to be taken of any time during which—

Parliament is dissolved or prorogued; or

both Houses are adjourned for more than four days.

[^{F49}7(1) This paragraph applies in relation to—

(a) any remedial order made, and any draft of such an order proposed to be made,—

by the Scottish Ministers; or

within devolved competence (within the meaning of the Scotland Act 1998) by Her Majesty in Council; and

(b) any document or statement to be laid in connection with such an order (or proposed order).

This Schedule has effect in relation to any such order (or proposed order), document or statement subject to the following modifications.

Any reference to Parliament, each House of Parliament or both Houses of Parliament shall be construed as a reference to the Scottish Parliament.

Paragraph 6 does not apply and instead, in calculating any period for the purposes of this Schedule, no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than four days.]

SCHEDULE 3

Sections 14 and 15.

DEROGATION AND RESERVATION

F50F50

PART I

DEROGATION

Textual Amendments

F50 Sch. 3 Pt. I repealed (8.4.2005) by The Human Rights Act 1998 (Amendment) Order 2005 (S.I. 2005/1071), **art. 2**

United Kingdom's derogation from Article 5(1)

SCHEDULE 4 – Judicial Pensions

PART II
RESERVATION

At the time of signing the present (First) Protocol, I declare that, in view of certain provisions of the Education Acts in the United Kingdom, the principle affirmed in the second sentence of Article 2 is accepted by the United Kingdom only so far as it is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure.

Dated 20 March 1952

SCHEDULE 4

Section 18(6).

JUDICIAL PENSIONS

Duty to make orders about pensions

1 (1) The appropriate Minister must by order make provision with respect to pensions payable to or in respect of any holder of a judicial office who serves as an ECHR judge.

(2) A pensions order must include such provision as the Minister making it considers is necessary to secure that—

an ECHR judge who was, immediately before his appointment as an ECHR judge, a member of a judicial pension scheme is entitled to remain as a member of that scheme;

the terms on which he remains a member of the scheme are those which would have been applicable had he not been appointed as an ECHR judge; and

entitlement to benefits payable in accordance with the scheme continues to be determined as if, while serving as an ECHR judge, his salary was that which would (but for section 18(4)) have been payable to him in respect of his continuing service as the holder of his judicial office.

Contributions

2 A pensions order may, in particular, make provision—

for any contributions which are payable by a person who remains a member of a scheme as a result of the order, and which would otherwise be payable by deduction from his salary, to be made otherwise than by deduction from his salary as an ECHR judge; and

for such contributions to be collected in such manner as may be determined by the administrators of the scheme.

SCHEDULE 4 – Judicial

Pensions

Amendments of other enactments

3 A pensions order may amend any provision of, or made under, a pensions Act in such manner and to such extent as the Minister making the order considers necessary or expedient to ensure the proper administration of any scheme to which it relates.

Definitions

4 In this Schedule—

“appropriate Minister” means—
in relation to any judicial office whose jurisdiction is exercisable exclusively in relation to Scotland, the Secretary of State; and
otherwise, the Lord Chancellor;

“ECHR judge” means the holder of a judicial office who is serving as a judge of the Court;

“judicial pension scheme” means a scheme established by and in accordance with a pensions Act;

“pensions Act” means—
the ^{M17}County Courts Act Northern Ireland) 1959;
the ^{M18}Sheriffs’ Pensions (Scotland) Act 1961;
the ^{M19}Judicial Pensions Act 1981; or
the ^{M20}Judicial Pensions and Retirement Act 1993;
[^{F51}the Public Service Pensions Act 2013;] and

“pensions order” means an order made under paragraph 1.

Textual Amendments

F51 Words in Sch. 4 para. 4 inserted (1.4.2014) by Public Service Pensions Act 2013 (c. 25), s. 41(2), **Sch. 8 para. 26** (with Sch. 11 para. 8); S.I. 2014/839, art. 4(2)(k)

Marginal Citations

M17 1959 c. 25 (N.I.).

M18 1961 c. 42.

M19 1981 c. 20.

M20 1993 c. 8.

Changes to legislation:

Human Rights Act 1998 is up to date with all changes known to be in force on or before 07 February 2020. There are changes that may be brought into force at a future date.

Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act modified by 2018 c. 16 Sch. 8 para. 30

The Equality Act (Sexual Orientation) Regulations

STATUTORY INSTRUMENTS

2007 No. 1263

EQUALITY

The Equality Act (Sexual Orientation) Regulations 2007

Made - - - -

17th April 2007

Coming into force - -

30th April 2007

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SCHEDULE 3 — Responsible bodies of Educational Establishments

The Secretary of State for Communities and Local Government makes the following Regulations in exercise of the powers conferred by section 81(1) of the Equality Act 2006(a).

In accordance with section 81(4)(b) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Equality Act (Sexual Orientation) Regulations 2007 and shall come into force on 30th April 2007.

(2) These Regulations do not extend to Northern Ireland.

Interpretation

2.—(1) References in these Regulations to discrimination are to any discrimination falling within regulation 3 (discrimination on grounds of sexual orientation) and related expressions shall be construed accordingly.

(2) In these Regulations—

“the Commission” means the Commission for Equality and Human Rights,

“criminal investigation” means an investigation into the commission of an alleged offence, and a decision whether to institute criminal proceedings,

“enactment” includes an enactment in or under an Act of the Scottish Parliament,

“fostering agency” means a fostering agency within the meaning of section 4(4) of the Care Standards Act 2000(**b**) and a person providing a fostering service within the meaning of section 2(14)(b) of the Regulation of Care (Scotland) Act 2001(**c**),

“the 2006 Act” means the Equality Act 2006,

“voluntary adoption agency” means an adoption society within the meaning of the Adoption and Children Act 2002(**d**) which is a voluntary organisation within the meaning of that Act, and a person, providing an adoption service within the meaning of section 2(11)(b) of the Regulation of Care (Scotland) Act 2001(**e**).

To be substituted by section 7 of the Adoption and Children Act (Scotland) 2007 (asp 4) from a date to be appointed.

a reference to act or action includes a reference to deliberate omission,

a reference to refusal includes a reference to deliberate omission, and

a reference to providing a service, facility or benefit of any kind includes a reference to facilitating access to the service, facility or benefit.

Discrimination on grounds of sexual orientation

3.—(1) For the purposes of these Regulations, a person (“A”) discriminates against another (“B”) if, on grounds of the sexual orientation of B or any other person except A, A treats B less favourably than he treats or would treat others (in cases where there is no material difference in the relevant circumstances).

In paragraph (1) a reference to a person’s sexual orientation includes a reference to a sexual orientation which he is thought to have.

For the purposes of these Regulations, a person (“A”) discriminates against another (“B”) if

A applies to B a provision, criterion or practice—

which he applies or would apply equally to persons not of B’s sexual orientation, which puts persons of B’s sexual orientation at a disadvantage compared to some or all others (where there is no material difference in the relevant circumstances), which puts B at a disadvantage compared to some or all persons who are not of his sexual orientation (where there is no material difference in the relevant circumstances), and

which A cannot reasonably justify by reference to matters other than B’s sexual orientation.

For the purposes of paragraphs (1) and (3), the fact that one of the persons (whether or not B) is a civil partner while the other is married shall not be treated as a material difference in the relevant circumstances.

A person (“A”) discriminates against another (“B”) if A treats B less favourably than he treats or would treat another and does so by reason of the fact that, or by reason of A’s knowledge or suspicion that, B—

has brought or intended to bring, or intends to bring, proceedings under these Regulations,

has given or intended to give, or intends to give, evidence in proceedings under these Regulations,

has provided or intended to provide, or intends to provide, information in connection with proceedings under these Regulations,

has done or intended to do, or intends to do, any other thing under or in connection with these Regulations, or

has alleged or intended to allege, or intends to allege, that a person has contravened these Regulations.

(6) Paragraph (5) does not apply where A's treatment of B relates to B's— (a) making or intending to make, not in good faith, a false allegation; or

(b) giving or intending to give, not in good faith, false information or evidence.

Goods, facilities and services

4.—(1) It is unlawful for a person ("A") concerned with the provision to the public or a section of the public of goods, facilities or services to discriminate against a person ("B") who seeks to obtain or to use those goods, facilities or services—

by refusing to provide B with goods, facilities or services,

by refusing to provide B with goods, facilities or services of a quality which is the same as or similar to the quality of goods, facilities or services that A normally provides to—

the public, or

a section of the public to which B belongs,

by refusing to provide B with goods, facilities or services in a manner which is the same as or similar to that in which A normally provides goods, facilities or services to— (i) the public, or

a section of the public to which B belongs, or

by refusing to provide B with goods, facilities or services on terms which are the same as or similar to the terms on which A normally provides goods, facilities or services to— (i) the public, or

a section of the public to which B belongs.

(2) Paragraph (1) applies, in particular, to—

access to and use of a place which the public are permitted to enter,

accommodation in a hotel, boarding house or similar establishment,

facilities by way of banking or insurance or for grants, loans, credit or finance,

facilities for entertainment, recreation or refreshment,

facilities for transport or travel, and

the services of a profession or trade.

(3) Paragraph (1) does not apply —

in relation to the provision of goods, facilities or services by a person exercising a public function, or

to discrimination in relation to the provision of goods, facilities or services, where such discrimination—

is unlawful by virtue of another provision of these regulations or by virtue of a provision of the Employment Equality (Sexual Orientation) Regulations 2003(a) (“the 2003 Regulations”), or

would be unlawful by virtue of another provision of these Regulations or of the 2003 Regulations but for an express exception.

(4) For the purposes of paragraph (1) it is immaterial whether or not a person charges for the provision of goods, facilities or services.

Premises

5.—(1) It is unlawful for a person to discriminate against another— (a) in the terms on which he offers to dispose of premises to him,

by refusing to dispose of premises to him, or

in connection with a list of persons requiring premises.

(2) It is unlawful for a person managing premises to discriminate against an occupier—

in the manner in which he provides access to a benefit or facility,

by refusing access to a benefit or facility, (c) by evicting him, or

(d) by subjecting him to any other detriment.

It is unlawful for a person to discriminate against another by refusing permission for the disposal of premises to him.

This regulation only applies to premises in Great Britain.

Exceptions to regulations 4 and 5

6. —(1) Regulation 4 does not apply to anything done by a person as a participant in arrangements under which he (for reward or not) takes into his home, and treats as if they were members of his family, children, elderly persons, or persons requiring a special degree of care and attention.

(2) Regulation 5 does not apply to anything done in relation to the disposal or management of a part of any premises by a person (“the landlord”) if—

the landlord or a near relative of his resides, and intends to continue to reside, in another part of the premises,

the premises include parts (other than storage areas and means of access) shared by residents of the premises, and

the premises are not normally sufficient to accommodate—

in the case of premises to be occupied by households, more than two households in addition to that of the landlord or his near relative, or

in the case of premises to be occupied by individuals, more than six individuals in addition to the landlord or his near relative.

(3) In paragraph (1) “near relative” means—

spouse or civil partner,

parent or grandparent,

child or grandchild (whether or not legitimate)

spouse or civil partner of a child or grandchild,

brother or sister (whether of full blood or half blood), and

any of the relationships listed in sub-paragraphs (b) to (e) that arises through marriage, civil partnership or adoption.

(4) Regulation 5(1) and (3) shall not apply to the disposal of premises by a person who—

owns an estate or interest in the premises,

occupies the whole of the premises,

does not use the services of an estate agent for the purposes of the disposal, and

does not arrange for the publication of an advertisement for the purposes of the disposal.

Educational establishments, local education authorities, and education authorities

7.—(1) It is unlawful for the responsible body of an educational establishment listed in Schedule

3 to discriminate against a person—

in the terms on which it offers to admit him as a pupil,

by refusing to accept an application to admit him as a pupil, or (c) where he is a pupil of the establishment—

in the way in which it affords him access to any benefit, facility or service,

by refusing him access to a benefit, facility or service,

by excluding him from the establishment, or (iv) by subjecting him to any other detriment.

(2) In the application of this regulation and Schedule 3 to England and Wales—
an expression also used in any of the Education Acts (within the meaning of section 578 of the Education Act 1996(a)) has the same meaning as in that Act, and

“pupil” in relation to an establishment includes any person who receives education at that establishment.

In the application of this regulation and Schedule 3 to Scotland, an expression also used in the Education (Scotland) Act 1980(a) has the same meaning as in that Act.

It is unlawful for a local education authority (in England and Wales) or an education authority (in Scotland) in the exercise of their functions to discriminate against a person.

Public authorities

8.—(1) It is unlawful for a public authority exercising a function to do any act which constitutes discrimination.

(2) In paragraph (1)—

“public authority” includes any person who has functions of a public nature (subject to paragraph (3)), and

“function” means function of a public nature.

(3) Paragraph (1) does not apply to— (a) a

body listed in Part 1 of Schedule 1, or

(b) the functions or actions listed in Part 2 of that Schedule.

Discriminatory practices

9.—(1) It is unlawful for a person to operate a practice which would be likely to result in unlawful discrimination if applied to persons of any sexual orientation.

It is unlawful for a person to adopt or maintain a practice or arrangement in accordance with which in certain circumstances a practice would be operated in contravention of paragraph (1).

In this regulation “unlawful discrimination” includes discrimination which is unlawful by virtue of any of regulations 4 to 8.

Proceedings in respect of a contravention of this regulation may be brought only—
by the Commission, and
in accordance with sections 20 to 24 of the 2006 Act.

Discriminatory advertisements

10.—(1) It is unlawful to publish, or to cause to be published, an advertisement which indicates (expressly or impliedly) an intention by any person to discriminate unlawfully.

In this regulation the reference to unlawful discrimination is a reference to discrimination which is unlawful by virtue of any of regulations 4 to 8.

Proceedings in respect of a contravention of this regulation may be brought only—
by the Commission, and
in accordance with section 25 of the 2006 Act.

(4) A person who publishes an advertisement shall not be liable in proceedings under that section in respect of the publication of the advertisement if he proves that—

(a) he published in reliance on a statement, made by a person causing the advertisement to be published, that paragraph (1) would not apply, and (b) it was reasonable to rely on that statement.

(5) A person who knowingly or recklessly makes a false statement of the kind mentioned in paragraph (4)(a) commits an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Instructing or causing discrimination

11.—(1) It is unlawful for a person—

to instruct another to discriminate unlawfully,

to cause or attempt to cause another to discriminate unlawfully, or (c) to

induce or attempt to induce another to discriminate unlawfully.

For the purposes of paragraph (1)(c) inducement may be direct or indirect.

In this regulation a reference to unlawful discrimination is a reference to discrimination which is unlawful by virtue of any of regulations 4 to 8.

Proceedings in respect of a contravention of this regulation may be brought only—

by the Commission, and

in accordance with section 25 of the 2006 Act.

Statutory requirements

12. Nothing in these Regulations shall make it unlawful to do anything which is necessary, or in so far as it is necessary, for the purpose of complying with—

an Act of Parliament,

an Act of the Scottish Parliament,

legislation made or to be made—

by a Minister of the Crown,

by Order in Council,

by the Scottish Ministers or a member of the Scottish Executive,

by the National Assembly for Wales, or

by or by virtue of a Measure of the General Synod of the Church of England, or

a condition or requirement imposed by a Minister of the Crown by virtue of anything listed in paragraphs (a) to (c).

Education, training and welfare

13. Nothing in these Regulations shall make it unlawful for any person to do anything by way of—

meeting special needs for education, training or welfare of persons on grounds of their sexual orientation, or

providing ancillary benefits in connection with meeting the needs mentioned in paragraph

Organisations relating to religion or belief

14.—(1) Subject to paragraphs (2) and (8) this regulation applies to an organisation the purpose of which is—

- to practise a religion or belief,
- to advance a religion or belief,
- to teach the practice or principles of a religion or belief,
- to enable persons of a religion or belief to receive any benefit, or to engage in any activity, within the framework of that religion or belief.

(2) This regulation does not apply —

- to an organisation whose sole or main purpose is commercial,
- in relation to regulation 7 (Educational establishments, local educational authorities, and education authorities).

(3) Nothing in these Regulations shall make it unlawful for an organisation to which this regulation applies, or for anyone acting on behalf of or under the auspices of an organisation to which this regulation applies—

- to restrict membership of the organisation,
- to restrict participation in activities undertaken by the organisation or on its behalf or under its auspices,
- to restrict the provision of goods, facilities or services in the course of activities undertaken by the organisation or on its behalf or under its auspices, or
- to restrict the use or disposal of premises owned or controlled by the organisation, in respect of a person on the ground of his sexual orientation.

(4) Nothing in these Regulations shall make it unlawful for a minister—

- to restrict participation in activities carried on in the performance of his functions in connection with or in respect of an organisation to which this regulation relates, or
- to restrict the provision of goods, facilities or services in the course of activities carried on in the performance of his functions in connection with or in respect of an organisation to which this regulation relates,

in respect of a person on the ground of his sexual orientation.

(5) Paragraphs (3) and (4) permit a restriction only if imposed —

(a) if it is necessary to comply with the doctrine of the organisation;

or

(b) so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.

(6) In paragraph (4) the reference to a minister is a reference to a minister of religion, or other person, who —

performs functions in connection with a religion or belief to which an organisation, to which this regulation applies, relates; and

holds an office or appointment in, or is accredited, approved or recognised for purposes of, an organisation to which this regulation applies.

For the purposes of paragraph (3)(d), “disposal” shall not include disposal of an interest in premises by way of sale where the interest being disposed of is the entirety of the organisation's interest in the premises, or the entirety of the interest in respect of which the organisation has power of disposal.

This regulation does not apply where an organisation of the kind referred to in paragraph (1) or any person acting on its behalf or under its auspices— (a) makes provision of a kind referred to in regulation 4, or

(b) exercises a function of a kind referred to in regulation 8,

on behalf of a public authority under the terms of a contract for provision of that kind between that authority and an organisation referred to in paragraph (1) or, if different, the person making that provision.

Adoption and fostering agencies

15.—(1) Paragraph (2) applies to a voluntary adoption agency or fostering agency that — (a) is an organisation of the kind referred to in regulation 14(1), or (b) acts on behalf of or under the auspices of such an organisation.

Subject to paragraph (3), during the period from the commencement of these Regulations until 31st December 2008, nothing in these Regulations shall make it unlawful for such a voluntary adoption agency or fostering agency to restrict the provision of its services or facilities to a person on the grounds of his sexual orientation.

If such a voluntary adoption agency or fostering agency restricts the provision of those services or facilities as mentioned in paragraph (2), it must at the same time refer the person seeking them to another person who the agency believes provides similar services or facilities to persons of his sexual orientation.

Paragraph (2) permits a restriction only if imposed —

if it is necessary to comply with the doctrine of the organisation, or
so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.

Associations

16.—(1) This regulation applies to any association of persons (however described, whether corporate or unincorporated, and whether or not its activities are carried on for profit) if—

it has 25 or more members, and
admission to membership is regulated by its constitution and is so conducted that the members do not constitute a section of the public within the meaning of regulation 4(1); and
it is not a trade organisation.

In this regulation—

“trade organisation” means an organisation of workers, an organisation of employers, or any other organisation whose members carry on a particular profession or trade for the purposes of which the organisation exists,

“profession” includes any vocation or occupation, and

“trade” includes any business.

It is unlawful for an association to which this regulation applies, in the case of a person who is not a member of the association, to discriminate against him—

in the terms on which it is prepared to admit him to membership, or
by refusing or deliberately omitting to accept his application for membership.

(4) It is unlawful for an association to which this regulation applies, in the case of a person who is a member or associate of the association, to discriminate against him—

in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them, or

in the case of a member, by depriving him of membership, or varying the terms on which he is a member, or

in the case of an associate, by depriving him of his rights as an associate, or varying those rights, or

in either case, by subjecting him to any other detriment.

(5) For the purposes of this regulation—

a person is a member of an association if he belongs to it by virtue of his admission to any sort of membership provided for by its constitution (and is not merely a person with certain rights under its constitution by virtue of his membership of some other association), and references to membership of an association shall be construed accordingly,

a person is an associate of an association to which this regulation applies if, not being a member of it, he has under its constitution some or all of the rights enjoyed by members (or would have apart from any provision in its constitution authorising the refusal of those rights in particular cases).

Exceptions from regulation 16 for certain associations

17.—(1) Regulation 16 does not apply to any association if the main object of the association is to enable the benefits of membership (whatever they may be) to be enjoyed by persons of a particular sexual orientation.

(2) In determining whether that is the main object of an association regard shall be had to the essential character of the association and to all relevant circumstances including, in particular, the extent to which the affairs of the association are so conducted that the persons primarily enjoying the benefits of membership are of the sexual orientation in question.

Charities

18.—(1) Nothing in these Regulations shall make it unlawful for a person to provide benefits only to persons of a particular sexual orientation, if— (a) he acts in pursuance of a charitable instrument, and

(b) the restriction of benefits to persons of that sexual orientation is imposed by reason of or on the grounds of the provisions of the charitable instrument.

Nothing in these Regulations shall make it unlawful for the Charity Commission for England and Wales or the holder of the office of the Scottish Charity Regulator to exercise a function in relation to a charity in a manner which appears to the Commission or to the holder to be expedient in the interests of the charity, having regard to the provisions of the charitable instrument.

In this regulation— “charitable instrument”—

means an instrument establishing or governing a charity, and includes a charitable instrument made before these Regulations come into force; and

“charity”—

(a) in relation to England and Wales, has the meaning given by the Charities Act 2006(a), (b) in relation to Scotland, means a body entered in the Scottish Charity Register(b).

Restriction of proceedings

19.—(1) Except as provided by these Regulations, no proceedings, whether criminal or civil, may be brought against a person on the grounds that an act is unlawful by virtue of these Regulations.

(2) But paragraph (1) does not preclude—

proceedings by the Commission under Part 1 of the 2006 Act,

an application for judicial review,

proceedings under the Immigration Acts(c),

proceedings under the Special Immigration Appeals Commission Act 1997(d), or

in Scotland, the exercise of the jurisdiction of the Court of Session to entertain an application for reduction or suspension of an order or determination or otherwise to consider the validity of an order or determination, or to require reasons for an order or determination to be stated.

Claims of unlawful action

20.—(1) A claim that a person has done anything that is unlawful by virtue of these Regulations may be brought—

in England and Wales, in a county court, by way of proceedings in tort, or
in Scotland, in the sheriff court, by way of proceedings in reparation, for
breach of statutory duty.

Proceedings in England and Wales alleging that a local education authority or the responsible body of an educational establishment listed in Schedule 3 has acted unlawfully by virtue of regulation 7 or 8 may not be brought unless the claimant has given written notice to the Secretary of State.

Proceedings in Scotland alleging that an education authority or the responsible body of an educational establishment listed in Schedule 3 has acted unlawfully by virtue of regulation 7 or 8 may not be brought unless the pursuer has given written notice to the Scottish Ministers.

In paragraph (1) the reference to a claim that a person has done an unlawful act includes a reference to a claim that a person is to be treated by virtue of these Regulations as having done an unlawful act.

In proceedings under this regulation, if the claimant (or pursuer) proves facts from which the court could conclude, in the absence of a reasonable alternative explanation, that an act which is unlawful by virtue of these Regulations has been committed, the court shall assume that the act was unlawful unless the respondent (or defender) proves that it was not.

Claims of unlawful action: immigration cases

21.—(1) Proceedings may not be brought under regulation 20 alleging that a person has acted unlawfully by virtue of regulation 8 if the question of the lawfulness of the act could be raised (and has not been raised) in immigration proceedings (disregarding the possibility of proceedings brought out of time with permission).

If in immigration proceedings a court or tribunal has found that an act was unlawful by virtue of regulation 8, a court hearing proceedings under regulation 20 shall accept that finding.

In this regulation “immigration proceedings” means proceedings under or by virtue of— (a) the Immigration Acts, or

(b) the Special Immigration Appeals Commission Act 1997.

Remedies for unlawful action

22.—(1) In proceedings under regulation 20, the court (subject to paragraph (2))—

(in addition to granting any remedy available to it in proceedings for tort) may grant any remedy that the High Court could grant in proceedings for judicial review, may award damages by way of compensation for injury to feelings (whether or not other damages are also awarded),

may not award damages in proceedings in respect of an act that is unlawful by virtue of regulation 3(5) if the respondent proves that there was no intention to treat the claimant unfavourably on grounds of sexual orientation,

(2) In respect of a contravention of regulation 8, the court—

shall not grant an injunction unless satisfied that it will not prejudice criminal proceedings or a criminal investigation, and

shall grant any application to stay the proceedings under regulation 20 on the grounds of prejudice to criminal proceedings or to a criminal investigation, unless satisfied that the proceedings or investigation will not be prejudiced.

(3) In the application of this regulation to Scotland—

a reference to the court shall be taken as a reference to the sheriff,

a reference to the High Court shall be taken as a reference to the Court of Session,

a reference to tort shall be taken as a reference to reparation,

a reference to the claimant shall be taken as a reference to the pursuer,

a reference to the respondent shall be taken as a reference to the defender,

a reference to an injunction shall be taken as a reference to an interdict, and

a reference to staying proceedings shall be taken as a reference to sisting proceedings.

Claims of unlawful action: timing

23.—(1) Proceedings under regulation 20 may be brought only—

within the period of six months beginning with the date of the act (or the last act) to which the proceedings relate, or

with the permission of the court in which the proceedings are brought.

(2) In relation to immigration proceedings (as defined in regulation 21) the period specified in paragraph (1)(a) shall begin with the first date on which proceedings under regulation 20 may be brought.

Claims of unlawful action: information

24.—(1) A claimant or a potential claimant may question a respondent or a potential respondent about the reasons for an action or about any matter that is or may be relevant and may do so—

in the form set out in Part 1 of Schedule 2, or

in a form to the like effect with such variation as the circumstances require.

(2) A respondent or potential respondent may reply (if he so wishes) to questions served under paragraph (1)—

in the form set out in Part 2 of Schedule 2, or

in a form to the like effect with such variation as the circumstances require.

(3) A claimant's or potential claimant's questions (whether or not put in a form mentioned in paragraph (1)), and a respondent or potential respondent's replies shall be admissible as evidence in proceedings in respect of the action or about any matter that is or may be relevant, to which the questions relate if (and only if) the questions are served—

within the period of six months beginning with the date of the action (or last action) to which they relate, and

in accordance with paragraph (4).

(4) A question may be served on a respondent or potential respondent and a reply may be served on a claimant or potential claimant—

by delivering it to him,

by sending it by post to him at his usual or last known residence or place of business, where the person to be served is acting by a solicitor, by delivering it at, or by sending it by post to, the solicitor's address for service,

where the person to be served is a claimant or potential claimant, by delivering the reply, or sending it by post, to him at his address for reply as stated by him in the document containing the questions, or if no address is so stated, at his usual or last known residence, or

where the person to be served is a body corporate or is a trade union or employers' association within the meaning of the Trade Union and Labour Relations (Consolidation)

Act 1992(a), by delivering it to the secretary or clerk of the body, union or association at its registered or principal office, or by sending it by post to the secretary or clerk at that office.

(5) A court may draw an inference from—

a failure to reply to a claimant's or potential claimant's questions within the period of eight weeks beginning with the date the questions were served, or

an evasive or equivocal reply to such questions (whether or not put in a form mentioned in paragraph (1)).

(6) In this regulation—

(a) "claimant" means a person who has brought proceedings under these Regulations, (b) "potential claimant" means a person who—

thinks he may have been the subject of an act that is unlawful by virtue of these Regulations, and

wishes to consider whether to bring proceedings under these Regulations,

(c) "potential respondent" means a person questioned by a potential claimant for the purpose of considering whether to bring proceedings under these Regulations

(7) In the application of this regulation to Scotland—

a reference to a claimant or potential claimant shall be taken as a reference to a pursuer or potential pursuer, and

a reference to a respondent or potential respondent shall be taken as a reference to a defender or potential defender.

(8) Paragraph (5) does not apply in relation to a reply, or a failure to reply, to a question—

if the respondent or potential respondent reasonably asserts that to have replied differently or at all might have prejudiced criminal proceedings or a criminal investigation,

if the respondent or potential respondent reasonably asserts that to have replied differently or at all would have revealed the reason for not instituting or not continuing criminal proceedings, or

if the respondent or potential respondent reasonably asserts that to have replied differently or at all would have frustrated the purpose of national security.

National security

25.—(1) Rules of court may make provision for enabling a county court or sheriff court in which a claim is brought under regulation 20, where the court considers it expedient in the interests of national security—

to exclude from all or part of the proceedings—

the claimant,

the claimant's representatives, or

any assessors,

to permit a claimant or representative who has been excluded to make a statement to the court before the commencement of the proceedings, or the part of the proceedings, from which he is excluded;

to take steps to keep secret all or part of the reasons for the court's decision in the proceedings.

The Attorney General or, in Scotland, the Advocate General for Scotland, may appoint a person to represent the interests of a claimant in, or in any part of, proceedings from which the claimant or his representatives are excluded by virtue of paragraph (1).

A person may be appointed under paragraph (2) only—

(a) in relation to proceedings in England and Wales, if he has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990(a)), or

(b) in relation to proceedings in Scotland, if he is—

an advocate, or

qualified to practise as a solicitor in Scotland.

(4) A person appointed under paragraph (2) shall not be responsible to the person whose interests he is appointed to represent.

Validity and revision of contracts

26.—(1) A term of a contract is void where—

its inclusion renders the making of the contract unlawful by virtue of these Regulations,

it is included in furtherance of an act which would be unlawful by virtue of these Regulations, or

it provides for the doing of an act which would be unlawful by virtue of these Regulations.

Paragraph (1) does not apply to a term whose inclusion constitutes, furthers or provides for unlawful discrimination against a party to the contract; but that term shall be unenforceable against that party.

A term in a contract which purports to exclude or limit a provision of these Regulations is unenforceable by a person in whose favour the term would operate apart from this paragraph.

Paragraph (3) does not apply to a contract settling a claim under regulation 20.

On the application of a person interested in a contract to which paragraph (1) applies, a county court or sheriff court may make an order removing or modifying a term made unenforceable by that paragraph, but an order shall not be made unless all persons affected—

have been given notice of the application (except where notice is dispensed with in accordance with rules of court), and

have been afforded an opportunity to make representations to the court.

(6) An order under paragraph (5) may include provision in respect of a period before the making of the order.

Insurance

27. Nothing in these Regulations shall make it unlawful for a person (“A”) to treat a person less favourably than A treats or would treat others on grounds of sexual orientation in relation to an annuity, or life insurance policy, or similar matter involving the assessment of risk, where the treatment—

is effected by reference to actuarial or other data from a source on which it is reasonable to rely, and

is reasonable having regard to that data, and any other relevant factors.

Blood donation

28.—(1) This regulation applies to any person operating a service for the collection and distribution of human blood for the purposes of medical services (“a blood service”).

(a) 1990 c. 41.

Subject to paragraph (3), it is unlawful for a person operating a blood service to discriminate against a person on grounds of sexual orientation in the way it affords him access to any facility for the donation of his blood.

Nothing in this regulation shall make it unlawful for a person operating a blood service to refuse to accept a donation of a person’s blood where that refusal is determined by an assessment of risk to the public based on—

clinical, epidemiological and other data which was obtained from a source on which it was reasonable to rely, and

the refusal is reasonable having regard to that data, and any other relevant factors.

Aiding unlawful acts

29.—(1) It is unlawful knowingly to help another person (whether or not as his employee or agent) to do anything which is unlawful under these Regulations.

A person commits an offence if he knowingly or recklessly makes a false statement, in connection with assistance sought from another, that a proposed act is not unlawful under these Regulations.

A person guilty of an offence under paragraph (2) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Employers’ and principals’ liability

30.—(1) Anything done by a person in the course of his employment shall be treated for the purposes of these Regulations as done by the employer as well as by the person.

Anything done by a person as agent for another shall be treated for the purposes of these Regulations as done by the principal as well as by the agent.

It is immaterial for the purposes of this regulation whether an employer or principal knows about or approves of an act.

In proceedings under these Regulations against an employer in respect of an act alleged to have been done by his employee it shall be a defence for the employer to prove that he took such steps as were reasonably practicable to prevent the employee—

from doing the act, or

from doing acts of that kind in the course of his employment.

(5) Paragraphs (1) and (2) shall not apply in relation to an offence committed under regulation 10(5).

Police etc.

31.—(1) This regulation applies to—

a constable who is a member of a police force maintained under the Police Act 1996(a) or the Police (Scotland) Act 1967(b),

a special constable appointed for a police area in accordance with either of those Acts, and

a person appointed as a police cadet in accordance with either of those Acts.

A person to whom this regulation applies shall be treated for the purposes of these Regulations as the employee of his chief officer of police, and anything done by the person in the performance or purported performance of his functions shall be treated as done in the course of that employment.

There shall be paid out of the police fund—

compensation, costs or expenses awarded against a chief officer of police in proceedings brought against him under these Regulations,

costs or expenses incurred by a chief officer of police in such proceedings so far as not recovered by him in the proceedings, and

sums required by a chief officer of police for the settlement of a claim made against him under these Regulations if the settlement is approved by the police authority.

(4) A police authority may pay out of the police fund—

damages or costs awarded in proceedings under these Regulations against a person under the direction and control of the chief officer of police,

costs incurred and not recovered by such a person in such proceedings, and

sums required in connection with the settlement of a claim that has or might have given rise to such proceedings.

(5) In section 56(4) of the Serious Organised Crime and Police Act 2005(a) (application of discrimination legislation to seconded staff), there is inserted after paragraph (g)—
“; and

(h) regulation 30 of the Equality Act (Sexual Orientation) Regulations 2007”.

Amendment to the Equality Act 2006

32. In section 25(1) of the 2006 Act, there is inserted after paragraph

(d)— “, and

(e) regulations 10 and 11 of the Equality Act (Sexual Orientation) Regulations 2007.”

Crown application

33.—(1) Regulation 8 binds the Crown.

The remainder of these Regulations apply to an act done on behalf of the Crown as they apply to an act done by a private person.

For the purposes of paragraph (2) an act is done on behalf of the Crown if (and only if) done—

by or on behalf of a Minister of the Crown,

by or on behalf of the Scottish Ministers,

by a government department,

by a body established under an enactment acting on behalf of the Crown,

by or on behalf of the holder of an office established by an enactment acting on behalf of the Crown, or

by or on behalf of an office-holder in the Scottish Administration (within the meaning of section 126(7) of the Scotland Act 1998(b)).

The provisions of Parts 2 to 4 of the Crown Proceedings Act 1947(c) shall apply to proceedings against the Crown under these Regulations as they apply to proceedings against the Crown in England and Wales which by virtue of section 23 of that Act are treated for the purposes of Part 2 of that Act as civil proceedings by or against the Crown; but section 20 of that Act (removal of proceedings from county court to High Court) shall not apply to proceedings under these Regulations.

The provisions of Part 5 of the Crown Proceedings Act 1947 shall apply to proceedings against the Crown under these Regulations as they apply to proceedings in Scotland which by virtue of that Part are treated as civil proceedings by or against the Crown; but the proviso to section 44 of that Act (removal of proceedings from the sheriff court to the Court of Session) shall not apply to proceedings under this Part of these Regulations.

Territorial application

34.—(1) These Regulations apply—

- (a) to anything done in Great Britain, and
- (b) to the provision of—
 - facilities for travel on a British vessel or an aircraft registered in Great Britain, and
 - benefits, facilities or services provided on a British vessel or an aircraft registered in Great Britain.

Regulation 8, in so far as it relates to granting entry clearance (within the meaning of the Immigration Acts), applies to anything done whether inside or outside the United Kingdom.

This regulation shall not make it unlawful to do anything in or over a foreign country, or in or over the territorial waters of a foreign country, for the purpose of complying with a law of that country.

In this regulation—

“British vessel” means—

- (a) a hovercraft registered in Great Britain; or
- (b) a ship which is—
 - registered in Great Britain, or
 - used for the purposes of the Crown, and

“foreign country” means a country other than the United Kingdom.

Signed by the Secretary of State

Ruth Kelly

Secretary of State for Communities and Local Government 17th April 2007
Department for Communities and Local Government

SCHEDULE 1

Regulation 8

Discrimination by public authorities: exceptions

PART 1

Regulation 8(3)(a)

Bodies to which regulation 8 does not apply

The House of Commons.

The House of Lords.

The authorities of either House of Parliament.

The Security Service.

The Secret Intelligence Service.

The Government Communications Headquarters.

A part of the armed forces of the Crown which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.

PART 2

Regulation 8(3)(b)

Functions and actions to which regulation 8 does not apply

The exercise of a judicial function (whether in connection with a court or a tribunal).

Anything done on behalf of or on the instructions of a person exercising a judicial function (whether in connection with a court or tribunal).

Preparing, passing (or making), confirming, approving or considering an enactment (including legislation made by or by virtue of a Measure of the General Synod of the Church of England).

The making of an instrument by a Minister of the Crown under an enactment.

The making of an instrument by the Scottish Ministers or a member of the Scottish Executive under an enactment.

A decision not to institute or continue criminal proceedings (and anything done for the purpose of reaching, or in pursuance of, such a decision).

Action which—

is unlawful by virtue of another provision of these Regulations, or would be unlawful by virtue of another provision of these Regulations other than regulation 4, but for an express exception.

8. Action which—

is unlawful by virtue of a provision of the Employment Equality (Sexual Orientation) Regulations 2003(a), or

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under section 81 of the Equality Act 2006, make it unlawful to discriminate on the grounds of sexual orientation in the provision of goods, facilities and services, education, disposal and management of premises and exercise of public functions. Sexual orientation is defined in section 35 of the Equality Act 2006 as meaning an individual's sexual orientation towards persons of the same sex as him or her, persons of the opposite sex, or both.

Discrimination on grounds of sexual orientation is defined in regulation 3. Direct discrimination occurs where a person is treated less favourably than another on grounds of sexual orientation (regulation 3(1)). Indirect discrimination occurs where a provision, criterion or practice, which is applied generally, puts a person of a particular sexual orientation at a disadvantage and cannot be shown to be a proportionate means of achieving a legitimate aim (regulation 3(3)). Regulation 3(4) provides that for the purpose of the provisions defining whether discrimination has taken place, when comparing the treatment of two people, the fact that one is a civil partner and the other is married is not a material difference in the circumstances. Victimisation, defined in regulation 3(5), occurs where a person receives less favourable treatment than another by reason of the fact that he has brought (or given evidence in or provided information in connection with) proceedings, made an allegation or otherwise done anything under or by reference to the Regulations, or because he intends to do so.

Regulations 4 to 18 prohibit discrimination in the provision of goods, facilities, services, disposal and management of premises, education and the exercise of public functions.

Regulation 4 provides that it is unlawful to discriminate on grounds of sexual orientation against a person who seeks to obtain or use goods, facilities or services. It sets out examples (although not exclusively) of the sorts of facilities and services that might be covered by the Regulations.

Regulation 5 deals with the disposal and management of premises, and regulation 6 provides for the various exceptions that apply to regulations 4 and 5 .

The Regulations also extend the protections to those accessing education and educational facilities (regulation 7) and to those wishing to benefit from functions performed by public authorities (regulation 8) subject to certain exceptions in Schedule 1.

Regulation 9 makes discriminatory practices unlawful, and regulation 10 makes discriminatory advertisements unlawful. It is unlawful to instruct or cause another person to discriminate (regulation 11).

Regulation 12 lists the statutory requirements which these Regulations shall not render unlawful.

It will not be unlawful for a person to do anything by way of meeting the needs for education, training or welfare of persons on the grounds of their sexual orientation, or providing ancillary benefits related to these aims (regulation 13).

Regulation 14 provides an exception for organisations relating to religion and belief, that is those whose purpose is to practise a religion or belief, to advance a religion or belief, to teach the principles of a religion or belief, or to enable persons of a religion or belief to engage in any activity or receive a benefit within the framework of that religion or belief. It extends to those who act on behalf or under the auspices of such an organisation. It does not however extend the exception to organisations whose sole or main purpose is commercial, or those who act under a contract with and on behalf of a public authority.

Regulation 15 provides a transitional period for religious adoption and fostering agencies to comply with the Regulations, provided they refer a person who has been refused their service on grounds of their sexual orientation, to another provider.

Regulation 16 extends the Regulations to membership rights of private clubs and associations. Regulation 17 provides for exceptions to regulation 16 for associations whose main object is to allow benefits to be enjoyed by persons of a particular sexual orientation.

Charities are also exempt from the Regulations as provided in regulation 18 in so far as they are established to confer a benefit on a particular group by virtue of sexual orientation, and act in accordance with this charitable instrument.

Regulations 19 to 26 deal with the enforcement of the Regulations. Any legal recourse for individuals will be for a claim in tort for breach of a statutory duty (regulation 20(1)). But the Regulations do not prevent proceedings by the Commission for Equality and Human Rights under parts of the Equality Act 2006, judicial review or immigration proceedings (regulation 19).

In England and Wales, where a local education authority or responsible body of an educational establishment has allegedly acted unlawfully, a claim may not be brought unless the claimant has given written notice to the Secretary of State. Similar arrangements apply to Scotland (regulation 20(2) and 20(3)).

Regulation 21 provides that proceedings may not be brought under regulation 20 if the issue of lawfulness could be raised in immigration proceedings. Regulation 22 deals with remedies for unlawful action, and regulation 23 with time limits. Regulation 24 sets out how a claimant or potential claimant or respondent may obtain or provide information in forms set out in Schedule 2. It also states how questions may be given to the other party and how the court will interpret the answers or lack of response to the questions.

Regulation 25 allows for rules of court to be made excluding claimants and others from all or part of proceedings under the Regulations if national security issues arise.

Regulation 26 deals with the validity and revision of contracts and provides that a term of the contract is void where its inclusion makes the contract unlawful by virtue of the Regulations. Regulation 26(5) sets out the powers of the county court to remove or modify a term made unenforceable by this regulation.

Regulation 27 provides an exception to these Regulations where a person is treated less favourably on grounds of his sexual orientation in relation to an annuity, or life insurance policy, or similar matter.

Regulation 28 applies to any person who operates a service for the collection and distribution of human blood in order to provide a medical service. It is unlawful to discriminate on grounds of sexual orientation against a person who offers to donate blood, unless it is reasonably based on clinical and epidemiological data to do so.

Regulation 29 makes it unlawful knowingly to help another to do anything which is unlawful under these Regulations.

Regulation 30 deals with liability of employers and principals and in particular makes acts committed by an employee treated as if they had been done by his employer as well as him.

Regulation 31 applies to the police. It states that police officers shall all be treated as employees of their chief officer of police. Any compensation for an unlawful act must be paid out of police funds.

Regulation 32 amends the Equality Act 2006 to add regulations 10 and 11 of these Regulations to section 25 of that Act, which deals with the power of the Commission for Equality and Human Rights to make applications to court to restrain unlawful advertising, pressure, &c.

Regulation 33 deals with Crown application.

Regulation 34 deals with territorial application.

A Regulatory Impact Assessment and an Equality Impact Assessment in relation to these Regulations have been placed in the Libraries of the House of Commons and the House of Lords. Copies may be obtained from:
www.Communities.gov.uk/index.asp?id=1503693.

The Global Human Rights Sanctions Regulations

STATUTORY INSTRUMENTS

2020 No. 680

SANCTIONS

The Global Human Rights Sanctions Regulations 2020

Approved by both Houses of Parliament

Made - - - - 5th July 2020 at 11.00 a.m. on 6th

Laid before Parliament July 2020 at 1.00 p.m. on 6th

Coming into force - - July 2020

The Secretary of State(1), in exercise of the powers conferred by sections 1(1)(c) and (3)(b), 3(1) (a) and (d)(i), 4, 9(2)(a), 10(2)(a) and (c), (3) and (4), 11(2) to (9), 15(2)(a) and (b), (3), (4)(b), (5) and (6), 16, 17(2) to (5) and (8), 21(1), 54(1) and (2), and 62(4) and (5) of the Sanctions and AntiMoney Laundering Act 2018(2), and having decided, upon consideration of the matters set out in sections 2(2) of that Act, that it is appropriate to do so, makes the following Regulations:

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Global Human Rights Sanctions Regulations 2020.

(2) These Regulations come into force at 1.00 p.m. on 6th July 2020.

Interpretation

2. In these Regulations—

“the Act” means the Sanctions and Anti-Money Laundering Act 2018;

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable (but see paragraph 12 of Schedule 1 for the meaning of that term in that Schedule); “conduct” includes acts and omissions;

The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 (c.13) is conferred on an “appropriate Minister”. Section 1(9)(a) of that Act defines an “appropriate Minister” as including the Secretary of State.

2018 c.13.

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;

“Treasury licence” means a licence under regulation 20(1);

“United Kingdom person” has the same meaning as in section 21 of the Act.

Application of prohibitions and requirements outside the United Kingdom

3.—(1) A United Kingdom person may contravene a relevant prohibition by conduct wholly or partly outside the United Kingdom.

Any person may contravene a relevant prohibition by conduct in the territorial sea.

In this regulation, a “relevant prohibition” means any prohibition imposed by—
regulation 9(2) (confidential information),

Part 3 (Finance), or

a condition of a Treasury licence.

A United Kingdom person may comply, or fail to comply, with a relevant requirement by conduct wholly or partly outside the United Kingdom.

Any person may comply, or fail to comply, with a relevant requirement by conduct in the territorial sea.

In this regulation, a “relevant requirement” means any requirement imposed—

by or under Part 6 (Information and records), or by reason of a request made under a power conferred by that Part, or

by a condition of a Treasury licence.

Nothing in this regulation is to be taken to prevent a relevant prohibition or a relevant requirement from applying to conduct (by any person) in the United Kingdom.

Purposes

4.—(1) The purposes of the regulations contained in this instrument are to deter, and provide accountability for, activities falling within paragraph (2).

An activity falls within this paragraph if it is an activity which, if carried out by or on behalf of a State within the territory of that State, would amount to a serious violation by that State of an individual's—

right to life,

right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, or

right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour, whether or not the activity is carried out by or on behalf of a State.

An activity falls within paragraph (2) if it is carried out—

outside the United Kingdom by any person, or

in the United Kingdom by a person who is not a United Kingdom person.

In paragraph (2), an “activity” includes an omission.

PART 2

Designation of persons

Power to designate persons

5.—(1) The Secretary of State may designate persons by name for the purposes of any of the following—

(a) regulations 11 to 15 (asset-freeze etc.); (b) regulation 17 (immigration).

(2) The Secretary of State may designate different persons for the purposes of different provisions mentioned in paragraph (1).

Designation criteria

6.—(1) The Secretary of State may not designate a person under regulation 5 unless the Secretary of State—

has reasonable grounds to suspect that that person is an involved person, and considers that the designation of that person is appropriate, having regard to—

the purposes stated in regulation 4, and

the likely significant effects of the designation on that person (as they appear to the Secretary of State to be on the basis of the information that the Secretary of State has).

In this regulation an “involved person” means a person who— (a) is or has been involved in an activity falling within regulation 4(2),

is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved,

is acting on behalf of or at the direction of a person who is or has been so involved, or (d) is a member of, or associated with, a person who is or has been so involved.

For the purposes of this regulation a person is “involved in an activity falling within regulation 4(2)” if—

the person is responsible for or engages in such an activity;

the person facilitates, incites, promotes or provides support for such an activity;

the person conceals evidence of such an activity;

the person provides financial services, or makes available funds, economic resources, goods or technology, knowing or having reasonable cause to suspect that those financial services, funds, economic resources, goods or technology will or may contribute to such an activity;

the person provides financial services, or makes available funds, economic resources, goods or technology to a person mentioned in sub-paragraph (a);

the person profits financially or obtains any other benefit from an activity falling within regulation 4(2);

the person is responsible for the investigation or prosecution of such an activity and intentionally or recklessly fails to fulfil that responsibility; or

the person contravenes, or assists with the contravention of, any provision of Part 3 of these Regulations.

Nothing in any sub-paragraph of paragraph (3) is to be taken to limit the meaning of any of the other sub-paragraphs of that paragraph.

Any reference in this regulation to being involved in an activity falling within regulation 4(2) includes being so involved wherever any actions constituting the involvement take place.

Meaning of “owned or controlled directly or indirectly”

7.—(1) A person who is not an individual (“C”) is “owned or controlled directly or indirectly” by another person (“P”) if either of the following two conditions is met (or both are met).

The first condition is that P—

holds directly or indirectly more than 50% of the shares in C,

holds directly or indirectly more than 50% of the voting rights in C, or

holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.

Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).

The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.

Notification and publicity where designation power used

8.—(1) Paragraph (2) applies where the Secretary of State—

has made a designation under regulation 5, or

has by virtue of section 22 of the Act varied or revoked a designation made under that regulation.

The Secretary of State—

must without delay take such steps as are reasonably practicable to inform the designated person of the designation, variation or revocation, and

must take steps to publicise the designation, variation or revocation.

The information given under paragraph (2)(a) where a designation is made must include a statement of reasons.

In this regulation a “statement of reasons”, in relation to a designation, means a brief statement of the matters that the Secretary of State knows, or has reasonable grounds to suspect, in relation to the designated person which have led the Secretary of State to make the designation.

Matters that would otherwise be required by paragraph (4) to be included in a statement of reasons may be excluded from it where the Secretary of State considers that they should be excluded—

in the interests of national security or international relations,

for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or (c) in the interests of justice.

The steps taken under paragraph (2)(b) must—

unless one or more of the restricted publicity conditions is met, be steps to publicise generally—

the designation, variation or revocation, and

in the case of a designation, the statement of reasons;
if one or more of those conditions is met, be steps to inform only such persons as the Secretary of State considers appropriate of the designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons.

The “restricted publicity conditions” are as follows—

the designation is of a person believed by the Secretary of State to be an individual under the age of 18;

the Secretary of State considers that disclosure of the designation, variation or revocation should be restricted—

in the interests of national security or international relations,

for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or (iii) in the interests of justice.

Paragraph (9) applies if—

when a designation is made, one or more of the restricted publicity conditions is met, but at any time when the designation has effect, it becomes the case that none of the restricted publicity conditions is met.

The Secretary of State must—

take such steps as are reasonably practicable to inform the designated person that none of the restricted publicity conditions is now met, and

take steps to publicise generally the designation and the statement of reasons relating to it.

Confidential information in certain cases where designation power used

9.—(1) Where the Secretary of State in accordance with regulation 8(6)(b) informs only certain persons of a designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons, the Secretary of State may specify that any of that information is to be treated as confidential.

A person (“P”) who—

is provided with information that is to be treated as confidential in accordance with paragraph (1), or

otherwise obtains such information, must not, subject to paragraph (3), disclose it if P knows, or has reasonable cause to suspect, that the information is to be treated as confidential.

The prohibition in paragraph (2) does not apply to any disclosure made by P with lawful authority.

For this purpose information is disclosed with lawful authority only if and to the extent that— (a) the disclosure is by, or is authorised by, the Secretary of State, the disclosure is by or with the consent of the person who is or was the subject of the designation, the disclosure is necessary to give effect to a requirement imposed under or by virtue of these Regulations or any other enactment, or the disclosure is required, under rules of court, tribunal rules or a court or tribunal order, for the purposes of legal proceedings of any description.

This regulation does not prevent the disclosure of information that is already, or has previously been, available to the public from other sources.

A person who contravenes the prohibition in paragraph (2) commits an offence.

The High Court (in Scotland, the Court of Session) may, on the application of— the person who is the subject of the information, or the Secretary of State, grant an injunction (in Scotland, an interdict) to prevent a breach of the prohibition in paragraph (2).

In paragraph (4)(c), “enactment” has the meaning given by section 54(6) of the Act.

PART 3

Finance

Meaning of “designated person” in Part 3

10. In this Part a “designated person” means a person who is designated under regulation 5 for the purposes of regulations 11 to 15.

Asset-freeze in relation to designated persons

11.—(1) A person (“P”) must not deal with funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

Paragraph (1) is subject to Part 5 (Exceptions and licences).

A person who contravenes the prohibition in paragraph (1) commits an offence.

For the purposes of paragraph (1) a person “deals with” funds if the person— uses, alters, moves, transfers or allows access to the funds,

deals with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or makes any other change, including portfolio management, that would enable use of the funds.

For the purposes of paragraph (1) a person “deals with” economic resources if the person—

exchanges the economic resources for funds, goods or services, or uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).

The reference in paragraph (1) to funds or economic resources that are “owned, held or controlled” by a person includes, in particular, a reference to—

funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources; any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.

For the purposes of paragraph (1) funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

For the avoidance of doubt, the reference in paragraph (1) to a designated person includes P if P is a designated person.

Making funds available to designated persons

12.—(1) A person (“P”) must not make funds available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

Paragraph (1) is subject to Part 5 (Exceptions and licences).

A person who contravenes the prohibition in paragraph (1) commits an offence.

The reference in paragraph (1) to making funds available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

Making funds available for benefit of designated person

13.—(1) A person (“P”) must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

Paragraph (1) is subject to Part 5 (Exceptions and licences).

A person who contravenes the prohibition in paragraph (1) commits an offence.

For the purposes of this regulation—

funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

“financial benefit” includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

Making economic resources available to designated persons

14.—(1) A person (“P”) must not make economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect— (a) that P is making the economic resources so available, and

(b) that the designated person would be likely to exchange the economic resources for, or use them in exchange for, funds, goods or services.

Paragraph (1) is subject to Part 5 (Exceptions and licences).

A person who contravenes the prohibition in paragraph (1) commits an offence.

The reference in paragraph (1) to making economic resources available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

Making economic resources available for benefit of designated persons

15.—(1) A person (“P”) must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

Paragraph (1) is subject to Part 5 (Exceptions and licences).

A person who contravenes the prohibition in paragraph (1) commits an offence.

For the purposes of paragraph (1)—

economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

“financial benefit” includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

Circumventing etc. prohibitions

16.—(1) A person must not intentionally participate in activities knowing that the object or effect of them is (whether directly or indirectly)—

to circumvent any of the prohibitions in regulations 11 to 15, or
to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes the prohibition in paragraph (1) commits an offence.

PART 4

Immigration

Immigration

17. A person who is designated under regulation 5 for the purposes of this regulation is an excluded person for the purposes of section 8B of the Immigration Act 1971**(3)**.

PART 5

Exceptions and licences

Finance: exceptions from prohibitions

18.—(1) The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person (“P”) transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest— (a) is held by P, and

(b) is not held jointly with the designated person.

In paragraph (1) “independent person” means a person who—

is not the designated person, and

is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

The prohibitions in regulations 11 to 13 (asset-freeze in relation to, and making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account with interest or other earnings due on the account.

The prohibitions in regulations 12 and 13 (making funds available to, or for the benefit of, designated persons) are not contravened by a relevant institution crediting a frozen account where it receives funds transferred to that institution for crediting to that account.

(3) 1971 c. 77. Section 8B was inserted by the Immigration and Asylum Act 1999 (c.33), section 8 and amended by the Immigration Act 2016 (c.19), section 76; and the Sanctions and Anti-Money Laundering Act 2018, section 59 and Schedule 3, Part 1.

The prohibitions in regulations 12 and 13 are not contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.

The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person (“P”) by a transfer of funds from account A to account B, where—
account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000(4),
account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000(5), and
accounts A and B are held or controlled (directly or indirectly) by P.

In this regulation—

“designated person” has the same meaning as it has in Part 3 (Finance);

“frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person;

“relevant institution” means a person that has permission under Part 4A of the Financial Services and Markets Act 2000(6) (Permission to carry on regulated activities).

The definition of “relevant institution” in paragraph (7) is to be read with section 22 of the Financial Services and Markets Act 2000(7), any relevant order under that section(8) and Schedule 2 to that Act(9).

Exception for acts done for purposes of national security or prevention of serious crime
19.—(1) Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of— (a) national security, or
(b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 6 (Information and records), that requirement does not apply

if a responsible officer has determined that not doing the thing in question would be in the interests of— (a) national security, or

(b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

In this regulation “responsible officer” means a person in the service of the Crown or holding office under the Crown, acting in the course of that person’s duty.

2000 c.8. Section 142D was inserted by section 4(1) of the Financial Services (Banking Reform) Act 2013 (c.33).

Section 142A was inserted by section 4(1) of the Financial Services (Banking Reform) Act 2013 (c.33).

Part 4A was inserted by the Financial Services Act 2012 (c.21), section 11(2) and amended by S.I. 2018/135.

Section 22 was amended by the Financial Guidance and Claims Act 2018 (c.10), section 27(4); the Financial Services Act 2012 (c.21), section 7(1); and S.I. 2018/135.

S.I. 2001/544, as most recently amended by S.I. 2019/679; S.I. 2020/117; and S.I. 2020/480; and prospectively amended by S.I. 2019/710.

Schedule 2 was amended by the Regulation of Financial Services (Land Transactions) Act 2005 (c.24), section 1; the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15 and Schedule 2, paragraph 1; the Financial Services Act 2012 (c.21), sections 7(2) to (5) and 8; the Financial Guidance and Claims Act 2018 (c.10), section 27(13); and S.I. 2013/1881; S.I. 2018/135; and it is prospectively amended by S.I. 2019/632.

Treasury licences

20.—(1) The prohibitions in regulations 11 to 15 (asset-freeze etc) do not apply to anything done under the authority of a licence issued by the Treasury under this paragraph.

A licence—

must specify the acts authorised by it;

may be general or may authorise acts by a particular person or persons of a particular description;

may—

contain conditions;

be of indefinite duration or a defined duration.

The Treasury may issue a licence which authorises acts by a particular person only where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Schedule 2.

Where the Treasury issue a licence, the Treasury may vary, revoke or suspend it at any time.

Where the Treasury issue, vary, revoke or suspend a licence which authorises acts by a particular person, the Treasury must give written notice to that person of the issue, variation, revocation or suspension of the licence.

Where the Treasury issue, vary, revoke or suspend a licence which is general or which authorises acts by persons of a particular description, the Treasury must take such steps as the Treasury consider appropriate to publicise the issue, variation, revocation or suspension of the licence.

Finance: exception for authorised conduct in a relevant country

21.—(1) Where a person’s conduct in a relevant country would, in the absence of this regulation, contravene a prohibition in any of regulations 11 to 15 (asset-freeze etc.) (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is—

issued under the law of the relevant country; and

for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

(2) In this regulation, “relevant country” means—

any of the Channel Islands;

the Isle of Man;

any British overseas territory.

Notices

22.—(1) This regulation applies in relation to a notice required by regulation 20(5) (Treasury licences: written notice) to be given to a person.

The notice may be given to an individual—

by delivering it to the individual,

by sending it to the individual by post addressed to the individual at his or her usual or last-known place of residence or business, or (c) by leaving it for the individual at that place.

The notice may be given to a person other than an individual—

by sending it by post to the proper officer of the body at its principal office, or (b) by addressing it to the proper officer of the body and leaving it at that office.

The notice may be given to the person by other means, including by electronic means, with the person's consent.

In this regulation, the reference in paragraph (3) to a "principal office"—

in relation to a registered company, is to be read as a reference to the company's registered office;

in relation to a body incorporated or constituted under the law of a country other than the United Kingdom, includes a reference to the body's principal office in the United Kingdom (if any).

In this regulation—

"proper officer"—

in relation to a body other than a partnership, means the secretary or other executive officer charged with the conduct of the body's general affairs, and

in relation to a partnership, means a partner or a person who has the control or management of the partnership business;

"registered company" means a company registered under the enactments relating to companies for the time being in force in the United Kingdom.

Finance: licensing offences

23.—(1) A person ("P") commits an offence if P knowingly or recklessly—

provides information that is false in a material respect, or

provides or produces a document that is not what it purports to be, for the purpose of obtaining a Treasury licence (whether for P or anyone else).

(2) A person who purports to act under the authority of a Treasury licence but who fails to comply with any condition of the licence commits an offence.

Section 8B(1) to (3) of the Immigration Act 1971: directions

24.—(1) The Secretary of State may direct that, in relation to any person within regulation 17 whose name is specified, or who is of a specified description, section 8B(1)

and (2) of the Immigration Act 1971, or section 8B(3) of that Act, have effect subject to specified exceptions.

A direction under this regulation—

may contain conditions;

must be of a defined duration (and that duration may be expressed in any way, including, for example, being expressed in a way such that the direction ceases to have effect on, or within a specified period after, the occurrence of a specified event).

The Secretary of State may vary, revoke or suspend a direction under this regulation at anytime.

On the issue, variation, revocation or suspension of a direction under this regulation, the Secretary of State may take such steps as the Secretary of State considers appropriate to publicise the issue, variation, revocation or suspension of the direction.

In this regulation “specified” means specified in a direction under this regulation.

PART 6

Information and records

Finance: reporting obligations

25.—(1) A relevant firm must inform the Treasury as soon as practicable if— (a) it knows, or has reasonable cause to suspect, that a person—

is a designated person, or

has committed an offence under any provision of Part 3 (Finance) or regulation 23

(finance: licensing offences), and

(b) the information or other matter on which the knowledge or cause for suspicion is based came to it in the course of carrying on its business.

Where a relevant firm informs the Treasury under paragraph (1), it must state— (a) the information or other matter on which the knowledge or suspicion is based, and (b) any information it holds about the person by which the person can be identified.

Paragraph (4) applies if—

a relevant firm informs the Treasury under paragraph (1) that it knows, or has reasonable cause to suspect, that a person is a designated person, and (b) that person is a customer of the relevant firm.

The relevant firm must also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.

A relevant institution must inform the Treasury without delay if that institution—
credits a frozen account in accordance with regulation 18(4) (finance: exceptions from prohibitions), or

transfers funds from a frozen account in accordance with regulation 18(6).

A person who fails to comply with a requirement in paragraph (1), (2) or (4) commits an offence.

In this regulation—

“designated person” has the same meaning as it has in Part 3 (Finance);

“frozen account” has the same meaning as it has in regulation 18;

“relevant firm” is to be read in accordance with regulation 26;

“relevant institution” has the same meaning as it has in regulation 18.

“Relevant firm”

26.—(1) The following are relevant firms for the purposes of regulation 25—

(a) a person that has permission under Part 4A of the Financial Services and Markets Act 2000 (Permission to carry on regulated activities); (b) an undertaking that by way of business— (i) operates a currency exchange office,

transmits money (or any representation of monetary value) by any means, or
cashes cheques that are made payable to customers;

a firm or sole practitioner that is—

a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (Statutory Auditors)(**10**), or

a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit)(**11**);

a firm or sole practitioner that provides to other persons, by way of business— (i)
accountancy services,

legal or notarial services,

advice about tax affairs, or

trust or company services within the meaning of paragraph (2);

a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;

the holder of a casino operating licence within the meaning given by section 65(2)(a) of the Gambling Act 2005 (nature of a licence)(12);

a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—

articles made from gold, silver, platinum or palladium, or (ii) precious stones or pearls.

In paragraph (1) “trust or company services” means any of the following services—

forming companies or other legal persons;

acting, or arranging for another person to act—

as a director or secretary of a company,

as a partner of a partnership, or

in a similar capacity in relation to other legal persons;

providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;

acting, or arranging for another person to act, as—

a trustee of an express trust or similar legal arrangement, or (ii) a nominee shareholder for a person.

In paragraph (1)—

“estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979(13), but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of that Act) references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest;

“firm” means any entity that, whether or not a legal person, is not an individual, and includes a body corporate and a partnership or other unincorporated body.

2006 c.46.

2014 c.2.

2005 c.19.

1979 c.38, amended by paragraph 40 of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73); paragraph 42 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11); paragraph 28 of Schedule 2 to the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11); section 70 of the Enterprise and Regulatory Reform Act 2013 (c.24); S.I. 2001/1283; S.I. 2000/121; and S.I. 1991/2684. Paragraph (1)(a) and (b) are to be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.

For the purposes of regulation 25(1), information or another matter comes to a relevant firm “in the course of carrying on its business” if the information or other matter comes to the firm—

in the case of a relevant firm within paragraph(1)(a), in the course of carrying on an activity in respect of which the permission mentioned in that provision is required;

in the case of a relevant firm within paragraph (1)(c)(i), in the course of carrying out statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of statutory auditor)(14);

in the case of a relevant firm within paragraph (1)(c)(ii), in the course of carrying out an audit required by the Local Audit and Accountability Act 2014;

in the case of a relevant firm within paragraph (1)(f), in the course of carrying on an activity in respect of which the licence mentioned in that provision is required;

in the case of a relevant firm within any other provision of paragraph (1), in the course of carrying on an activity mentioned in that provision.

Finance: powers to request information

27.—(1) The Treasury may request a designated person to provide information about—
funds or economic resources owned, held or controlled by or on behalf of the designated person, or
any disposal of such funds or economic resources.

The Treasury may request a designated person to provide such information as the Treasury may reasonably require about expenditure—

by the designated person, or

for the benefit of the designated person.

For the purposes of paragraph (2), expenditure for the benefit of a designated person includes expenditure on the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

The power in paragraph (1) or (2) is exercisable only where the Treasury believe that it is necessary for the purpose of monitoring compliance with or detecting evasion of any provision of Part 3 (Finance).

The Treasury may request a person acting under a Treasury licence to provide information about—

funds or economic resources dealt with under the licence, or

funds or economic resources made available under the licence.

The Treasury may request a person to provide information within paragraph (7) if the Treasury believe that the person may be able to provide the information.

Information within this paragraph is such information as the Treasury may reasonably require for the purpose of—

establishing for the purposes of any provision of Part 3 (Finance)—

(i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person,

(14) Section 1210 was amended by S.I. 2005/1433; S.I. 2008/565; S.I. 2008/1950; S.I. 2011/99; S.I. 2012/1809; S.I. 2013/3115; S.I. 2017/516 and S.I. 2017/1164; and it is prospectively amended by S.I. 2019/177.

the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person, or

the nature of any financial transactions entered into by a designated person; (b)

monitoring compliance with or detecting evasion of—

any provision of Part 3,

regulation 25 (finance: reporting obligations), or

any condition of a Treasury licence;

(c) detecting or obtaining evidence of the commission of an offence under Part 3 or regulation 23 (finance: licensing offences) or 25 (finance: reporting obligations).

The Treasury may specify the way in which, and the period within which, information is to be provided.

If no such period is specified, the information which has been requested must be provided within a reasonable time.

A request may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.

Information requested under this regulation may relate to any period of time during which a person is, or was, a designated person.

Information requested by virtue of paragraph (1)(b), (2) or (7)(a)(iii) may relate to any period before a person became a designated person (as well as, or instead of, any subsequent period).

Expressions used in this regulation have the same meaning as they have in Part 3.

Finance: production of documents

28.—(1) A request under regulation 27 may include a request to produce specified documents or documents of a specified description.

Where the Treasury request that documents be produced, the Treasury may—

take copies of or extracts from any document so produced,

request any person producing a document to give an explanation of it, and

where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—

in the case of a partnership, a present or past partner or employee of the partnership, or

in any other case, a present or past officer or employee of the body concerned, to give such an explanation.

Where the Treasury request a designated person or a person acting under a Treasury licence to produce documents, that person must—

take reasonable steps to obtain the documents (if they are not already in the person's possession or control);

keep the documents under the person's possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

In this regulation "designated person" has the same meaning as it has in Part 3 (Finance).

Finance: information offences

29.—(1) A person commits an offence, if that person—

without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request under regulation 27 (finance: powers to request information);

knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;

with intent to evade any provision of regulation 27 or 28 (finance: production of documents), destroys, mutilates, defaces, conceals or removes any document;

otherwise intentionally obstructs the Treasury in the exercise of their powers under regulation 27 or 28.

(2) Where a person is convicted of an offence under this regulation, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

Disclosure of information

30.—(1) The Secretary of State or the Treasury may, in accordance with this regulation, disclose—

any information obtained under or by virtue of Part 5 (Exceptions and licences) or this Part, or

any information held in connection with—

anything done under or by virtue of Part 2 (Designation of persons) or Part 3 (Finance), or

any exception or licence under Part 5 or anything done in accordance with such an exception or under the authority of such a licence.

Information referred to in paragraph (1) may be disclosed for, or in connection with, any of the following purposes—

any purpose stated in regulation 4;

the exercise of functions under these Regulations;

facilitating, monitoring or ensuring compliance with these Regulations;

taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the United Kingdom—

for an offence under any provision of these Regulations, or

in relation to a monetary penalty under section 146 of the Policing and Crime Act 2017 (breach of financial sanctions legislation)(15);

taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in any of the Channel Islands, the Isle of Man, or any British overseas territory, for an offence under a provision in any such jurisdiction that is similar to a provision of these Regulations;

compliance with an international obligation(16);

facilitating the exercise by an authority outside the United Kingdom or by an international organisation of functions which correspond to functions under these Regulations.

Information referred to in paragraph (1) may be disclosed to the following persons— (a) a police officer;

(b) any person holding or acting in any office under or in the service of—

2017 c.3.

Section 1(8) of the Act defines an “international obligation” as an obligation of the United Kingdom created or arising by or under any international agreement.

the Crown in right of the Government of the United Kingdom,

the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government,

the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark,

the Government of the Isle of Man, or

the Government of any British overseas territory;

any law officer of the Crown for Jersey, Guernsey or the Isle of Man;

the Scottish Legal Aid Board;

the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority;

any other regulatory body (whether or not in the United Kingdom);

any organ of the United Nations;

the Council of the European Union, the European Commission or the European External Action Service;

the Government of any country;

any other person where the Secretary of State or the Treasury (as the case may be) consider that it is appropriate to disclose the information.

Information referred to in paragraph (1) may be disclosed to any person with the consent of a person who, in their own right, is entitled to the information.

In paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.

In paragraph (1)(b) the reference to information includes information obtained at a time when any provision of these Regulations is not in force.

Part 6: supplementary

31.—(1) A disclosure of information under regulation 30 does not breach any restriction on such disclosure imposed by statute or otherwise.

But nothing in that regulation authorises a disclosure that—

contravenes the data protection legislation, or

is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016**(17)**.

Nothing in this Part is to be read as requiring a person who has acted or is acting as counselor solicitor for any person to disclose any privileged information in their possession in that capacity.

Regulation 30 does not limit the circumstances in which information may be disclosed apart from that regulation.

Nothing in this Part limits any conditions which may be contained in a Treasury licence.

In this regulation—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act)**(18)**;

2016 c.25. Amendments have been made by the Policing and Crime Act 2017, Schedule 9, paragraph 74; the Data Protection Act 2018 (c.12), Schedule 19, paragraphs 198-203; S.I. 2018/652 and S.I. 2018/1123. Saving provisions are made by S.I. 2017/859.

2018 c.12. There are amendments to this Act that are not relevant to these Regulations.

“privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

PART 7

Enforcement

Penalties for offences

32.—(1) A person who commits an offence under any provision of Part 3 (Finance) or regulation 23 (finance: licensing offences) is liable—

on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);

on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);

on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine (or both).

A person who commits an offence under regulation 9(6) (confidentiality) is liable—

on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);

on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);

on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

A person who commits an offence under regulation 25(6) or 29 (information offences in connection with Part 3) is liable—

on summary conviction in England and Wales, to imprisonment for a term not exceeding 6 months or a fine (or both);

on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both);

on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003(19) comes into force, the reference in each of paragraphs (1)(a) and (2)(a) to 12 months is to be read as a reference to 6 months.

Liability of officers of bodies corporate etc.

33.—(1) Where an offence under these Regulations, committed by a body corporate—
(19) 2003 c.44. Amendments have been made to section 154(1), but none are relevant to these Regulations.

is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or

is attributable to any neglect on the part of any such person, that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

In paragraph (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Paragraph (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

in the case of a partnership, to a partner;

in the case of an unincorporated body other than a partnership—

(i) where the body’s affairs are managed by its members, to a member of the body; (ii) in any other case, to a member of the governing body.

Jurisdiction to try offences

34.—(1) Wherever an offence under these Regulations is committed (whether in the United

Kingdom or outside the United Kingdom)—

proceedings for the offence may be taken at any place in the United Kingdom, and the offence may for all incidental purposes be treated as having been committed at any such place.

In the application of paragraph (1) to Scotland, any such proceedings against a person may be taken—

(a) in any sheriff court district in which the person is apprehended or is in custody, or (b) in such sheriff court district as the Lord Advocate may determine.

In paragraph (3) “sheriff court district” is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act)(20).

Procedure for offences by unincorporated bodies

35.—(1) Paragraphs (2) and (3) apply if it is alleged that an offence under these Regulations has been committed by an unincorporated body (as opposed to by a member of the body).

Proceedings in England and Wales or Northern Ireland for such an offence must be brought against the body in its own name.

For the purposes of proceedings for such an offence brought against an unincorporated body—

rules of court relating to the service of documents have effect as if the body were a body corporate;

the following provisions apply as they apply in relation to a body corporate—

(i) section 33 of the Criminal Justice Act 1925(**21**) and Schedule 3 to the Magistrates' Courts Act 1980(**22**);

1995 c.46.

1925 c.86, Amendments have been made to section 33 that are not relevant to these Regulations.

1980 c.43. Amendments have been made to Schedule 3 that are not relevant to these Regulations.

(ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(**23**) and Article 166 of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981(**24**).

(4) A fine imposed on an unincorporated body on its conviction of an offence under these Regulations is to be paid out of the funds of the body.

Time limit for proceedings for summary offences

36.—(1) Proceedings for an offence under these Regulations which is triable only summarily may be brought within the period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the prosecutor's knowledge.

But such proceedings may not be brought by virtue of paragraph (1) more than 3 years after the commission of the offence.

A certificate signed by the prosecutor as to the date on which the evidence in question came to the prosecutor's knowledge is conclusive evidence of the date on which it did so; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

In relation to proceedings in Scotland—

section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date of commencement of summary proceedings) applies for the purposes of this regulation as it applies for the purposes of that section, and

references in this regulation to the prosecutor are to be treated as references to the Lord Advocate.

Application of Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005

37. Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (investigatory powers)(**25**) applies to any offence under Part 3 (Finance) or regulation 23 (finance: licensing offences).

Dominic Raab

Secretary of State for Foreign and

Commonwealth Affairs

5th July 2020 Foreign and Commonwealth Office

1945 c. 15 (N.I.).

S.I. 1981/1675 (N.I. 26).

2005 c.15. Chapter 1 of Part 2 has been amended by the Terrorism Act 2006 (c.11), section 33(3) and (4); the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33), sections 26(2) and 30(2) and Schedules 3 and 5; the Bribery Act 2010 (c.23), section 17(2) and Schedule 1; the Criminal Justice and Licensing (Scotland) Act 2010 (asp.13), section 203 and Schedule 7, paragraph 77; the Crime and Courts Act 2013 (c.22), section 15 and Schedule 8, paragraphs 157 and 159; the Criminal Finances Act 2017 (c.22), section 51(1); the Sanctions and Anti-Money Laundering Act 2018, section 59(4) and Schedule 3, paragraph 4; and S.I. 2014/834.

SCHEDULES

SCHEDULE 1 Regulation 7(3)

Rules for interpretation of regulation 7(2)

Application of Schedule

1.—(1) The rules set out in the following paragraphs of this Schedule apply for the purpose of interpreting regulation 7(2).

(2) They also apply for the purpose of interpreting this Schedule.

Joint interests

2. If two or more persons each hold a share or right jointly, each of them is treated as holding that share or right.

Joint arrangements

3.—(1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined shares or rights of both of them.

A “joint arrangement” is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.

“Arrangement” has the meaning given by paragraph 12.

Calculating shareholdings

4.—(1) In relation to a person who has a share capital, a reference to holding “more than 50% of the shares” in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 50% of that share capital.

(2) In relation to a person who does not have a share capital—

a reference to holding shares in that person is to holding a right or rights to share in the capital or, as the case may be, profits of that person;

a reference to holding “more than 50% of the shares” in that person is to holding a right or rights to share in more than 50% of the capital or, as the case may be, profits of that person.

Voting rights

5.—(1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share

capital, on members) to vote at general meetings of the person on all or substantially all matters.

(2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights—

a reference to holding voting rights in the person is to be read as a reference to holding rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company;

a reference to holding “more than 50% of the voting rights” in the person is to be read as a reference to holding the right under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.

6. In applying regulation 7(2) and this Schedule, the voting rights in a person are to be reduced by any rights held by the person itself.

Rights to appoint or remove members of the board

A reference to the right to appoint or remove a majority of the board of directors of a person is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

A reference to a board of directors, in the case of a person who does not have such a board, is to be read as a reference to the equivalent management body of that person.

Shares or rights held “indirectly”

9.—(1) A person holds a share “indirectly” if the person has a majority stake in another person and that other person—

holds the share in question, or

is part of a chain of persons—

each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and

the last of whom holds the share.

A person holds a right “indirectly” if the person has a majority stake in another person and that other person—

holds that right, or

is part of a chain of persons—

each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and

the last of whom holds that right.

For these purposes, a person (“A”) has a “majority stake” in another person (“B”) if—

A holds a majority of the voting rights in B,

A is a member of B and has the right to appoint or remove a majority of the board of directors of B,

A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or

A has the right to exercise, or actually exercises, dominant influence or control over B.

In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a person (“A”) is to be treated as having the right to appoint a director if—

any person’s appointment as director follows necessarily from that person’s appointment as director of A, or

the directorship is held by A itself.

Shares held by nominees

10. A share held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

Rights treated as held by person who controls their exercise

11.—(1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).

(2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—

by that person,

in accordance with that person’s directions or instructions, or (c) with that person’s consent or concurrence.

12. “Arrangement” includes—

(a) any scheme, agreement or understanding, whether or not it is legally enforceable, and

(b) any convention, custom or practice of any kind.

Rights exercisable only in certain circumstances etc.

13.—(1) Rights that are exercisable only in certain circumstances are to be taken into account only—

(a) when the circumstances have arisen, and for so long as they continue to obtain, or (b) when the circumstances are within the control of the person having the rights.

But rights that are exercisable by an administrator or by creditors while a person is subject to relevant insolvency proceedings are not to be taken into account while the person is subject to those proceedings.

“Relevant insolvency proceedings” means—

administration within the meaning of the Insolvency Act 1986(26),

administration within the meaning of the Insolvency (Northern Ireland) Order 1989(27),

or

proceedings under the insolvency law of another country during which a person’s assets and affairs are subject to the control or supervision of a third party or creditor.

Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

Rights attached to shares held by way of security

14. Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—

where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person’s instructions, and

where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving

1986 c.45.

S.I. 1989/2405 (N.I. 19).

the value of the security, or of realising it, the rights are exercisable only in that person’s interests.

SCHEDULE 2 Regulation 20(3)

Treasury licences: purposes

Interpretation

1. In this Schedule—

“designated person” has the same meaning as it has in Part 3 (Finance);

“frozen funds or economic resources” means funds or economic resources frozen by virtue of regulation 11, and any reference to a person’s frozen funds or economic resources is to funds or economic resources frozen as a consequence of the designation of that person for the purpose of that regulation.

Basic needs

2.—(1) To enable the basic needs of a designated person, or (in the case of an individual) any dependent family member of such a person, to be met.

In the case of an individual, in sub-paragraph (1) “basic needs” includes— (a) medical needs;

(b) needs for—

food;

payment of insurance premiums;

payment of tax;

rent or mortgage payments; (v) utility payments.

In the case of a person other than an individual, in sub-paragraph (1) “basic needs” includes needs for—

payment of insurance premiums;

payment of reasonable fees for the provision of property management services;

payment of remuneration, allowances or pensions of employees;

payment of tax;

rent or mortgage payments; (f) utility payments.

In sub-paragraph (1)—

“dependent” means financially dependent;

“family member” includes—

the wife or husband of the designated person;

the civil partner of the designated person;

any parent or other ascendant of the designated person; (d) any child or other descendant of the designated person; (e) any person who is a brother or sister of the designated person, or a child or other descendant of such a person.

Legal services

3. To enable the payment of—

reasonable professional fees for the provision of legal services, or

reasonable expenses associated with the provision of legal services.

Maintenance of frozen funds and economic resources

4. To enable the payment of—

reasonable fees, or

reasonable service charges, arising from the routine holding or maintenance of frozen funds or economic resources.

Extraordinary expenses

To enable an extraordinary expense of a designated person to be met.

Pre-existing judicial decisions etc.

To enable, by the use of a designated person's frozen funds or economic resources, the implementation or satisfaction (in whole or in part) of a judicial, administrative or arbitral decision or lien, provided that—

(a) the funds or economic resources so used are the subject of the decision or lien, (b) the decision or lien—

was made or established before the date on which the person became a designated person, and

is enforceable in the United Kingdom, and

(c) the use of the frozen funds or economic resources does not directly or indirectly benefit any other designated person.

Extraordinary situation

To enable anything to be done to deal with an extraordinary situation.

Prior obligations

8. To enable, by the use of a designated person's frozen funds or economic resources, the satisfaction of an obligation of that person (whether arising under a contract, other agreement or otherwise), provided that—

(a) the obligation arose before the date on which the person became a designated person, and (b) no payments are made to another designated person, whether directly or indirectly.

Diplomatic missions etc.

9.—(1) To enable anything to be done in order that the functions of a diplomatic mission or consular post, or of an international organisation enjoying immunities in accordance with international law, may be carried out.

(2) In this paragraph—

“consular post” has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24 April 1963(28), and any reference to the functions of a consular post is to be read in accordance with that Convention;

“diplomatic mission” and any reference to the functions of a diplomatic mission are to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961(29).

Humanitarian assistance activity

10.—(1) To enable anything to be done in connection with the performance of any humanitarian assistance activity.

(2) In sub-paragraph (1), “humanitarian assistance activity” includes the work of international and non-governmental organisations carrying out relief activities for the benefit of the civilian population of a country.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Sanctions and Anti-Money Laundering Act 2018 (c.13) to establish a sanctions regime for the purpose of deterring, and providing accountability for, activities which, if carried out by or on behalf of a State, would amount to serious violations of certain human rights by that State. The activities could be carried out by a State or non-State actor.

The Regulations confer a power on the Secretary of State to designate persons who are, or have been, involved in such activities. Designated persons may be excluded from the United Kingdom and may be made subject to financial sanctions, including having their funds or economic resources frozen.

The Regulations provide for certain exceptions to this sanctions regime (for example to allow for frozen accounts to be credited with interest or other earnings and to allow acts done for the purpose of national security or the prevention of serious crime). The Regulations also confer powers on the Treasury to issue licences in respect of activities that would otherwise be prohibited under the Regulations. Schedule 2 sets out the purposes under which the Treasury will issue such licences.

The Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime. The Regulations

make it a criminal offence to contravene, or circumvent, any of the prohibitions in these Regulations and prescribe the mode of trial and penalties that apply to such offences.

United Nations Treaty Series, vol. 596, p. 261.

United Nations Treaty Series, vol. 500, p. 95.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. Instead a de minimis assessment has been prepared as this instrument is likely to entail some costs for businesses, but the net impact is estimated to be below £5 million per year.