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Gender Justice – Key to Achieving the Millennium Development Goals

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ABSTRACT: Gender equality, also known as sexual equality or equality of the sexes, is the state of equal ease of access to resources and opportunities regardless of gender, including economic participation and decision-making; and the state of valuing different behaviors, aspirations and needs equally, regardless of gender.^[1]

Gender equality is the goal, while gender neutrality and gender equity are practices and ways of thinking that help in achieving the goal. Gender parity, which is used to measure gender balance in a given situation, can aid in achieving gender equality but is not the goal in and of itself. Gender equality is more than just equal representation, it is strongly tied to women's rights, and often requires policy changes. As of 2017, the global movement^[2] for gender equality has not incorporated the proposition of genders besides women and men, or gender identities outside of the gender binary.

UNICEF says gender equality "means that women and men, and girls and boys, enjoy the same rights, resources, opportunities and protections. It does not require that girls and boys, or women and men, be the same, or that they be treated exactly alike."^{[2][a]}

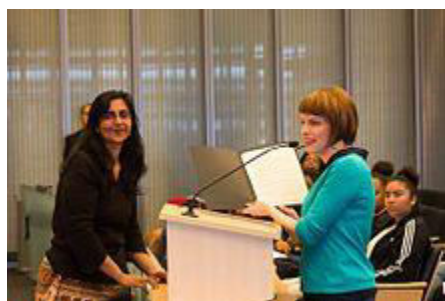
On a global scale, achieving gender equality also requires eliminating harmful practices against women and girls, including sex trafficking, femicide, wartime sexual violence, gender wage gap,^[3] and other oppression tactics. UNFPA stated that, "despite many international agreements affirming their human rights, women are still much more likely than men to be poor and illiterate. They have less access to property ownership, credit, training and employment. This partly stems from the archaic stereotypes of women being labelled as child-bearers and home makers, rather than the bread winners of the family."^[4] They are far less likely than men to be politically active and far more likely to be victims of domestic violence."^[5]

As of 2017, gender equality is the fifth of seventeen sustainable development goals (SDG 5) of the United Nations. Gender inequality is measured annually by the United Nations Development Programme's Human Development Reports.

KEYWORDS-gender, justice, oppression, violence, equality, binary, rights, millennium, goals

I. INTRODUCTION

Gender Justice League (GJL) is an advocacy group for transgender, genderqueer, nonbinary, and gender non-conforming individuals in Washington State in the United States.^[1] The group advocates for transgender legal, political, and medical rights as well as participating in protests, awareness raising, and fundraising events.^{[1][2][3][4]}



Former Gender Justice League director Danni Askini declaring "Trans Pride Day" at Seattle city council



History

Gender Justice League was founded in 2012 by transgender activists and allies.^[3] In 2013 they organized the first Trans Pride Seattle, which has since taken place annually in June.^[5]

Focuses

SafeHouse Program

Gender Justice League's SafeHouse program provides shelter and financial assistance services to transgender and gender diverse people who have experienced gender-based violence and houselessness in King county and along the Olympic peninsula.

Legal discrimination

Public Accommodation

One focus of Gender Justice League is curbing legislation that prohibits transgender individuals from using the bathroom that aligns with their gender identity rather than their sex assigned at birth, otherwise known as bathroom bills.^{[1][6][7]} Washington currently has a law that protects transgender individual's rights in public bathrooms, but GJL's activists are concerned about petitions that are trying to get rid of these laws and legal initiatives to overrule them.^{[8][9][10][11]}

Name changes

Gender Justice League has held legal clinics to help transgender individuals legally change their names.^{[12][13][14][15][16]} These clinics were specifically held between November 2016 and January 2017, due to the group's fear that newly elected president Donald Trump might revoke transgender individual's ability to legally change their names once he was inaugurated.^{[13][16][17]} These clinics invited volunteers from various LGBTQ+ law organizations to do pro bono work, and the clinics served as many as 200 individuals.^{[13][18]} A problem arose, however, as the Gender Justice League wanted to provide money to those trying to change their names, but were unable to due to their tax status. GJL organized with King County to be able to give individuals seeking a name change the money to do so without forfeiting their nonprofit status.^[18]

Political activism

Seattle politics

Gender Justice League supports various political causes within the city of Seattle, not all of which are strictly related to transgender issues.^{[19][20]} GJL has also supported other efforts within the city, including bills that strengthen tenant's rights.^[21]

Kshama Sawant was the recipient of a Gender Justice Award in 2015 for her political activism supporting transgender individuals.^[22] Sawant has also donated money from her "solidarity fund" to GJL, citing their efforts to help transgender individuals as the reason for her donation.^[23]

Washington State politics

Gender Justice League is active in influencing Washington State politics. They have had an impact in organizing against bills that they believe would harm transgender individuals in Washington, including Washington Senate Bill 6443 and state ballot initiatives 1515 (2016) and 1552 (2017).^{[10][24][23][19][25]}

National politics

In 2017 Lambda Legal and OutServe-SLDN filed a lawsuit on behalf of Gender Justice League against President Trump and the U.S. Department of Defense over the transgender military ban, proposed by Trump on July 26, 2017.^{[26][27][28]}



Events

Trans Pride Seattle

Gender Justice League organizes the annual Trans Pride Seattle, an event that is very similar to a Gay Pride Parade.^{[5][29][30]} The event was first organized in 2013, a year after the organization was founded.^[31] The 2016 event drew upwards of 5,000 participants.^[32] Members of Gender Justice League claim that the event is a necessary space for transgender individuals and their allies to form community and overcome isolation.^[33]

Gender Justice Awards

Gender Justice League holds an annual awards ceremony called the Gender Justice Awards, in which they celebrate individuals who have supported the transgender community.^{[34][35]}

Solidarity Music Festival

In 2016, Gender Justice League helped organize the Solidarity Music Festival as a form of anti-capitalist protest.^[36]

The Women's Initiatives for Gender Justice (WIGJ) is an international women's rights organisation that supports legal actions against gender violence through the International Criminal Court (ICC) and peace processes.^[1]

Aims

Women's Initiatives for Gender Justice, based in The Hague, describes itself as networking with "more than 6,000 grassroots partners, associates and members across multiple armed conflicts", especially conflicts under investigation by the ICC, especially in Uganda and the Democratic Republic of the Congo.^[1] WIGJ's networking includes participation in Sudan, the Central African Republic, Kenya, Libya and Kyrgyzstan. WIGJ also has offices in Cairo, Kampala and Kitgum.

ICC support

In September 2019, Melinda Reed of WIGJ commented on the decision by ICC judges to proceed to trial against al-Hassan Ag Abdoul Aziz, a Malian accused of crimes against humanity and war crimes during his role as head of the religious police in Timbuktoo during the Northern Mali conflict in 2012 and 2013. The case against al-Hassan explicitly includes systematic sexual slavery of Timbuktoo women and girls. The Guardian described the case as "groundbreaking" while Reed described the case as "another step in a positive evolution. Every decision matters. We are writing the jurisprudence of the future now, so every case and every step is extremely important with regards to gender-based and sexual crimes."^[2]

II. DISCUSSION

The legal status of transgender people varies greatly around the world. Some countries have enacted laws protecting the rights of transgender individuals, but others have criminalized their gender identity or expression. In many cases, transgender individuals face discrimination in employment, housing, healthcare, and other areas of life.

A transgender person is someone whose gender identity is inconsistent or not culturally associated with the sex they were assigned at birth and also with the gender role that is associated with that sex. They may have, or may intend to establish, a new gender status that accords with their gender identity. Transsexual is generally considered a subset of transgender,^{[1][2][3]} but some transsexual people reject being labelled transgender.^{[4][5][6][7]}

Globally, most legal jurisdictions recognize the two traditional gender identities and social roles, man and woman, but tend to exclude any other gender identities and expressions. People assigned male at birth are usually legally recognized as men, and people assigned female at birth are usually legally recognized as women, in jurisdictions that distinguish between the two. However, there are some countries which recognize, by law, a third gender. That third gender is often associated with being nonbinary. There is now a greater understanding of the breadth of variation outside the typical categories of "man" and "woman", and many self-descriptions are now entering the literature, including pangender, genderqueer, polygender, and agender. Medically and socially, the term "transsexualism" is



being replaced with gender incongruence^[8] or gender dysphoria,^[9] and terms such as transgender people, trans men, and trans women, and non-binary are replacing the category of transsexual people.

Many of the issues regarding transgender rights are generally considered a part of family law, especially the issues of marriage and the question of a transgender person benefiting from a partner's insurance or social security.

The degree of legal recognition provided to transgender people varies widely throughout the world. Many countries now legally recognize sex reassignments by permitting a change of legal gender on an individual's birth certificate.^[10] Many transsexual people have permanent surgery to change their body, gender-affirming surgery or semi-permanently change their body by hormonal means, transgender hormone therapy. The legal status of such healthcare varies. In many countries, some of these modifications are required for legal recognition. In a few, the legal aspects are directly tied to health care; i.e. the same bodies or doctors decide whether a person can move forward in their treatment and the subsequent processes automatically incorporate both matters. In others, these medical procedures are illegal.

In some jurisdictions, transgender people (who are considered non-transsexual) can benefit from the legal recognition given to transsexual people. In some countries, an explicit medical diagnosis of "transsexualism" is (at least formally) necessary. In others, a diagnosis of "gender dysphoria", or simply the fact that one has established a non-conforming gender role, can be sufficient for some or all of the legal recognition available. The DSM-5 recognizes gender dysphoria as an official diagnosis. Not all transgender or transsexual people feel gender dysphoria or gender incongruence, but in many countries a diagnosis is required for legal recognition, if transgender people are legally recognized at all.

South Africa

The Constitution of South Africa forbids discrimination on the basis of sex, gender and sexual orientation (amongst other grounds). The Constitutional Court has indicated that "sexual orientation" includes transsexuality.^[84]

In 2003 Parliament enacted the Alteration of Sex Description and Sex Status Act, which allows a transgender person who has undergone medical or surgical gender reassignment to apply to the Department of Home Affairs to have the sex description altered on their birth record. Once the birth record is altered they can be issued with a new birth certificate and identity document, and are considered "for all purposes" to be of the new sex.^[85]

Egypt

Transgender people face significant existing societal stigma against the LGBT+ community in Egypt, a conservative Muslim nation. The procedure for gender reassignment is not illegal in Egypt, however, the complication and stigmatisation has put transgender people through mental and physical assault along with torture, as per Human Rights Watch. Reportedly, the statistics of criminal acts committed against the transgender community have not been available because they have had a history of going unreported.^{[86][87]}

Botswana

In September 2017, the Botswana High Court ruled that the refusal of the Registrar of National Registration to change a transgender man's gender marker was "unreasonable and violated his constitutional rights to dignity, privacy, freedom of expression, equal protection of the law, freedom from discrimination and freedom from inhumane and degrading treatment". LGBT activists celebrated the ruling, describing it as a great victory.^{[88][89]} At first, the Botswana Government announced it would appeal the ruling, but decided against it in December, supplying the trans man in question with a new identity document that reflects his gender identity.^[90]

A similar case, where a transgender woman sought to change her gender marker to female, was heard in December 2017. The High Court ruled that the Government must recognise her gender identity.^[91] She dedicated her victory to "every single trans diverse person in Botswana".



Asia

China

In 2009 the Chinese government made it illegal for minors to change their officially listed gender, stating that sexual reassignment surgery, available to only those over the age of twenty, was required in order to apply for a revision of their identification card and residence registration.^[92]

In early 2014 the Shanxi province started allowing minors to apply for the change with the additional information of their guardian's identification card. This shift in policy allows post-surgery marriages to be recognized as heterosexual and therefore legal.^[93]

Transgender youth in China face many challenges. One study found that Chinese parents report 0.5% (1:200) of their 6 to 12-year boys and 0.6% (1:167) of girls often or always 'state the wish to be the other gender'. 0.8% (1:125) of 18- to 24-year-old university students who are birth-assigned males (whose sex/gender as indicated on their ID card is male) report that the 'sex/gender I feel in my heart' is female, while another 0.4% indicating that their perceived gender was 'other'. Among birth-assigned females, 2.9% (1:34) indicated they perceived their gender as male, while another 1.3% indicating 'other'.^[94]

According to a survey conducted by Peking University, Chinese trans female students face strong discrimination in many areas of education.^[95] Sex segregation is found everywhere in Chinese schools and universities: student enrollment (for some special schools, universities and majors), appearance standards (hairstyles and uniforms included), private spaces (bathrooms, toilets and dormitories included), physical examinations, military trainings, conscription, PE classes, PE exams and physical health tests. Chinese students are required to attend all the activities according to their legal gender marker, otherwise they will be punished. It is also difficult to change the gender information of educational attainments and academic degrees in China, even after sex reassignment surgery, which results in discrimination against well-educated trans women.^{[96][97]}

Hong Kong

The Court of Final Appeal of Hong Kong ruled that a transsexual woman has the right to marry her boyfriend. The ruling was made on 13 May 2013.^{[98][99]}

On 16 September 2013, Eliana Rubashkyn a transgender woman claimed that she was discriminated and sexually abused by the customs officers, including being subjected to invasive body searches and denied usage of a female toilet, although Hong Kong officers denied the allegations.^{[100][101]} After being released, she applied for and was granted refugee status by the United Nations High Commissioner for Refugees (UNHCR), rendering her effectively stateless awaiting acceptance to a third country.^{[102][103]}

In February 2022, the Court of Final Appeal ruled that the government's requirement of full sex reassignment surgery in order to update gender identity on ID cards was unconstitutional and unacceptably burdensome.^{[104][105]} As of May 2022, the ruling has yet to be implemented.^[106]

India

In April 2014, the Supreme Court of India declared transgender to be a 'third gender' in Indian law.^{[107][108][109]} The transgender community in India (made up of Hijras and others) has a long history in India and in Hindu mythology.^{[110][111][a]}

The Transgender Persons (Protection of Rights) Act, 2019, was passed by Parliament in November 2019, and came into effect on 11 January 2020. It protects transgender individuals against discrimination in education, employment and healthcare. It recognizes the gender identity of the individual, and there are provisions in the law for a certificate to be issued with their new gender identity. There have been reservations among some in the transgender community, both regarding the difficulty of obtaining a certificate, and because of lack of awareness and lack of sensitivity to the issue among local public officials.^[113] LGBTQ protests against the bill have occurred, with claims that the bill hurts the transgender community instead of helping it. Protesters noted the provision for certification, but criticized the fact that this would require people to register with the government in order to be recognized as



transgender. They also criticized the inequality inherent in the vast differences in punishment for the same crime, such as sexual abuse, committed against violating a transgender or cisgender individual.^[114]

Iran

Beginning in the mid-1980s, transgender individuals were officially recognized by the government and allowed to undergo sex reassignment surgery. Officially the leader of Iran's Islamic Revolution, Ayatollah Ruhollah Khomeini, issued a fatwa declaring sex reassignment surgery permissible for "diagnosed transsexuals".^{[115][116][117]} The government provides up to half the cost for those needing financial assistance, and a sex change is recognised on the birth certificate.^[118] Despite this, Iran's transgender people face discrimination in society.^[119] Founded in 2007 by Maryam Khatoun Molkara the Iranian Society to Support Individuals with Gender Identity Disorder (تیم‌اح نام‌جن) is Iran's main transsexual organization.^[120]

Additionally, the Iranian government's response to homosexuality is to pressure lesbian and gay individuals, who are not in fact transsexual, towards sex reassignment surgery.^[121] Eshaghian's documentary, *Be Like Others*, chronicles a number of stories of Iranian gay men who feel transitioning is the only way to avoid further persecution, jail, or execution.^[122] Maryam Khatoun Molkara—who convinced Khomeini to issue the fatwa on transsexuality—confirmed that some people who undergo operations are gay rather than transsexual.^[123]

Japan

On 10 July 2003, the National Diet of Japan unanimously approved a new law that enables transsexual people to amend their legal sex. It is called 性同一性障害者の性別の取扱いの特例に関する法律 (Act on Special Cases in Handling Gender for People with Gender Identity Disorder)^{[124][125][126]} The law, effective on 16 July 2004, however, has controversial conditions which demand the applicants be both unmarried and childless. On 28 July 2004, Naha Family Court in Okinawa Prefecture returned a verdict to a transsexual woman in her 20s, allowing the sex on her family registry record or koseki to be amended from male to female. It is generally believed to be the first court approval under the new law.^[127] Since 2018 sex reassignment surgeries are paid for by the Japanese government, which are covered by the Japanese national health insurance as long as patients are not receiving hormone treatment and do not have any other pre-existing conditions. However applicants are required to be at least 20 years old, single, sterile, have no children under 20 (the age of majority in Japan), as well as to undergo a psychiatric evaluation to receive a diagnosis of "Gender Identity Disorder", also known as gender dysphoria in western countries. Once completed the patient has to only pay 30% of the surgery costs.^{[128][129]}

Malaysia

There is no legislation expressly allowing transsexuals to legally change their gender in Malaysia. The relevant legislations are the Births and Deaths Registration Act 1957 and National Registration Act 1959. Therefore, judges currently exercise their discretion in interpreting the law and defining the gender. There are conflicting decisions on this matter. There is a case in 2003 where the court allowed a transsexual to change her gender indicated in the identity card, and granted a declaration that she is a female.^{[130][131]} However, in 2005, in another case, the court refused to amend the gender of a transsexual in the identity card and birth certificate.^[130] Both cases applied the United Kingdom case of *Corbett v Corbett* in defining legal gender.

Pakistan

In Pakistan, some members of the LGBT community have started undergoing acts of sex reassignment surgery to change their sex. There are situations where such cases have caused media attention.^[132] A 2008 ruling at Pakistan's Lahore High Court gave permission to Naureen, 28, to have a sex change operation, although the decision was applicable only towards individuals who were diagnosed with gender dysphoria.^[133]

In 2009, the Pakistan Supreme Court made a ruling in favor of the transgender community. The landmark ruling stated that as citizens they were entitled to the equal benefit and protection of the law and called upon the Pakistani government to take steps to protect transgender people from discrimination and harassment.^[134] Pakistan's chief justice, Iftikhar Chaudhry, was the architect of major extension of rights to Pakistan's transgender community during his term.^[135] There are also anti-discrimination laws in the provision of goods and services for transgender or transsexual individuals (known as *Khuwaja Sira*, formerly *hijra*, or *Third Gender*) in Pakistani.^{[136][137]}



In 2018, the Pakistani government passed the Transgender Person (Protection of Rights) Act which officially established the legal right of transgender people in Pakistan to identify themselves as such and instituted anti-discrimination laws. These include recognition of transgender identity in legal documents such as passports, identity card, and drivers licences, along with prohibiting discrimination in employment, schools, workplaces, public transit, healthcare, etc. The bill also included the right for inheritance in accordance to their chosen gender. Furthermore, the bill obligates the Pakistani government to build protection centers and safe houses for the specific purpose of being used by the transgender community in Pakistan.^[138]

Jordan

The Court of Cassation, the highest court in Jordan allowed a transsexual woman to change her legal name and sex to female in 2014 after she brought forth medical reports from Australia. The head of the Jordanian Department of civil Status and Passports stated that two to three cases of change of sex reach the department annually, all based on Medical Reports and Court orders.^[139]

Philippines

The Supreme Court of the Philippines Justice Leonardo Quisumbing on 12 September 2008, allowed Jeff Cagandahan, 27, to change his birth certificate, gender and name:

We respect respondent's congenital condition and his mature decision to be a male. Life is already difficult for the ordinary person. We cannot but respect how respondent deals with his unordinary state and thus help make his life easier, considering the unique circumstances in this case. In the absence of a law on the matter, the court will not dictate on respondent concerning a matter so innately private as one's sexuality and lifestyle preferences, much less on whether or not to undergo medical treatment to reverse the male tendency due to rare medical condition, congenital adrenal hyperplasia. In the absence of evidence that respondent is an 'incompetent,' and in the absence of evidence to show that classifying respondent as a male will harm other members of society ... the court affirms as valid and justified the respondent's position and his personal judgment of being a male.

Court records showed that at age six, he had small ovaries; at 13, his ovarian structure was minimized, he had no breasts and did not menstruate. The psychiatrist testified that "he has both male and female sex organs, but was genetically female, and that since his body secreted male hormones, his female organs did not develop normally." The Philippines National Institutes of Health said "people with congenital adrenal hyperplasia lack an enzyme needed by the adrenal gland to make the hormones cortisol and aldosterone."^{[140][141]}

This ruling, however, only applied to cases involving congenital adrenal hyperplasia and other intersex situations.¹ The Philippine Supreme Court has also ruled that Filipino citizens do not have the right to legally change their sex on official documents (driver's license, passport, birth certificate, Social Security records, etc.) if they are transsexual and have undergone sexual reassignment surgery. In 2007, the Court overruled a lower court decision and found that another individual could not legally change name and sex from male to female, as it would have "serious and wide-ranging legal and public policy consequences," citing the institution of marriage in particular.^{[142][143]}

South Korea

In South Korea, it is possible for transgender individuals to change their legal gender, although it depends on the decision of the judge for each case. Since the 1990s, however, it has been approved in most of the cases. The legal system in Korea does not prevent marriage once a person has changed their legal gender.^[144]

In 2006, the Supreme Court of Korea ruled that transsexuals have the right to alter their legal papers to reflect their reassigned sex. A trans woman can be registered, not only as female, but also as being "born as a woman".^[145]

While same-sex marriage is not approved by South Korean law,^[146] a transsexual woman obtains the marital status of 'female' automatically when she marries to a man, even if she has previously been designated as "male".

In 2013 a court ruled that transsexuals can change their legal sex without undergoing genital surgery.^[147]



Taiwan

Transgender people in Taiwan need to undergo genital surgery (removal of primary sex organs) in order to register gender change on both the identity card and the birth certificate.^[148] The surgery requires approval of two psychiatrists, and the procedure is not covered by the National Health Insurance.^[149] The government conducted public consultations on the elimination of surgery requirements back in 2015, but no concrete changes have been made since then.^[150]

In 2018, the government unveiled the new chip-embedded identity card, scheduled to be issued in late 2020. Gender will not be explicitly displayed on the physical card, although the second digit of national identification number reveals gender information anyway ("1" for male; "2" for female). With the inception of new identity card, a third gender option (using digit "7" as the second digit of national identification number) will be available to transgender persons alike.^[151] However, it raises concerns that the practice could stigmatize transgender persons, instead of respecting their gender identity.^[152] Details of the third-gender option policy are yet to be released.

After same-sex marriage law became effective on 24 May 2019, transgender persons could marry a person of the same registered gender.

Europe

A majority of countries in Europe give transgender people the right to at least change their first name, most of which also provide a way of changing birth certificates. Several European countries recognize the right of transgender people to marry in accordance with their post-operative sex. Croatia, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, Norway, Poland, Portugal, Romania, Sweden, Spain, and the United Kingdom all recognize this right. The Convention on the recognition of decisions regarding a sex change provides regulations for mutual recognition of sex change decisions and has been signed by five European countries and ratified by Spain and the Netherlands.

Finland

In Finland, people wishing to change their legal gender must be sterilized or "for some other reason infertile". A recommendation from the UN Human Rights Council to eliminate the sterilization requirement was rejected by the Finnish government in 2017.^[153]

Finland changed its gender identity law in 2022 so that it no longer requires sterilization and is instead based on self-identification.^[154]

France

In France, the change of the first name can be done by registry office or tribunal. The change of sex can be done by tribunal. In both cases there is no need for psychiatric reports or sex reassignment surgery.^[155]

Germany

In 1908, Imperial Germany (with the help of sexologist Magnus Hirschfeld and the WhK) issued a very limited number of 'transvestite passes' – transvestite at this time referring to crossdressers as well as transgender and gender non-conforming people – which enabled individuals to dress in clothes which were seen as discordant with their sex. This ended in 1933.^{[156][157]}

Since 1980, Germany has a law that regulates the change of first names and legal gender. It is called Gesetz über die Änderung der Vornamen und die Feststellung der Geschlechtszugehörigkeit in besonderen Fällen (de:Transsexuellengesetz – TSG) (Law about the change of first name and determination of gender identity in special cases (Transsexual law – TSG)). Requirements that applicants for a change in gender were infertile post-surgery declared unconstitutional by supreme court ruling in a 2011.



Greece

On 10 October 2017, the Greek Parliament passed, by a comfortable majority,^[158] the Legal Gender Recognition Bill which grants the transgender people in Greece the right to change their legal gender freely by abolishing any conditions and requirements, such as undergoing any medical interventions, sex reassignment surgeries or sterilisation procedures to have their gender legally recognized on their IDs. The bill grants this right to anyone aged 17 and older. However, even underaged children between the age of 15 and 17 will have access to the legal gender recognition process, but under certain conditions, such as obtaining a certificate from a medical council.^{[159][160]} The bill was opposed by the Holy Synod of the Orthodox Church, the Communist Party of Greece, Golden Dawn and New Democracy.^[158]

The Legal Gender Recognition Bill followed a 20 July 2016 decision of the County Court of Athens, which ruled that a person who wants to change their legal gender on the Registry Office files is no longer obliged to already have undergone a sex reassignment surgery.^[161] This decision was applied by the Court on a case-by-case basis.^[162]

Republic of Ireland

In Ireland, it was not possible for a transsexual person to alter their birth certificate until 2015. The High Court took a case by Lydia Foy in 2002 that was turned down, as a birth certificate was deemed to be a historical document.^[163]

On 15 July 2015 Ireland passed the Gender Recognition Act, which allows legal gender changes without the requirement of medical intervention or assessment by the state.^[164] Such change is possible through self-determination for any person aged 18 or over resident in Ireland and registered on Irish registers of birth or adoption. Persons aged 16 to 18 years must secure a court order to exempt them from the normal requirement to be at least 18.^[165] Ireland is one of four legal jurisdictions in the world where people may legally change gender through self-determination.^[166]

Nordic countries

The Nordic model approach to transgender rights emphasizes the human rights of transgender people and is based on legal equality and self-identification, which has been adopted in countries such as Denmark, Greenland, Norway and Iceland. In 2014, the Danish Parliament voted 59–52 to remove the requirement of a mental disorder diagnosis and surgery with irreversible sterilization for transgender people who wish to change their legal gender.^[167] A similar act was adopted in Greenland in 2016.^[168] In Norway the Gender Recognition Act, that introduced self-identification, was introduced by the Conservative-led government of Erna Solberg and adopted in 2016. The act received widespread support from most political parties, the LGBTIQ+ rights movement and the feminist movement, including the Norwegian Association for Women's Rights.^{[169][170]} Transgender people are also protected against discrimination and hate speech under discrimination and criminal law. Iceland adopted the Gender Autonomy Act that introduced self-identification and a third legal gender option in 2019, which received widespread support, including from the Icelandic Women's Rights Association.^[171] The women's rights movement in the Nordic countries strongly supports transgender rights. In 2021 the Icelandic Women's Rights Association in cooperation with the International Alliance of Women organized a forum on how the women's movement could counter "anti-trans voices."^[172] Sweden has had a gender identity law since 1972, probably the first in the world. Since 2013, neither sterilization^[173] nor other treatment is required for trans people who need to change their legal sex, but a diagnosis is required. Finland changed its gender identity law in 2022 so that it no longer requires sterilization and is instead based on self-identification.^[154]



Poland



Anna Grodzka, the first transgender MP in Europe^[174]

The first milestone sentence in the case of gender shifting was given by Warsaw's Voivode Court in 1964. The court reasoned that it be possible, in face of civil procedure and acting on civil registry records, to change one's legal gender after their genital reassignment surgery had been conducted. In 1983, the Supreme Court ruled that in some cases, when the attributes of the individual's preferred gender were predominant, it is possible to change one's legal gender even before genital reassignment surgery.^[175]

In 2011, Anna Grodzka, the first transgender MP in the history of Europe who underwent a genital reassignment operation was appointed. In the Polish Parliamentary Election 2011 she gained 19,337 votes (45,079 voted for her party in the constituency) in the City of Kraków and came sixth in her electoral district (928,914 people, voter turnout 55.75%).^[176] Grodzka was reportedly the only transgender person with ministerial responsibilities in the world since 10 November 2011 (as of 2015).^{[177][178]}

Portugal

The law allows an adult person to change their legal gender without any requirements. Minors aged 16 and 17 are able to do so with parental consent and a psychological opinion, confirming that their decision has been taken freely and without any outside pressure. The law also prohibits both direct and indirect discrimination based on gender identity, gender expression and sex characteristics, and bans non-consensual sex assignment treatment and/or surgical intervention on intersex children.^[179]

Romania

In Romania it is legal for transgender people to change their first name to reflect their gender identity based on personal choice. Since 1996, it has been possible for someone who has gone through genital reassignment surgery to change their legal gender in order to reflect their post-operative sex. Transgender people then have the right to marry in accordance with their post-operative sex.^[180]

United Kingdom

The Sex Discrimination Act 1975 made it illegal to discriminate on the ground of anatomical sex in employment, education, and the provision of housing, goods, facilities and services.^[181] The Equality Act 2006 introduced the Gender Equality Duty in Scotland, which required public bodies to take seriously the threat of harassment or discrimination against transsexual people in various situations. In 2008 the Sex Discrimination (Amendment of Legislation) Regulations extended existing regulation to outlaw discrimination when providing goods or services to transsexual people. The Equality Act 2010 added "gender reassignment" as a "protected characteristic".^[182]

The Gender Recognition Act 2004 effectively granted full legal recognition for binary transgender people.^[181] In contrast to some systems elsewhere in the world, the gender recognition process under the Act does not require applicants to be post-operative. There must, however, be significant medical explanation as to why an individual has



not undergone sex reassignment surgery. They need only demonstrate that they have suffered gender dysphoria, have lived as "your new gender" for two years, and intend to continue doing so until death.^[183]

North America

Canada

Jurisdiction over legal classification of sex in Canada is assigned to the provinces and territories. This includes legal change of gender classification.

On 19 June 2017 Bill C-16, after having passed the legislative process in the House of Commons of Canada and the Senate of Canada, became law upon receiving Royal Assent which put it into immediate force.^{[184][185][186]} The law updated the Canadian Human Rights Act and the Criminal Code to include "gender identity and gender expression" as protected grounds from discrimination, hate publications and advocating genocide. The bill also added "gender identity and expression" to the list of aggravating factors in sentencing, where the accused commits a criminal offence against an individual because of those personal characteristics. Similar transgender laws also exist in all the provinces and territories. Conversion therapy is banned in the provinces of Manitoba,^[187] Ontario,^[188] and Nova Scotia,^[189] and the city of Vancouver,^[190] though the Nova Scotia law includes a clause which allows "mature minors" between the ages of 16 and 18 to consent.

Mexico

Jurisdiction over legal classification of sex in Mexico is assigned to the states and Mexico City. This includes legal change of gender classification.

On 13 March 2004, amendments to the Mexico City Civil Code that allow transgender people to change their gender and name on their birth certificates, took effect.^{[191][192]}

In September 2008, the PRD-controlled Mexico City Legislative Assembly approved a law, in a 37–17 vote, making gender changes easier for transgender people.^[193]

On 13 November 2014, the Legislative Assembly of Mexico City unanimously (46–0) approved a gender identity law. The law makes it easier for transgender people to change their legal gender.^[194] Under the new law, they simply have to notify the Civil Registry that they wish to change the gender information on their birth certificates. Sex reassignment surgery, psychological therapies or any other type of diagnosis are no longer required. The law took effect in early 2015. On 13 July 2017, the Michoacán Congress approved (22–1) a gender identity law.^[195] Nayarit approved (23–1) a similar law on 20 July 2017.^[196]

United States

On 15 June 2020, the Supreme Court of the United States (SCOTUS) ruled in *Bostock v. Clayton County* that for the purposes of Title VII of the Civil Rights Act of 1964, discrimination on the basis of transgender status is also discrimination because of sex.

Regardless of the legal sex classification determined by a state or territory, the federal government may make its own determination of sex classification for federally issued documents. For instance, the U.S. Department of State requires a medical certification of "appropriate clinical treatment for transition to the updated gender (male or female)" to amend the gender designation on a U.S. passport, but sex reassignment surgery is not a requirement to obtain a U.S. passport in the updated gender.^[197] This leaves transgender Americans subject to inconsistent and often discriminatory regulations when seeking healthcare.^[198]

South America

South America has some of the most progressive legislation in the world regarding transgender rights. Bolivia and Ecuador are among the few countries worldwide that offer constitutional protection against discrimination based on gender identity. Transgender persons are allowed to change their name and gender on legal documents in a majority of countries. Argentina, Brazil, Bolivia, Chile, Colombia, Ecuador and Uruguay allow individuals to change their



name and gender without undergoing medical treatment, sterilization or judicial permission. In Peru a judicial order is required.^{[199][200]}

Argentina

In 2012 the Argentine Congress passed the Ley de Género (Gender Law),^[201] which allows individuals over 18 to change the gender marker in their DNI (national ID) on the basis of a written declaration only. Argentina thus became the first country to adopt a gender recognition policy based entirely on individual autonomy, without any requirement for third party diagnosis, surgeries or obstacles of any type.

Bolivia

The Gender Identity law allows individuals over 18 to legally change their name, gender and photography on legal documents. No surgeries or judicial order are required. The law took effect on 1 August 2016.^[202]

Brazil

Changing legal gender assignment in Brazil is legal according to the Superior Court of Justice of Brazil, as stated in a decision rendered on 17 October 2009.^[203]

And in 2008, Brazil's public health system started providing free sexual reassignment operations in compliance with a court order. Federal prosecutors had argued that sexual reassignment surgery was covered under a constitutional clause guaranteeing medical care as a basic right.^[204]

Patients must be at least 18 years old and diagnosed as transsexuals with no other personality disorders, and must undergo psychological evaluation with a multidisciplinary team for at least two years, begins with 16 years old. The national average is of 100 surgeries per year, according to the Ministry of Health of Brazil.^[205]

In December 2020, a bill was introduced that defines biological sex as the only factor in determining gender.

Chile

Chile bans all discrimination and hate crimes based on gender identity and gender expression. The Gender Identity Law, in effect since 2019, recognizes the right to self-perceived gender identity, allowing people over 14 years to change their name and gender on all official documents without prohibitive requirements.^[206] Since 1974, the change of gender had been possible in the country through a judicial process.

Colombia

Since 2015, a Colombian person may change their legal gender and name manifesting their solemn will before a notar, no surgeries or judicial order required.^[207]

Ecuador

Since 2016, Ecuadorians are allowed to change their birth name and gender identity (instead of the sex assigned at birth) on legal documents and national ID cards. The person who wants to change the word "sex" for "gender" in the identity card shall present two witnesses to accredit the self-determination of the applicant.^[208]

Peru

In Peru transgender persons can change their legal gender and name after complying with certain requirements that may become psychological and psychiatric evaluations, a medical intervention or sex reassignment surgery. A judicial permission is required. In November 2016, the Constitutional Court of Peru determined that transsexuality is not a pathology and recognized the right to gender identity. However, favorable judicial decisions on gender change have been appealed.^[209]

Uruguay

Since 2019, transgender people can self-identify their gender and update their legal name, without approval from a judge after the approval of the Comprehensive Law for Trans Persons. The new law creates scholarships for trans people to access education, a monthly pension for transgender people born before 1975 and also requires



government services to employ a minimum of 1% of the transgender population. It also now acknowledges the self-identification of non-binary people.^[210]

In October 2009, lawmakers passed the Gender identity law allowing transgender people over the age of 18 to change their name and legal gender on all official documents. Surgery, diagnosis or hormone therapy were not a requirement but a judicial permission was required.^[211]

Oceania

Australia

Birth certificates are regulated by the states and territories, whereas marriage and passports are matters for federal law. All Australian jurisdictions now recognise the affirmed sex of an individual, with varying requirements.^[212] In the landmark case *New South Wales Registrar of Births, Deaths and Marriages v Norrie* [2014] the High Court of Australia held that the Births Deaths and Marriages Registration Act 1995 (NSW) did not require a person having undergone genital reassignment surgery to identify as either a man or a woman. The ruling permits a gender registration of "non-specific".^[213]

Passports are issued in the preferred gender, without requiring a change to birth certificates or citizenship certificates. A letter is needed from a medical practitioner which certifies that the person has had or is receiving appropriate treatment.^[214]

Australia was the only country in the world to require the involvement and approval of the judiciary (Family Court of Australia) with respect to allowing transgender children access to hormone replacement therapy.^[215] This ended in late 2017, when the Family Court issued a landmark ruling establishing that, in cases where there is no dispute between a child, their parents, and their treating doctors, hormone treatment can be prescribed without court permission.^[216]

Fiji

The Constitution of Fiji which was promulgated in September 2013 includes a provision banning discrimination based on sexual orientation and gender identity or expression.^{[217][218]}

Guam

Gender changes are legal in Guam.^[219] In order for transgender people to change their legal gender in Guam, they must provide the Office of Vital Statistics a sworn statement from a physician that they have undergone sex reassignment surgery. The Office will subsequently amend the birth certificate of the requester.

New Zealand

Currently, the Human Rights Act 1993 does not explicitly prohibit discrimination on the basis of gender. Whilst it is believed that gender identity is protected under the laws preventing discrimination on the basis of either sex or sexual orientation,^[220] it is not known how this applies to those who have not had, or will not have, gender reassignment surgery.^[221]

Northern Mariana Islands

Transgender persons in the Northern Mariana Islands may change their legal gender following sex reassignment surgery and a name change. The Vital Statistics Act of 2006, which took effect in March 2007, states that: "Upon receipt of a certified copy of an order of the CNMI Superior Court indicating the sex of an individual born in the CNMI has been changed by surgical procedure and whether such individual's name has been changed, the certificate of birth of such individual shall be amended as prescribed by regulation."^[222]

Samoa

In Samoa crimes motivated by sexual orientation and/or gender identity are criminalized under Section 7(1)(h) of the Sentencing Act 2016.^[223]



III. RESULTS AND CONCLUSIONS

Lesbian, gay, bisexual and transgender (LGBT) rights in India have been evolving rapidly in recent years. However, Indian LGBT citizens continue to face social and legal difficulties not experienced by non-LGBT persons.

There are no legal restrictions against gay sex or gay expression. Same-sex couples have equal cohabitation rights, colloquially known as live-in relationships.^[4]

The Transgender Persons (Protection of Rights) Act, 2019 recognizes the right to self-perceived gender identity and identification as male or female can be issued once a certificate is provided by a relevant medical official.^[5] Transgender citizens have a constitutional right to register themselves under a third gender.^[6]

Additionally, some states protect hijras, a traditional third gender population in South Asia through housing programmes, and offer welfare benefits, pension schemes, free operations in government hospitals as well as other programmes designed to assist them. There are approximately 480,000 transgender people in India as per Census 2011.^{[7][8][9]}

Amidst strong political movements in favour of LGBT rights, people are more accepting of same-sex relationships, with around three out of four Indians supporting them according to an opinion poll.^[10] In the 2010s, LGBT people in India increasingly gained tolerance and acceptance, especially in large cities.^[11]

Article 15 of the Constitution of India states that:^[109]

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public

In the case of *Navtej Singh Johar v. Union of India*, the Supreme Court ruled that the Indian Constitution bans discrimination based on sexual orientation via the category of "sex". Similarly in the case of *National Legal Services Authority v. Union of India*, the Supreme Court held that discrimination on the basis of gender identity is constitutionally prohibited.^[110]

Transgender women helping police in Maharashtra

Gender identity, in our view, is an integral part of sex and no citizen can be discriminated on the ground of gender identity, including those who identify as third gender. We, therefore, conclude that discrimination on the basis of sexual orientation or gender identity includes any discrimination, exclusion, restriction or preference, which has the effect of nullifying or transposing equality by the law or the equal protection of laws guaranteed under our Constitution. (p. 73)

—Supreme Court Judge K. S. Panicker Radhakrishnan

Sex as it occurs in Article 15, is not merely restricted to the biological attributes of an individual, but also includes their "sexual identity and character".

—Supreme Court of India

Despite these constitutional interpretations, no legislative law has been enacted to ban discrimination on the basis of sexual orientation in employment since Article 15 only extended to discrimination from the state or government bodies.^[109] However, on 4 February 2021, the Allahabad High Court ruled that firing and discriminating against a person in employment on the basis of sexual orientation is a violation of *Navtej Singh Johar v. Union of India* ruling of the Supreme Court, hence extending the anti-discriminatory provisions to employment everywhere.^{[111][112]} In case of physical attacks against LGBT people, Section 307 (Attempt to murder) or Section



323 (voluntarily causing hurt) of the Indian Penal Code is used against the perpetrator. In case of hate speech, Section 153 A (Hate Speech Law) of the code has been previously used.^{[113][114]} The Allahabad High Court in a landmark decision in *Sultana Mirza v. State of Uttar Pradesh* stated that a Constitutional Court has a duty to monitor and observe the constitutional morality as well as the rights of the citizens which are under threat only on account of the sexual orientation. In August, 2018, the National Human Rights Commission of India set up the LGBTI core group and appointed openly gay politician Harish Iyer in its 15 members committee in a bid to enforce human rights related legislations pertaining to LGBTQ people and counter discrimination.^[115]

Adopted in 2019, the Transgender Persons (Protection of Rights) Act, 2019 bans discrimination against transgender people in educational establishment and services, employment, healthcare services, access to the "use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public", the right to movement, the right to "reside, purchase, rent or otherwise occupy any property", the opportunity to stand for or hold public or private office, and in government or private establishments.^[116]

There have been reservations among some in the transgender community, both regarding the difficulty of obtaining a certificate, and because of lack of awareness and lack of sensitivity to the issue among local public officials.^[117] LGBTQ protests against the bill have occurred, with claims that the bill hurts the transgender community instead of helping it. Protesters noted the provision for certification, but criticized the fact that this would require people to register with the government in order to be recognized as transgender. They also criticized the inequality inherent in the vast differences in punishment for the same crime, such as sexual abuse, committed against violating a transgender or cisgender individual.^[118]

LGBT activists are encouraging people who have faced discrimination because of their sexual orientation or gender identity in other non-state areas to mount challenges in court, seeking to test the jurisprudence set by the two rulings.^[70]

Discrimination and bullying in higher education

Discrimination, bullying and ragging targeted at a student on the ground of their sexual orientation or gender identity is prohibited under the UGC Regulation on Curbing the Menace of Ragging in Higher Educational Institutions (Third Amendment), 2016.^[119]

Military service

LGBT people are banned from openly serving in the Indian Armed Forces.^[120] In late December 2018, Member of Parliament Jagdambika Pal (BJP) introduced a bill to the Indian Parliament to amend the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950 that would allow LGBT people to serve in the Armed Forces.^[121] The bill was lapsed in the Lok Sabha.

Incidents

Self proclaimed Actor Kamal Rashid Khan was processed by the police on 9 December 2018 for making obscene comments against the LGBT community.^[122]

Transgender rights



Three hijras in New Delhi



India has traditionally recognised a third gender population, considered by society as neither male or female.^[6] Such individuals are known as hijrās or alternatively hijādaas (Hindi, Maithili and Dogri: हिजड़ा;^{[123][124]} Bengali: Hijrā(হিজড়া); Nepali: हिजडा; Marathi: हिजडा). In Telugu, they are referred to as *napunsakuḍu*(నపంసకుడు) or *hijrā* (హిజ్రా), in Urdu as *khwaja sarā* (خواجہ سارا), in Gujarati as *pāvaiyā* (પાવૈયા) or *hijādā* (હિજડા), in Tamil as *aravāni* (அரவாணி), in Punjabi as *khusrā* (ਖੁਸਰਾ), in Odia as *hiñjōdā* (ହିଞ୍ଜଡ଼ା), in Sindhi as *khadrā* (ڪھڙو ڪو)، in Malayalam as *ṣaṇḍan* (ഷണ്ഡൻ) or *hijāda* (ഹിജഡ), in Kannada as *maṅgaḷamukhi* (ಮಂಗಳಮುಖಿ), in Konkani as *khōjji* (ಖोज्जि), in Manipuri as *nupi mānbi*, in Kashmiri as *napunsakh* (نپونسख), in Assamese as *nôpungxôk* (নপুংসক), in Santali as *cākrā* (କାକ୍ରା), in Sanskrit as *klība* (क्लीब), *napuṃsa* (नपुंस) or *ṣaṇḍha* (षण्ड), and in Mizo as *mil tilreh*.^{[125][126][127][128][129]} In English language publications, these terms are given to eunuchs, intersex people or transgender people.

Hijras were legally granted voting rights as a third sex in 1994.^[130] Due to alleged legal ambiguity of the procedure, Indian transgender individuals have difficulties accessing safe medical facilities for surgery.^[131] On 15 April 2014, the Supreme Court of India declared transgender people a socially and economically suppressed class entitled to reservations in education and jobs, and also directed union and state governments to frame welfare schemes for them.^[132] The Court ruled that transgender people have a fundamental constitutional right to change their gender without any sort of surgery, and called on the Union Government to ensure equal treatment for transgender people. The Court also ruled that the Indian Constitution mandates the recognition of a third gender on official documents, and that Article 15 bans discrimination based on gender identity.^[133] In light of the ruling, government documents, such as voter ID cards, passports and bank forms, have started providing a third gender option alongside male (M) and female (F), usually designated as "other" (O), "third gender" (TG) or "transgender" (T).^[134]

In 2013, transgender and gender activists S. Swapna and Gopi Shankar Madurai from Srishti Madurai staged a protest in the Madurai collectorate on 7 October 2013 demanding reservation and to permit alternate genders to appear for examinations conducted by TNPSC, UPSC, SSC and Bank exams.^{[135][136]} Swapna, incidentally, had successfully moved the Madras High Court in 2013 seeking permission to write the TNPSC Group II exam as a female candidate. Swapna is the first transgender person to clear TNPSC Group IV exams.^[137]

On 24 April 2015, the Rajya Sabha unanimously passed the Rights of Transgender Persons Bill, 2014 guaranteeing rights and entitlements, reservations in education and jobs (2% reservation in government jobs), legal aid, pensions, unemployment allowances and skill development for transgender people. It also contained provisions to prohibit discrimination in employment as well as prevent abuse, violence and exploitation of transgender people. The bill also provided for the establishment of welfare boards at the centre and state level as well as for transgender rights courts. The bill was introduced by DMK MP Tiruchi Siva, and marked the first time the upper house had passed a private member's bill in 45 years. However, the bill contained several anomalies and a lack of clarity on how various ministries would coordinate to implement its provisions.^[138] The bill was never brought to a vote in the lower house.

Social Justice and Empowerment Minister Thaawar Chand Gehlot stated on 11 June 2015 that the Union Government would introduce a new comprehensive bill for transgender rights in the Monsoon session of Parliament. The bill would be based on the study on transgender issues conducted by a committee appointed on 27 January 2014. According to Gehlot, the Government sought to provide transgender people with all rights and entitlements currently enjoyed by scheduled castes and scheduled tribes.^[139]

The Transgender Persons (Protection of Rights) Bill, 2016, which was initially introduced to Parliament in August 2016, was re-introduced to Parliament in late 2017.^[7] Some transgender activists have opposed the bill because it does not address issues such as marriage, adoption and divorce for transgender people. Akkai Padmashali criticised the bill's definition of transgenderism, which states that transgender people are "based on the underlying assumption of biological determinism".^[140] The bill passed the Lok Sabha on 17 December 2018 with 27 amendments, including a controversial clause prohibiting transgender people from begging.^[141] The bill was sent to a parliamentary committee, but lapsed with the dissolution of the 16th Lok Sabha.^[142]



Members of the transgender community protest against the 2019 transgender bill in Mumbai, December 2018.

A government bill, the Transgender Persons (Protection of Rights) Bill, 2019, was reintroduced to Parliament after the 2019 general election.^[143] The bill was approved on 10 July by the Cabinet of India.^{[144][145]} The bill defines transgender persons as those "whose gender does not match the gender assigned to that person at birth and includes trans-men or trans-women, persons with intersex variations, gender-queers, and persons having socio-cultural identities such as kinnar, hijras, aravani and jogta".^[146] A person would have the right to choose to be identified as male, female or "transgender". However, transgender people are required to go to a district magistrate to have their gender identity certified, and require proof of sex reassignment surgery. The bill prohibits discrimination against transgender people in nine fields, such as education, employment and healthcare. However, transgender activists criticised that the bill is silent on a real remedy or mechanism to integrate transgender people into public spaces and improve the quality of their lives, or on how the State intends to enforce this, or about what the State will do, if and when such discrimination does occur.^[145] The bill was also criticised for not taking into account any of the suggestions made by transgender activists; namely that it only provides for transgender persons to receive identity certificates recognising them as "transgender" and therefore, excludes other gender identities. Although it includes terms such as "trans-men", "trans-women", "persons with intersex variations" and "gender-queers" in its definition of transgender persons, these terms are not defined.^[147] The bill aims to set up a "National Council for Transgender" that would comprise a host of government and community representatives, and is meant to advise the Union Government on formulation of policies with respect to transgender persons, monitor and evaluate the impact of said policies, coordinate the activities of all departments dealing with these matters and redress the grievances of transgender persons. A controversial clause that would have criminalised begging by transgender people was removed from the bill. Another controversial clause that would have made transgender people subject themselves to certification by a district screening committee to be acknowledged as transgender was also struck out. The legislation received further criticism concerning the issue of sexual assault; it provides for maximum two years' imprisonment for sexually assaulting a transgender person, whereas the minimum penalty for raping a cisgender woman is 10 years.^{[7][148]} The bill was passed by the Lok Sabha on 5 August 2019 by a voice vote,^{[149][150]} and by the Rajya Sabha on 25 November 2019.^[151] It was signed into law by President Ram Nath Kovind on 5 December, becoming the Transgender Persons (Protection of Rights) Act, 2019.^[116]

On 22 April 2019, the Madras High Court, the high court of Tamil Nadu, ruled that the term "bride" under the Hindu Marriage Act, 1955 includes trans women. Specifically, it directed the authorities to register a marriage between a man and a transgender woman.^{[152][153][154]}

State laws

The states of Tamil Nadu and Kerala were the first Indian states to introduce a transgender welfare policy. According to the policy, transgender people can access free sex reassignment surgery (SRS) in government hospitals (only for male-to-female), free housing, various citizenship documents, admission in government colleges with full scholarship for higher studies, alternative sources of livelihood through formation of self-help groups (for savings) and initiating income-generation programmes (IGP). Tamil Nadu was also the first state to form a transgender welfare board with representatives from the transgender community.^[155] Kerala started providing free surgery in government hospitals in 2016.^{[156][157]}



The state of West Bengal set up a transgender welfare board in 2015 to coordinate all policy decisions and development work pertaining to the transgender population in the state.^[158] The board, however, has been labelled an "all-around failure" by several transgender activists. Supposed to meet once every month with representatives from numerous state government departments, the board has only met five times as of July 2017.^[159]

In July 2016, the state of Odisha enacted welfare benefits for transgender people, giving them the same benefits as those living below the poverty line. This was aimed at improving their overall social and economic status, according to the Odisha Department of Social Security.^[160]

The Government of Himachal Pradesh has set up medical boards at the district and state level for assisting transgender people. The state has also enacted various schemes providing pension, skill development, scholarship and financial support for parents of transgender people.^{[161][162]}

In April 2017, the Ministry of Drinking Water and Sanitation instructed states to allow transgender people to use the public toilet of their choice.^[163]

A transgender board was established in Chandigarh on 22 August 2017. The board comprises members from the police department, the social welfare department, the education department and the law department, health professionals, and representatives of Panjab University, and others.^[164]

In October 2017, the Karnataka Government issued the "State Policy for Transgenders, 2017", with the aim of raising awareness of transgender people within all educational institutions in the state. Educational institutions will address issues of violence, abuse and discrimination against transgender people. It also established a monitoring committee designed with investigating reports of discrimination.^[165]

On 28 November 2017, N. Chandrababu Naidu, the Chief Minister of Andhra Pradesh, announced the enactment of pension plans for transgender people.^[166] On 16 December 2017, the Andhra Cabinet passed the policy. According to the policy, the State Government will provide an amount of ₹1,500 per month to each transgender person above the age of 18 for social security pensions. The Government will also construct special toilets in public places, such as malls and cinema halls, for transgender people.^[167] In addition, the state has also established a transgender welfare board.^[168]

In January 2018, the Kashmiri Finance Minister introduced a proposal to the Jammu and Kashmir Legislative Assembly that would grant transgender people free life and medical insurance, and a monthly sustenance pension for those aged 60+ and registered with the Social Welfare Department. Transgender activists have criticised aspects of the bill, including its requirement to establish medical boards to issue "transgender certificates".^{[169][170]}

The Government of Delhi announced its intention in May 2018 to establish a seven-member committee to review issues surrounding the transgender community, including concerns of sexual abuse, discrimination at work as well as other societal problems. "We will have a dedicated cell for transgender people, which will be headed by a representative from the community. The commission receives a lot of complaints of abuse against them. The cell will enable us to focus on issues faced by [transgender people] and providing members greater support and safety.", said Swati Maliwal, chief of the Delhi Commission for Women.^{[171][172]}

In July 2018, the Rajasthan Transgender Welfare Board (RTWB) announced it would begin issuing "multi-purpose identity cards" to about 75,000 transgender people in the state to help them access government schemes and benefits.^[173]

The Uttarakhand High Court directed the State Government in late September 2018 to provide reservation for transgender people in educational institutions, and to frame social welfare programmes for the betterment of transgender people.^[174]

In early 2019, the Social Welfare Department of Assam published a draft "transgender policy" with numerous objectives, including providing transgender people access to educational institutions, providing shelter and sanitation for the homeless, raising awareness, and issuing self-identification identity cards.^[175] The All Assam Transgender Association has criticised certain aspects of the policy, namely its definition of the term "transgender".^[176]



In February 2019, the Maharashtra Government set up a "Transgender Welfare Board" to conduct health programmes and provide formal education and employment opportunities to transgender people. The board provides skill development programmes to help transgender people find a job and free accommodation for those seeking scholarships.^[177] A similar board was also set up in the neighbouring state of Gujarat that same month. The Gujarat board provides various welfare programmes for employment and education, and coordinates with state departments to ensure that the transgender community is able to take advantage of government schemes. An educational campaign was also established in order to sensitise the public.^[178]

In July 2019, the Bihar Government announced the creation of a transgender welfare board, which would investigate and report on social and legal challenges faced by transgender people in the state and provide financial assistance of up to ₹150,000 for sex reassignment surgery. In addition, those who refuse house on rent or medical facilities to transgender individuals would be eligible for imprisonment ranging between six months to two years.^{[179][180]}

In August 2019, the state of Madhya Pradesh announced its intention to set up a welfare board for the transgender community in the near future. Issues will include a monthly allowance to parents of intersex children, provisions for job reservations for transgender persons in government and separate public toilets.^[181]

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