

**Council:** Economic and Social Council

**Issue:** Combatting discrimination against transgender workers

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**Position:** Deputy President

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## Introduction

Representing the T in the LGBTQ+ community, transgender people have struggled for social acceptance for decades, their campaigning becoming more high-profile as our global society experiences a net transition towards more tolerance. However, of the different groups in the LGBT community, transgender people still receive the least support from governments and even from the private sector.

Considering both the fact that an increasing number of the population is “coming out” as transgender, and the significant discrimination faced by these individuals, which often manifests in the form of physical violence, and is often internalized as well. Hence, their plight can no longer be neglected. Assimilation in society is hindered by obstacles they face in employment. Internalized as well as institutionalized prejudices mean that transgender workers are subjected to discrimination in the forms of being denied promotions and being unable to advance in the workplace regardless of merit, being fired, being harassed at work, and often, not being hired at all as a result of their gender identity.

The concepts of what is “masculine” and what is “feminine” have been developed over many years in society, and may differ from one culture to the other. To judge, as an employer, a potential employee based not on their skill or human capital, but rather on gender identity, harms both the society and the economy. This evolves from a political issue to a humanitarian one when the international community becomes involved. Even the traditionally conservative right finds the economic structure they support does not benefit from this form of discrimination, and hence, for both social and economic reasons, a change must occur.

If you have any queries, considering this topic is extremely multifaceted, do not hesitate to contact me at [foniemits@gmail.com](mailto:foniemits@gmail.com).

## Definition of Key-Terms

### Sex/gender identity

Sex identity is biological, and determines whether one is male or female depending on their chromosomes or genetic organs. Gender identity is a psychological aspect and is identified by one's attitudes and behavior, determining whether an individual is masculine, feminine, or neither. There are certain behaviors society has attached to the two traditional genders. It is possible for one's sex identity to not match one's gender identity.

### Transgender

An individual who identifies as a different gender to that which they are assigned at birth, or that which is associated with their sex. They can identify with be one of the traditional genders, or a different gender, or no gender. It is possible that an individual was born as a male, but identifies as feminine, and vice versa. This does not necessarily mean a sex change, or "transition" has to occur. A transgender individual may choose to dress as a person of the gender they identify with traditionally would, and have others refer to them by their preferred pronouns, which may be "he/him" or "she/her".



**Figure 1.1: the flag representing the transgender community**

### Transsexual

Included under the umbrella term "transgender", transsexuals also feel uncomfortable with their sex, and often seek to change this, to "transition", for example through hormone treatment or gender-reassignment surgery.

### Gender dysphoria

This is the psychological term describing the extreme distress that may result from the feeling of not identifying with the gender you were assigned. It is not considered a mental illness by modern psychologists. The suppression of this feeling may lead to consequences such as self-harm or depression.

## Discrimination

The behavior of an individual towards a person or group as a result of a prejudiced or

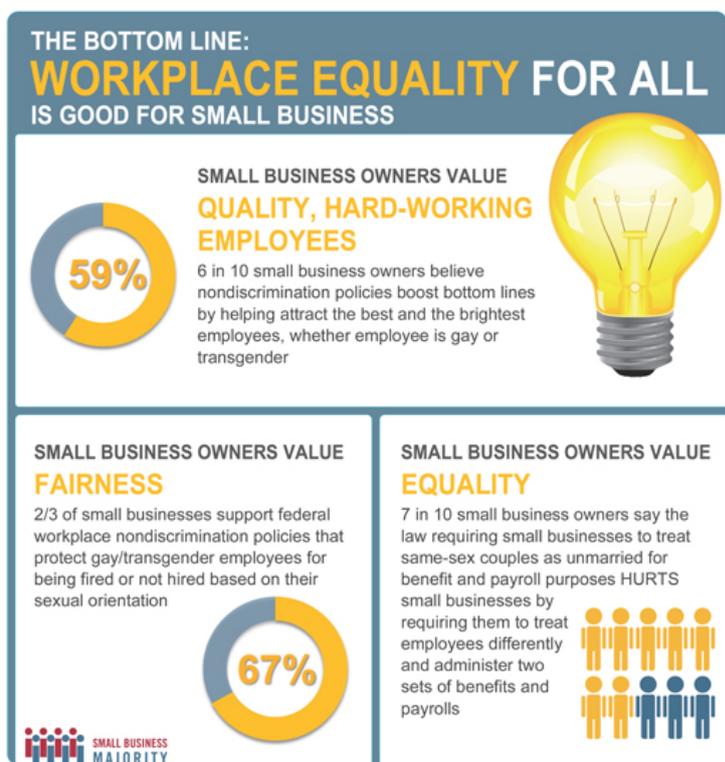


stereotyped view. This is usually negative.

## Background Information

### Economic effects

While this issue is largely social, it also has an adverse effect on the economy of a country. When companies and businesses do not employ or promote a person who may be more qualified and would contribute more (hiring based on merit), it is to the detriment of the company as well as society. A notable example of this is the termination of employment of Dr. Lynn Conway, an engineer in the US who was fired by IBM for being transsexual, despite her extensive discoveries at that company, which contributed greatly to the development of computers. While she received several awards for her discoveries, it was still difficult for her to find employment. Providing capable people with the necessary facilities can benefit society with developments, and alternatively, the opportunity cost of this type of discrimination is significant.



Moreover, when qualified transgender or transsexual people cannot find employment due to discrimination, many turn to illegal trades, such as the sale of narcotics or prostitution. This happens as transgender people become desperate, as not only can they not find employment, but many are also not supported by their families. With no form of

income, and in many countries limited government support (both legislative and in the form of shelters or aid), transgender people continue to be marginalized and suffer.

Another economic effect is the cost of damages resulting from societal backlash to this form of discrimination. In North Carolina, in the United States, a bill was enacted, forcing people to use the bathrooms assigned to the gender on their birth certificate, and not that which they identified with. This cost North Carolina more than 3.75 billion dollars in lost business over ten years, as companies like PayPal halted expansion in the state, also leading to the loss of hundreds of potential job positions.

A final effect comes from the losses from a less motivated and therefore less productive workforce. If individuals feel they or their coworkers are being mistreated, they may not approach their work with as much effort. A less productive workforce harms the business financially, as they will be making less of a profit.

All impacts on private sector companies also influence society and the country's economy. Moreover, many of the impacts above apply to the public sector as well.

**Figure 1.2: An infographic poster outlining the advantages to companies and businesses if there is no mistreatment of LGBT+ workers**

### Perceptions

Another issue transgender workers face is that of recognition. In many countries, in order to be legally perceived as a different gender to the one you were assigned at birth, there must be medical proof. Being transgender may be considered a mental illness in that country, such as in Russia, in which transgender people are not allowed to drive because they are seen as mentally ill or incompetent. An issue with this is that if the general perception of transgender people is that they are suffering from some mental disorder, this increases discrimination against transgender workers significantly, because they are not seen as capable enough for the position.

Moreover, in other countries, for legal recognition, which is significant if one is to be recognized as their preferred gender in their workplace to occur, there must be some form of medical change. Hence, in order for this medical change to occur, one must be "diagnosed" with "transsexualism" by a psychiatrist, which may be difficult in countries in which only one hospital is qualified to do this and there is only one chance, such as in Norway. However, another issue with this is that a physical change or a change through chemical treatment (gender reassignment surgery or hormone treatment, respectively) effectively castrates an individual, and

many chose not to undergo this. This happens in all cases, as the individual in hormone treatment is no longer producing the sex-specific hormones that produce the gametes (sperm or ovum) and in gender reassignment surgery the organs that produce these are removed. Therefore, these individuals are either forced by the state to be sterilized, or cannot be recognized as their preferred gender legally or in their workplace, and may be asked to act like their assigned gender at work as a result, which may be psychologically harmful.

## Major Countries and Organizations Involved



### United States of America

A 2016 census showed that 1.4 million adults in the United States of America (US) identified as transgender. The Civil Rights Act of 1964 prohibits discrimination, largely in the context of employment, based on many factors which also include sex. This can sometimes be used to protect

transgender people as well. Equal Employment Opportunity Commission is federal body that exists to

**Figure 1.3: A sign in the US against the North Carolina HB2 law**

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investigate and legally act on such cases of discrimination, hence supporting those that may not be represented easily through this specialized organ. 90% of employed transgender people in the US report being mistreated at their workplace. It costs the US 64 billion dollars annually in losing and replacing workers that leave due to discrimination.

On July 26 2017 President Trump announced he would reinstate the ban on transgender people in the military, which had been ended by his predecessor, President Obama. President Trump claimed they “cannot be burdened with the tremendous medical costs and disruption that transgender in the military would entail”. Polls reveal 68% of Americans believe transgender people should be able to serve in the military, and this new ban, which has not yet taken any shape or form, has received great backlash, as the costs for transgender related healthcare will only increase the military healthcare spending by 0.04 to 0.13. With policies such as these, the hostile environment that may potentially form in the military as a result of government-sanctioned discrimination may prove to be very harmful. This is especially in the case of the US, where there is no conscription and all members of the military are career military personnel. Capable individuals are deterred from

entering or may potentially be forced to leave because of such policies, and those within the military find difficulties in cooperating, due to such controversial changes. Moreover, it is extremely dangerous for the military of a country to disagree with the government.

India

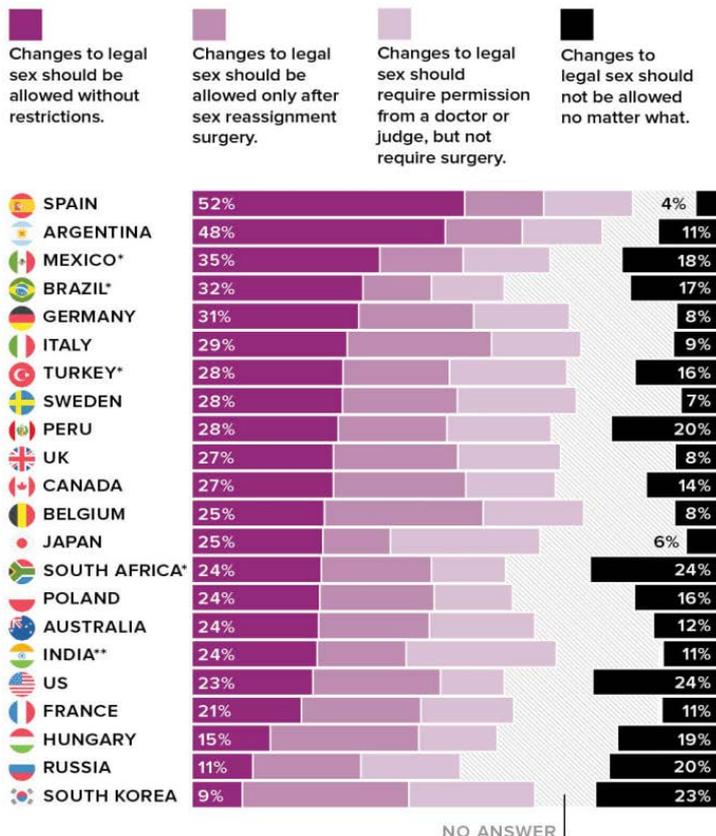
India’s 2011 census found 500,000 transgender individuals in India, however transgender activists insist the number is much higher. In July 2016 the transgender community tried to legally overturn Section 377 of the Indian Penal Code, which criminalized “unnatural sex”, and discriminated against the LGBT+ community. This was perceived by the transgender community as a fundamental obstacle that has to be overcome before being able to achieve anything in terms of social equality. There is violence towards transgender people by members of the police force, and currently, in India, it is legal for transgender people to face all forms of discrimination at work, as well as for families to disown their children on the basis of their being transgender. It is difficult for changes to be made addressing this before more basic changes are made. The Transgender Persons Bill was passed in 2016, however it did

not allow the



Figure 1.4: Protests in India against the mistreatment of transgender people

**What do you believe should be required before a transgender person can “legally change their sex on identity documents, such as government ID cards or driving licenses”?**



proposed National Council for Transgender Persons to have any enforcement abilities, hence not allowing it to effectively protect the rights of transgender people.

Russian Federation

The Russian government’s stance on LGBT issues is very different to that of

\* Countries with low internet penetration. Ipsos considers responses to online surveys in these countries to be less representative of the overall population than in countries with broader internet access.

\*\* India survey was conducted in person rather than online.

most progressive or European countries, and is a cause of great concern on an international scale. As mentioned above, transgender people are perceived as mentally ill, and hence are not allowed to carry out simple tasks, such as driving, with the fear that their condition will endanger others. This leads to employers and coworkers perceiving transgender people as incapable, unnatural, and dangerous. Moreover, the government does not allow for a legal change in gender, hence when transgender people are interviewed for jobs, they find that they are later rejected as the employers discover their legal gender does not match the individual they met.

**Figure 1.5: An bar chart depicting the stances of citizens in different countries on the issue of transgender people being able to legally change their gender**

Argentina

Argentina is one of the world’s most accepting countries when it comes to transgender people, despite being largely Catholic. In 2012, it passed what the World Health Organization praised as being the world’s most progressive law regarding gender, in which people could legally change their gender without requiring a medical professional to diagnose them, and many countries soon followed suit. In 2015, Argentina introduced an affirmative action law in Buenos Aires, where the city is required to set aside 1% of its job positions for transgender people. Seeing as many transgender people in Argentina had turned to prostitution, this quota will directly combat this issue.

**Timeline of Events**

Date	Description of event
1968	International Olympic Committee bans transgender athletes from competing.
1987	The widely used “Diagnostic and Statistical Manual of Mental Disorders” includes “gender identity disorder” in order to describe transgender people.
1992	First International Conference on Transgender Law and Employment Policy, in the US.
9 <sup>th</sup> May 2012	Argentina becomes first country to introduce a law allowing a gender change on official documents without the need of a medical professional.

2013	The “Diagnostic and Statistical Manual of Mental Disorders” replaces “gender identity disorder” with “gender dysphoria”, removing certain negative connotations.
2018	World Health Organization set to remove “gender identity disorder” as a mental disorder in its classifications.

## Relevant UN Treaties, Resolutions and Events

### Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity

Written at the Yogyakarta conference, on the 6<sup>th</sup>-9<sup>th</sup> of November, 2006. While it is not a treaty that any state is bound by, and though it bears controversy in the United Nations, it acts as an interpretive guide for other treaties being drafted or for national laws.

### Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity- Report of the United Nations High Commissioner for Human Rights

Issued 15 December 2011, A/HRC/19/41.

This report reveals that in many countries where transgender people have access to gender reassignment therapy, it is often so expensive that in practice, it is not very accessible. This is extremely important in relevance to the issue of transgender workers because taking into account the fact that transgender workers face such discrimination, this makes it harder for them to undergo this treatment. This affects perceptions of them in the workplace as well as their mental health.

### International Covenant on Economic, Social and Cultural Rights

Adopted on 16<sup>th</sup> December 1966 and was implemented by those that signed or ratified through the General Assembly resolution 2200A (XXI) on the 3<sup>rd</sup> January 1976.

This calls for “safe and healthy working conditions”, which cannot be attained in a workplace where coworkers discriminate against their transgender counterparts. Moreover, it calls for “equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence” which is often not the case regarding

transgender workers. States which have ratified this covenant must ensure these practices.

### Resolution on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity

Resolution A/HRC/32/L.2/Rev.1.

Passed on the 30<sup>th</sup> of June 2016, reiterating that transgender people are included under the non-discrimination clause of the Declaration of Human Rights.

## Previous Attempts to solve the Issue

### Countries that ban LGBT+ related behavior

It should be taken into consideration that many countries such as Malaysia and Nigeria are taking the opposite approach to transgender worker discrimination. If anything, discrimination is encouraged, as those considered “posing” (as the other gender) are often punished in violent ways and homosexual behavior is often outlawed. In these cases, there is need for more radical measures to achieve equality.

### UN and other organizations

There are several organizations that take legal measures to help overcome this discrimination, which succeeded in countries like Ireland. However, the majority of these organizations, such as the Human Rights Watch and the Human Rights Campaign, as well as the UN, primarily collect information, informing the public on relevant issues.

However, the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948 states primarily, above all in its first article “All human beings are born free and equal in dignity and rights”. Human rights bodies in the UN have revealed that international human rights law prohibits any form of discrimination based on gender identity.

## Possible Solutions

Legislation banning discrimination towards transgender workers

Many countries have introduced anti-discrimination laws for LGBT+ people, as well as other minority groups. This is significant because it provides transgender people with the option of taking legal action against unjustified discrimination, as well as representing the support of the government, which has a large social and psychological impact. This occurs when the government illegalizes workplace discrimination on the grounds of being transgender, hence if this occurs, the victims of discrimination can sue their past employers. This allows for these victims to be compensated, awareness to be raised on this issue, and provides an incentive for the employers' actions to be more accepting.

Education

Discrimination and prejudices largely stem from ignorance and misinformation. If both the population in general and the people in the workplace are more informed about being transgender, harmful misconceptions can be reduced. This could happen through courses in schools such as PSHCE (personal, social, health and citizenship education) which exists in the United Kingdom, or simply Sex Education, which is currently the course in place in most countries. Ensuring that the national curriculum includes education on such vital issues will act to decrease prejudice towards transgender people. Moreover, government mandated courses within the workplace may also be beneficial, as the workers and employers may undergo seminars or workshops to better understand LGBT issues. This system already exists in many countries with other workplace issues such as sexual harassment, however this is rarely government mandated, and often a policy of the companies themselves, as it is in their best interests to have a contented workforce.

Facilitating the legal change of gender

If the state no longer asks for medical proof that an individual needs to change gender, the notion that being transsexual is a disorder can be weakened. Practices of forced sterilization which can be considered unethical can also be combatted this way.

Transgender inclusive health benefits

Many companies provide healthcare coverage. However, if this included treatments specific to transgender people (such as gender reassignment surgery), it could have many

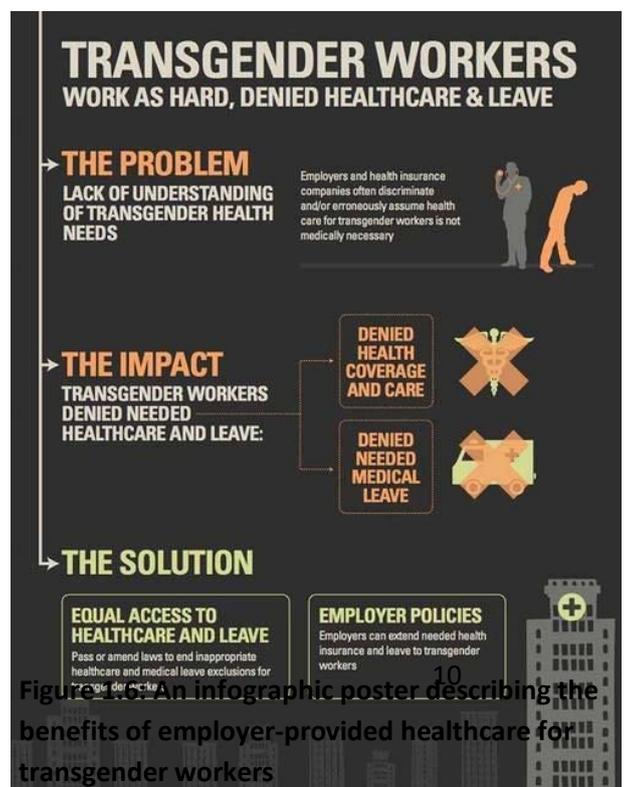


Figure 1.6: An infographic poster describing the benefits of employer-provided healthcare for transgender workers

benefits. This can also help combat the stigma and the notion that such a change is a cosmetic and aesthetic decision rather than a necessity in many cases. Moreover, it may allow for transgender people to be accepted as their preferred gender on a larger scale at work if they look the part.

### Government funded employment schemes

Governments may hire transgender people in the public sector, or even create schemes in which they can work. This will relieve the conditions of poverty in which many transgender people live, as well as aiding their assimilation into society. Contact is proven to reduce prejudices, so this is beneficial in the long run, as transgender people will be able to prove their competence.

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