**INPUT TO POLICY BRIEF ON UNIVERSAL HEALTH COVERAGE:**

**SUBMISSION TO THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: EXAMPLES OF A HUMAN RIGHTS-BASED APPROACH TO UNIVERSAL HEALTH COVERAGE**

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SUBMITTED BY GATE (GLOBAL ACTION FOR TRANS EQUALITY)

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**Introduction**

GATE (Global Action for Trans Equality[[1]](#footnote-1)) is an international advocacy organization campaigning globally for trans, gender diverse, and intersex equality. GATE seeks to ensure that trans, gender diverse, and intersex (TGDI) people can enjoy their human rights and achieve the highest level of health and well-being possible. We do this through advocacy, knowledge generation, movement building, and capacity building and training.

GATE focuses on advocating for the human rights of trans, gender diverse, and intersex people while also playing a pivotal role in strengthening the global trans, gender diverse, and intersex (TGDI) movements through training, capacity building, resource mobilization, and political mobilization. Additionally, GATE prioritizes its institutional strengthening to ensure that we can continue to grow and develop as the leading advocacy and expert organization advancing the rights, health, and well-being of trans, gender diverse, and intersex (TGDI) people in a sustainable way.

**Transgender, gender diverse, and intersex persons as a marginalized population most left behind in access to healthcare**

Globally, transgender, gender diverse, and intersex (TGDI) communities are among the most marginalized sectors of society and continue to experience high levels of violence, discrimination, and stigma[[2]](#footnote-2). TGDI persons carry a disproportionate health burden and are at higher risk of TB, HIV, mental health issues, diabetes, hepatitis, and other health conditions associated with socio-economic disadvantage[[3]](#footnote-3). In addition, TGDI community members face challenges in accessing services related to their specific health needs, including gender-affirming health care, medical procedures, and mental health support to address damage caused by medically unnecessary infant intersex surgeries[[4]](#footnote-4) and appropriate sexual and reproductive health care services.

Internationally, stigma and discrimination remain significant barriers to healthcare access for TGDI community members. For example, recent studies from the USA and South Africa show that a high percentage of trans and gender-diverse persons experience discrimination, hostility, verbal abuse, invasive questioning, and refusal of services from health care providers[[5]](#footnote-5) [[6]](#footnote-6).

A significant barrier to access to health rights for TGDI communities is the criminalization of transgender and gender-diverse identities. For example, in many Southern and East African countries, trans and gender-diverse persons are criminalized in terms of colonial-era anti-LGBTIQ+ legislation. In an extremely worrying development, the Ugandan parliament recently approved a Bill which seeks to impose draconian penalties, including the death penalty, on LGBTIQ+ persons and human rights activists[[7]](#footnote-7). Besides violating the fundamental rights of community members, such legislation also seriously undermines public health programs and efforts toward universal health coverage.

**Examples of a human rights-based approach to universal health coverage: Malta and Argentina**

Human rights frameworks that recognize and protect the rights to life, human dignity, bodily autonomy, and access to health care for TGDI persons and other marginalized communities are, therefore, essential for realizing universal health coverage. Such frameworks should also include legal gender recognition and a depathologized approach to the provision of gender-affirming health care[[8]](#footnote-8).

Legal gender recognition refers to laws and administrative procedures which allow a person to legally change their name and sex/gender assigned at birth to reflect their gender identity. Legislative frameworks that provide for legal gender recognition based on self-determination uphold the rights to autonomy and human dignity and reduce barriers to access to health care. On 29 March 2023, a group of 28 countries from regions across the world made a statement to the UN Human Rights Council, calling for legal gender recognition based on self-determination and highlighting the role of such legislative measures in addressing violence and discrimination and ensuring access to health rights[[9]](#footnote-9) [[10]](#footnote-10).

There has also been growing international awareness of the importance of depathologizing TGDI identities. For example, the International Statistical Classification of Diseases and Related Health Problems 11 (ICD-11) has removed diagnostic categories related to transgender identities from the chapter on ‘Mental and Behavioural Disorders.’ Instead, it included the category of ‘gender incongruence of adolescence and adulthood’ in a Chapter on ‘Conditions Related to Sexual Health’ to facilitate access to gender-affirming health care[[11]](#footnote-11).

Two examples of two countries that provide access to gender-affirming health care within a human rights framework, including legal gender recognition and a de pathologized approach to gender-affirming care, are Malta and Argentina.

**1. Malta**

Malta’s legal framework includes the Gender Identity, Gender Expression, and Sex Characteristics Act[[12]](#footnote-12), which provides for the following:

* Legal gender recognition based on self-determination;
* Access to gender-affirming in the public health care system;
* The prohibition of discrimination on the basis of gender identity, gender expression, and sex characteristics; and
* The prohibition of “normalizing” genital surgeries on intersex infants[[13]](#footnote-13).

Malta’s legal framework specifically depathologizes transgender identities to allow access to gender-affirming health care without a mental health diagnosis. Gender-affirming health care, including hormone therapy, surgery, and mental health support, is available through the public health system[[14]](#footnote-14).

**2. Argentina**

Argentina is another example of a country that includes gender-affirming care in public health coverage within a legal framework of self-determination and depathologization[[15]](#footnote-15). Argentina’s Gender Identity Law[[16]](#footnote-16) allows for legal gender recognition on the basis of self-declaration, with no requirement for a medical diagnosis or for applicants to have undergone any form of medical treatment, and stipulates that gender-affirming health care must be covered by both public and private health insurance.

Although the implementation of the legislation remains problematic, and high levels of violence against LGBTIQ+ community members in Argentina remain a serious concern[[17]](#footnote-17), the legislation has positively impacted the lives of TGDI community members in Argentina in terms of improving access to primary health care facilities. It provides a legal basis for a future roll-out of more comprehensive access to gender-affirming care[[18]](#footnote-18).

1. <https://gate.ngo/> [↑](#footnote-ref-1)
2. <https://www.ohchr.org/en/special-procedures/ie-sexual-orientation-and-gender-identity/struggle-trans-and-gender-diverse-persons> [↑](#footnote-ref-2)
3. <https://www.who.int/teams/global-hiv-hepatitis-and-stis-programmes/populations/transgender-people> [↑](#footnote-ref-3)
4. <https://www.hrw.org/report/2017/07/25/i-want-be-nature-made-me/medically-unnecessary-surgeries-intersex-children-us> [↑](#footnote-ref-4)
5. <https://www.washingtonpost.com/tablet/2023/03/23/nov-10-dec-1-2022-washington-post-kff-trans-survey/> [↑](#footnote-ref-5)
6. <https://ritshidze.org.za/wp-content/uploads/2023/03/Ritshidze-State-of-Healthcare-for-Key-Populations-2023.pdf> [↑](#footnote-ref-6)
7. <https://www.ohchr.org/en/press-releases/2023/03/uganda-un-experts-condemn-egregious-anti-lgbt-legislation> [↑](#footnote-ref-7)
8. <https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(20)30054-2/fulltext> [↑](#footnote-ref-8)
9. <https://ilga.org/downloads/HRC52_Item8_legal_gender_recognition.pdf> [↑](#footnote-ref-9)
10. <https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/66/SP/52511_58_944c1c77_1165_4568_a240_ec2900bbbe45.docx> [↑](#footnote-ref-10)
11. <https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd> [↑](#footnote-ref-11)
12. <https://tgeu.org/malta-adopts-ground-breaking-trans-intersex-law/> [↑](#footnote-ref-12)
13. <https://tgeu.org/malta-adopts-ground-breaking-trans-intersex-law/> [↑](#footnote-ref-13)
14. <https://deputyprimeministercms.gov.mt/en/CMO/transgender-health/Pages/transgender-care/transgender-care.aspx> [↑](#footnote-ref-14)
15. <https://transequality.org/blog/argentina-passes-historic-law-on-gender-recognition-access-to-health-care> [↑](#footnote-ref-15)
16. <https://tgeu.org/argentina-gender-identity-law/> [↑](#footnote-ref-16)
17. <https://www.ohchr.org/en/press-releases/2017/03/un-expert-commends-argentinas-progressive-laws-and-policies-urges-action> [↑](#footnote-ref-17)
18. <https://www.paho.org/en/news/17-4-2018-breaking-down-barriers-healthcare-access-transgender-people-argentina> [↑](#footnote-ref-18)