

LEGAL GENDER RECOGNITION:

Needs of the Trans* community in Armenia and
best practices of countries of South Caucasus and Central Asia
(including Russia and Ukraine)



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“The author is solely responsible for the content. SIDA and CRC may not share the views and interpretations expressed therein.”



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ABOUT THE ORGANIZATION

Right Side is a community-based human rights defender NGO founded in January 2016 by Transgender activists in Armenia. The organization mainly works on protection of Transgender LGBTQI+ health and rights, mobilization and visibility of Transgender and sex worker communities, as well as breaking negative stereotypes and norms with regards to diverse gender identities and sexual orientations in Armenia. Right Side NGO has worked hard for the past 6 years on mobilizing specifically Transgender and sex worker activists, in addition to other members of the LGBTQI+ community to gain new knowledge, skills and capacities for protecting their own rights and shifting negative attitudes with regards to Transgender and queer people within Armenian society. The organization provides legal and psychological services free of charge for community members, in addition to supporting Transgender activists and beneficiaries during times of crisis by mobilizing resources and providing them with rent, food and other basic needs.

The mission of the organization is to create lasting solutions for promoting the quality of dignified lives of Transgender people and sex workers to prevent violations of human rights and to overcome difficulties. Our external vision is: A harmonious society promoting inclusion of Transgender people and sex workers in Armenia. Our internal vision is: A sustainable and experienced organisation overcoming challenges professionally.

The organization has three strategic directions:

- Human rights protection and legal reforms;
- Protecting community health, safety and ensuring well-being;
- Changing public opinion and breaking norms and stereotypes.

In the past 6 years, the NGO has established cooperative relations with diplomatic missions, UN agencies, the CoE, other intergovernmental, non-governmental, international, local organizations and networks. The Founder and President of the NGO, Lilit Martirosyan, was awarded the Human Rights Tulip in 2020 by the Government of the Netherlands for promoting Transgender rights in an innovative way.



GLOSSARY OF TERMS

Bottom surgery

This term is used to refer to any of the plastic surgery procedures performed on the genitals to give the look and in some cases the functionality that matches a person's gender identity.

Cisgender

This term is used to describe people whose gender identity corresponds to their sex assigned at birth.

Forced sterilization

According to the report *License to be Yourself* published by Open Society Foundations in 2014, forced sterilization refers to “situations where gender recognition is restricted to those who have undergone surgical or medical procedures which may result in sterilization¹”. In many countries with legal gender recognition legislation, a person who wishes to obtain official documents under their appropriate name and sex or gender marker must first undergo gender affirming surgeries or hormone therapy, which can amount to forced sterilization and thus a violation of one's human rights.

Gender affirming

The social, medical and/or legal process or processes that a trans or gender diverse person decides is the right one for them in order to live as their defined gender and which affirms their gender. Gender affirmation can look different for every individual trans person based on what is personally affirming for them, what feels safe to do, and what is accessible and available to them in their given context.

Gender diverse

Gender diverse is an umbrella term, which encompasses gender identities that demonstrate a diversity of expression beyond the binary framework. Some forms of gender diversity include identities such as non-binary, genderqueer, agender or genderfluid. This concept provides the space for individuals who do not ascribe to the gender binary to have more freedom in their gender expression and identity, defying normalized concepts of gender.

Gender dysphoria

Discomfort, distress, or unease associated with one's gender, body, or how others perceive their gender often experienced by people who feel at odds with aspects of their body and or social gender role assigned at birth.

Gender expression

According to the Yogyakarta Principles², gender expression is defined as each person's presentation of their gender through physical appearance – including dress, hairstyle, accessories, cosmetics – and mannerisms, speech, behavioral patterns, names and personal references, which may or may not conform to the given person's gender identity.

Gender identity

Gender identity is the personal and internal sense and experience of one's own gender, which may or may not correspond to a person's sex assigned at birth.

Gender incongruence

A person's experience of an incompatibility between their gender identity and the gender roles and expression expected of them based on their sex assigned at birth.

¹ Open Society Foundations. (2014). *License to be Yourself: Laws and advocacy for legal gender recognition of trans people.*

[file:///C:/Users/PR%20Officer/Downloads/license-to-be-yourself-20140501%20\(2\).pdf](file:///C:/Users/PR%20Officer/Downloads/license-to-be-yourself-20140501%20(2).pdf)

² The Yogyakarta Principles are a universal guide to human rights which affirm binding international legal standards with which all States must comply with regards to sexual orientation and gender identity. The principles were adopted in 2006 in a meeting held in Yogyakarta, Indonesia among a group of international human rights experts and which have since then been supplemented with an additional set of 10 principles in the Yogyakarta Principles + 10 (YP+10). To learn more: <https://yogyakartaprinciples.org/>

Gender marker

A gender marker represents an individual's gender identity, most commonly in the abbreviations F (female), M (male), or X (non-binary, intersex, or gender nonconforming).

Gender nonconforming

This is a term claimed by people who do not conform with the gender norms expected of them, often breaking stereotypes of gender as a binary system.

Legal gender recognition (LGR)

Legal gender recognition is the official recognition of a person's gender identity, including gender marker and name(s) in public registries and key documents.

Non-binary

This concept disrupts the normalization of gender as a binary system. A person who identifies as non-binary can identify with more than one gender, no gender or have a fluctuating sense and experience of gender.

Perceived gender

The gender one is perceived to be based on their appearance, gender expression, behavior or other gender characteristics, which can correspond or not correspond to that person's self-perceived gender.

Phalloplasty

This term refers to the surgical procedure, which is usually performed on the genitals of a trans man to construct a penis in order to achieve his desired gender identity.

Self-perceived gender

The gender one perceives themselves to be based on the internal sense of their gender, which can correspond or not correspond to the gender they are perceived to be by others.

Sex characteristics

Sex characteristics refer to a person's physical features relating to sex, and which include genitalia and other sexual and reproductive anatomy, chromosomes, hormones, and secondary physical features emerging from puberty.

Sex reassignment

Sex reassignment is used mainly within the medical profession to describe any surgery a person undergoes to transition to their self-identified gender. The term gender affirming is a more acceptable term to use to describe such transition processes given that such procedures allow people to feel affirmed in their self-identified gender.

Third gender

This term is used to describe people who do not fit within the gender binary of male or female. This concept has been part of many indigenous societies and cultures where rigid gender binaries did or still do not exist.

Transgender

Transgender is an umbrella term used to describe people whose gender identity does not correspond to their sex assigned at birth. The term includes trans men, trans women, gender non-binary people, genderqueer and all non-cis gender identities.

Transphobia

An irrational fear of transgender and gender non-conforming people, which can be expressed through discrimination, deliberate misgendering, hate speech, and direct or indirect attacks against transgender people within a given society.

Transsexual

Transsexual is a contentious term, which historically and medically has been used to indicate that one's experience of gender involves medical changes that help alter their anatomy and appearance to more closely align with their gender identity.

Vaginoplasty

This term refers to the surgical procedure, which is usually performed on a trans woman to construct a functional vagina and help her achieve her desired gender identity.

*A note on the terminology used in this report: Some of the language used in this study is outdated and does not align with the language used by trans activists themselves today. Wherever such language is used in this report, it is to reflect the language used in legislation, desk research and/or - in some cases - by the respondents themselves.

INTRODUCTION

In March of 2023 for the first time at the United Nations, a cross-regional group of 28 countries called on other states to develop and implement laws and policies that allow legal gender recognition (LGR) based on self-identification³. Given the increasing influence of the global trans community in their fight for trans human rights and dignity, this is an important step towards achieving equality and equity for trans citizenship and allowing trans people to determine their own gender and legally declare it without additional preconditions. The concept of self-determination of gender identity is used by trans human rights defenders, including TGEU (Transgender Europe)⁴ to imply the right to self-identification (when it refers to gender), which is one of the procedures whereby a person declares one's gender identity at the civil registry office. As such, self-identification of one's gender is included within the longer and much more complex process of determining one's gender identity. The legal framework of self-determination of one's gender identity is one of the models for legal gender recognition that can ensure the human rights and dignity of trans people in achieving full citizenship in their countries of residence, which will free them of additional obstacles, discrimination and inhumane treatment both by the institutions that are obliged to recognize trans people as people and by society at large.

Yet with only over a dozen countries in the world that have legal frameworks based on self-determination of gender identity, there is still a long way to go in terms of legal gender recognition legislation and practices that will allow trans people all over the world to enjoy equal rights in terms of full participation within society. Stefano Osella & Ruth Rubio-Marín have identified four main models of gender recognition, which exist in the world today: ascriptive binary, ascriptive non-binary, elective binary, and elective non-binary⁵. The ascriptive binary model is a form of gender recognition adopted by countries such as Romania, Egypt and all of the countries studied within the frames of this research, which requires medical and/or socio-behavioral gender norms to be maintained (gender affirmative surgery, hormone replacement therapy, corresponding gender expression and appearance) by the applicant, which should be affirmed by a third party, usually a judge or civil servant. According to this model, there is no third gender category envisioned. In cases where trans people have fought for the rejection of medical preconditions for gender recognition and won, within the ascriptive binary model countries such as France have insisted on socio-behavioral requirements (public appearance, being known as a person of the claimed "sex," and a previous change of name) to be met in order to grant an applicant gender recognition (Ibid). Although the non-binary ascriptive model allows for self-identification of one's gender and is inclusive of a third gender such as hijras in the case of Indian law, this does not necessarily mean that the non-binary ascriptive model is one of self-determination as it is ascriptive and can act as a gatekeeping mechanism to transgender identities (i.e. exempting gender fluid identities). German law on legal gender recognition also falls within the frames of a non-binary ascriptive model and limits the non-binary ascription to intersex individuals only, making it difficult to access legal gender recognition based on self-determination of one's gender identity⁶.

The elective model of gender recognition does away with unnecessary requirements for medical and/or socio-behavioral requirements as conditions for acquiring legal gender recognition. However, the binary elective model, which was the model enforced by the Colombian legal system from 2015-2022 still upheld binary standards and norms of gender as preconditions for gender recognition, limiting recognition only to the binary⁷. In 2022 the Colombian Constitutional court ruled that such limitations are unconstitutional and granted the right to non-binary recognition⁸.

³ GATE: Global Action for Trans Equality. (March 29, 2023). United Nations: 28 States call for legal gender recognition based on self-identification. <https://gate.ngo/un-legal-gender-recognition/>

⁴ TGEU is a trans organization founded in 2005 with a current 200 membership base in 48 different countries within Europe and Central Asia.

⁵ Osella, S. & Rubio-Marín, R. (2023). Gender recognition at the crossroads: Four models and the compass of comparative law. Oxford University Press. <https://academic.oup.com/icon/article/21/2/574/7175200>

⁶ German government approves law to make legal gender change easier for trans, intersex, non-binary. (August 23, 2023). Euronews, AFP <https://www.euronews.com/2023/08/23/german-government-approves-law-to-make-legal-gender-change-easier-for-trans-intersex-non-b>

⁷ Osella, S. & Rubio-Marín, R. (2023). Gender recognition at the crossroads: Four models and the compass of comparative law. Oxford University Press.

⁸ Cabrera, Cristian González. (March 8, 2022). Colombia's Constitutional Court Advances Gender Diversity. Human Rights Watch. <https://www.hrw.org/news/2022/03/08/colombias-constitutional-court-advances-gender-diversity>

The non-binary elective model is also enforced in Belgium, Argentina, Spain and several other countries. In Pakistan, Malta, and few other countries, gender recognition legislation allows for a third gender to be marked with an easy procedure to change one's gender marker to "X" in identification documents.

This fourth model is one that comes closest to self-determination of gender identity given that it does not contain binary gender definitions or specific standards that applicants must conform to. Given that in everyday interactions any situation where one is asked to present identification documentation is a situation that is rife with the possibility of discrimination if one's identification documents do not match their perceived gender, the possibility for transgender and gender non-conforming people to be able to acquire gender recognition without additional preconditions and requirements is a crucial step toward protection of trans rights and wellbeing across all contexts.

In transphobic societies such as in Armenia, the inability for many trans and gender non-conforming people to easily access gender recognition often leads to discrimination, harassment, and human rights violations. In the past year the number of attacks faced by the trans community in Armenia has increased significantly compared to prior years as LGBTQI organizations have documented over 40 cases within the first 9 months of the year 2023 alone where trans people and in particular trans sex workers were subject to discrimination, harassment and physical violence⁹. In late August of 2023 these attacks culminated in the murder of a trans sex worker Adriana, sending shock waves through the trans community of Armenia and inciting a new wave of hate speech against the LGBTQI community, which manifested in an attack against a vigil being held for Adriana by Right Side NGO¹⁰. Every year LGBTQI organizations operating in Armenia, including Right Side NGO, document over 100 cases of discrimination and violation of rights faced by LGBTQI people in the country, a significant percentage of those attacks targeting the trans community as they are the most visible within the LGBTQI community. As a result of society wide discriminatory attitudes toward the LGBTQI+ community and the lack of legislation, including legal gender recognition, that can protect trans and non-binary rights, members of the LGBTQI community, and in particular trans people, face discrimination in a number of spheres including in police stations, in courtrooms, in the media and social media, in hotels, in restaurants/cafes, in schools and universities, in clinics and hospitals, in their families and in public spaces. The ability to be able to avoid some of this discrimination and harassment would require trans and non-binary people to be recognized as equal members of society. The first crucial step for this to begin manifesting in its power would be the right for trans and non-binary people to easily access legal gender recognition based on self-determination.

This study aims to draw out the needs of Armenia's trans community with regards to legal gender recognition and its practical application in Armenia today, including challenges and gaps. In order to place Armenia's experience of LGR within a larger context, the legislative frameworks and practical applications of LGR in neighboring countries have also been studied. Learnings from Georgia, Turkey, Ukraine, Kazakhstan, Kyrgyzstan, Tajikistan and Russia contribute to a better understanding of the similarities and differences of LGR frameworks available in these countries and the experiences of trans communities on the ground with LGR in light of political contexts, presence of trans movements and opportunities for advocacy. Although none of the countries included within the scope of this study have LGR frameworks based on self-determination at this time, the ways in which trans communities have navigated and continue to navigate what is available in their contexts provides some examples of best practices for Armenia to learn from both in terms of what to avoid in efforts to advocate for LGR as well as in terms of creative solutions until full self-determination of gender identity becomes a possibility for all trans and non-binary people residing in Armenia.

⁹ These are several cases that received media attention in 2023: Attack on a trans woman in June 2023: <http://rightsidengo.com/news/two-men-beat-a-trans-woman-in-her-apartment-and-stole-her-phone-at-knifepoint/>; attack by a mob on March 14, 2023: <https://epress.am/2023/03/23/violence-against-trans-women.html>

¹⁰ To read more about these events see:

<https://www.frontlinedefenders.org/en/case/attack-against-right-side%E2%80%99s-vigil-held-memory-murdered-transgender-woman-yerevan>

METHODOLOGY

This research has focused primarily on interviews with people familiar with LGR legislation and procedures in each of the 8 contexts being explored for learning and best practices. Prior to beginning the interviews, desk research was conducted to gather background information on LGR legislation, procedures and practices across the countries of South Caucasus & Central Asia (including Russia and Ukraine) being researched within the frames of this study. These countries include Georgia, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkey, Ukraine as well as Armenia. Following the desk research, 12 experts from 7 countries (not including Armenia) were interviewed and 37 trans community members from Armenia were interviewed to draw out experiences and needs trans people have with regards to LGR in Armenia. All interviews with international experts were conducted online in semi-structured interviews with the option to use English or Russian as their language of choice. Among international experts were mainly trans and non-binary activists, lawyers, NGO and INGO workers. All respondents were made aware of the aims of the research and informed about the anonymous nature of the study. In most cases recordings were made to make it easier for the researcher to capture accurate information provided by the respondents and upon being transcribed, all recordings were deleted. Three main questions were asked of international experts: What is the current legislative framework within the country regarding LGR and what are the opportunities/gaps? What has been the practice of legal gender marker change so far? What are the main challenges trans people face with regards to LGR in the country? Interviews with Armenian respondents focused on both understanding the legislation and practices with regards to LGR in Armenia, but also aimed to gather the trans community's perspective both on the benefits and challenges if LGR was easily accessible through self-determination of gender identity. In Armenia, interviews were conducted in a number of formats: in person semi-structured interviews, group interviews, online correspondence through calls and through chat in cases where people were not able to meet in person or have a call. A diversity of voices was aimed at in this study and as such respondents from Armenia included people who identify as trans, non-binary, sex workers, activists, with their age group spanning from 18 years old to 45. Among the respondents there were people who had been newly coming out to themselves, some undergoing hormone therapy, some who had transitioned and as such there was a diversity of trans experiences. The duration of interviews across all contexts spanned from 15 minutes to an hour. Once the draft version of the study was complete, it was shared with local and international experts to ensure that the information they provided was captured accurately.

Limitations

Given the fast-changing global context, in particular in the regions that this study explored, it is important to note that the information especially with regards to LGR legislation may no longer be actual in one year from now, even in several months from now. As such, it would be important to continue following the political developments with regards to trans and overall LGBTQI rights particularly in Russia, the West and in the countries explored in this study to stay updated on the extent to which new laws and protocols with regards to LGR add more protection or further strip trans people of their right to live dignified lives. Another limitation of this study is that it is conducted among a small number of people and as such it is not large in scope, meaning that it has relied on one or two experts per context outside of Armenia and a small number of trans community members in Armenia to get a sense of their needs with regards to LGR. As such, it would be important to expand this study in the future to include more community members from the countries of South Caucasus & Central Asia (including Russia and Ukraine) being studied in order to have a more nuanced understanding of the practical aspects of LGR legislation and its application in these contexts. In exploring the Armenian context, it would be important not only to expand the number of trans and non-binary respondents when exploring their needs with regards to LGR in order to add more validity to the data collected thus far, but to also interview employees and decision makers at the Registry of Civil Status Acts, the Ministry of Justice, the Ministry of Health as well as medical professionals and law enforcement officials to gain a better sense of the needs of all actors on the issue of LGR. The information acquired in this research therefore provides a general overview of the situation of LGR in the 8 studied, including Armenia, and a snapshot of the needs the Armenian trans community has with regards to LGR at this time and in this sense, it is limited in scope.

SITUATION OF LEGAL GENDER RECOGNITION IN ARMENIA

Despite the fact that there is no explicit ban on legal gender recognition in Armenia and thus it is possible in theory, the current legislative framework, mainly the law on Registration of Civil Status Acts, which can be used to legally change one's gender marker is vague and lacking in any definition of gender, gender affirmative healthcare and the procedures for acquiring such changes in one's legal documents. It is important to mention that prior to May 2021, the abovementioned legal provision under Article 70 stipulated that the Civil Status Acts Registry would make conclusions with regards to corrections, additions or changes in the records of Civil Status Acts based on established procedures by the legislation of the Republic of Armenia, which required a licensed medical institution to issue a document on the prescribed form of gender reassignment in cases where applicants desired a legal gender marker change¹¹. In other words, a person wishing to change their gender marker would have to undergo procedures to change their biological sex and provide a document from an established medical institution that such an intervention has taken place. This law was repealed in May 2021 and the term sex change or any mention of sex reassignment were removed from the language of the law regulating changes one can make in their legal documents. The current law on the Registration of Civil Status Acts permits the change of one's information in the Civil Status Registry in cases where the need for the change is endorsed by documents provided by any official state body that states the need for a change. However, there is no mention of the possibility to change one's gender marker or any procedures with regards to what kind of documentation would be required for such a change to be implemented.

It is also important to note that sex reassignment surgery is not defined nor regulated in Armenian legislation, which means that trans people who undergo such a procedure in the country are forced to do so illegally. Indeed, as with all of the countries' contexts that are part of this research, Armenia also officially uses the International Classification of Diseases (ICD) 10 where code F64 refers to transsexualism, which defines when a person does not feel that they belong to their physical gender as a result of which the need may arise to live and be recognized as a member of the sex other than that which they were born into and thus to undergo hormone therapy and/or a sex reassignment surgery¹². As such, even though transsexuality is classified as a disease, there are no clinical guidelines for its treatment in Armenia. The absence of such regulations contradicts the Classifier and national legislation leaving the law open to interpretation and thus to abuse in terms of trans people's fundamental human rights. It is interesting to note that even after 2021 when the law on Registration of Civil Status Acts requiring a person to provide official documentation of a sex change in order to change their gender marker was annulled and this requirement was generalized to include the requirement of "any arbitrary documents" for changes to be made in one's civil status documentation, trans people are still asked to provide official documentation of sex change when they apply to the Registry of Civil Status Acts. As such, in practice, when a trans person wants to change their gender marker in Armenia they must show a certificate of sex change where it should be written in detail that the given person has transitioned from a male to a female and/or vice versa¹³. It is clear that even despite the arbitrary nature of the law and protocol for LGR in Armenia, in cases where there is an opportunity to change one's gender marker, the authorization of such a change is based solely on a binary system (meaning it is only possible to use one of two gender markers – male or female).

Given that there is no law regulating LGR in Armenia, it becomes a challenge to obtain a certificate of sex change from a medical establishment in the country. According to one of the respondents interviewed within the frames of this research, it is only possible to obtain a document stating that "a correction of sexual organs has been conducted", however this is not recognized by the Ministry of Justice as enough grounds to allow for a change of gender marker. In practice, the Ministry of Justice has required a certificate stating that a transition has taken place from male to female or from female to male.

¹¹ This information is taken from an internal document based on the work that Right Side NGO's lawyers did to collect information with regards to legal gender recognition in Armenian legislation.

¹² Minister of Trade and Economic Development of the Republic of Armenia Order N 67-N: <https://www.arlis.am/documentview.aspx?docid=18923>; ICD 10: <https://icd.who.int/browse10/2019/en#/F60-F69>

¹³ Based on an interview with a trans respondent who had undergone the procedure herself.

This has been so far the only recognized and accepted document in Armenia to allow for gender marker change. Yet given that officially sex reassignment surgery does not exist in Armenia and therefore, officially, there are no doctors that would perform such a surgery, it is technically impossible to obtain such a document in Armenia. As a result, trans people present a certificate from a medical establishment in Russia upon undergoing sex reassignment surgery, which has been an acceptable document for officials in Armenia. Given that this has been the practice thus far allowing trans people in Armenia some opportunity for changing their legal gender marker in official documents, the new anti-trans law, which was passed in Russia in July of 2023 and which bans sex-reassignment surgeries, gender-affirming hormone replacement therapy and legally changing a person's gender on official documents such as birth certificates and passports¹⁴ has meant that trans people in Armenia can no longer use this route to obtain certificates of sex reassignment surgery from Russian medical establishments.

Although there is no official LGR procedure in Armenia, it is clear that in practice it has been possible to change one's legal gender marker through the ascriptive binary approach where a trans person is required to undergo gender affirmative surgery, the documentation of which has to be affirmed by a third party in order for him or her to be able to change his or her gender marker from male to female or female to male with no third gender option possible. To date only trans women who have undergone gender affirmative surgery have been successful in changing their legal gender markers in Armenia. Given that trans men in Armenia generally don't have surgery nor do they do it abroad considering the health risks associated with such a surgery for trans men, the possibility to change their legal gender marker does not exist for them whatsoever. In August of 2022 Right Side Human Rights Defender NGO appealed to the European Court of Human Rights after exhausting all domestic courts in the case of K.A. who had applied to the Registry of Civil Status Acts in Yerevan to change his gender marker from female to male and was rejected upon not being able to present documentation of having undergone sex reassignment surgery¹⁵. This strategic litigation case has only recently received a corresponding number by the ECHR and has yet to move to the next stage.

In sum, the vague nature of the law and the absence of established procedures and medical protocols with regards to LGR creates gaps and challenges not only in terms of changing legal gender markers, but also in terms of trans healthcare in Armenia. There is a serious lack of qualified medical professionals, especially endocrinologists and surgeons, who specialize in trans health in Armenia and the doctors that trans people do see are often transphobic and uneducated with regards to trans health needs. There is also a lack of quality medicine that trans people require for hormone replacement therapy. The hormones that are available on the local market are very low quality with a number of locally registered cases of side effects. This leads to many trans people choosing to treat themselves without consultations or prescriptions with/from doctors, which can ultimately result in poor health outcomes especially without any follow up from a qualified medical professional. This is to make evident that without clear LGR legislation and established procedures and medical protocols, trans people are left out of all social, political and economic aspects of equal citizenship in Armenia – an issue that can begin to be solved with better legislation as a first step.

¹⁴ Martirosyan, Lucy. (July 26, 2023). Russia's draconian new law is forcing trans people to flee the country. Open Democracy. <https://www.opendemocracy.net/en/5050/russia-transgender-law-gender-emigrate-putin-lgbtq/>

¹⁵ Corresponding number was given to K.A.'s Application vs The Republic of Armenia. (February 3, 2023). Right Side NGO. <http://rightsidengo.com/news/k-a-vs-the-republic-of-armenia/>

NEEDS OF THE TRANS COMMUNITY IN ARMENIA WITH REGARDS TO LGR

There are a number of issues trans people face in Armenia due to their gender identity and identification documents in terms of access to or lack thereof to legal gender recognition. In order to give a better context to the responses received from the trans community in Armenia with regards to the question of why LGR is important and how it can benefit (or not benefit) their lives, it is important to note that the trans community in Armenia is not a homogenous group and is made up of individuals with a diversity of life experiences, opinions, world views. Among the people interviewed within the frames of this study there were trans people who identified as trans men, trans women, cross-dresser¹⁶, non-binary, sex worker, intersex, and who were in different moments of the transition process, had fully transitioned and/or didn't want to transition at all. As such, the issues they spoke about and the needs they had sometimes differed, yet overall, some common threads ran through all of the conversations held with the 37 community members interviewed within the frames of this research.

The main issue that came out of these conversations was with regards to the barriers trans people face in everyday life not only in terms of the discrimination they are often subject to from society at large, but also in any situation where they are asked to present identification documents, which do not correspond to their gender expression and identity. From simple interactions at the post office, in a bank, at a mobile phone store, in a clinic, to receiving inheritance, renting an apartment, travelling, buying real estate, receiving social security benefits, trans people are subject to discriminatory treatment at best and physical violence at worst. A trans woman who took part in this study shared her experience of being ridiculed, laughed at: “they start to insult you and it's unpleasant, [and it happens] because they don't accept trans people and they show aggression as a result”. According to community members, there was also a case where a foreigner who is transgender went to the polyclinic to receive services and the establishment forced them to leave because of their gender identity. In order to avoid such discriminatory and hateful treatment, trans people may often choose to avoid situations in which they can become a target of attack. As mentioned by another trans woman interviewed within the frames of this research: “Recently my teeth started to hurt a lot and I didn't go to the doctor for so long that it impacted by head and it got to the point where I couldn't feel my head and my ear. [I wasn't going to the dentist] because I was afraid that if I went, they might ridicule me, ask for my passport and see that my gender marker doesn't match my gender identity.”

Another issue that trans people whose identification documents do not reflect their gender identity face is with having to prove that the person in their documents is really them in cases where their name and/or gender marker have been changed. An example was provided with regards to receiving inheritance or selling property, the contracts for which were made in the old name of one of the trans respondents of this research. Indeed the certificate of having gone through a name change or gender marker change can be presented to prove that the person in official documents/contracts is the same as in their identification documents, yet the interaction results in forced outing and discriminatory treatment. Trans people who have changed their names must go through a long humiliating process to change their name in all other official documents, including any diplomas they have received from educational institutions. In order to change one's name in his or her diploma to have his or her current name be reflected, a trans person has to go to all their professors and receive their signatures in order to approve this change. Yet even in this case, the practice is that the given person's old name remains on the diploma in parenthesis. In expressing his frustration with this practice, a trans man who took part in this study asked the question: “And how are you supposed to use that when applying for a job?”

¹⁶ This term was used by one respondent to refer to themselves.

In order to participate fully in all aspects of social, economic, political and cultural life and exercise their right to full citizenship, it is important for trans people to be recognized as equal members of society. Although this can be achieved in several ways, one key practical approach would be to amend legislation through which it is possible to obtain LGR in Armenia to allow trans people to obtain the legal gender marker that corresponds to their gender identity and expression without requirements for surgical intervention if they do not desire to undergo such procedures. This is particularly a need among trans men who oftentimes choose not to undergo the complex and risky procedure of phalloplasty in order to accommodate discriminatory legislation requiring proof of one's maleness through a binary gender system, which recognizes gender based on very specific physical attributes. Many of the respondents agreed that having only a psychiatric diagnosis of gender dysphoria should be enough grounds for a trans person to be approved for a legal gender marker change, which would ensure that they are not being forced to undergo physical interventions if they do not wish to do so. Some added that a special committee could also be set up and at least two witnesses can be part of the process of confirming that a given person is indeed transgender and thus requires a legal gender marker change in order to have their identification documents correspond to their gender expression. One respondent mentioned that being able to change her gender marker would not change much in her situation given that she hadn't gone through gender affirmative transition since she didn't have the financial means to do so.

Many respondents of this research agreed that there should be some procedures in the LGR process to confirm that a given person is in reality a transgender person, in some cases emphasizing this through a gender binary perspective in which one's perceived gender should also correspond as much as possible to the gender identity they feel they belong to. Yet as evidenced by some of the people that took part in this study, not all trans individuals have the resources to undergo hormone replacement therapy, surgical interventions and other procedures to align their gender appearance and expression with their gender identity. Trans people have a number of barriers to obtaining a living given the discrimination they face in the job market and as a result they have to find alternative means of making a living to survive. Although many trans women choose to engage in sex work, it is not necessarily the path that all trans women choose or wish to pursue for their entire lives. Many who do engage in sex work see it as a means to accumulate enough funds to be able to implement the changes to their physical appearance they desire, but those who simply do not want to do sex work are left without options when it comes to employment in Armenia and thereby, the financial means to undergo the transition process if they wish to do so. This creates obstacles for them in terms of living full dignified lives because they often have to hide in order to avoid harassment, discrimination, psychological and physical violence. As a result, they are left out of all spheres of public life in a cycle that deprives them further of the economic and political means through which they can change the conditions in which they live in.

Nevertheless, many of the respondents spoke about how even in cases where they would be able to go through an easier process of acquiring a legal gender marker change in hopes of decreasing the discrimination they would face when their identification documents do not reflect their gender identity, they would still continue to face much of the same discrimination while having their gender marker correspond to their gender identity. This is due to the fact that almost all state institutions have access to any citizen's prior record of old passports, names, photos, etc. As mentioned by one of the respondents who spoke about how a new regulation allows police officers who patrol roads to have access to one's full records: "trans people don't have privacy/confidentiality of their information, so even if your legal gender marker can change, your previous passports and information showing your previous gender marker will be accessible to them. Why should a road police officer know if I'm trans or intersex?" In this sense, having accessible LGR processes in Armenia would solve some of the issues trans people are faced with on a day-to-day basis, but not all. A more holistic effort must be made to shift negative attitudes towards transgender people through education, access to accurate information and enforcement of human rights by the institutions that are mandated to ensure that all citizens are equal before the law.

SITUATION OF LEGAL GENDER RECOGNITION IN COUNTRIES OF SOUTH CAUCASUS & CENTRAL ASIA (INCLUDING RUSSIA AND UKRAINE)

Georgia

Georgian legislation lacks definitions for sex, gender identity, gender expression, and sexual orientation, which poses challenges in terms of advancing legal gender recognition in legal and practical terms. The procedure for legal gender recognition is not regulated by the law, but “the jurisprudence of the Public Service Development Agency under the Ministry of Justice, which is based on the Law of Georgia on Civil Status Acts under Article 78 establishes that it is possible to change the name or surname due to sex change”¹⁷. Despite mentioning “sex change”, the law does not define what is implied under this term and what documents are required in order to legally amend one’s records to reflect their gender identity. The Georgian respondent who participated in this study informed about the practice of applying for a legal gender marker change in Georgia, which includes first being assessed by a psychiatrist and receiving a diagnosis based on the International Classification of Diseases 10 (ICD 10) under F64 on transsexualism, which is a prerequisite to being allowed to undergo sex reassignment surgery. The next step would be to apply at the Justice House under the Ministry of Justice with regards to one’s wish to change their gender marker in their legal documents and to present a certificate of a sex reassignment operation. Finally, once the presented certificate and all documents are verified with the respective medical institution, the Justice House makes the necessary changes to a trans person’s documents and changes their legal gender marker either from male to female or from female to male. As such, the Georgian LGR model is an ascriptive binary model, requiring gender affirmative surgery and no possibility to choose a third gender upon applying for a legal gender marker change.

In an attempt to make the legislation and practice of LGR in Georgia inclusive of trans people unable or unwilling to undergo a mandatory sex reassignment surgery, a strategic litigation case was filed with the European Court of Human Rights with a landmark judgement on December 1, 2022 (A.D. and others v. Georgia, No. 57864/17 Convention regarding the legal gender recognition of a Georgian transgender man who had not undergone surgery), which critiqued Georgia’s legal ambiguities regarding gender recognition¹⁸. “The Court underscored a violation of Article 8 of the European Convention on Human Rights (right to privacy), advocating for refined legislative clarity and inclusivity”¹⁹. Although this decision is seen as a success in terms of advancing opportunities to continue demanding for a more inclusive legal landscape for LGR, the Georgian trans community believes it is quite weak given that it merely suggested that the Georgian government establish clear and accessible processes for LGR, which is something that any government official can easily say they are working on. At the same time, the ECHR judgement is a mandatory decision, which means that even if the state doesn’t want to talk about LGR, they should still follow up on this decision and start working on amending the laws and procedures related to LGR in the country. This provides an important opportunity for the human rights and trans community to have a contribution in shaping what the future of LGR will look like in Georgia.

¹⁷ Bakhtadze, K. (2022). Legal Gender Recognition in Georgia Policy Paper. WISG Women’s Initiatives Supporting Group (WISG). <https://wisg.org/-Data/docs/publications/policy-paper/WISG-LGR-in-Georgia-2022-EN.pdf>

¹⁸ From an unpublished policy paper shared with the researcher by Georgian Queer Association “Temida” in a correspondence with its employee who was also a respondent within the frames of this study.

¹⁹ Ibid

The respondent that took part in this study mentioned that currently human rights organizations and trans groups are working on advocating to make trans healthcare accessible in Georgia, especially given that sex reassignment surgery is only accessible through the private medical sector and is not covered under state insurance. Georgia is currently working on shifting from the ICD 10 to the newest version of this classifier (ICD 11), but it will take several years for it to be fully incorporated into the medical system. Given that the ICD 11 depathologizes transsexualism and thus removes a number of psychiatric and clinical requirements for trans people to be able to access LGR, the main focus of trans advocacy groups in Georgia at the current moment is on developing a protocol in line with the ICD 11 and to try to create a bridge between the old version of the ICD (10) for a smooth transition. According to one of the Georgian respondents, once there is a national protocol document, the state will also be under obligation to allocate funding for medical interventions required for trans healthcare. Furthermore, in order to ensure that the recommendations from human rights and trans groups will be acceptable for the more conservative government ruling the country at this time, human rights and trans groups are advocating the state to include as little requirements as possible within the new protocols. As such, a recommendation will be made to remove the requirement for trans people to undergo sex reassignment surgery, while at the same time it will be suggested to include the requirement for hormone therapy as the sole medical intervention through which trans people can be eligible for a legal gender change. According to the Georgian respondent of this study, this is not ideal but it is considered a first step toward full self-determination. The groups advocating for this approach also see the possibility of having hormone therapy be covered under state insurance and thus they are focusing their energy initially on this demand. Ultimately, the idea is to also include gender affirmative surgery within state insurance coverage for trans people, while also advocating for the removal of all requirements of medical intervention for LGR in Georgia.

Kyrgyzstan

As with most of the countries studied within the frames of this research, the legislation and procedures with regards to LGR in Kyrgyzstan are vague and arbitrary. Currently, the only legal provision that can be used to implement a gender marker change in Kyrgyzstan is Article 38 in the Law on the Protection of the Health of Citizens (2005), which states that “changes and corrections of gender are carried out in health care organizations through medical intervention at the request of an adult patient in accordance with medical, biological and socio-psychological indications in in the manner determined by the authorized state body of the Kyrgyz Republic in the field of healthcare”²⁰. However, the provision doesn’t define the specificities of any procedures for its implementation. It is important to note that prior to 2020 trans people used the abovementioned article together with Article 72 of the Law on Acts of Civil Status (2005), which stated that the State Registration Service could “make corrections or changes to a person’s civil status act record [in several cases, one of which was] if a document of the established form on sex change, issued by a medical organization, was presented”²¹. However, “this law was repealed and replaced in August of 2020 with a new version of the Law on Acts of Civil Status (2020) which no longer makes it mandatory for authorities to approve LGR applications”²².

²⁰ Republic of Kyrgyzstan Law on the Protection of the Health of Citizens (2005), Article 38. [https://database.ilga.org/api/downloader/download/1/K-G%20-%20LEG%20-%20Law%20on%20the%20protection%20of%20the%20health%20of%20citizens%20in%20the%20Kyrgyz%20Republic%20\(2005\)%20-%20OR%20\(ru\).pdf](https://database.ilga.org/api/downloader/download/1/K-G%20-%20LEG%20-%20Law%20on%20the%20protection%20of%20the%20health%20of%20citizens%20in%20the%20Kyrgyz%20Republic%20(2005)%20-%20OR%20(ru).pdf)

²¹ Republic of Kyrgyzstan Law on Acts of Civil Status (2005), Article 72. [https://database.ilga.org/api/downloader/download/1/K-G%20-%20LEG%20-%20Law%20on%20Civil%20Status%20\(2005\)%20-%20OR%20\(ru\).pdf](https://database.ilga.org/api/downloader/download/1/K-G%20-%20LEG%20-%20Law%20on%20Civil%20Status%20(2005)%20-%20OR%20(ru).pdf)

²² ILGA World Database: Kyrgyzstan. <https://database.ilga.org/kyrgyzstan-lgbti>

According to a trans activist from Kyrgyzstan who took part in this research, while Article 72 was still in force, the trans community interpreted the required “established form” as the document with F64 diagnosis on transsexualism and presented a certificate from a psychiatrist of this diagnosis. Given that Article 72 referred specifically to making changes in one’s legal documents, it technically allowed trans people to implement a gender marker change in the State Registration Service with more ease prior to 2020 as it was used together with Article 38 of the Law on the Protection of the Health of Citizens, which gave the possibility to use the diagnosis of F64 as enough grounds for a “medical intervention”. In a creative and quite queer maneuver, trans people would say that “we don’t have to do surgeries in order to have a medical intervention because our diagnosis of F64 from a psychiatrist is the medical intervention itself”²³. In practice, even after Article 72 was repealed in 2020, trans people still use this approach of obtaining the diagnosis of F64 using Article 38 of Kyrgyz Law on the Protection of the Health of Citizens to apply for a legal gender marker change. This is possible because of the years of work that trans activists have done to ensure there are friendly psychiatrists who can provide this diagnosis and support trans people with regards to LGR in Kyrgyzstan. Although obtaining this diagnosis is not complicated, it requires a trans person to have the funds to pay for all the lab work necessary in the process. Upon receiving this diagnosis, the next step is to apply to the court, after which the approval of one’s gender marker change is done case by case. One example of how this process has worked in practice was of a trans person who sued the government and was able to prove that given the fact that he has a diagnosis of transsexualism, which is classified in the International Classification of Diseases (ICD) 10 that Kyrgyzstan follows, the treatment for his “condition” was to have his legal gender recognized.

It is clear how much better the situation for LGR was in Kyrgyzstan prior to 2020 upon looking at the numbers with over 70 cases where trans people had been able to change their legal gender markers prior to 2020 and with only 2 successful gender marker changes since 2020²⁴. Despite the better situation prior to 2020, there were and continue to be a number of challenges in the process of obtaining a legal gender marker change. One of the challenges noted by a respondent from Kyrgyzstan has been the lack of communication between the three state institutions that are involved in the process: the Ministry of Health, the Ministry of Justice and the State Registration Service. According to the respondent: “It seems like those who [are authorized to] make changes in your birth certificate (the State Registration Service) and those who give you permission to make said changes (the Ministry of Health and the Ministry of Justice) do not communicate with each other.” In practice, when a trans person has reached the point in the process where they go to the State Registration Service with a document showing their diagnosis of F64, the employees of this institution can say that the diagnosis is not enough grounds for a legal gender marker change and that a document stating that a sex reassignment surgery has taken place is required. This kind of response would often depend on the employee a trans person sees and their internal biases of how well the given person’s appearance and behavior corresponds to their gender identity.

²³ Direct quote from a trans activist from Kyrgyzstan interviewed within the frames of this research.

²⁴ As told by the Kyrgyz respondents participating in this study.

Another major challenge with regards to LGR in Kyrgyzstan is that it is nearly impossible to change one's legal gender marker in the social security number (or personal identification number (PIN)) even when it has been changed in other official documents such as one's passport. Social security numbers in Kyrgyzstan are given at birth with a number code of either 1 or 2 signifying a person's gender. Currently, the government of Kyrgyzstan is going through a digitalization process of all the information in state institutions and everything regarding its citizens is being linked to social security numbers. In addition to this, the transition to biometric passports and IDs means that all citizens' information of civil status including gender is now accessible (including a person's photos, name, gender markers from all previous documents) in any interaction with state bodies. Trans people in particular face a number of obstacles when opening a bank account, buying property, becoming officially employed, applying/receiving pension because all of these interactions require presenting their social security numbers and as a result, often facing discrimination, forced outing and transphobia. In this sense, it starts to not matter so much whether or not a trans person has a gender marker that corresponds to their gender identity in their passport because so many interactions are linked to their social security numbers where their gender marker remains unchanged. In consultations that the Kyrgyz respondent who participated in this study had with the State Registration Service, there was no willingness to move away from the rigid legislation that states once a person has been given a social security number at birth, it is never possible to change it thereafter. Despite the fact that many people who are not trans have been mistakenly given a number that does not correspond with their gender identity, the same rule applies.

In trying to understand the increasing restrictions in Kyrgyz legislation and practices with regards to LGR, the respondent who took part in this research mentioned that “the current government in Kyrgyzstan is so insecure that they just think anyone who proposes changes are against them or is trying to sabotage society”. It is no surprise that given the global trend of the rise in the far right and increasing restrictions on trans rights in Russia, the Kyrgyz government passed a law banning LGBT propaganda among minors in August 2023²⁵ and the draft law on “foreign representatives”, which would require “organizations to register with the Justice Ministry as “foreign representatives” if they receive funding from abroad and engage in political activity” is currently being discussed in parliament²⁶. These developments are worrying for the entire Eurasia region given the current geopolitical context and the dependence of countries in the region on competing global powers, particularly the West and Russia, where LGBTQI issues are often used as a political tool to gain power and influence.

²⁵ ILGA World. (August 23, 2023). Statement: Kyrgyzstan Targets LGBTI Communities in a New Law. <https://www.ilga-europe.org/news/state-ment-kyrgyzstan-targets-lgbti-law/>

²⁶ Kyrgyzstan: Draft Law Threatens Civic Space. (June 9, 2023). Human Rights Watch. <https://www.hrw.org/news/2023/06/09/kyrgyzstan-draft-law-threatens-civic-space>

Kazakhstan

There are several legal provisions that trans people use to undergo a gender marker change in Kazakhstan. One of these provisions is Article 257 on “Grounds for the State Registration of Change of Name, Patronymic Name, and Surname” of the Marriage and Family Code of the Republic of Kazakhstan, according to which a prerequisite for legal gender recognition is “surgical sex reassignment (correction)” stated in paragraph 13 of the article²⁷. Article 156 of the Public Health and Healthcare System Code of the Republic of Kazakhstan, as well as in the “Rules for Medical Examination and Sex Reassignment for Persons with Sexual Identity Disorders” are another two provisions that outline the clinical requirements for obtaining a sex reassignment surgery. Stated under these provisions are the steps one must follow to obtain LGR in Kazakhstan: “the application for the document change is accepted by the Registry of Civil Status Acts on the basis of the special commission’s conclusion with a medical examination that confirms a “gender identity disorder²⁸”. The commission is held at the Republican Scientific Practice Center of Mental Health in the city of Almaty. Any procedures regarding hormone replacement therapy and/or other gender affirming interventions are available to people starting from the age of 21. In order to receive a referral with a recommendation to change one’s gender marker in the passport, one must also undergo hormonal feminization/ masculinization and surgical correction²⁹. According to one of the trans activists who was a respondent for this study, these two legal provisions are not logically connected and create unnecessary hassle for trans people who have to meet a huge number of requirements in order to change their documents, but who also need to have the right documents in order to go through this process at all.

In practice when a trans person decides to change their legal gender marker they first go to a psychiatrist to be diagnosed with transsexualism (ICD 10 code F64). If the given person is also diagnosed with any mental disorder such as depression, bipolar disease, ADHD, etc. then a diagnosis of F64 will not be given until the diagnosed mental health issues are treated. According to one of the research respondents in Kazakhstan, “the issue is that you can be trans and depressed because of the conditions you live in, so it’s possible to be trans and also depressed”. And in fact being able to obtain LGR could possibly be the treatment for certain mental health issues a trans person has, which is a direct result of living without corresponding documents in a transphobic world. If the psychiatric evaluation finds that the person does not have any mental health issues, they will be given an F64 diagnosis after which they should do lab work, which is not fully covered by insurance. After this process, a trans person will go through consultations with specialists such as an endocrinologist, gynecologist, etc. and be assigned hormone replacement therapy. The period from being prescribed hormones to completing the course prescribed should be 6 months, after which it is possible to be approved for sex reassignment surgery. According to one of the respondents from Kazakhstan, if for some reason the hormone replacement therapy is not completed within the 6 month period, a trans person’s treatment is no longer considered as valid and the process has to start all over again. After the person has undergone sex reassignment surgery and can present a certificate with this regard, the Commission for Medical Certification of Persons with Sexual Identification Disorders allows the gender marker change in official documents.

²⁷ Living Our Lives Unseen: Research of the Realities of Life for Transgender People of Kazakhstan (2021); ALMA-TQ. https://en.alma-tq.org/_files/ugd/feded1_3ab180f74a9148abb0e1d5932145c760.pdf

²⁸ Ibid

²⁹ Ibid

Some of the challenges mentioned by respondents from Kazakhstan are related to access to trans healthcare, hormones, the commission, which is only in Almaty, social security numbers (IIN (individual identification number)) and general biases of individual actors with the power to approve or disapprove procedures throughout the LGR process. In Kazakhstan, undergoing hormone replacement therapy can be expensive, not to mention that female hormones in particular are hard to find because of current sanctions on Russia. There is also a lack of specialists who are knowledgeable on trans health issues and surgeons who can conduct quality gender affirmative surgeries. As a result, trans people rely on doctors from Russia to come to Kazakhstan and conduct such surgeries or they travel to Thailand where such surgeries are done professionally and with better quality. Another major challenge for trans people who don't live in Almaty is finding the resources to travel to the city in order to see the commission. Another issue is that despite the fact that there are individuals within the commission who are experienced and friendly, there are still cases when the commission itself can be biased and its decisions based on bribes. The issue of physically and behaviorally corresponding to one's gender identity in the eyes of commission workers comes up when according to their binary understanding of gender norms, a trans person does not "pass" or is not an "ideal" trans person. In such cases, the commission can reject a trans person's application for LGR even if the given person has undergone the 6 months of hormone replacement therapy required. Another challenge with regard to the commission is that it is not accessible for migrants and immigrants given that it is required for a person applying for LGR to have residency or citizenship in Kazakhstan. Finally, as with Kyrgyzstan, Kazakhstan also has a number code system in the social security number of its citizens, which signifies a person's sex assigned at birth and is also not subject to change.

It is important to note that prior to the year 2011, it was possible for citizens of Kazakhstan to change their legal gender on identity cards and birth certificates without the need for surgical intervention. This was allowed for individuals who underwent a 30-day psychiatric evaluation period, received a formal diagnosis of "transsexualism" and appeared before a special commission. In trying to understand why the legislation and procedure were changed, one of the Kazakh respondents of this research mentioned a case where a trans man went through the LGR process and was successful in changing his gender marker to male. However, a problem arose within the commission when having to define his children given that he could no longer be defined as their mother. Indeed, it is a problem of patriarchal binary notions of gender that limits the concepts around which people think about parenthood and unfortunately, this was one of the reasons given by the research respondent on why LGR became more restricted after 2011. Another reason mentioned was regarding the question of law enforcement officials on how to place a trans person in prison in case they are arrested. The restrictions to the legislation and procedures were thus justified as a security issue for the sake of trans people. Given the current global trend of increased anti-gender and so called advocates of "traditional family values" and the influence of Russia in Kazakhstan, it would be important to follow developments in the country in particular with regards to advocacy efforts of trans and human rights groups to create more favorable conditions for LGR.

Russia

The context in Russia has drastically changed since the Russian full-scale invasion of Ukraine, which has influenced all levels of society, including the trans community who has come under direct attack since July 2023 when the new Russian anti-trans law was signed, which bans sex-reassignment surgeries, gender-affirming hormone replacement therapy and legally changing a person's gender on official documents such as birth certificates and passports³⁰. According to one of the Russian respondents interviewed within the frames of this research: “We were in the spotlight of hate and discussions...it was so many things that were said on social media, in classic media (newspapers, TV) and this state campaign was also surrounded with a wave of anti-trans propaganda and hate... so yeah, people feel desperate, they feel like they are once again witches in a witch hunt...”. In late 2022 Russia also expanded its previous version of the “gay propaganda” law to include the ban of all mentions of LGBTIQ-related topics in the media – including in film, television, advertising, online and in public for minors and adults alike³¹. According to another Russian respondent, the changes in the context are connected to Russia not doing so well in the war it has started in Ukraine and “so to distract from this, the trans issue is raised as an issue against evil”. Given that most politicians in power are people over 60 years old and conservative, “they are trying to appeal to their base inside Russia and also to gain the support of conservative powers in the world, and [we know that] there are conservatives in all countries, including in America”.

Prior to the abovementioned restricting changes in Russian's legislation with regards to trans people's rights, the process for LGR in Russia was one of the easiest in Eurasia mostly due to its ambiguous nature. One of the Russian respondents of this study divided the reality on the ground into three phases: prior to 2018, after 2018 and at the present moment. Prior to 2018 there were no legally established LGR procedures in Russia. The federal law under “Article 70 of the Law on Acts of Civil Status required a trans person to submit a medical certificate on gender/sex change to the Registry of Civil Status Acts with the duty to approve this form assigned to the Ministry of Health”, although in practice this duty was neglected by this ministry for the most part because there were no specifications on what was to be understood by “change of sex/gender”³². As such, prior to 2018 applications for legal gender marker change were largely subject to the varying practice of regional courts and civil registry offices. In practice, different standards were applied based on the region where a trans person would apply for a legal gender marker change, which ranged from only a proof of a diagnosis of “transsexualism” (using code F64.0 of the International Classification of Diseases-10) being sufficient to implement a legal gender marker change, to requiring hormone therapy, gender affirming surgery, or multiple requirements at the same time³³. In practice, before 2018 trans people in Russia would receive a diagnosis of F64, apply to a government commission, which were free of charge but would take longer to process applications, or apply to commissions overlooking cases for LGR within medical establishments (which were accessible with a fee and often made the process simpler and faster), after which a doctor would write a referral that the given person requires a gender change, which would be approved by the commission. In some instances, the commission would refer the applicant to the court where cases were usually won in trans people's favor, but required a longer time.

³⁰ Martirosyan, Lucy. (July 26, 2023). Russia's draconian new law is forcing trans people to flee the country. Open Democracy.

<https://www.opendemocracy.net/en/5050/russia-transgender-law-gender-emigrate-putin-lgbtq/>

³¹ Martirosyan, Lucy. (November 24, 2022). Explainer: What does new 'gay propaganda' law mean for LGBTIQ+ Russians? Open Democracy.

<https://www.opendemocracy.net/en/5050/russia-gay-propaganda-law-amendments-explainer/>

³² Transgender Legal Defense Project. (August 2017). The situation of transgender persons in Russia: Submitted for the consideration of the 6th periodic report by the Russian Federation for the 62nd Session of the Committee on Economic, Social and Cultural Rights (CESCR).

https://www.ecoi.net/en/file/local/1409315/1930_1505908015_int-cescr-css-rus-28825-e.pdf

³³ ILGA World Database: Area 1: Legal Frameworks: Legal Gender Recognition. <https://database.ilga.org/legal-gender-recognition>

According to one of the Russian respondents of this research and information provided by the ILGA World Database, after 2018 there was no longer a requirement for trans people wishing to change their legal gender to apply to the court to have the change approved. “On 23 October 2017, the Ministry of Health adopted an Order establishing a form and a procedure for issuing a document about “change of sex/gender”. This order was officially registered by the Ministry of Justice on 19 January 2018, as Order No. 850H (2018). As per Annex 1 to the Order, certificates are issued by a medical commission formed by a psychiatrist, a sexologist, and a medical psychologist with the object of confirming that: (a) “sexual/gender re-orientation has taken place”, and (b) the person needs to amend their documents accordingly. As per Annex 2 to the Order, a person can be referred to this medical commission by a psychiatrist, based on the results of a medical follow-up after a diagnosis of “transsexualism”³⁴. Although this legal provision also held a number of ambiguities with regards to the definition of “sexual/gender re-orientation” and/or clear guidelines for how the decision on legal gender change would be taken, the fact that prior to the anti-trans law going into effect in late July of 2023 trans organizations supported up to 400 trans community members in quickly changing their gender markers in a short period of time shows that it worked in practice³⁵.

The third phase of the context with regards to LGR in Russia came in the summer of 2023 with the introduction and adoption of a bill “to amend the Federal Law on Acts of Civil Status and the Federal Law on the Fundamentals of Protecting Citizens' Health (2023), which would repeal Article 70 of the Law on Civil Status Acts and thus prohibit any change in gender markers”³⁶. Some of the challenges that have been posed as a result of this ban are with regards to people who underwent gender affirmative surgeries, but didn’t manage to change their gender marker prior to the bill going into effect. Similar challenges are posed for people who changed their gender marker but did not undergo any surgeries. In a sense, many trans people in Russia are currently in a limbo. As mentioned by another Russian respondent interviewed within the frames of this research: “We are now in a situation, which is very hard to explain because actually no one knows anything - people in commissions, in the Registry of Civil Status Acts, doctors - they don’t know what to do with patients... It’s just total chaos right now”. At this time technically any citizen still has the right to make changes in their records under the Registry of Civil Status Acts by going to the court and demanding a change to any part of their civil status information. According to the Russian respondent: “activists and lawyers are saying that apparently anyone who wants to change their legal gender should do it through the court. This was [the approach] used in all this time, but it’s different now because of the risks due to the ban of trans people in Russia”. Indeed, given that the new bill doesn’t mention anything about the punishment that would be implemented if doctors were to conduct gender affirmative surgeries, for example, or prescribe hormone therapy, there is a grey zone that can possibly be used to continue providing healthcare to trans people in Russia. Yet the risks of doing so make the possibilities for providing trans specific healthcare in the country subject to consequences that many people are not willing to take on.

³⁴ Ibid

³⁵ Based on information provided by one the Russian respondents interviewed within the frames of this research.

³⁶ ILGA World Database: Area 1: Legal Frameworks: Legal Gender Recognition. <https://database.ilga.org/legal-gender-recognition>

Turkey

Currently there is only one legal provision that affirms LGR in Turkey under Article 40 of the Civil Code (2001), which states that a person's gender marker can be changed through a judicial procedure. According to this law, a trans person who wishes to change their legal gender marker must be 18 years or older, legally single and undergo surgical interventions³⁷. Although a contradictory clause in Article 40 was repealed in 2018 due to its nonsensical logic, which stated that in order for a trans person to access sex reassignment surgery they were required to present a certification of "continued deprivation of their reproductive capacity" (i.e. sterilization), the current law as it stands is also rather incomprehensible and open to interpretation. Once the article removed the requirement of sterilization, it gave the impression that it was possible to change one's gender marker without sex reassignment surgery given that such a procedure already implies sterilization. However, in practice, the procedure continues in the same way as prior to the amendment in Article 40, which means that as it stands at the current moment, a trans person can only obtain a legal gender marker change upon having gone through sex reassignment surgery.

According to the Turkish respondents interviewed within the frames of this research, there are several steps in the process of LGR at the current time where two separate decisions must be made by the court: one - to approve a trans person to undergo surgical interventions and two - to approve a legal gender marker change. For the first decision a trans person is firstly required to go to a hospital that hosts a Sexual Identity Committee, which is a medical board formed of 6 specialists: a psychiatrist, an endocrinologist, a genetics specialist, a neurologist, a plastic surgeon, a gynecologist. The given person then sees a psychiatrist for an assessment of gender incongruence/dysphoria, comorbidities and other mental health related issues. This psychiatric assessment process can take anywhere from 6 months to 2 years. The psychiatrist also provides information on the transition process and asks questions about the client's social resilience or if they have come out to their family and social circles. If the client's social transition process is going well, the psychiatrist refers them to an endocrinologist for additional lab work. Following this step, the endocrinologist prescribes hormone replacement therapy. In theory, all of these procedures should be covered by state insurance, but in practice this is not the case given that, for example, prescriptions are only covered by the social security system when a person's gender marker corresponds to the their perceived gender. As such, a trans person would not be eligible to receive hormones covered by state insurance if their documents are still marked with their sex assigned at birth. This is another contradiction in the legislation, which creates a situation where trans people have to pay for costly hormone replacement therapy themselves (approximately 1,000 EUR per month according to one of the Turkish respondents participating in this study). The last step in this initial process is to apply to the court for a decision allowing the applicant to access surgical intervention, which is done by presenting the psychiatric and medical documents from the committee proving that the applicant is a transsexual and requires surgical intervention for mental health reasons.

The second stage of the LGR process is to apply to the court for a decision regarding a legal gender marker change. In this stage a trans person must present another document from the committee, which states that they went through psychiatric assessment, hormone therapy and sex reassignment surgery in order to be eligible for a legal gender marker change. According to the Turkish respondents of this study, at this stage in practice the approval of a gender marker change depends on the subjective biases and perception of the judge that one sees. Given that sex reassignment surgery can be interpreted as any number of surgeries trans people undergo in the transition process, it is possible to apply to the court with documents stating that the person has undergone corrective surgeries that do not include a hysterectomy, vaginoplasty and/or phalloplasty. In cases where the judge is not knowledgeable on the medical terminology, it can be enough for them to simply see that the gender expression of the person applying for a gender marker change corresponds with the gender marker they are applying for and that they have some medical interventions such as breast augmentation, mastectomy, etc.

³⁷ Ibid

In cases where the judge is familiar with the medical terminology, he or she can base their decision on their subjective stereotypical notions of gender norms and transphobic attitude, and reject a trans person's application if they have not undergone bottom surgery, which has been the case for many trans men in Turkey.

According to one of the Turkish respondents of this study: "since 2019 we are seeing courts say that even though [trans men] had undergone some surgeries, they still have to do phalloplasty. [But] it's really a complicated surgery [and] not everyone wants to [go through it given the risks]. There are maybe one or two doctors who can do this in Turkey and it's expensive, so it's impossible to do it if you can't pay for it. But even if you have the money [to pay for a phalloplasty], there is a lot of malpractice and Turkish doctors do not have expertise on this surgery". One of the creative strategies that organizations have used in Turkey has been to make use of the lack of knowledge among local judges in small towns of Turkey by having trans people change their residency on paper in order to be able to apply to courts outside of major cities where judges have affirmed legal gender marker changes in cases where trans people had not undergone bottom surgery. Currently, one LGBTQ organization in Turkey is under way to start a strategic litigation in the case of a trans man who is suing the government in order to demand his right to have LGR without being required to undergo phalloplasty. If the case is successful, it will be used to change the current legislation limiting trans people's rights to LGR in the country. Yet given the current political and socioeconomic context in Turkey with more conservatives in power, there are talks on changing LGR legislation to allow only intersex people to access gender reassignment surgery and gender marker change, which would be detrimental in terms of trans rights.

Ukraine

There are several legal provisions within Ukrainian legislation which recognize gender dysphoria and allow for legal gender change. In 2016 the Ministry of Health in Ukraine adopted two orders: Order No. 972 dated September 15, 2016 "On the approval and implementation of medical and technological documents on the standardization of medical care for gender dysphoria" and Order No. 1041 dated 05.10.2016 "On establishment of medico-biological and socio-psychological indications for changing (correction) gender and approving the form of primary accounting documentation and instructions for filling it out"³⁷. These changes were much awaited by the trans community in Ukraine given that a number of obstacles for LGR were removed, mainly the requirement to obtain a divorce in cases where trans people were married, to undergo forced sterilization and submit to sex reassignment surgery, and to undergo extensive psychiatric observation³⁸. Although these new regulations do not explicitly require surgery, some form of medical intervention, such as hormone replacement therapy, is still required. Furthermore, Ukrainian legislation containing provisions on health care include Article 51 on "Change (correction) of gender identity", which defines the basic conditions for this procedure: "At the patient's request, in accordance with the medico-biological and socio-psychological indications, which are established by the central executive body, which ensures the formation of state policy in the field of health care, a person can undergo a change (correction) of his gender through medical intervention in health care institutions"⁴⁰. As such it is possible to change one's gender marker legally without gender affirmative surgery. According to a Ukrainian respondent participating in this study, hormone replacement therapy is enough grounds of a medical intervention to be able to obtain a legal gender marker change. Nevertheless, the Ukrainian model is an ascriptive binary model through which it is only possible to change one's legal gender marker to either male or female upon undergoing a psychiatric evaluation and a medical intervention, which should be affirmed by a third party.

³⁷ Insight Ukraine. (2021). Unified Clinical Protocol of Medical Care for "Gender Dysphoria".

https://www.insight-ukraine.org/wp-content/uploads/2021/11/clinic_protokol.pdf

³⁸ Knight, Kyle. (January 27, 2017). A Glimmer of Light for Transgender People in Ukraine.

<https://www.hrw.org/news/2017/01/27/glimmer-light-transgender-people-ukraine>

⁴⁰ Ibid

⁴¹ Information taken from Trans*Coalition's "Analysis of laws on legal gender recognition in Ukraine";

<https://www.transcoalition.net/analysis-of-laws-legal-gender-recognition-in-ukraine-in-2022/>

In practice, the procedure for changing one's gender marker in Ukraine is composed of several steps. First, a trans person must go to a family doctor to be issued a referral to a psychiatrist and endocrinologist⁴¹. Given that Ukraine officially follows the International Classification of Diseases (ICD-10), the next step would be that a psychiatrist provides a diagnosis of F64 on transsexuality and a conclusion about hormone therapy. Finally, a medical certificate about "change (correction) of gender" must be issued by a family doctor based on the decision of a specialist. Proof of having gone through hormone replacement therapy is sufficient for such a medical certificate in practice. One positive advancement in recent years has been that it is possible to see a family doctors of one's choice regardless of one's place of registration, which makes it possible for trans people to contact friendly specialists in Ukraine. Yet a challenge remains with regards to a lack of qualified medical professionals with enough education on trans health to be sensitive as well as knowledgeable about hormone replacement therapy and other medical needs trans people have when transitioning. In practice many endocrinologists in Ukraine refuse to prescribe hormone therapy because they say they don't know enough about this sphere of medicine to do so. The trans and human rights community in Ukraine is currently working to educate more medical professionals, especially endocrinologists, to be able to both be more sensitive with regards to trans health issues and to better support trans people in transition.

In many ways, compared to the other contexts explored within this study, Ukraine is one of the most advanced with regards to LGR legislation and procedures. The country also has more options when it comes to access to hormones with a diverse range of prices (although depending on quality), making hormone therapy more accessible. Of course, the ongoing Russian invasion of Ukraine has created some logistical barriers with regards to having products easily pass the border, making hormones three times more expensive now than before the war. Another major challenge that still remains is the norm within clinical protocols where a psychiatric assessment is expected to take 2 years. According to the Ukrainian respondent interviewed within the frames of this study, there is also another norm within clinical protocols, which allows for a diagnosis to be given by a psychiatrist within 14 days. In practice, most trans people make use of the second norm mentioned above despite the fact that in order to provide a diagnosis in a shorter amount of time, doctors ask for a small payment in the form of a donation. This is not at all an official part of the procedure, but is the accepted practice given that a psychiatric diagnosis is still required according to the law. In order to do away with this requirement the trans and human rights community in Ukraine are working on amending the rules once more, to bring the practice in line with ICD-11, which depathologizes transsexuality and is an important step towards achieving LGR based on self-determination of gender identity.

Tajikistan⁴²

There are no statutes within the legislation of the Republic of Tajikistan that ban legal gender recognition and as such it is possible to change one's legal gender in practice. At the same time, the Tajik government does not recognize trans people and the legislation that exists does not reflect the specifics of providing medical and social assistance to transgender and gender non-conforming people. As such, the procedures that trans people undergo to legally change their documents are arbitrary and often rely on bribing the officials with the power to legally make changes in one's official documents. In practice, there are several steps trans people go through in order to apply to the relevant bodies that can implement a gender marker change. First, they turn to the state institution "Republican Clinical Center for Psychiatric Diseases" where psychiatrists carry out a diagnosis and provide an opinion from a commission consisting of three psychiatrists in which it should be stated that the person does not have a pathology, delusional ideas, and that in fact he or she is a person of a different gender. This diagnosis is based on the International Classification of Diseases (ICD) 10, a globally accepted medical classification used in epidemiology, health management and for clinical purposes, which classifies transsexualism under code F64 in Section 5: Mental and Behavioral Disorders under the chapter on Personality and Behavioral Disorders in Adulthood (F60 – F69), which contains Rubric F64 on Gender Identity Disorders. Although this is the procedure trans people follow in practice in Tajikistan, there is no official medically approved form for gender reassignment in the Republic of Tajikistan and as such the conclusion of the commission can be provided in any form. In practice, it is important that the psychiatrists a trans person works with understand that in order for the next steps to proceed in favor of the applicant to successfully manage a gender marker change, the certificate they provide should clearly state that the given person requires a gender marker change due to their diagnosis based on F64 as mentioned above.

Once a person obtains this certificate stating that they require a legal gender change based on a diagnosis of transsexualism under ICD 10 code F64, it is best that they aim to get their gender marker change approved directly through to the Registry of Civil Status Acts (ЗАГС). It is important to note that employees of this Registry act on the basis of the Law of the Republic of Tajikistan "On State Registration of Civil Status Acts" and are not provided with rules or instructions with regards to issuing a legal gender change. Amendments to a person's birth record, according to the law, in terms of gender identity are only possible for changing the first name, patronymic (if any), last name due to "change of gender", but there is no implication of a change in the gender marker as such. The law also states that if there is a dispute between interested parties, then corrections, changes and additions to civil status records are made on the basis of a court decision. The law does not indicate what kind of dispute there may be and between whom. The court in this case is guided by the norms of the Civil Procedure Code of the Republic of Tajikistan. Thus, Article 312 of the Code of Civil Procedure of the Republic of Tajikistan establishes the right to submit an application for corrections, changes and additions to the civil registration book⁴³. Yet going through the court system to get a gender marker change approval has proven futile in practice as was the case for a trans woman who attempted to obtain a legal gender marker change through the Registry of Civil Status Acts in 2016, but was sent to court to receive approval through the judiciary system, which rejected her application⁴⁴.

⁴² Information with regards to LGR in Tajikistan has been provided by an anonymous online source.

⁴³ Law of the Republic of Tajikistan on State Registration of Civil Status Acts <http://surl.li/rgtgq>

⁴⁴ Discriminatory Policies and Practices, Hate Speech and Hate Crimes against LGBT communities of Tajikistan CEDAW Shadow Report (2018). https://www.ecoi.net/en/file/local/1451947/1930_1542883389_int-cedaw-css-tjk-32583-e.pdf

Given that none of the steps that are de facto carried out in attempts to receive legal gender recognition are regulated, the ability to change one's legal gender marker through the Registry of Civil Status Acts depend on several factors and are not guaranteed. It is important that the certificate of diagnosis issued by the commission of the "Republican Clinical Center for Psychiatric Diseases" states that the given person requires a legal gender change based on a diagnosis of transsexualism under ICD 10 code F64. Yet given the moral foundations of Tajik patriarchal society and the binary gender stereotypes upon which the norms of such a society are based, it is often easier for trans men whose perceived gender corresponds to their gender identity to access legal gender marker change than for trans women. At the same time, the Registry of Civil Status Acts can reject a trans person's application on the grounds that it is not stamped by the Ministry of Health even though there is no effective procedure for how such a certificate should be approved by the Ministry of Health. The Registry of Civil Status Acts may also reject an application and insist that the request for legal gender marker change be taken up in court, which is not the best-case scenario as there are no laws regulating LGR in Tajikistan that can be used to obtain such a change through the court system. In practice, given that LGR is neither prohibited nor permitted in the country, it is more likely that specialists, both doctors and judges, heads of civil registry offices, are hesitant to engage in any procedures with regards to LGR for fear of repercussions even though there are no statues stating that such practices are illegal and subject to punishment.

As it stands, in practice if a trans person in Tajikistan receives the proper certificate from a psychiatrist and also corresponds to gender norms of masculinity or femininity according to the opinion of the employee of the Registry of Civil Status Acts (although trans women generally have a harder time given the patriarchal society), it is possible for the Registry of Civil Status Acts to grant the given person a legal gender marker change. There are a few friendly psychiatrists in Tajikistan who can give the required certificate, but it can also be the case that this certificate is not accepted by the Registry requiring that the certificate be stamped by the Ministry of Health or come from an established institution. In an interview conducted by an anonymous source with a specialist in the Registry of Civil Status Acts of Tajikistan, it was indicated that a change in an applicant's gender marker was made upon seeing medical documentation confirming that a surgical intervention had been performed and it didn't matter much where the documentation came from. In practice trans women often go to Russia and obtain a certificate with a diagnosis and/or of sex reassignment surgery, bringing this document back to Tajikistan in an attempt to apply to the Registry of Civil Status Acts for a gender marker change. Regardless, given that there is no established procedure for applying for a gender marker change through the Registry, a bribe is usually given to the Registry employee in order to push them to authorize such a change. Ultimately, it is often a matter of luck and passing that grants some trans people in Tajikistan the possibility of a gender marker change in practice today.

COMMONALITIES IN LGR LEGISLATION & PRACTICE AMONG COUNTRIES OF SOUTH CAUCASUS & CENTRAL ASIA (INCLUDING RUSSIA AND UKRAINE)

All of the studied within the frames of this research, including Armenia and with the exception of Russia until July of 2023, allow/ed some form of legal gender recognition through a binary ascriptive model that requires trans people to be diagnosed under ICD 10 code F64 on transsexualism, receive a psychiatric evaluation and diagnosis, and in most cases to undergo some form of transition through medical interventions. All of the legal provisions available in these countries through which LGR is implemented in practice are ambiguous in nature and vague in the terms required for trans people to officially change their legal gender markers. Given the transphobic and patriarchal cultures that these processes are being implemented in, many trans people residing in these countries rely on friendly psychiatrists, medical professionals, judges and/or civil servants to recognize and approve the gender identities that they feel they belong to. In Turkey where trans people must apply for a legal gender marker change through the court system, it is often to their benefit when seeing judges who are not as knowledgeable on the medical terminology with regards to sex reassignment surgeries and will perceive any surgery implemented as enough grounds that a “surgical intervention” has taken place. As a result, the more a trans person’s gender expression corresponds to their gender identity, the more likely it is for a judge to approve his or her gender marker change. A similar reality can be seen in Tajikistan where Civil Registry employees have in practice approved legal gender marker changes of trans men who, in their subjective view, correspond to the gender norms of maleness.

At the same time, having gaps and/or contradictions in LGR legislation creates fertile ground for the trans community to stay unprotected and subject to exploitation by the institutions implicated in LGR processes. In many of the Central Asian contexts studied within the frames of this research, bribes proved to be an effective way to convince civil servants to approve legal gender marker changes. In Armenia gender reassignment surgery is not regulated within the legal and/or medical spheres and is thus considered illegal, leaving trans women who undergo this surgery at risk of exploitation by the medical system in cases where they have managed to bring a doctor from abroad to perform the surgery. In Turkey, trans people who have been prescribed hormone therapy cannot access hormones through state insurance until legal gender marker corresponds to their gender identity, which is an irrational and contradictory regulation provided that hormone replacement therapy is one of the requirements in the path to LGR in the country. This results in trans people having to pay for hormones themselves, which are often quite expensive.

Access to trans healthcare is partially possible in some of the countries of this study including Ukraine and Georgia, but in order to receive quality healthcare trans people often choose private clinics with doctors that have more knowledge and experience on trans health. Such doctors however are lacking in most of the contexts studied within the frames of this research and malpractice is common as was the case with a trans woman in Turkey whose sex reassignment surgery took up to 6 hours instead of the maximum 3 it required, because the surgeon operating in her used her operation as educational material for his assistants⁴⁵. Almost all of the respondents who took part in this research mentioned the work they have done and continue doing in terms of educating medical professionals, including psychiatrists, endocrinologists, family doctors, etc. to be more sensitive in their work with trans people, in addition to gaining more knowledge on trans specific healthcare. As a result of this work, the trans communities of many of these contexts including Kyrgyzstan, Kazakhstan, Turkey, Ukraine, Russia, Tajikistan have gained supportive allies in hospitals that they can rely on for their needs in terms of LGR. In almost all contexts, respondents also mentioned the opportunities for advancing better LGR legislation and procedures once their countries fully transitioned to the new version of the International Classification of Diseases (11), which no longer classifies transsexualism as a disease. The hope is to use this new classifier to advocate for removal of mandatory medical interventions, which create unnecessary burdens and barriers for trans people to access legal gender recognition.

⁴⁵ As told by a respondent in Turkey.

In some of the Central Asian contexts a common issue with social security numbers (PIN in Kyrgyzstan, IIN in Kazakhstan), which are given at birth and where the first number corresponds to a person's sex assigned at birth, posed a problem for trans people who had implemented a legal gender marker change given that this number was not possible to change despite changes made to other identification documents such as passports. In Armenia a similar challenge was mentioned by trans respondents who felt that changing one's legal gender marker was a futile effort if their full record was accessible by state institutions such as police, hospitals, etc., subjecting them to forced outing and continued discrimination. The issue of not being able to change all identification documents upon having changed some creates conditions for continued discrimination and barriers for trans people to live full and dignified lives.

In taking a broader look at the overall context with regards to LGR in these countries of South Caucasus & Central Asia (including Russia and Ukraine), it becomes apparent that despite some advances in legislation and practice, there is also a lot of backlash and stripping of rights particularly as it pertains to trans and LGBTQI communities. Given the global challenges the world is currently facing with a number of crises from the COVID pandemic, to the Russian invasion of Ukraine, to the Nagorno Karabakh conflict and other wars in the region, as well as the global economic crisis, states are becoming more conservative and authoritarian, which leads to deterioration in basic human rights. This has a deep impact on vulnerable communities such as the trans community by forcing them into invisibility and further deprivation. It is interesting to note that many of the countries studied in this research had more favorable legislative environments for LGR in the recent past, including Kazakhstan, Kyrgyzstan, with Russia being the most progressive in terms of LGR practice prior to July 2023, and only in recent years have these countries passed more restrictive legislation that create unnecessary burdens for trans people to access LGR. In Turkey there are now discussions to make LGR accessible only for intersex people, which in line with conservative logic would be acceptable given the "scientific rationale" that aims to maintain a binary gender system based on a limited understanding of gender based on biological sex.

These fast-changing contexts and restricting laws such as the anti-trans law in Russia, the anti-propaganda law in Kyrgyzstan and past or current discussions in governments of countries that are particularly more dependent on Russia such as Kazakhstan, Kyrgyzstan, Armenia, Tajikistan, Georgia looking to imitate Russian anti-propaganda or foreign agent laws, create even more difficult environments for trans and LGBTQI activism and advocacy. In more restrictive contexts such as Russia and Tajikistan, obtaining legal gender recognition often may even rely on not being actively involved in activism, human rights, NGO work given that the main targets in such contexts are those who are fighting for rights and social justice. Furthermore, fighting for LGR in contexts that don't have comprehensive anti-discrimination, anti-hate speech and hate crime laws that take into account biases related to sexual orientation and gender identity as aggravating circumstances make it even more difficult to demand justice for trans individuals in cases where their rights are violated due to the lack of access to and implementation of LGR.

BEST PRACTICES & LEARNINGS

It would be difficult to say that this report found best practices in terms of LGR legislation among the countries studied. At the same time, there are a number of best practices in terms of practical strategies and learnings from trans activists and groups on the ground that can benefit the struggle for trans rights in Armenia. These are listed below in bullet point format:

- Trans groups in Kyrgyzstan and Russia have developed guidelines for medical professionals to educate them on the ethics, terminology, healthcare consideration when working with trans individuals that visit hospitals, clinics, psychiatrists, etc. In Kyrgyzstan, this guideline is approved by the Ministry of Health, which makes it obligatory for medical professionals to familiarize themselves with these guidelines. As a result of this work, there is now a small but significant number of trans friendly medical professionals that trans people can rely on for their healthcare needs. This is a practice that is also being adopted by other countries in the region, including Turkey where a trans organization is currently translating the World Professional Association for Transgender Health Standards of Care manual. Development or translation of such guidelines would be an important step in terms of LGR advocacy in Armenia as well.
- Certain groups are more vulnerable within the trans umbrella such as trans women, trans sex workers, migrants, refugees, people with a positive HIV status given that certain services can be refused to them (i.e. medical interventions) and/or additional discrimination based on their intersecting identities can create more marginalization for these groups. As such, it is important to consider the specific needs of more vulnerable groups when working with trans issues and rights in the Armenian context as well.
- An important lesson to be learned from the Turkish context is that amendments in LGR legislation that seem more progressive might not necessarily mean that they are progressive in practice. Despite the fact that forced sterilization was removed from Article 40 in the Turkish Civic Code defining the terms for LGR, this did not mean that trans people are no longer required to undergo surgical interventions in their efforts to change their legal gender markers. This is an important consideration to have for trans groups advocating for LGR in Armenia in order to ensure that amendments to legislation create a more favorable environment for trans people to obtain LGR with less requirements than as it currently stands.
- In some contexts, such as in Turkey, Kyrgyzstan and Tajikistan, trans activists use ambiguities in LGR legislation to their benefit. In Turkey trans men in particular would change their registration to small towns where judges have little knowledge of medical terminology, which allows them to win cases for legal gender marker changes without being required to undergo bottom surgery. In Kyrgyzstan, some trans individuals succeeded in convincing State Registration Service employees that a diagnosis of F64 on transsexualism was enough grounds for “medical intervention” to make them eligible for a legal gender marker change. In Tajikistan, a similar approach is used as in Kyrgyzstan, but it usually works for trans men and not for trans women. It would be a good practice for trans groups in Armenia to find leverage points using the ambiguity of the current legislation that allows LGR in order to support trans people in terms of the technicalities of obtaining legal gender marker changes until better legislation and practice is established in the country.

⁴⁶ Coleman, E., Radix, A. E., Bouman, W.P., Brown, G.R., de Vries, A. L. C., Deutsch, M. B., Ettner, R., Fraser, L., Goodman, M., Green, J., Hancock, A. B., Johnson, T. W., Karasic, D. H., Knudson, G. A., Leibowitz, S. F., Meyer-Bahlburg, H. F.L., Monstrey, S. J., Motmans, J., Nahata, L., ... Arcelus, J. (2022). Standards of Care for the Health of Transgender and Gender Diverse People, Version 8. *International Journal of Transgender Health*, 23(S1), S1-S260. <https://doi.org/10.1080/26895269.2022.2100644>

- Due to the backlash and increasing restrictions in some contexts such as in Russia and Kyrgyzstan, trans activists also use “silent activism”, meaning that the work they do to advocate for LGR takes place in direct communication with ministries, medical professionals, psychiatrists and civil service workers. As mentioned by one Kyrgyz respondent interviewed within the frames of this research: “it is about finding the right people to talk to in these institutions and pushing them to make necessary changes”. Given the ways in which trans and LGBTQI related topics are manipulated within the media, this way of working is sometimes a best practice given that it can solve some of the technical issues trans people are faced with when attempting to gain legal gender recognition. This has been the practice in Armenia as well and it would be good to continue using this method alongside advocating for better legislation using Armenia’s current political context, which aims to create closer links to the EU.
- In contexts that have more opportunities for progressive changes in legislation and practice but still operate within transphobic societies (Ukraine and Georgia), trans activists aim for small changes in legal provisions such as the removal of sex reassignment surgery as a requirement for LGR, while steadily working towards the longer-term goal of self-determination. This can be one of the strategies to slowly but surely advance LGR legislation in practice across all contexts of South Caucasus & Central Asia (including Russia and Ukraine).
- Many of the trans activists working in the countries that have been studied within the frames of this research see opportunities in the new version of the International Classification of Diseases (ICD 11) given that transsexualism is no longer listed as a disease. As such, supporting governments as they transition from the old version of the ICD 10 to ICD 11 can be an important tactic in terms of removing unnecessary requirements for trans people to undergo medical interventions in order to obtain legal gender marker changes.

CONCLUSION

In mid-November while the state of Israel was bombing civilian homes, hospitals, refugee camps all throughout Gaza, an Israeli soldier raised the rainbow flag symbolizing LGBTQI pride in Northern Gaza, posting it on his Instagram page with a message meant to propagate the idea that Palestinians cannot be free as long as they live under the homophobic reign of Hamas⁴⁷. This kind of narrative for justification of war has been used by the United States in its war in Afghanistan under the propaganda that the United States is fighting a war with the goal of liberating Afghan women and children from so-called backward patriarchal society. In the same vein, the kind of pink-washing⁴⁸ that has been conducted by the Israeli state for over a decade is meant to signify values of freedom and democracy that the liberal world ascribes to. What is evident in the current world order is that trans and LGBTQI issues have become merely a symbol and a tool to be used by conflicting political forces to demonstrate their positions with regards to the kind of political orders that they belong to. In the dominant narrative, there is always a positive value ascribed to the more liberal political perspective as opposed to the negative value ascribed to the less liberal one. In this sense, trans and LGBTQI issues are often manipulated in countries of South Caucasus & Central Asia (including Russia and Ukraine) to gain political interests that usually have little to do with the real life socio-economic, political and cultural rights and opportunities granted to trans and LGBTQI communities in these contexts.

At the same time, there are real consequences to governments becoming more conservative and authoritarian in the Eurasia region. Given the influence of Russia in the region, countries that are particularly under Russian influence are under more risk of stripping trans people of the little rights they have for LGR. The reliance on Russia and the spillover of Russia's context in these countries are also limiting the opportunities that trans people in Kyrgyzstan, Tajikistan, Kazakhstan and Armenia have to either present required medical certificates issued from Russian medical establishments in order to be able to access LGR or to access sex reassignment surgeries in Russian medical institutions by doctors with more experience in this field. The issue of where trans people in Armenia can go now that they can't go to Russia to access the medical services they need in order to transition is one of the needs that came out of this study. This study has also drawn-out other needs of the Armenian trans community with regards to LGR, in addition to looking at the contexts of neighboring countries in order to learn from the best practices of trans movements in these countries and find creative solutions that the trans community of Armenia can adopt. As such, in looking toward the future of LGR in Armenia, it is important to consider both the prospects of using Armenia's unique position with regards to moving towards more liberal values and aligning its legislation with European standards, which can be a pathway toward self-determination of gender identity, and the risk of rising anti-gender and conservative powers within the country compromising the gains and possibilities that trans and LGBTQI groups have succeeded in obtaining in the past decade with regards to visibility, rights and security.

⁴⁷ Loewenstein, Anthony. (November 16, 2023). Don't Buy Israel's "Pink-Washing" Social Media Propaganda. The Daily Beast. <https://www.thedailybeast.com/dont-buy-israels-pink-washing-social-media-propaganda>

⁴⁸ Pink-washing refers to the strategy of using LGBT rights protection as evidence of liberalism and democracy in order to distract from or legitimize violence against other countries or communities. The concept has been used by Sarah Schulman in 2011 with reference to Israeli government public relations, and is related to homonationalism, the exploitation of sexual minorities to justify racism and xenophobia. To learn more: <https://onlinelibrary.wiley.com/doi/10.1111/anti.12100>

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