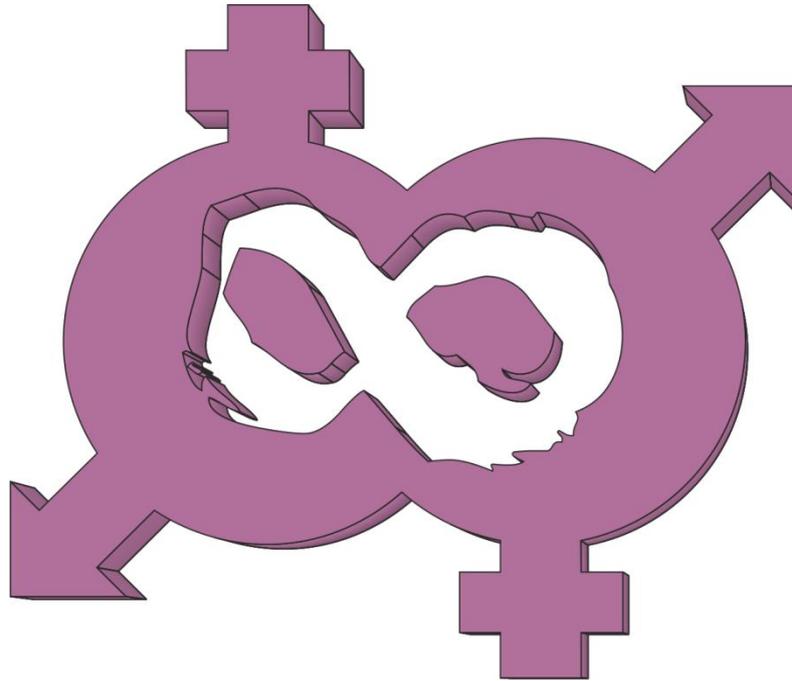


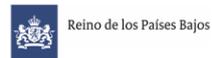
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DOCUMENTS OF THE I INTERNATIONAL CONGRESS ON GENDER IDENTITY AND HUMAN RIGHTS.

PRELIMINARY VERSION. 6 JUNE 2010





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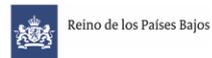
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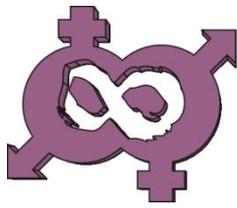
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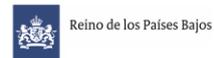
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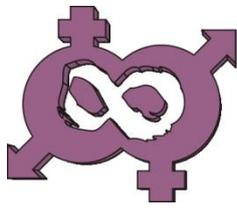
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VIOLENCE, CRIMINALIZATION, AND GENDER IDENTITY





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Introduction

In every region of the world, transgender people face risks for their lives as their inherent dignity, personal safety, physical integrity, and mental well-being are compromised by the transphobia of their societies. They face violence in different forms, from domestic to state-sponsored violence, perpetuated by different actors, from state to non-state actors.

Colonial laws, religious persuasions, cultural beliefs and the heteronormative gender binary system, i.e., the belief that one's gender identity and expression should conform to one's sex assignment at birth, have all been used to justify, glorify, and sanctify this violence, thereby laying a strong foundation for the denial of the human rights of transgender people.

During the past two years the number of reports of murdered trans people has been on the rise. The Trans Murder Monitoring project which started in April 2009 has documented 333 reported murders in 36 countries from 2008 to 2009. However, due to research limitations and the absence of reporting and monitoring systems in almost all countries worldwide, as well as the fact that there are no estimates on the unreported cases, these figures show only a glimpse of the reality, the tip of the iceberg of reports on murders of trans people worldwide. The real situation is much worse.

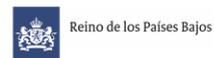
In some countries, transgender activists are being subjected to harassment and violence and even transphobic murder from police officers, the supposed front liners of the state in promoting, protecting, and promoting the human rights of all people.

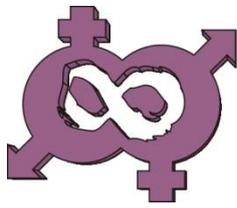
So-called anti-cross-dressing laws, laws that illegalize gender reassignment, as well as anti-prostitution laws and public nuisance laws are being used to harass and persecute transgender people in the name of public moral, order and security. It is worth noting that these laws, as well as the transphobic beliefs in their societies, enhance the discrimination experienced by transgender people, limiting their access to economic, social and cultural rights, making them vulnerable to lives of extreme poverty.

The pathologization of trans people, which is institutionalized and internationalized by international diseases classifications such as the DSM IV or the ICD 10 and by international institutions such the WHO, is contributing to the societal transphobia that trans people in many parts of the world have to face.

Furthermore, the media's negative portrayal of transgender people has encouraged the stigmatization of transgender people in different parts of the world.

We are disturbed that this structural violence that spans across state institutions and civil society is being validated as just a natural fact. It is time that we challenge and change this cycle of violence that transgender people face.





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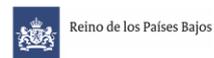
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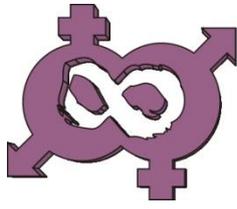
Principles

1. Everyone has the right to life, integrity, and dignity regardless of their gender identity.
2. No one shall be arbitrarily deprived of life because of their gender identity. State-sponsored or State-condoned attacks on the lives of transgender people must cease.
3. Everyone, regardless of their gender identity, has the right to security and to the protection by the State.
4. No one should be subjected to torture and cruel, inhuman or degrading treatment or punishment, because of their gender identity.
5. No one shall be subjected to arbitrary arrest or detention because of their gender identity.
6. Everyone has a right to freedom of expression and self-determination regardless of their gender identity.
7. Everyone has a right to privacy and autonomy over their lives.

Recommendations

1. States must take a clear stand that violence against transgender people are violation of human rights.
2. Violations against the human rights of transgender people must be promptly and fairly investigated.
3. Governments must enact laws that will provide protection from all forms of transphobic violence and harassment.
4. The police, other law enforcement personnel, judges, court personnel, prosecutors, and lawyers should undergo gender sensitivity training program and about international human rights standards on principles of equality and non-discrimination.
5. Governments must incorporate anti-transphobia training in their equality initiatives to be conducted in all government offices at all levels of public education.
6. Governments must provide transgender-responsive post-trauma counseling for survivors of transphobic violence.





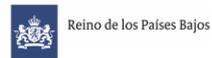
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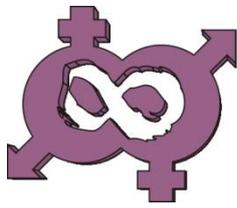
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GENDER IDENTITY AND ACCESS TO HEALTH





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GENERAL SITUATION AROUND THE WORLD

HEALTH ACCESS IN LATIN AMERICA

Although stated as a universal right by all Latin American Constitutions, health access usually remains a luxury for most part of the population. Preventive health and mental health are even more exceptional than reparative and physical health, the former limited almost exclusively to the elite (upper middle classes). Systems are deficient, often limited to main cities and without coverage in rural or geographically remote areas. Although social security systems are universal in the majority of Latin American countries, users have to spend significant amounts of resources in buying medicines that public hospitals do not provide or have limited provisions of.

The health model is western, despite the variety of cultures that inhabit Latin American countries. Parallel health systems coexist (midwives, Andean “taitas”, etc.) and although they have gradually become legal (they used to be criminalized by many legislations), their validity is not usually fully recognized, with exceptions in Brazil, Bolivia and Ecuador where the healthcare systems aim for interculturality (concretely under the principles of Suma Qamaña or Sumak Kawsay in Bolivia and Ecuador respectively).

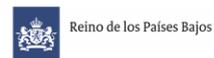
Trans individual and communities are among the socially disadvantaged sectors of society in most Latin American countries under two considerations: (1) discrimination on the basis of gender identity and deprivation of social, economic and cultural rights as a consequence of such discrimination and (2) prevalence of trans expression in ethnic minorities that are therefore deprived of social, economic and cultural rights on the basis of combined gender-ethnic discrimination. These conditions further complicate for trans people an access to healthcare that is already complicated for the majority of the population.

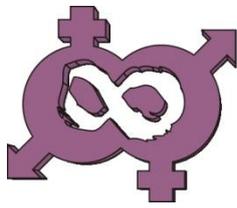
Healthcare systems do not usually cover trans-specific health needs with some exceptions (Brazil) and some experimental programs gradually assumed by Health Ministries. The health areas that are typically pioneer in their consideration of trans population are HIV departments and programs.

In the absence of trans-specific regulation:

The practice of autonomous self-intervention is very common, particularly among MTF populations of street sex workers. Access to hormones is largely available without medical prescription.

SRS remains a private business that does not guarantee informed consent or quality standards in many Latin American countries. Medical negligence is not typified in most Latin American criminal legislations.





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Private clinics exist that “rehabilitate” non-normative sexual identities including trans. Their activity constitutes a violation of human rights by most Latin American legislations yet it is not effectively prosecuted.

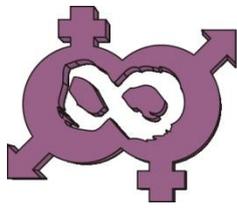
Private psychiatry treats upper middle class trans patients largely along western models of pathologization. Rural and ethnic trans communities are largely foreign to both the practice of body intervention and the psychiatric model.

ACCESS TO HEALTH-CARE IN AFRICA

Access to health service is a unique challenge for Africa because of the lack of data and understanding of Trans issues. Trans- people face the following;

- Access to psycho-socio support for victims of rape since it is a unique situation and most counsellors are not prepared for such cases.
- Simple accesses to pain-killers or antibiotics are a challenge in that Trans people are teased at pharmacies and clinics, leading to self-medication.
- In case one finds a friendly doctor or nurse, the doctor or nurse is stigmatized making it difficult for a trans-person to access the medical practitioner whenever needed.
- Due to lack of data and education about trans issues in Africa for Africans, medical practitioners do not know how to assist Trans people.
- No access to medical consumable things like binders for trans-men, so they end up using belts, bandages,
- No access to hormones for transition, trans people tend to make concoction
- No specific address on HIV/AIDS in relation to trans people, for instance the current MSM campaign does not include trans-men.
- No access to surgery, some trans-people have had to do their own surgery e.g. cut parts of their body that they don't like which has very fatal results.
- In some areas where there are hospitals to do surgery. The average trans person cannot afford it. This is due to high poverty levels among the trans community due to unemployment.





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ACCESS TO HEALTH-CARE IN OCEANIA

Problems of access to health services are due to funding issues within the Public Health Systems of many Pacific States. Their limited health budgets mean trans specific services in countries is practically null. This is true for the physical health of trans while transitioning but also in regards to their mental well-being. Sexual health services are marginally better.

ACCESS TO HEALTHCARE IN ASIA

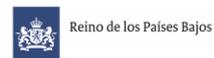
In many Asian societies there are large communities of transpeople. They commonly experience stigma, leading to social and economic marginalization, and a push towards poverty, and marginal and stigmatized occupations. All this has an effect on their mental and emotional well-being. For many who get involved in sex work, unsafe sex patterns compound the risks they face, and for too many lead to physical and mental illness and (for some) death. Laws outlawing sex work, as well as unfavorable attitudes towards transgender sex workers, push transgender sex work onto the streets, where transgender sex workers are at risk of harassment from members of the public and the police. Transgender people often migrate from the provinces to the cities (sometimes to get involved in sex work), or engage in tourist visa sex work in other (usually neighboring) Asian countries. As migrant sex workers, and regardless of involvement in sex work, they therefore often experience the same problems that all migrants experience accessing general healthcare.

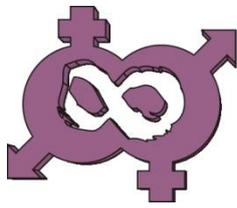
General and Sexual Health Care.

Across Asian governments' commitment to (and resources for) provision of health services vary greatly. For many people living in Asia *general* health services are therefore scarce and/or expensive. In many countries there is little government-funded healthcare and the vast majority of people have no private health insurance coverage. Transpeople often experience stigma, and suffer employment discrimination, pushing them into poverty and/or (for transwomen) sex work, and leaving them even less able to access general healthcare. Asian persons migrating from the provinces to cities, as well as those migrating from one country to another, may find it even harder to access general healthcare. Sexual health care for transwomen is often offered within an MSM framework (a framework seen by many transwomen as inappropriate).

To illustrate the low level of general healthcare in some Asian countries, government per capita annual expenditure on health in Bangladesh was US\$26 in 2006 (and \$21 in India, \$44 in Indonesia). The number of physicians per 10,000 people was as follows: three in Bangladesh (2005), six in India (2004), and one in Indonesia (2003; all figures from the World Health Organization, 2007). A visit to a primary care physician may therefore pose a challenge (in terms of time, transport and cost) for much of the population, and especially economically marginalized groups such as transpeople.

Trans Health Care.





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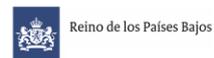
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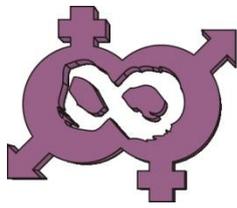
Asian trans people's needs for trans health care vary greatly and, with many transpeople (possibly more than in the West) apparently comfortable living with a body unchanged by surgery (or even by hormones), many transpeople have little if any need for trans health care services. Those who want or take hormones may express a need for healthcare support for hormones. Alternatively, they may get all the advice they feel they need from members of the trans community. With stigma and discrimination driving so many transwomen into sex work, sexual health services become a significant need in their lives. As one might expect from the figures quoted earlier, transpeople who *do* desire access to *trans* healthcare find that across much of Asia those services are non-existent or poorly funded. Moreover, health care provider competence on trans health issues cannot be relied upon or are user-unfriendly. Transpeople commonly report that generalist medical personnel, particularly those in public health services, are often ill prepared for provision of transgender health care and/or by their behavior demean the transpeople seeking their care.

Private and Peer Trans Healthcare.

In many countries the private health sector, medically trained and otherwise, fills the gap left by inadequate government health care services, albeit in some societies (for example, Malaysia) religious factors constrain the availability of such services. Many transpeople appear to do without doctors altogether, at least in regard to their trans health care needs. This is particularly true in regard to hormones, and especially where hormones are easily available (as in much of Southeast Asia, where many trans people self-medicate, without medical supervision at all, from their early teens, and, in one documented case, as early as age 8 years (see Winter, 2009)). They rely on advice and information supplied free of charge by friends in the transgender community, who are seen as both knowledgeable and gender affirming. Disturbing patterns of hormone abuse are evident. Many transpeople appear to consume whatever friends recommend. When they have money they ingest doses well above recommended levels. When they have no money, they ingest none at all. Many remain uninformed about health risks involved in prolonged hormone use, many failing to take the most obvious precautions against ill effects (such as desisting from smoking). The research, unsurprisingly, indicates that many of those who take hormones eventually stop because of health complications (see Winter, 2009 for more details). Predictably, there is evidence that transpeople taking hormones have a lower overall quality of life than those who do not (Suja, Sutanyawatchai, & Siri, 2005). It should be noted that transpeople in some places in Asia resort to silicon injections (and other injections of silicone (and other materials) as a way of accelerating changes in body shape.

As one might expect, it is in surgery that the private health sector has made major inroads into transgender health care (most evidently in Thailand, where a range of surgeries have been available, often on a basis that is more patient-centered and informed consent basis (and without any apparent ill-effects in terms of post-operative satisfaction or regret). Elsewhere across Asia, genital surgery as commonly understood in Western countries is hardly available to many transpeople at all. Instead, many members of *hijra* (and related) communities often undergo a crude and hazardous procedure involving both castration and penectomy but not construction of a vagina. Few of those performing the operations have any recognized medical qualification. In Malaysia, since 1983 SRS involving





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Muslim patients or surgeons has been banned on religious grounds. The Muslim population is of course the majority in Malaysia and would otherwise be expected to provide most of the patients and surgeons. Hong Kong is a rare exception in the overwhelmingly private provision of transgender health care in Asia; gender transition health care is almost fully subsidized by government, though the healthcare appears poorly matched to the transpeople's needs.

Transpeople often cater to their health needs by other means, purchasing contraceptives over the counter at pharmacies, or through the internet, and going to Thailand for surgery.

Suja, S., Sutanyawatchai, S., & Siri, S. (2005). *Quality of life in male to female transsexuals using and not using female hormone therapies*. Chiang Mai: Chiang Mai University.

Winter, 2009, Cultural considerations for the World Professional Association for Transgender Health Standards of Care: the Asian perspective *International Journal of Transgenderism*, 11, 19-41

World Health Organisation (2007). *World health statistics, 2007*. Retrieved January 20, 2009, from

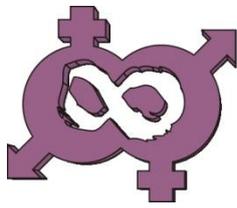
<http://www.who.int/whosis/en/index.html>

ACCESS TO HEALTH-CARE IN EUROPE

Individual problems:

- Doctors not approving of transition thus stopping CHRT
- Insecurity, discrimination in regular health service (not taken as who you identify, not being treated) 18-31% resp.
- (Feeling of) need to justify oneself (for the medical service) 15-23% respondents
- No acceptance for RLE thus paying up themselves (51% respondents)
- Economic discrimination in access to treatment: sign. more in lower income
- Rejection (general!) by (all kinds of) health care providers
- Psychiatric evaluation widely required
- Racism, sexism, transphobia





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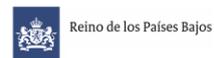
The data from this research (Transgender Eurostudy, TGEU, ILGA-Europe 2008) shows that, regardless of earnings and social status, the healthcare treatment for trans people currently being provided in their countries is very poor.

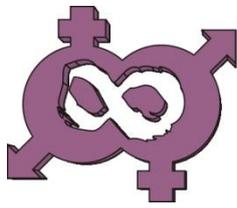
- In terms of clinical need, a high majority of respondents are not getting State funding for hormones and primary baseline surgeries.
- Nearly one third were refused treatment because a healthcare practitioner did not approve of gender reassignment.
- More than half of the groups at both ends of our occupational and earnings spectrum are paying for surgery themselves after being refused State funding. Given that nearly half of all respondents are in the lower income bracket of less than €25,000 per year this is an onerous and unnecessary financial burden. It is significant that the narratives from the qualitative data found that trans people avoid accessing routine healthcare because they anticipate prejudicial treatment from healthcare professionals.

There is also strong evidence from the focus group and survey data that the link between seeking gender reassignment and mental illness is a strong factor in the (mis)treatment of trans people. The qualitative data documents abusive and improper treatment of trans people by healthcare professionals.

The Issues Facing Trans People Accessing Healthcare

- The current shortage of accessible, localized, access to specialist care for transgender and transsexual people.
- Current service provision, even if accessible, generally provides a very poor experience for the trans person.
- Many current service providers need to take action so as to provide a regularized service that meets internationally recognized best practice (WPATH, 2001).
- The issue of the rights of trans people to dignity in healthcare.
- Real transition period rather 4-6 years than the SoC recommended one year, a situation detrimental to the mental health of people with transsexualism
- Lousy surgery even from public health providers (Lyon, France & Stockholm, Sweden)
- Use of RLT or RLE, which have no scientific basis





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- Often forcing RLT on people before they get hormones, electrolysis, etc. (I am not that knowledgeable about the situation for FTM's); forcing transsexuals to live as full-time transvestites to prove that they are transsexuals (no disrespect meant of transvestites).
- No peer-involvement in care; not even to develop viable strategies for transition that does not damage the fragile social fabric of transsexual people.

ACCESS TO HEALTH-CARE IN NORTH AMERICA

Canada provinces have public health insurance on a non-profit basis, USA mostly has health insurance on a profit-making or a non-profit basis with many options.

Most working people have insurance against general medical expenses, only a small proportion has coverage of more than nominal mental health services or transition services.

Medical care is readily available and of high quality but often out of reach economically, especially for people in transition. Providers vary greatly as to transphobia etc. but fortunately most people have a wide choice of providers and can simply choose freely.

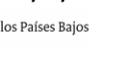
For most people transition expenses are not covered by insurance and if the insurer becomes aware of transition then later general medical expenses are often uncovered also.

Many Americans have trans surgery in North America but a majority travel abroad for reasons of cost and to avoid a need to comply with HBGDA-SOC requirements which usually impose a large mental health burden. Fortunately people in these wealthy countries are commonly able to afford self-pay medicine, even if it means taking up sex work to make the money.

Health Care, Health Rights, and More General Rights Documents upon Which This Document Draws

In developing this document we have drawn the following international legal instruments, declarations, policy statements (all of which touch -directly or indirectly - upon health issues, both general and trans-specific) as well as trans-healthcare documents. They are here ordered in chronological order of publication.

1. The International Covenant on Civil and Political Rights (ICCPR; United Nations Organization, 1966a). Retrieved March 12, 2009, from <http://www2.ochr.org/English/law/ccpr.htm>
2. The International Covenant on Economic, Social and Cultural Rights (ICESCR; United Nations Organization, 1966b). Retrieved March 12, 2009, from <http://www2.ochr.org/English/law/cescr.htm>
3. The United Nations Convention on the Rights of the Child (UNCRC; United Nations Organization, 1989). Retrieved March 12, 2009, from <http://www.unhcr.ch/html/menu3/b/k2crc.htm>

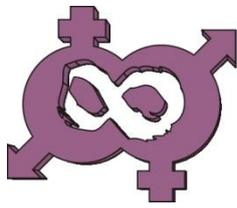


British Embassy



Ajuntament de Barcelona





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4. The International Bill of Gender Rights (1995). Retrieved January 22, 2009, from

<http://www.pfc.org.uk/node/275>

5. Access to Health Services for Transsexual People (Collins & Sheehan, 2004, Access to health services for transsexual people. Dublin: The Equality Authority. Retrieved January 22, 2009).

6. The Royal College of Psychiatrists (2006) draft Good Practice Guidelines. Retrieved January 22, 2009, from

<http://www.pfc.org.uk/files/Standards of Care Draftv8.3bp.pdf>

7. Principles Regarding Health Care for Transpeople. Compiled at the International Lesbian and Gay Association 2006 World Conference (Transgender Pre-Conference Meeting, Health Care Subgroup, Geneva, 27 March 2006 (see Appendix B in Winter, 2009, Cultural considerations for the World Professional Association for Transgender Health Standards of Care: the Asian perspective International Journal of Transgenderism, 11, 19-41

8. Declaration of Montreal, World Outgames 2006.

<http://www.declarationofmontreal.org/declaration/DeclarationofMontreal.pdf>

9. The March 2007 Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity. Retrieved January 22, 2009, from

<http://www.yogyakartaprinciples.org/>

10. Review of Legal Frameworks and the Situation of Human Rights Related to Sexual Diversity in Low and Middle-Income Countries. Cáceres, C., M. Pecheny, A. M. Frasca, and R.R.. Rios (2008). UNAIDS.

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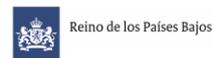
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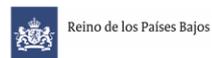
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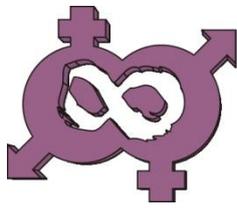
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THE PRINCIPLES

In drawing up these principles we employ the World Health Organization's definition of health as 'a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity'. We believe that access to affordable and competent health care is a human right.

Principle 1: Respect for gender identity expression

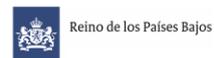
In many places worldwide, laws criminalize (or have the effect of criminalizing) the expression of gender variance. They push gender variant people towards the margins of society, creating social isolation and poverty and causing immense personal distress to the people involved, often driving people to self-harm and even suicide. They discourage transpeople from accessing healthcare (of any sort), and may indeed criminalize health care providers. They foster an environment of violence (including hate crimes) against transpeople. They also foster institutional violence against transpeople, including by way of the psychiatric pathologization of gender variance. All of this is a health issue.

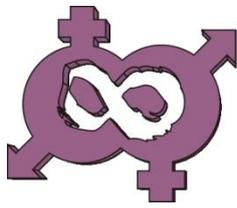
Gender variant people often have no effective protection against discrimination. They are therefore at risk of discrimination and abuse in all areas of their lives, restricting their opportunities for education, employment, healthcare, housing, and other services, and even limiting their access to otherwise public space. Discrimination impacts the health of gender variant people, directly or indirectly.

In many countries, governments fail to recognize in administrative or legal documents, the gender (experienced and expressed) of gender variant people. Alternatively, governments restrict recognition to a small section of the gender variant population. All this causes great difficulties in matters of daily living, and can cause sustained distress. This is a health issue, among other reasons because it imposes barriers to health care access.

Action:

a) Laws that criminalize (or have the effect of criminalizing) gender identity expression should be





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repealed.

- b) All people should be protected by law from discrimination on a basis of actual or perceived gender variance.
- c) Laws and legal documents should recognize the experienced and expressed gender for all people, eliminating barriers to healthcare access.
- d) Laws under b and c should not, for their applicability, require that a transperson undergoes any medical procedures.

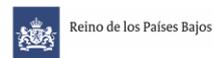
Principle 2: Education for gender diversity

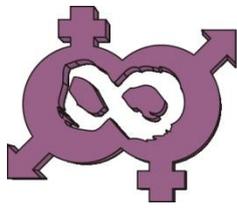
There is a preponderance of misinformation about gender variant people that pose barriers to their health care access. There is a need for education, therefore, for greater understanding of human gender diversity based on evidence rather than stereotypes. There is a need for education that identifies gender identity as a healthy aspect of human diversity, a difference to be embraced.

Action:

- a) Gender diversity education should be available broadly in society.
- b) To provide access to appropriate, culturally competent health care, it is especially necessary for schools and other agencies and institutions, such as hospitals, social workers, residential treatment, elder care, law enforcement, prisons, shelters, to get such education. Such education should provide knowledge about gender variance to help people self-identify their possible need of access to health care.
- c) Health care providers and staff should no longer receive training that perpetuates models of mental pathology and sexual deviance.
- d) Medical and mental health practitioners and service providers should be knowledgeable about the unique needs of gender variant people. Those providing specific transition related health care should have substantive education on the issue.
- e) Healthcare education should no longer promote negative stereotypes of mental pathology and sexual deviance.
- f) Primary health care providers should be trained to provide sexual and gender health services on the same basis for gender variant and non-gender variant people when they need substantially the same medical procedures.

Principle 3: Healthcare access in general





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Based upon the WHO definition of health, we demand that access to health be genuinely universal and not just a measure taken in the presence of disease or infirmity only. This implies eliminating economic, socio-cultural and discriminatory obstacles that keep people away from the healthcare system.

Among such obstacles, lack of resources is particularly relevant, including lack of time, which renders WHO health standards a luxury rather than a right and deprives users from the exercise of preventive health. Another important obstacle is the fear of humiliation or degradation by the health system. The fear is of stereotypes, disrespect for cultural realities, unintelligible language in diagnosis and care and a power relation that renders the users vulnerable.

In order to ensure that the healthcare system is accessible, competent and affordable, states must introduce the following standards in their public healthcare models:

- a) Non-discrimination on grounds of gender identity or expression, or social, cultural, or economic circumstances.
- b) Effective and user-friendly informed consent, legal and administrative procedures that employ simple language.
- c) Implementation of an intercultural model of healthcare that respects different realities of the users.
- d) Respect for self-identification and self-determination.
- e) When government violates the health rights of trans persons, they have the right to appeal through relevant legal mechanisms.

Principle 4: Access to trans-specific healthcare

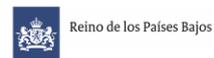
Action

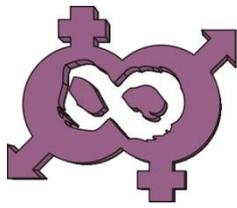
General basis for access

- a) Gender and sexual health care services should be provided on the same basis as general health care services.

Accessibility

- a) No one should be excluded from healthcare because of gender identity or expression or personal, legal, ethnic, or religious circumstances.
- b) Providers of gender and sexual health care should recognise gender variant people as members of the gender in which they identify.





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- c) Where healthcare resources are scarce, health services should ensure that gender and sexual health care information is made available to all people, gender variant or not.
- d) No person should be denied access to transition related medical care because of conformity or nonconformity to traditional gender stereotypes.

Principle 5: Gender identity and expression should not be pathologized

The pathologizing model of trans-specific healthcare is damaging and abusive of trans persons. Pathologization injures the human rights of integrity and free expressions for persons with gender variance and promotes “transphobia”. This model gives rise to a disabling environment that discourages people from seeking trans healthcare and can lead to illness, and even suicide.

Specific healthcare for gender variant people must be based on a human rights perspective. Rather, it should stress the legitimacy and right of gender identity and expression.

Action:

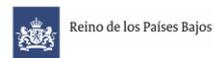
- a) There should be no presumption of mental illness because of gender identity, expression or variance. Nor should a need for counselling or psychotherapy be presumed.
- b) Differential diagnosis is inappropriate, if there is no history of mental illness. Erroneous diagnosis based on stereotypes of psychiatric co-morbidity is unacceptable.
- c) Mental disorder classification of gender identity and expression in the Diagnostic Manual of Mental Disorders (DSM) and International Classification of Diseases (ICD) should be completely removed.
- d) Future diagnostic models should facilitate access to transition care for those who need them. No diagnosis should be given because of gender variance, expression or identity per se.

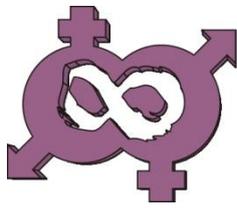
Principle 6: Participation in healthcare

Action:

Individual participation

- a) All transpeople should have the right of defining their own healthcare needs, regardless of social expectations around gender identities and physical characteristics.
- b) All transpeople should have the right to determine the necessity of transition care (which may include hormonal, surgical or other treatment), in accordance with their self-identified need





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to bring their bodies into harmony with their experienced gender identities. Other persons engaged in an external evaluation should not have that right.

- c) All transpeople receiving transition care and sexual healthcare should have the opportunity to give (or withhold) informed consent.
- d) To facilitate informed consent in transition and other health services, transpeople have the right to timely information. Medical transition care should proceed on a basis of mutual consensus, rather than a model emphasizing evaluation and authorization by a professional.

Peer participation in trans healthcare

- a) People receiving trans healthcare should have the opportunity for contact with trans peers and groups.
- b) While the providers have the responsibility to offer such contact, the transperson should have the right to refuse it.

Participation in healthcare policy

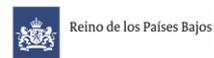
- a) Transpeople should be represented in the development of trans healthcare policy and procedure.
- b) The American Psychiatric Association (APA), World Health Organization (WHO) and World Professional Association for Transgender Health (WPATH) should involve the global transcommunity in the process of revising Diagnostic Manual of Mental Disorders (DSM), International Classification of Diseases (ICD) and Standards of Care (SOC), as fully as possible and at the earliest possible steps.

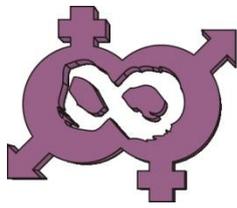
Principle 7: Recognition of gender diversity

The current Western dominant healthcare model does not take into account the diversity of gender identity and expression. The requirement to fit into either the male or female categories is a violation of human rights.

Action:

- a) Trans-specific health care should not enforce androcentric, binary gender models and presumptions about heterosexual orientation. It should respect the full diversity of human gender expression and sexuality.





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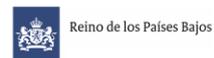
- b) Trans healthcare providers should ensure that healthcare is not made conditional on the transgender individual's conformity or nonconformity to gender stereotypes.
- c) This healthcare should be personalized, respecting the dignity of individual gender identity and expression.
- d) Trans healthcare providers should ensure that healthcare allows for a variety of transition paths.

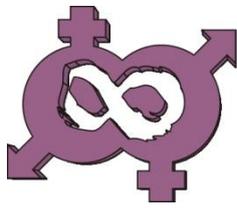
Principle 8: Interculturality

The dominant Western health model does not take into account the cultural diversity of gender identities and expressions within and between countries. The Western model is increasingly imposed in different cultural contexts, displacing existing gender identities and healthcare models.

Action:

- a) Healthcare should incorporate an intercultural perspective, respecting local cultures.
- b) This includes taking into account indigenous conceptions on gender identity and expression, as well as social class, ethnicity and different value systems that gender variant persons may exhibit.





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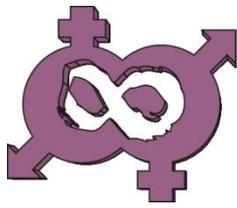
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LEGAL TREATMENT OF DISCRIMINATIONS BY REASON OF GENDER IDENTITY





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1. All human beings are born free and equal in dignity and rights, whatever their gender identities or expressions and/or sexual orientations. A person's gender identity or expression and/or sexual orientation are not, in and of themselves, medical conditions and are not to be treated, cured or suppressed any way.

At these purposes, for sexual orientation is understood each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender

At these purposes, for gender identity is understood each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means)

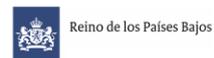
At these purposes, for gender expression is understood each person's expressions of gender, including dress, speech and mannerisms, which may or may not correspond with the sex assigned at birth.

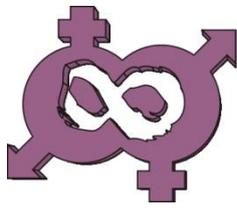
2. Legal treatment of gender identities or gender expressions will include:

- The right to a full legal recognition of a person's gender reassignment in all areas of life, in particular by making possible the change of name and gender in official documents in a quick, transparent and accessible way, always respecting the dignity and privacy of the person concerned, and free of charge.
- The right to the corresponding recognition and changes by non-state actors with respect to key documents, such as educational or work certificates.
- The right to not be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of one person's gender identity.

It also means that:

- Prior requirements, including changes of a physical nature, for legal recognition of a gender reassignment, will be regularly reviewed in order to remove abusive requirements.
- No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity





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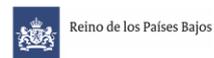
- Freedom of thought, conscience and religion cannot be alleged to justify laws, policies or practices which deny equal protection of the law, or discriminate, on the basis of gender identity or sexual orientation
- State protection to domestic abuse victims will not exclude a person on grounds of gender identity or expression and/or sexual orientation.

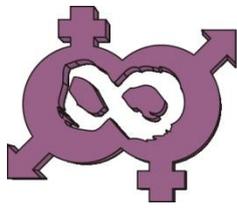
3. Legal treatment of discrimination by reason of gender identity will include:

- Effective measures to ensure that legal provisions in national law prohibiting or preventing discrimination also protect in an explicit way against discrimination on grounds of gender identity and/or sexual orientation. This also involves:
 - a) the repeal of any law that prohibits or criminalises the expression of gender identity, including through dress, speech or mannerisms, or that denies to individuals the opportunity to change their bodies as a means of expressing their gender identity, and
 - b) public campaigns of awareness-raising, in order to combat the prejudices that underlie violence related to gender identity and/or sexual orientation
- Explicit consideration of multiple discrimination causes, or the manner in which discrimination on grounds of gender identity and/or sexual orientation may intersect with other forms of discrimination (as race, color, familial status, religious creed, ancestry, handicap or disability, age, sex, or national origin).
- Explicit consideration of multiple factors that increase discrimination, such as social exclusion, rejection by families or cultural communities, lack of financial independence or homelessness
- A broad mandate to national human rights structures (i.e. national or regional ombudsman, specialized public agencies or committees...) to enable them to tackle discrimination and intolerance on grounds of gender identity or expression and/or sexual orientation, whatever they come from public or private subjects.

GENDER IDENTITY AND RELATION WITH PUBLIC ADMINISTRATIONS

1. Everyone has the right to be treated by public administrations according to their gender identity, which may or may not correspond with the sex assigned at birth, since the first appearance before the authorities. Public authorities will take all necessary legislative, administrative and other measures to ensure the full enjoyment of the right to express identity or personhood, including through speech, deportment, dress, bodily characteristics, choice of name or any other means.





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- The accreditation of gender identity will be presented in the first appearance of the person concerned before the administration. From that moment, all procedures will reflect the expressed gender identity while respecting the dignity and privacy of the person concerned.
- Identity gender will be accredited before the administration in a quick, transparent and accessible way, protecting all persons from arbitrary or unwanted disclosure of information pertaining to their gender identity and/or sexual orientation.

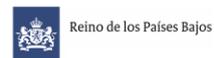
2. Everyone has the right, according the national legislation on data protection, to access, correction and deletion of personal data about their gender identity and/or sexual orientation held by public authorities or by private subjects exercising public tasks.

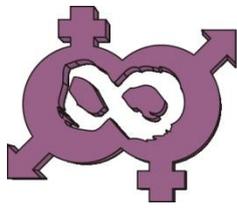
The State should ensure the right of all persons ordinarily to choose when, to whom and how to disclose information pertaining to their gender identity and/or sexual orientation, and protect all persons from arbitrary or unwanted disclosure, or threat of disclosure of such information by others. This also implies:

- that personal data referring to a person's gender identity and/or sexual orientation should not be collected, stored or otherwise used by public institutions including in particular within law enforcement structures, except where this is necessary for the performance of specific, lawful and legitimate purposes; existing records which do not comply with these principles should be destroyed
- for specific, lawful and legitimate purposes is intended,
 - a) the gathering and analysis of personal data about the victims and perpetrators of any violence, threat, retaliation, de facto or de jure discrimination, pressure, or any other arbitrary action on grounds of gender identity and/or sexual orientation, and
 - b) the gathering and analysis on the prevalence and nature of discrimination and intolerance on grounds of gender identity and/or sexual orientation, and in particular on "hate crimes" and hate-motivated incidents related to these personal circumstances.

3. Legislative, administrative and other measures to ensure the full enjoyment of the right to express identity or personhood will include specific programmes of education, training and awareness-raising with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviours which are related to the idea of the inferiority or the superiority of any gender identity or expression and/or sexual orientation. These programmes will be directed to the general public and specially to:

- Police, prison personnel and other law enforcement personnel
- Judges, court personnel, prosecutors and lawyers





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- All other officials in the public and private sector who are engaged in health care, employment and occupation or educational system, besides social workers

4. The rights and benefits established by acts under the principle of non-discrimination on grounds of gender identity will be interpreted on the way more favourable to its full effectiveness, and they will may be invoked before courts.

GENDER IDENTITY AND ACCESS TO WORK

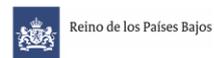
1. All persons have the right to train for and to pursue an occupation or profession as a means of providing shelter, sustenance, and the necessities and bounty of life, for themselves and for their families. This right exists regardless of their gender identity, chromosomal sex, genitalia, assigned birth sex, or initial gender role.

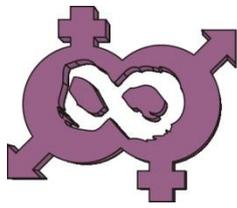
Whatever their gender identity and/or sexual orientation, all persons have the right to equal employment and advancement opportunities in all areas of public service, including all levels of government service and employment in public functions, including serving in the police and military.

2. Effective protection against discrimination on grounds of gender identity and/or sexual orientation in employment and occupation in the public as well as in the private sector should cover:

- Privacy of transgender individuals, in particular regarding employment applications and CV, to avoid any irrelevant disclosure of their gender history or their former name to the employer and other employees
- Conditions for access to employment and promotion, and also dismissals (right to secure and retain employment)
- Conditions of apprenticeship or other training or retraining programs, including on-the-job training
- Pay (right to receive just compensation for their labor) and other working conditions (as for example, bathrooms or uniforms)
- Prevention, combating and punishment of harassment and other forms of victimisation.

3. Effective protection against discrimination on grounds of gender identity and/or sexual orientation in employment and occupation in the public as well as in the private sector also includes all necessary legislative, administrative and other measures to ensure equal access, without discrimination on the basis of sexual orientation and/or gender identity, to:





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- Social security
- Employment and benefits unemployment
- Parental leave and family benefits
- Health insurance or care benefits, including for body modifications related to gender identity
- Pensions and other benefits with regard to the loss of support for spouses or partners as the result of illness or death.

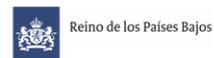
4. Public policies on labour should be directed to sustainable integration of transgendered people on work force, increasing their abilities and qualifications for being hired, getting fair promotion and not being discharged. In order to attempt this, these four points are required:

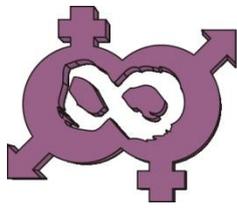
- To elaborate preliminary studies about transgendered people's specific needs -specially of trans women- on work training or retraining.
- To facilitate concordance between gender identity and work relevant documents such as ID cards, driver licenses or CV, also before change of name and/or sex in the civil register office.
- To launch programmes for employers and workers, of education, training and awareness-raising with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviours which are related to the idea of the inferiority or the superiority of any sexual orientation or gender identity or gender expression.
- To encourage and support the creation of enterprises and labour cooperatives by transgendered people, especially on those economic sectors relevant to social insertion.

5. It is an unlawful employment practice,

a) For an employer:

- To fail or refuse to hire or to discharge any person or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment because of the person's sex, gender identity or expression, sexual orientation or physical characteristic.
- To limit, segregate or classify employees or applicants for employment in any way which would deprive or tend to deprive any person of employment opportunities or otherwise adversely affect the person's status as an employee, because of the person's sex, gender identity or expression, sexual orientation or physical characteristic.





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- To fail or refuse to hire, to discharge, or to otherwise discriminate against any person based on the results of a genetic test received by the employer, or based on the individual's refusal to submit to a genetic test or make available the results of a genetic test.

b) For an employment agency:

- To fail or refuse to refer for employment or otherwise to discriminate against any person because of the person's sex, gender identity or expression, sexual orientation or physical characteristic.
- To classify or refer for employment any person on the basis of the person's sex, gender identity or expression, sexual orientation or physical characteristic.

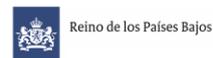
c) For a labour organization:

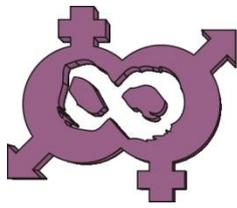
- To exclude or to expel from its membership or otherwise to discriminate against any person because of the person's sex, gender identity or expression, sexual orientation or physical characteristic.
- To limit, segregate or classify its membership or applicants for membership or to classify or fail or refuse to refer for employment any person in any way which would deprive or tend to deprive the person of employment opportunities or would limit those employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment because of the person's sex, gender identity or expression, sexual orientation or physical characteristic.
- To cause or attempt to cause an employer to discriminate against a person in violation of a).

d) For any employer, labour organization or institution controlling apprenticeship or other training or retraining programs, including on-the-job training programs, to discriminate against any person because of the person's sex, gender identity or expression, sexual orientation or physical characteristic in admission to or employment in any program established to provide apprenticeship or other training.

6. It is also an unlawful employment practice by a covered entity,

a) To elicit any information or make or keep a record of or use any form of application or application blank containing questions or entries concerning the sexual orientation and/or gender identity or expression, of any applicant for employment or membership.





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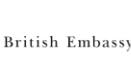
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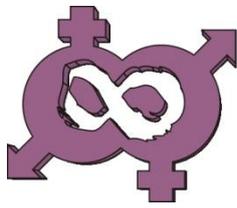
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- b) To participate in any contractual or other arrangement or relationship that has the effect of subjecting a qualified person who applies with or who is employed by the covered entity to unlawful employment discrimination because of the person's sex, gender identity or expression, sexual orientation or physical characteristic.
- c) To use standards, criteria or methods of administration that have the effect of discriminating on the basis of the person's sex, gender identity or expression, sexual orientation or physical characteristic, or that perpetuate the discrimination of others who are subject to common administrative control.
- d) To exclude or otherwise deny equal jobs or benefits to a qualified person because of the known sex, gender identity or expression, sexual orientation or physical characteristic of a person with whom the qualified person is known to have a relationship or association.
- e) To deny employment opportunities to a job applicant or employee who is an otherwise qualified person if the denial is based on the need of the covered entity to make reasonable accommodation to the sex, gender identity or expression, sexual orientation or physical characteristic of the applicant or employee.
- f) To use qualification standards, employment tests or other selection criteria that screen out or tend to screen out a person with a determined sex, gender identity or expression, sexual orientation or physical characteristic or a class of persons with a determined sex, gender identity or expression, sexual orientation or physical characteristic, unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job related for the position in question and is consistent with business necessity.
- g) To discriminate against any employee, applicant, apprentice or member because the employee, applicant, apprentice or member has opposed any practice which is an unlawful employment practice under this article or has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under points 5 and 6.
- h) To print or publish or cause to be printed or published any notice or advertisement relating to employment, applicancy, membership, apprenticeship or other training or retraining programs (including on-the-job training programs), indicating any preference, limitation, specification or discrimination based on sex, gender identity or expression, sexual orientation or physical characteristic, except that such sex, gender identity or expression, sexual orientation or physical characteristic is a bona fide occupational qualification for employment.

7. The term 'unlawful employment practice' does not include any action or measure taken by a covered entity on the basis of the person's sex, gender identity or expression, sexual orientation or physical characteristic in those certain instances when it is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.





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In particular, an employer may establish and require an employee to adhere to reasonable workplace appearance, grooming, and dress standards that are directly related to the nature of the employment of the employee, as long as the employer allows any employee to appear, groom and dress consistent with the employee's gender identity.

GENDER IDENTITY AND EDUCATION

1. Everyone has the right to education, without discrimination on the basis of, and taking into account, their gender identity or expression and/or sexual orientation. Taking into due account the over-riding interests of the child, the State should take appropriate legislative and other measures, addressed to educational staff and pupils, to:

- Ensure that the right to education can be effectively enjoyed without discrimination on grounds of gender identity or expression and/or sexual orientation; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation, gender identity and/or gender expression.
- Promote mutual tolerance and respect in schools, regardless of gender identity or expression and/or sexual orientation. This should include providing objective information with respect to sexual orientation, gender identity and/or gender expression, ie. in school curricula and educational materials, and providing pupils and students with the necessary information, protection and support to enable them to live in accordance with their sexual orientation, gender identity and/or gender expression.
- Design and implement school equality and safety policies and action plans, ensuring access to adequate anti-discrimination training or support and teaching aids, included programmes of education and training, with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviours which are related to the idea of the inferiority or the superiority of any sexual orientation or gender identity or gender expression. Such measures should take into account the rights of parents regarding education of their children.

2. Transgendered children must be able to express themselves freely, and it is important not to hide diversity of gender identities, gender expressions and sexual orientations to fellow children and parents. Practical measures could be:

a) At the schools:

- First of all, not giving blue or rose overalls according to children genitalia.
- Unisex clothes for pupils, instead of uniforms designed by sexist standards.



Reino de los Países Bajos



NORWEGIAN MINISTRY OF FOREIGN AFFAIRS

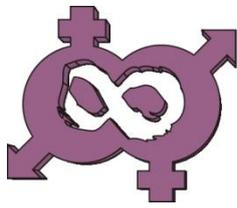


British Embassy



Ajuntament de Barcelona





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- Avoiding sexism at plays and toys giving.
- Individual showers, when compulsory after gymnastics.

b) By the Administration:

- Elaborating illustrated and age-adapted guides for children and teachers about transgendered people's reality -specially of child and young trans people.
- Facilitating concordance between gender identity and educational relevant documents such as student cards, degrees, or academic records, also before change of name and/or sex in the civil register office.

Transgendered students, teachers and staff members should be entitled to see their gender identity and their according name, reflected in the administrative documents subject to public exhibition – i.e. lists of students, door plates or union elections electoral census- regardless of their situation in the civil register office.

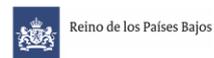
- Launching programmes for teachers, parents and pupils, of education, training and awareness-raising with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviours (as bullying) which are related to the idea of the inferiority or the superiority of any gender identity or gender expression or sexual orientation.

Public authorities must take all necessary legislative, administrative and other measures to ensure adequate protection for transgendered students, teachers and staff members from all forms of social exclusion and violence, including harassment and bullying within the school environment.

GENDER IDENTITY AND ACCESS TO HOUSING

1. All persons must be ensured accorded legal capacity in civil matters, without discrimination on the basis of gender identity and/or sexual orientation, and the opportunity to exercise that capacity, including equal rights to conclude contracts, and to administer, own, acquire (including through inheritance), manage, enjoy and dispose of property.

2. Everyone has the right to adequate housing, including protection from eviction, without discrimination on the basis of gender identity and/or sexual orientation. The right to adequate housing implies that public authorities have to take all necessary legislative, administrative and other measures to:





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- a) Ensure security of tenure and access to affordable, habitable, accessible, culturally appropriate and safe housing, including shelters and other emergency accommodation, without discrimination on the basis of gender identity, gender expression, sexual orientation and/or marital or family status.

For marital or family status is understood being legally recognized as a spouse, widow, widower or relative of another person when this figure is regulated in inheritance, rental, leasing, letting or sale of lands and houses.

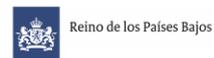
- b) Prohibit the execution of evictions that are not in conformity with international human rights norms; and ensure that adequate and effective legal or other appropriate remedies are available to any person claiming that a right to protection against forced evictions has been violated or is under threat of violation, including the right to resettlement, which includes the right to alternative land of better or equal quality and to adequate housing, without discrimination on the basis of sexual orientation, gender identity, gender expression and/or marital or family status;
- c) Ensure equal rights to land and home ownership and inheritance without discrimination on the basis of gender identity or expression and/or sexual orientation.

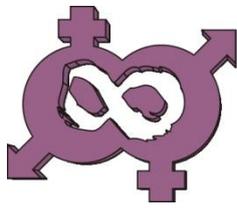
3. Appropriate attention should be paid to the risks of homelessness faced by lesbian, gay, bisexual and transgender persons, including young persons and children who may be particularly vulnerable to social exclusion, including from their own families.

- Social programmes, including support programmes, to address factors relating to gender identity, gender expression and/or sexual orientation that increase vulnerability to homelessness, especially for children and young people, including social exclusion, domestic and other forms of violence, discrimination, lack of financial independence, and rejection by families or cultural communities, as well as to promote schemes of neighbourhood support and security.

4. It is an unlawful housing practice,

- a) To refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person,
- b) To discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with the sale or rental of a dwelling,
- c) To make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference,





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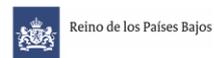
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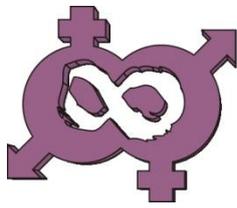
limitation, or discrimination, or an intention to make any preference, limitation, or discrimination,

- d) To represent to any person that any dwelling is not available for inspection, sale, or rental when the dwelling is available,
- e) To evict or attempt to evict an occupant of any housing accommodation before the end of the term of a lease,
- f) To discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction, when the practice described is made because of the sex, gender identity or expression, and/or sexual orientation of any person, prospective owner, occupant or user of such housing accommodation or commercial property.

For real estate related transaction it is understood:

- Making or purchasing loans or providing other financial assistance either to purchase, construct, improve, repair or maintain a dwelling; or to secure residential real estate.
- Selling, brokering or appraising residential real property.





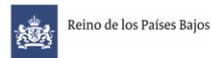
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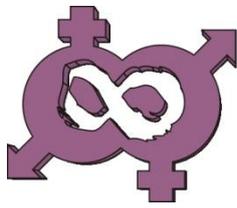
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CHANGE OF SEX RIGHT





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We, the trans community in all its diversity and covering transsexuals, transvestites, transgender, intersex and other gender identity expression, reunited in the city of Barcelona, coming from sixty-seven countries and representing the most varied forms of culture, religion, ideologies and beliefs, we want to make public our will and understanding about the laws that govern us and we urge the Governments, international organizations and other institutions and organizations to respect and to make own our will.

INTRODUCTION.

The characteristics and extent of the rights enshrined in the Universal Declaration of Human Rights have evolved over time. They have gradually incorporated judicial and administrative interpretations that have been made at national and supranational levels.

The right to identity is not an exception. This right appears today as the pure consequence of the inherent dignity of all human beings. This is reflected in the right of all human beings to self-determination as distinct and unique individuals through free decisions, conscious and without external coercion, and without social or cultural constraint to determine personal characteristics.

These features are essentially dynamic. That is, identity varies throughout life in the free development of personality.

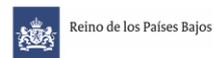
The dynamic right to identity is limited only in the general principle of not causing harm to others and in the general principle of individual limits established where laws come into conflict with the protection of human rights.

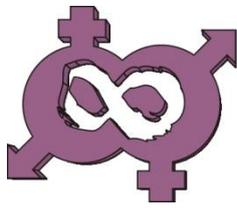
The right to identity, so conceived, expresses individual and collective aspects.

At the individual level, this right implies that the person can choose freely in all general aspects of his life. This includes aspects as simple as choosing how to dress and act, or choosing with whom one wants to establish relationships and how they relate to other people. But it also includes such essential aspects as the right to identify one's self as a unique and distinct person with regard to identity or gender expression, understood as the right to internalize or separate social constructions ascribed stereotypically to either sex without mention of cultural or biological determinism.

Collectively, this right is included currently in the field of so-called social and cultural rights, and involves recognizing the right of people to freely and consciously assume the expressions and values of a particular ethnic or cultural group.

In both cases there is currently no collective agreement that States are under an obligation and duty to recognize, without interference of any kind, the consequences of the dynamics of identity development of people, both at the individual or at the collective level. The only limits to this recognition are associated with respect for other human rights.





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Note that the right to identity has been confused initially with the right to legal identification, understood as the right of every individual to receive a legal means of identification from the State to allow the exercise of individual and social political rights.

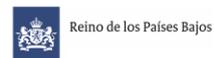
However, the right to identity is detached from the right to identification. Since the latter is simply one of the means by which States comply with their duty to recognize unique personality of individuals and unique peoples. That is, the right to identification is only a means for recognizing the right to identity.

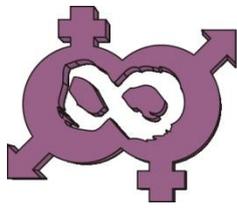
Accordingly, the clear separation of the right to identity from the right to identification observes clearly the obligation of States to recognize the means of identification and the dynamic identity of individuals. To the extent that the identity in these changes implies the free development of personality, States must agree on the means necessary to identify appropriate measures to reflect that personality.

The fact is, however, that most public authorities do not recognize this right and the population of its citizens is registered following an exclusively two class system of genres which becomes a matter of public policy. The best example is the case of the intersexual persons: States do not provide the possibility of identity recognition of intersex persons per se. They are instead inscribed into one of the two recognized gender categories which are recognized without regard for the expression of will and without option. Indeed, nearly every State has laws that allow parents or medical authorities to select a legal sex for those born intersex and even to insist on reparative surgery so as to establish a fait complete to ratify the choice and force the child into a defined gender. This must be regarded as a crime because both doctors and parents ignore the future development of the person which is manifested in gender identity and which may include the option of remaining intersexual.

Only a few States recognize the option of the legal sex change avoiding the genetic determinism and giving primacy to social and psychological identity, but even in these cases, most States recognize only changes undertaken when this identity is reinforced through psychological examination, hormonal treatment and surgery. These States, although they have provided a way for the recognition of change of sex as part of the right to gender identity do not offer real respect because external constraints are imposed on the exercise of rights and the manifestation of gender identity.

There is another issue that disturbs this process of the recognition of the right to manifest one's gender identity, which is the exclusive role given to medical diagnostic in the process of legal sex change. In reality, the methods used in the diagnosis of gender issues were originally designed to determine whether an irreversible medical treatment was applied to persons expressing their free and conscious intent. This was done to exclude responsibility for physicians who could otherwise be charged with medical negligence or the crime of grave bodily harm. It so happens that the established protocols for medical indication have to been adopted as legal requirements in a clear confusion of purposes. This functional mixing is shown particularly clearly in the administrative structure of civil registries. In general, civil registries operate under different standards for the





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maintenance of legal certainty, among them the principle of previous standardization. According to this, the register accepts only previously established documents. When allowing a legal change of sex, the registration system makes demands and charges fees according to a system based on attests in which the medical certification has become the backbone of the process in place of the manifest will of the person.

In accord with these reasons this community, desires to explain the principles we consider in accordance with the international instruments of human rights we consider must rule the process of the legal change of sex.

PRINCIPLES RELATING TO THE LEGAL CHANGE OF SEX.

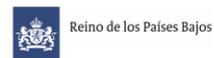
1.- States should renounce the classification of persons by gender.

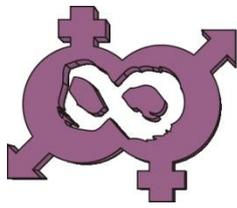
2.- States should recognize the right to gender identity of all human beings as the free and public expression as a development of the right of equality, of the free development of personality and of health. All of these have been recognized as fundamental rights and first order constitutional rights in international human rights law and in all democratic constitutions.

- 2.1.- Every person has the right to determine their gender identity and gender expression.
- 2.2.- The right to gender identity and gender expression must be recognized by the courts and other public authorities, as a directly exercisable right without regard for the legislative development.
- 2.3.- People are entitled to not having their gender identity defined by third parties, whether parents, medical personnel, or other expert committees, especially in the case of intersexuality.
- 2.4.- Newly born intersex should not be defined by others as there is no development or ability to express gender self-definition.
- 2.5.- Persons should be entitled to remain in an intersex condition if it is their desire, or not to define their identity until a free choice is made possible by the development of their personality.

3.- Identification by the State of its citizens should not limit the right of individuals to change their legal name and sex in the free expression of gender identity. Changes must be allowable and ensure the continuity of legal personality.

- 3.1.- The exercise of rights and the development of personality in society, manifested by gender, cannot be tied to conditions of mandatory medical treatments such as sterilization or unsolicited gender reassignment.





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- 3.2.- The exercise of rights and the development of personality in society, manifested by gender, cannot be conditioned by gender practices, manifestations or stereotypes as defined by third parties.
- 3.3.- The right to legal sex change should not be conditioned on the granting of such rights by medical professionals or commissions establishing models of masculinity or femininity.
- 3.4.- People should have access to name change without needing to undergo sex change surgery.
- 3.5.- People should have access to an effective system that facilitates the change of legal sex as an expression of their identity, without medical, economic or legal constraints.

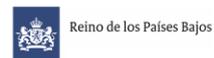
4.- Sex change law must ensure legal personality and continuity of rights and obligations, as well as the full recognition of accomplishments, certifications and credentials earned or established prior to a change of sex.

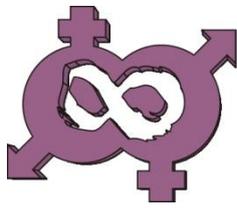
5.- Legal sex change process should be transparent, objective, simple and affordable.

- 5.1.- Procedures for legal sex change must be based on an applicant's expressed will.
- 5.2.- Administrative procedures for legal sex change should not involve fees nor special conditions.
- 5.3.- Court proceedings should not employ evidences adjusted to standard gender expressions, or be too expensive or too difficult to perform.
- 5.4.- Probation and evaluation procedures of legal sex change should not include humiliating physical exams or insults against personal dignity of the applicant.
- 5.5.- Procedures for legal sex change should not be subjected to excessive delay or conditioned upon a negative administrative silence.
- 5.6.- The right to gender identity includes the individual's right to be treated by the government under the gender claimed from the beginning of the transition process.

6.- Effects of legal sex change should not cause a lesser or restricted rights.

- 6.1.- Legal sex change must not cause loss of positions, occupations, acquired rights, or access to services on discriminatory terms.
- 6.2.- Legal sex change must not cause loss of social rights such as access to health, retirement, or similar.





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- 6.3.- Legal sex change can not involve the production of adverse retroactive legal effects.
- 6.4.- Legal sex change recognized by the law should not be voided by interpretative or development subsidiary rules.

7.- The right to legal sex change should be made effective respecting the privacy of individuals who undergo it.

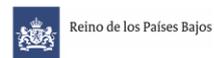
- 7.1.- Citizens who undergo legal sex change should be entitled to obtain further documentation under circumstances which respect their privacy and without need of publication of its circumstances.
- 7.2.- The records of legal sex change processes must be withheld from third parties and authorities not strictly needing to be aware to them.
- 7.3.- Certifications and documents resulting of the process of legal sex change should not express the previous data and the process realization itself.
- 7.4.- In order to safeguard privacy and better social integration, citizens engaged in legal sex change should be able to get adequate documentation to their gender expression during the processes of physical adaptation to the desired gender and legal change

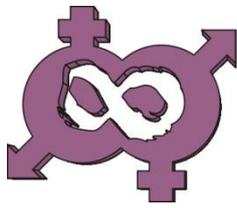
8.- Minors have the right to being heard, cared for and protected in relation to their gender identity manifestations.

- 8.1.- States shall take measures to safeguard the rights of minors in actions or omissions due to a lack of willingness or disregarding that may cause the child psychological or physical harm as a consequence of the non-observance of his/her express will about his/her gender identity.
- 8.2.- All children should have access to assistance, advice and, if necessary, legal protection if the conduct of their legal guardians in relation to their expression of gender identity is verified or at least suspected of threatening their personality development.

9. Persons should have recognized their right to legal sex change without conditioned or diminished by their rights to family.

- 9.1.- States may not impose a divorce as a prerequisite or a consequence of legal sex change, this should not impede the right of the spouse to apply for divorce if this is his/her will.
- 9.2.- States should ensure that legal sex change does not involve loss of children, guardianship or custody rights.





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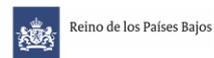
- 9.3.- States should ensure that legal sex change does not involve lessening or loss of inheritance rights.
- 9.4.- Change of legal sex identity or gender expression cannot cause impairment of the right of adoption.

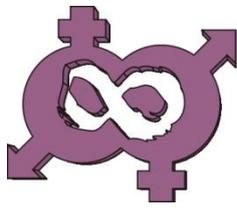
10.- States should recognize the effects of legal sex change made under other jurisdictions.

- 10.1.- Recognition of legal sex change made in a State should not be hindered by another State through abuse of a public policy exception.
- 10.2.-The effects of legal sex change recognized in a State's family should be recognized by other members of the international community.
- 10.3.- In case of conflict of laws over legal sex change effects, the most beneficial law should be applied in the right to gender identity.
- 10.4.- Recognition of legal sex change should not result in the loss of original or dual nationality.
- 10.5.- States should give foreign citizens identification documents congruent with their gender identity, without prejudice or impairment of the sovereignty of the State of origin on the determination of civil status.
- 10.6.- Foreign citizens with right to asylum recognized by gender identity causes should be able to access the procedures of legal sex change in the State of their asylum under the same conditions as nationals.

11.- States should safeguard the right to complete the process of legal sex change and the integrity of persons in a situation of legal deprivation of liberty.

- 11.1.- States should articulate prison policies that provide for a diversity of conditions in relation to gender identity.
- 11.2.- Prison policies should particularly ensure during custody, respect for privacy, integrity and dignity of transgender people in their various expressions.
- 11.3.- States should ensure effective protection of persons detained or under public trust who are immersed in the process of legal sex change.





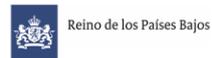
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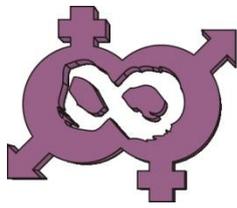
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Barcelona 4-6 Jun 2010

CREATING AN INTERNATIONAL TRANSGENDER NETWORK





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PREAMBLE

To be able to communicate we need a digital network. Without worldwide communication gets very difficult. However communicating through internet is not enough. We need to know each other, in order to be able trust each other.

Also not everywhere the same type of connectivity is available. Rural areas will profit more from low bandwidth mobile connections, and sometimes not even that. In the end we are depending on human connections; the devices are subordinate to (getting) the message (through).

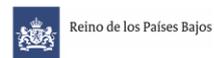
We do not want to create new formal organisation. The work will be done where it is most appropriate and could be done in different already existing organisations. Some wishes may already be in the process of realisation or even existing (e.g. reports through the Transrespect vs. Transphobia project of TGEU).

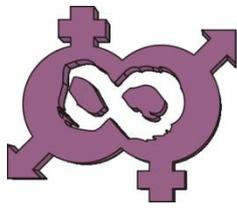
When we talk here of network mean a combination of existing networks and/or organisations and/or activists for trans rights. We explicitly want to make use existing structures and organisations.

REQUIREMENTS

This network should be:

- Transparent: we know who are on it.
- Accountable: to their supporters as well as to the participants.
- Cooperative: we got a common goal.
- Horizontal, not hierachical (maze? web? nodes? hybrid!).
- Aware of culturally differences (sensitivities?).
- Gender awaren (taking care of internal gender/sex diversity).
- Respectful to the members and the population.
- Multi language (prevent exclusion).
- Accessible to everyone with net access (-> message board, not mail (only)).





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AIMS OF THE NETWORK

Information Exchange with the following aims:

- Getting activists from over the world in touch with each other.
- Be able to send out alarms and campaigns in case of severe human rights violations, helping in protecting the human rights activists/defenders.
- Get a “market place” for service requests and offers.
- Create a functioning documentation site with on legal, health, politics or other (for activists) relevant documentation.
- Gather examples of best practices.

DECISION STRUCTURE (PROPOSAL)

The moderating group can be composed through a system of:

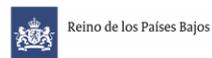
- Variable voting rights based on activity of the organization.
- One group, one vote (puts wisdom in the crowd).

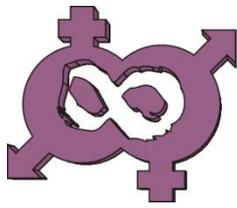
THE FIRST ELEMENTS OF A NETWORK:

A web based message board and an (accompanying) mailing list for:

Putting the word out, through existing activists first, doing.

- Watching, listening to “incoming messages” of human rights abuse against trans people.
- (If corroborated) sending out the message to the “outside world” through our own media, more general media.
- Start alert action through RSVP type actions to relevant authorities.





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Getting it done (required resources): “With a little help from my friends”:

- Capable trans people.
- Finance.
- Technical infrastructure (domain, servers, software).
- Friendly allies (e.g. Amnesty International for its RSVP system).

The messaging will need to be moderated. If not it will get cluttered. Moderation will be done by a rotating trusted, transparent committee of preferably 6 elected persons from all over the world (!), having variable voting rights.

Moderation needs to be done on agreed upon and transparent criteria.

In second stage:

A website for reporting (clickable maps with information on the latest human rights violations current state of the movement, general data, fed by existing data sources).

WHO TO TRUST, WHO WILL WORK (FIRST):

We put the first trust in the activists that attended the Congenid congress because these data are uptodate. Next the people they trust (compare ARC-internationals sogi list).

WHAT INFORMATION TO DISTRIBUTE

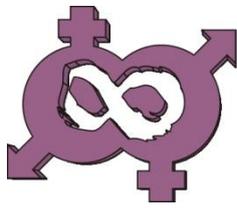
HR violations (manage with care):

- Accurate information.
- Of ‘world importance’.



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Requirements of the message:

- Who, what, where, when, why & how.
- Verified information (otherwise it is not trustable).

Later on: other elements (documents, marketplace, library etc).

RESPONSIBILITIES:

For the news providing the (correct) data.

For the (technical) network: assistants (few people, few hours, spread over the world).

For the content (distribution): the moderator team.

