

Submission to the Committee on Economic, Social and Cultural Rights (CESCR)  
75 Session (12 Feb 2024 - 01 Mar 2024)

## “The Situation of Transgender Men in Indonesia”

submitted by Transmen Indonesia  
January 2024



With support from:

The Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Rights (RFSL)  
and Global Action for Trans Equality (GATE)

**Transmen Indonesia** is a trans men organization in Indonesia, founded collectively in 2015. We aim to be a safe and inclusive space for trans men in Indonesia to fight for their human rights. We advocate the recognition, respect, protection, and fulfillment of the human rights of trans men through research, campaign and public education, and community empowerment.

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**GATE- Global Action for Trans Equality** is an international advocacy organization working towards justice and equality for trans, gender diverse, and intersex (TGDI) communities. GATE focuses on advocating for the human rights of trans, gender diverse, and intersex people, while also playing a pivotal role in strengthening the global trans, gender diverse, and intersex (TGDI) movements through training, capacity building, resource mobilization and political mobilization.

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**RFSL - The Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Rights**, is a non-profit organization founded in 1950. RFSL strives to create an equal world where all LGBTQI people's human rights are respected and no one is left behind. Some of the core values of RFSL's international work are meaningful participation by rights holders, gender equality, non-discrimination, transparency, and sustainability.

Webpage: <https://www.rfsl.se/en/>

## INTRODUCTION

Transmen Indonesia is pleased to report to the Committee on Economic, Social and Cultural Rights ahead of its 75th Session. We express our gratitude for the CESCR's recognition of LGBTI and SOGIESC in its previous Concluding Observations and List of Issues for Indonesia. This submission will emphasize the importance of examining disaggregated data and will provide updates and specific challenges faced by transgender men in Indonesia that affect their economic, social and cultural rights, especially:

- State-sponsored pathologization of transgender individuals;
- Legal barriers;
- Discrimination and violence against transgender men due to pathologization and legal barriers.

## A. STATE-SPONSORED PATHOLOGIZATION OF TRANSGENDER INDIVIDUALS

- (1) As explained by Global Trans Action for Equality (GATE),<sup>1</sup> pathologization can be defined as the psycho-medical, legal and cultural practice of identifying a feature, an individual or a population as intrinsically disordered. The Independent Expert on SOGI stated that lesbian, gay, bisexual, trans and gender non-conforming persons are often treated as if they were by definition sick or disordered,<sup>2</sup> a process referred to by the mandate holder as “pathologization”.<sup>3</sup>
- (2) In Indonesia, the pathologization of transgender individuals is outlined in the Minister of Social Affairs Regulation<sup>4</sup> which categorizes transgender individuals as “people with social disabilities and behavioral deviations”. **The regulation promotes 'rehabilitation'** as a corrective effort to change the sexual orientation and gender identity of LGBT individuals, previously known as “**conversion therapy.**” This regulation becomes legal basis for many discriminatory laws and by-laws that can be found in the next section..
- (3) United Nations entities and human rights mechanisms have expressed concern about “conversion therapy” practices.<sup>5</sup> The Committee against Torture and the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment have issued explicit reproaches against the treatments that are forced, involuntary, or otherwise coercive or abusive.<sup>6</sup>

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<sup>1</sup> Kara, Sheherezade (2017) Gender is not an illness. *How pathologizing trans people violates international human rights law*. GATE.

<sup>2</sup> A/HRC/35/21, paras. 48 and 58.

<sup>3</sup> A/HRC/38/43, para. 34.

<sup>4</sup> Minister of Social Affairs Regulation no. 8 year 2012.

<sup>5</sup> CRC/C/RUS/CO/4-5, para. 55; CCPR/C/ECU/CO/6, para. 12; CEDAW/C/ECU/CO/8-9; and Committee on Economic, Social and Cultural Rights, general comment No. 22.

<sup>6</sup> A/74/148, para. 50; A/56/156, para. 24; A/HRC/43/49; and CAT/C/CHN/CO/5, para. 56.

## B. LEGAL BARRIERS

### DISCRIMINATORY LAWS

- (4) In the previous Concluding Observations for Indonesia, CESCR has expressed its concern on laws and by-laws that discriminate against women and marginalized individuals and groups such as sex workers, and lesbian, gay, bisexual and transgender persons.<sup>7</sup> The Committee urged Indonesia to review and repeal such provisions.
- (5) However, no action has been taken. On the contrary, since 2014, **18 new discriminatory laws and policies have been implemented**, including the bylaw on the Prevention and Handling of Sexual Deviation Behavior<sup>8</sup> that says, “Forms of sexually deviant behavior include homosexual, lesbian, bisexual, and transvetisme” and eleven other bylaws on Family Protection.<sup>9</sup> Bylaw of West Sumatra Province no. 17 year 2019 on the Implementation of Family Resilience Development, for instance, stating that the community can participate in the implementation of social welfare, including by “preventing the spread of deviant behaviors such as lesbians, gays, bisexuals, and transgender” (arts. 51 and 52). These regulations classify lesbian, gay, bisexual, and transgender individuals as deviants and "non-physical threats," which are **rooted in the state-sponsored pathologization of transgender individuals** explained above.<sup>10</sup>
- (6) These regulations **enforce ‘rehabilitation’ or so-called “conversion therapy.”** The rehabilitation involves detaining individuals, unnecessary body examinations that lead to sexual harassment, revealing their status to their families, conducting religious lectures, psychotherapy, physical punishment, and coercing individuals to alter their appearance.<sup>11</sup>
- (7) *“My partner and I were sitting in the town square, and there were many people there. Suddenly, the Sharia police came and arrested us, claiming that we were lesbians, considered forbidden, and violating the Qanun (Sharia Law). We were taken to their office; our parents were called and informed that we were lesbians. After that, I was detained for around 3 weeks. I was moved between social shelters, their office, the office of Integrated Service Center for Women and Children Empowerment. I was repeatedly told to repent, went through body examination, recited prayers, received counseling, and forced to wear a hijab.”* - trans man from Aceh<sup>12</sup>

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<sup>7</sup> E/C.12/IDN/CO/1, para 6.

<sup>8</sup> Bylaw of Bogor City no. 10 year 2021 on Prevention And Mitigation Of Sexual Deviant Behavior.

<sup>9</sup> i.e. Bylaw of West Sumatra Province no. 17 year 2019 on the Implementation of Family Resilience Development; Bylaw of Tasikmalaya City no. 6 year 2019 on Family Resilience. The full lists can be found in Catatan Kelam 2018-2020 Persekusi LGBTI di Indonesia, Arus Pelangi, 2022.

<sup>10</sup> i.e one of legal basis of Bylaw of West Sumatra Province no. 17 year 2019 is the Minister of Social Affairs Regulation no. 8 year 2012.

<sup>11</sup> Case documentation of Transmen Indonesia

<sup>12</sup> Case documentation of Transmen Indonesia

- (8) Since 2015, Transmen Indonesia and other LGBTIQ+ organizations have assisted at least seven transgender men in Indonesia who experienced raids and arrests, conducted by either law enforcement or members of the community, in public spaces or within their residences. Subsequently, they were sent to the Social Affairs Department for so-called rehabilitation or “conversion therapy.”

### **ABSENCE OF PROTECTION TOWARDS TRANSGENDER PEOPLE**

- (9) Despite the Committee's calls on Indonesia to strengthen legislative protection against discrimination, including through the adoption of a comprehensive framework law,<sup>13</sup> as of now, **Indonesia has not established any comprehensive anti-discrimination law** that prohibits discrimination, including indirect discrimination, on all grounds, including gender identity and expression.
- (10) The existing discriminatory laws and the lack of protection furthermore contribute to the emergence of discriminatory policies in educational institutions and workplaces and deprive impacted communities of legal instruments for seeking justice. In December 2023 only, two of the largest universities in Indonesia issued a ban on 'LGBT behavior':
- (11) On December 1, 2023, the Dean of the Faculty of Engineering Universitas Gadjah Mada issued a Circular Letter on the Prohibition of Lesbian, Gay, Bisexual, and Transgender Activities within the Faculty of Engineering.<sup>14</sup> This applies to students, faculty members, and education staff. The letter was issued after a trans woman student was reported for using a restroom designated for women. Individuals within the academic community who violate this directive face 'maximum sanctions,' which could result in expulsion as a student, termination as a faculty member, or dismissal as education staff. This clearly violates the International Covenant on Economic, Social and Cultural Rights, particularly the principles of Non-discrimination (Article 2(2)), Right to work (Article 6), Right to just and favorable conditions of work (Article 7), and Right to education (Articles 13–14).
- (12) On December 12, 2023, the Academic Senate of the Bandung Institute of Technology issued regulations on the Prevention and Handling of Risky Sexual Behaviors and Sexual Deviations,<sup>15</sup> which explicitly mentions transgender individuals as a sexual deviation, which should be handled through "conversion therapy" practices.

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<sup>13</sup> E/C.12/IDN/CO/1, para 10.

<sup>14</sup> Circular Letter of the Dean of Faculty Of Engineering, Universitas Gadjah Mada no. 2480112/UN1/FTK/I/KM/2023

<sup>15</sup> Regulation of Academic Senate Institut Teknologi Bandung no. 12/IT1.SA/PER/2023 on the Prevention and Handling of Risky Sexual Behaviors and Sexual Deviations for the Continuity of a Conducive Academic Atmosphere.

## ABUSIVE AND DISCRIMINATORY LEGAL GENDER RECOGNITION PROCEDURE

- (13) The CESCR has expressed its concerns on “the absence of legal recognition of their gender identity” that “is a barrier to transgender persons having effective access to work, education and health services” and recommended consequently “to ensure that transgender persons have effective access to economic, social and cultural rights.”<sup>16</sup> The current legislation in Indonesia allows change of transgender persons’ documentation. However, the procedure is abusive and discriminatory.
- (14) The CESCR has acknowledged that “[l]aws and policies that indirectly perpetuate coercive medical practices, including [...] hormonal therapy, as well as surgery or sterilization requirements for legal recognition of one’s gender identity, constitute additional violations of the obligation to respect.”<sup>17</sup> However, in contrast, the Indonesian court mandates a diagnosis of F64.0 ('transsexualism,' according to ICD-10) and completion of hormonal replacement therapy and gender reassignment surgeries as prerequisites for changing the gender marker. Based on our documentation, in the case of a transgender man applying for a gender marker change in 2022, he was required to demonstrate that he is 'not a woman' by undergoing the removal of his reproductive organs.
- (15) The latest Health Law of 2023 has made the Legal Gender Recognition procedure more complex and confusing by stating requirements that contradict current court practices, which specify, "Gender reassignment can only be done through a court decision in accordance with the provisions of the legislation."<sup>18</sup> Furthermore, the Health Law criminalizes healthcare professionals conducting gender-affirming reconstructive and aesthetic plastic surgery with a maximum prison sentence of 10 (ten) years.
- (16) In the context of name changes, as per the Population Administration Law, individuals have the right to change their names, and there are no specific norms or prohibitions stipulated. However, Transmen Indonesia has documented numerous cases where requests for name changes by trans men were rejected on the vague and unfounded/inexistent concept of grounds of 'not conforming to norms', with the latest case of rejection occurring on December 19, 2023.
- (17) The difficulty in accessing Legal Gender Recognition forces transgender men to resort to creating fake IDs. Through its peer-counseling service to the community and media monitoring, Transmen Indonesia has documented at least one trans man arrested by the police and imprisoned on charges of identity fraud every year.

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<sup>16</sup> Concluding Observations: Costa Rica, E/C.12/CRI/CO/5, paras. 20-21.

<sup>17</sup> E/C.12/GC/22, General Comment, para. 58.

<sup>18</sup> Law on Health no. 17 year 2023, explanation of Article 137 (2).

## C. DISCRIMINATION AND VIOLENCE AGAINST TRANSGENDER MEN DUE TO PATHOLOGIZATION AND LEGAL BARRIERS

- (18) The combination of state-sponsored pathologization of transgender individuals, discriminatory laws and policies, absence of protection towards transgender people, and abusive and discriminatory legal gender recognition procedure exacerbates the multiple and intersecting forms of discrimination and violence faced by trans men, aligning with the Report of the Independent Expert on SOGI<sup>19</sup> and CESCR General Comment<sup>20</sup>.

### DISCRIMINATION AND VIOLENCE IN HEALTHCARE

- (19) In Indonesia, 60% of transgender men have experienced discrimination and violence in healthcare services<sup>21</sup>, including misgendering, harassment, intrusive questions, doubts about their identity authenticity, rejection, and sexual violence. The perpetrators include administrative staff, nurses, and doctors.
- (20) *"I was once hospitalized due to an accident. The doctor and nurses said my accident was a warning from God, and they advised me to wear a hijab and ask for God's forgiveness."* - Trans man from Aceh<sup>22</sup>.
- (21) *"I had uterine fibroids at one point. When I visited the obgyn, the doctor didn't prioritize medical treatment but instead delved into personal matters, making me uncomfortable. They refused to undergo surgery to remove my uterus. Due to my identity as a trans man, my uterus removal was viewed as a deviation from societal norms, despite the clear medical need for the procedure."* - Trans man from East Java<sup>23</sup>.
- (22) Due to concerns about discrimination and violence in healthcare, 5.2% of transgender men opt not to seek general healthcare services at all, even when facing severe illness<sup>24</sup>. Some postpone seeking assistance, and furthermore, 61.8% opt not to access to reproductive health services<sup>25</sup>. Transgender men exhibit a significantly low level of satisfaction with healthcare services, as 79% express dissatisfaction<sup>26</sup>.

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<sup>19</sup> A/HRC/38/43.

<sup>20</sup> E/C.12/GC/22 para. 2

<sup>21</sup> Research on the Situation of Economic, Social, and Cultural Rights of Transgender Men In Indonesia, Transmen Indonesia, 2023.

<sup>22</sup> *ibid.*

<sup>23</sup> *ibid.*

<sup>24</sup> *ibid.*

<sup>25</sup> *ibid.*

<sup>26</sup> *ibid.*

(23) Gender Affirming Healthcare is not accessible: it is only available in major cities, with very few trans-friendly service providers, and it is expensive. Neither private insurance nor national health insurance packages cover the costs. 73% of transgender men undergo hormonal therapy without medical supervision<sup>27</sup>, placing them at health risks.

### **DISCRIMINATION AND HARASSMENT IN EDUCATION**

(24) Discrimination and violence in accessing the right to education have been experienced by 64.5% of transgender men, in forms of expression restrictions through uniform requirements, outing (identity disclosure), bullying and exclusion, and sexual violence perpetrated by teachers, peers, and educational staff. The remaining 35.5% do not experience such discrimination as they choose to conform to societal norms and conceal their identities.<sup>28</sup> Both situations result in transgender men facing difficulties in engaging in the learning process, deterioration of mental health, frequent absenteeism, and dropping out or not pursuing higher education.

(25) The pressure and coercion to 'change' are also commonly experienced by transgender men. A trans man is frequently called by the school counselor, urging him to 'change.' Another trans man recounts instances where his professor often embarrasses him in front of the class by asking, "Are you a girl or a boy?"<sup>29</sup>

(26) Regarding higher education, as mentioned earlier, some universities have anti-LGBT policies, making transgender men increasingly hesitant to pursue education, fearful of expressing themselves, and anxious about identity disclosure that could lead to expulsion from the campus.<sup>30</sup>

### **EMPLOYMENT AND ADEQUATE STANDARD OF LIVING**

(27) Similar to the education environment, only 30.3% of transgender men do not experience discrimination and violence in the workplace, usually because they force themselves to conform to rules and norms, such as wearing a hijab at work or using their dead name.<sup>31</sup> The remaining 69.3% face harassment, bullying, exclusion, identity disclosure, and sexual violence perpetrated by supervisors, colleagues, and clients.

(28) Transgender men living in areas with discriminatory policies experience more severe acts of discrimination and violence. For example, a trans man from West Sumatera,<sup>32</sup> became a target for mockery, bullying, discrimination, and false accusations within the company where he worked upon his identity as a transgender man was revealed. He also received an inadequate salary and was arbitrarily given longer working hours. This forced him to leave the company in 2022.

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<sup>27</sup> ibid

<sup>28</sup> ibid.

<sup>29</sup> ibid

<sup>30</sup> ibid

<sup>31</sup> A "deadname" is the birth or legal name that a trans person does not wish to use.

<sup>32</sup> ibid

- (29) Sexual harassment in the workplace is common for trans men. A trans man from Central Sulawesi, every morning upon entering the office, is subjected to inspection to determine whether he is wearing women's underwear or not.<sup>33</sup>
- (30) According to our study,<sup>34</sup> 23.7% of trans men are currently unemployed, and 60.5% work in the informal sector with low wages and no social security. Almost 70% state that their income is insufficient to meet daily needs, leading some of them to depend financially on partners or become entangled in debt (43,4%).
- (31) According to income and expenditure data in our study<sup>35</sup> using World Bank standards,<sup>36</sup> 78.9% of transgender men in Indonesia are living in a structurally poor condition, with 26.3% categorized as extremely poor, 23.7% as poor, and 28.9% as vulnerable to falling into poverty. The number of trans men living in extreme poverty (23.7%) is significantly higher than the extreme poverty rate in Indonesia (4.4%)<sup>37</sup>, strongly indicating that trans men are more vulnerable to extreme poverty.

## HOUSING

- (32) 78.9% of transgender men have been evicted from their homes, either parents' homes or rent houses, due to their gender identity and expression.<sup>38</sup> These unfair evictions, combined with low incomes, force transgender men to live in rental homes that do not meet livability standards. They also have to conform to societal norms and rules, including showing their ID to the landlords and local community leaders, putting them at risk of mockery, isolation, or, once again, eviction.

## CULTURAL LIFE

- (33) As outlined above, so-called "conversion therapy" is still widely experienced by transgender men. Besides state-sponsored "conversion therapy," families are the main perpetrators, often involving religious leaders or traditional healers.
- (34) *"I was taken by my parents to an ustadz (Islamic clerk). I was given water to bathe so I could return to my 'natural state as a woman'. I was even subjected to electric shocks."* - trans man from Jakarta.<sup>39</sup>
- (35) *"My friend was taken to a traditional healer. He was confined at home for three months, not allowed to communicate with friends outside."* - Trans man from Bali.<sup>40</sup>

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<sup>33</sup> ibid

<sup>34</sup> ibid

<sup>35</sup> ibid

<sup>36</sup> World Bank. 2023. Indonesia Poverty Assessment – Pathways Towards Economic Security.

<sup>37</sup> ibid

<sup>38</sup> Research on the Situation of Economic, Social, and Cultural Rights of Transgender Men In Indonesia, Transmen Indonesia, 2023.

<sup>39</sup> Melihat Lebih Dekat Situasi Transpria di Indonesia: Aktualisasi Diri, Tantangan dan Harapan. Transmen Indonesia. 2020.

<sup>40</sup> ibid



(36) These practices represent harmful traditions against transgender men. The Independent Expert on SOGI has recommended "banning the practices of 'conversion therapy,' including by: clearly establishing, through appropriate legal or administrative means, a definition of prohibited practices of 'conversion therapy,' and ensuring that public funds are not used, directly or indirectly, to support them; banning practices of 'conversion therapy' from being advertised and carried out in health care, religious, education, community, commercial, or any other settings, public or private."<sup>41</sup>

## IMPACT OF DISCRIMINATION AND VIOLENCE

(37) The impact of discrimination and violence can be substantial, particularly in the context of trans men. It may involve various mental and physical health consequences, including mental health problems, isolation, and loneliness. 86.8% of trans men experience stress, anxiety, depression, and other mental health issues. 53.9% have contemplated suicide, and 32.9% have attempted suicide. The quality of life for trans men is also relatively poor. In addition to experiencing structural poverty, 52.6% of trans men state that they are dissatisfied with their quality of life.<sup>42</sup>

(38) These conditions also obstruct trans men from seeking assistance when experiencing discrimination and violence. Our study reveals that 71.1% of transgender men ultimately avoid seeking any help when encountering discrimination and violence, with one of the reasons being the fear of additional violence.<sup>43</sup>

## RECOMMENDED QUESTIONS

1. What measures has the Government of Indonesia taken to remove transgender individuals from the categorization of social pathologies, as mentioned in various laws and policies?
2. What specific measures has the Government of Indonesia undertaken to review and repeal provisions in laws and by-laws that contain discriminatory provisions, particularly based on sex, sexual orientation, gender identity and expression, and religion, and prevent the emergence of such new laws in accordance with the last Concluding Observations for Indonesia by the CESCR?
3. What measures has the Government of Indonesia undertaken to establish and implement a comprehensive framework law aimed at safeguarding marginalized groups, including lesbian, gay, bisexual, and transgender persons, from discrimination, including instances of indirect discrimination in accordance with the last Concluding Observations for Indonesia by the CESCR?
4. What measures has the Government of Indonesia taken to cease and prohibit the abusive and cruel practices of the so-called 'rehabilitation' and 'conversion therapy,' whether state-sponsored or conducted by the community?

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<sup>41</sup> A/HRC/44/53 para. 87.

<sup>42</sup> Research on the Situation of Economic, Social, and Cultural Rights of Transgender Men In Indonesia, Transmen Indonesia, 2023.

<sup>43</sup> *ibid*

## SUGGESTIONS FOR RECOMMENDATION

1. The Government of Indonesia to repeal laws and policies that categorize transgender individuals as social pathologies, and to cease and prohibit the abusive and cruel practices of the so-called 'rehabilitation' and 'conversion therapy,' whether state-sponsored or conducted by the community.
2. The Government of Indonesia to repeal laws and by-laws that contain discriminatory provisions, particularly based on sex, sexual orientation, gender identity and expression, and religion, and take action to prevent the emergence of such new discriminatory laws.
3. The Government of Indonesia is urged to adopt a comprehensive framework law aimed at protecting all marginalized groups, including lesbian, gay, bisexual, and transgender persons, from all forms of discrimination, and providing for penalties in the case of violation of the legislation as well as accessible remedies and reparation for victims.
4. The Government of Indonesia is urged to provide comprehensive anti-discrimination training, specifically incorporating discrimination based on sexual orientation, gender identity, and expression for law enforcement, state officials, educational institutions, and healthcare providers. This is to ensure that services rendered fully respect the human dignity, especially of transgender individuals, and do not hinder transgender individuals from accessing basic economic, cultural, and social rights.