

# UNITED NATIONS HUMAN RIGHTS COMMITTEE

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Identity and conflict

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**Topic:** Discussing the legal perceptions protecting minors undergoing physical gender transitions.

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**Position:** Chair

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## Introduction

In our current age, a large part of the evolution of our world and people adapting to new ideas and perspectives involves revisiting transgender and lgbtq+ perceptions. For many individuals, when others don't recognize them as the gender they feel most comfortable with, their mental health takes a great toll. With that being said, individuals who identify as transgender face greater risk of human rights violations and discrimination, which plays a major role in the world's perspective on the topic and is another aspect of the situation that must be addressed.

A person undergoing a physical gender transition refers to an individual receiving a surgery or other form of medical assistance to enhance or alter certain aspects of their physical and biological appearance to conform more to a different gender than they were assigned at birth. In the world we live in today, many social norms are changing and evolving, and as lgbtq+ matters become a more prevalent topic globally, the subject of physical gender transitions for minors becomes an evermore prominent question in today's society.

This topic comes with many concerns regarding the wellbeing of the minor involved, the law, the government, the medical ethics and the safety of such procedures. A large role being that governments encompass prioritizing the safety regarding children. This can be in relation to their

education, their rights, their freedom, and guarding them in general until they can protect themselves. The question comes down to, should the governments allow gender altering surgery for minors, and does it align with their responsibility of protecting children?

Such concerns arise in cases of minors undergoing physical gender transitions and then later in their lifetime regretting their choice, once again wishing to undergo more surgery to revert their transition. This can occur due to many factors, such as the fact that the brain is not fully developed until the age of 25, therefore leading to impulsive decisions that can alter a person's lifetime. occurrences of this kind have long term negative side effects, and are a major reason governments are so hesitant to allow underage gender alterations. As communities and governments adapt to such changing circumstances and norms, the conflict of the issue is when it comes to physical gender transitions for minors. More exactly whether, it should be up to the child and their family to decide what is best, or the law.

## Definition of Key Terms

### Physical gender transition

The process by which a transgender person permanently adopts the outward or physical characteristics that match their gender identity, as opposed to those associated with the sex registered for them at birth.

### Transgender

A person whose gender identity is different from the sex they were assigned at birth.

### Bodily autonomy

The right to make decisions about your own body, life, and future, without coercion or violence.

## Bodily integrity

The inviolability of the physical body emphasizes the importance of personal autonomy, self-ownership, and self-determination of human beings over their own bodies.

## Minor

A person under the age of full legal responsibility.

## Hormone blockers

Medicines that prevent puberty from happening and prevent hormones. These hormones include testosterone, estrogen, and progesterone. By blocking these hormones, puberty blockers can delay the development of secondary sex characteristics, such as breast growth, voice deepening, and facial hair growth. They can also stop periods.

## Cisgender

A person whose gender identity corresponds with the sex registered for them at birth; not transgender.

# Background Information

## Overview

Historically, the discourse on varying gender was not commonly normalized or accepted. The majority of people remained the gender they were assigned at birth, or cisgender. Whether this regarding fear of coming out, social norms or lower rates of LGBTQ individuals is unclear right now. However, the world is changing viewpoints, and with that come some that are more open to new ideas and identities correlating to this topic. Such viewpoints have prompted much conversation surrounding transgender individuals and the rights they should obtain. As discrimination for LGBTQ+ people decreased, the number coming out and openly expressing their gender naturally increased. Today, there are approximately 413 million individuals (5.2% of the world's population) who identify themselves as transgender globally. This term (transgender) is used as an umbrella term by many

individuals who do not feel they identify with the sex they were assigned at birth meaning that they live their lives as the opposite gender, maybe in the way they use restrooms, the way they act, how they dress, how they present themselves to society and how they introduce themselves (pronouns).

Following the UN motto of equality, every person should have the equal right to express who they are in a way that makes them feel their best. This can be seen in “the right to recognition as a person before the law” which was first established in the universal declaration of human rights as article 6, that then went on to become Article 16 of the International Covenant on Civil and Political Rights (ICCPR), Article 15 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and Article 8 of the Convention on the Rights of the Child (CRC)

What the issue comes down to is that in the case of many, governments often have a premise of protecting children, they do so by proposing legislations that regulate the extent of their autonomous decisions for things like to drink, smoke, and drive, until they are legally adults in order to prevent a certain outcome that oftentimes is harmful. With this topic, to what extent should governments have control over the bodily autonomy of their minors when it comes to their physical appearance? And is this considered protecting the minor, or limiting their rights?

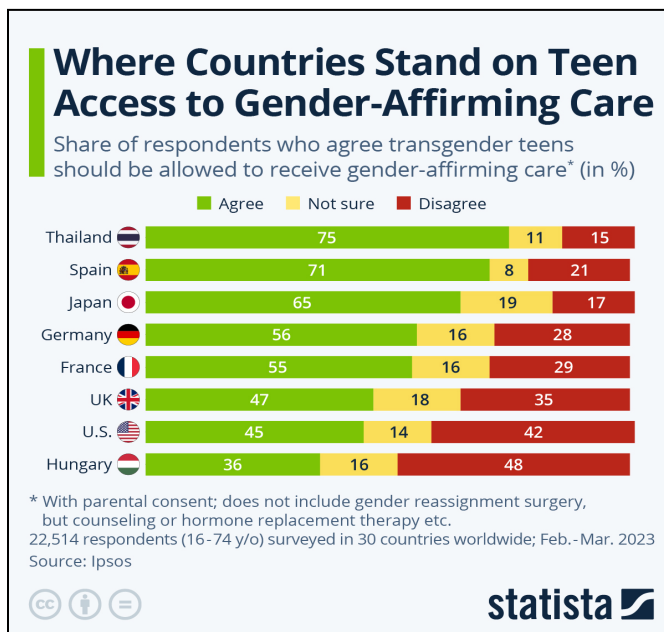
## Scientifically

On a scientific level, studies show that the part of the brain largely responsible for rational decision-making does not fully develop until the age of 25, or around the mid twenties. Even though the legal age of adulthood is 18, a person cannot make full usage of their brain until around 25. With this information, many doctors and scientists conclude that minors should not have the option to permanently alter their body, as they do not have the necessary mind to make such an intricate decision. Not only is their brain not developed fully, but such treatments in many cases can be irreversible and have negative impacts on them in the case that they want to revert back to their original gender- an incident which is not uncommon. These aspects of brain development and the treatments that go along with altering physical characteristics are a major reason many countries hesitate to give minors full medical control without other parties' opinions such as doctors, governments, and legal guardians.

The other scientific aspect of this issue is mental health. Transgender individuals face greater risk of experiencing discrimination as well as human rights violations in their everyday lives in comparison to cisgender individuals, which can take a detrimental toll on a person's mental health. Studies show that around 58% percent of transgender individuals face mental health challenges with around 90% feeling anxious at least one day per week. Even in western countries in which being transgender is more commonly accepted or at least tolerated, individuals who identify as such struggle with depression, anxiety, and other mental health problems at much higher rates than a cisgender individual might. According to a study done by the Department of Research and Evaluation in Southern California, transgender and gender nonconforming individuals are continuously diagnosed with more mental health conditions than those who identify as the gender they were assigned at birth. The study examined the mental health in transgender and gender-nonconforming youth between 2006 and 2014. The results proved that these individuals had 3 in 13 times the mental health conditions than those individuals who stayed the same sex as they were assigned at birth. With this information it's important to consider if suppressing their ability to freely express themselves would worsen or aid their mental health.

## Current situation

Today the world's opinion on this topic varies internationally. Many countries have



frameworks addressing such topics while others fully prohibit it or have not addressed the concern. The global community has not yet come to a consensus on this topic, and as debates and court cases play out on a country to country basis, many different opinions arise and are considered.

This image to the left is a chart of countries who are leaning more towards the side of supporting gender affirming care for minors.

This data comes from the people's opinion

ranging from ages of 16-74 years of age. This survey does not include genital altering surgeries, but is from hormone therapy or counseling and other less drastic measures that can be taken before a surgery. Based on the data in the chart, Thailand is the country most open to the data, with Spain following close behind. According to this chart Japan's placement on the chart suggests that their population is open to treatment for minors, however their government is opposed, having passed numerous laws that violate the bodily autonomy of individuals.

## Major Countries and Organizations Involved

### United States of America

In the United States, care and support for those wishing to undergo gender transition must comply with laws depending on the state they are residing in. Some states have passed laws to ensure the protection of rights for those minors wishing to undergo such treatments, while others have created legislative frameworks restricting or banning them for minors. For example, states like Arkansas, Texas, and Alabama, have passed laws that prohibit the physical gender transition for minors, while on the contrary, states like California, Oregon, and New York have newly opened up laws now in support of minors having access to such treatments. Throughout the United States, gender affirming care varies from state to state legislation and framework.

### United kingdom

In the United Kingdom, access to gender changing treatments is difficult for minors especially under the age of 16, due to the medical guidelines and ethical aspect of this concern. Framework can be produced to allow such treatments to be carried out, but it is dependent on the law of the current time. A court case that stands out for the UK's reputation and perspective with such medical procedures is the Bell v Tavistock, which is a case that was debated in December of 2020 discussing that minors should not have access to hormone blockers as they were not fully educated or informed, and do not have all the necessary information qualifying them to make such a decision at their young age. The case was overturned by the court of appeal in September 2021,



voicing that the doctors should have more say than a court judge should a minor wish to receive such treatment.

## Japan

Japan is one of the many countries in which it is still not accepted or allowed to undertake gender-altering operations. In 2004, a law called the “Gender Identity Disorder” passed stating that in special cases, individuals who identified as transgender would be granted the right to change their legal name under the conditions that they were unmarried, had no children that were minors, had undergone sterilization, as well as sex reassignment surgery. This law violated bodily autonomy and was incredibly harsh, but at the time was a step in the right direction. When it comes to minors wishing to undergo such procedures and processes, the situation becomes even more difficult as there is no framework within the law that states they can undergo a physical gender transition leading them to either wait until their adolescence is over, or simply not switch their gender. Japan has extremely regulated ideas when it comes to the topic of transgender.

## Canada

Canada is a country that highly protects pro-identity and the choices a person makes regarding such. Therefore, they emphasize the best interest for the child and their bodily autonomy. In 2017 Bill C 16 was passed, stating that gender expression and gender identity were prohibited grounds of discrimination. The law also offers protection if such discrimination were to occur in legislation. As far as access to gender affirming care for minors, it can generally be accessed with informed consent and the request of procedure.

## Australia

Australia is actively involved on the topic of transgender minors. Before 2013 hormone blockers and enhancers were allowed with court approval. However, in 2013 a landmark case called “Re Jamie” changed things dramatically for the Australian citizens. Transgender individuals were now able to access stage one treatments like puberty blockers without court intervention if there was no dispute between doctors, the minor involved, and the legal guardians. This made matters much more straightforward as doctors and legal guardians had more control to make decisions. Following Re Jamie, in 2017, Re Kelvin case appeared similar to before, although with this decision individuals could also access stage two treatments such as hormone therapy if all involved parties agreed.

## United Kingdom's National Health Service (NHS)

The national health service plays a crucial role in legal perspectives on minors undergoing a physical gender change, as they control a large part of the medical aspect of it including the treatments and providing the healthcare services necessary to carry out such changes in one's body and that the care is comprehensive and to the best quality it can be.

## World Health Organization (WHO)

The world health organization is one more of the policy end of this topic. Shaping perceptions and guidelines to aid the medical and legal side of things and support the best interest of the people in a fair and manageable way. Although the WHO does not directly legislate laws or create legal frameworks, they influence the perceptions of nations to keep human rights standards in mind.

## Timeline of Events

2013

### **The Netherlands**

The Dutch government decided that minors the age of 16 or over could change their gender legally without surgery. This was referred to as the "transgender law". Before the transgender law was passed, individuals wishing to change their gender had to undergo surgery or medical treatment to achieve such status, which was seen as a violation of bodily

integrity. Passing this law helped the Netherlands align with their human rights standards again.

2016

### **Emerging court cases**

Court cases start to emerge bringing attention to the matter and raising awareness. Specific cases like “re jamie” and “re kelvin” surface in Australia, passing laws so individuals no longer need court intervention to undergo treatment if all involved parties are in agreement.

2017

### **National Health Service**

The NHS began to study gender identity development service (GIDS), and launched a review on it to measure the protocol of how to treat minors with gender dysmorphia in the United Kingdom.

2020

### **Legal changes**

In the United kingdom, court case Bell v Travistock passed, allowing minors over the age of 16 to access hormone blockers and making it difficult for minors under the age of 16 to have access to such treatments without court approval.

## **Policy revisions**

2021

Bell v travistock was overturned in the United Kingdom, encouraging doctors to have the final say in whether treatment for minors would be accessed on a case by case basis. In the United States of America, in Arkansas, a law passed (SAFE) banning treatment for minors, which caused significant legal changes for the USA.

2022

## **Changing legal policies**

In 2022, a German law was passed to make it easier for minors to express themselves through their physical appearance and change their gender legally without the medical aspect of it. On the other hand, while such improvements were occurring in Germany, US states like Texas and Alabama passed laws restricting the access to treatment for minors.

2023

## **Canada**

Canada makes improvements to give more widespread access to gender affirming care with the government implementing policies so it's more accessible to minors.

2024

## **Continuing developments**

As nations have not come up with clear guidelines regarding minors and gender affirming care, organizations like the UN and WHO continue to work on creating measures and guidelines so minors can have access to gender affirming care in a safe and consensual way while also considering what is the best decision to make.

## Relevant UN Treaties and Resolutions

Although no resolutions have been passed directly addressing the topic of transgender minors undergoing physical gender transitions, the UN has passed resolutions on topics of LGBTQ+ rights and protecting such individuals against discrimination. These resolutions have had mandates made to them but the originals are as follows below.

[UN Resolution A/HRC/RES/27/32](#) adopted on 26 September 2014 by the UNHRC focusinc on Human rights, sexual orientation and gender identity.

Protecting the human rights of individuals as well as their sexual identity and orientation is the main focus of this resolution. It calls for updated reports on the situation and unifies global voices in acting to protect the rights of individuals on an international level, emphasizing that discrimination based on matters of identity relating to lgbtq+ are human rights violations.

**UN Resolution A/HRC/RES/32/2** adopted on 30th June 2016 by the UNHRC protecting against violence and discrimination based on sexual orientation and gender identity.

This resolution created by the Human Rights Council on the 30th of June 2016 focused on advocating and protecting people who identify as transgender from discrimination and violence that they could potentially experience. This document encourages countries on a global level to be more inclusive and open to LGBTQ+ ideas.

**UN Resolution A/HRC/RES/55/14** adopted April 4th 2024 by the UNHRC combating violence and discrimination against intersex individuals.

This resolution adopted on April 4th 2024 was groundbreaking in the world of identity. The resolution focuses on intersex individuals, meaning people who were born with various sex characteristics, and giving such individuals bodily integrity, as well as autonomy. Many times unnecessary harmful and irreversible surgeries are performed on such individuals to normalize their bodies even though it leads to more harm than good. This resolution calls for a stop of such surgeries which was supported by countries like Chile, Australia, and Finland to stop human rights violations.

## Previous Attempts to solve the Issue

Attempts to solve this issue and come to a consensus have varied globally depending on the country although many countries have taken steps to have guidelines and clear laws regarding the topic of transgender minors undergoing physical gender transitions. Many of the attempts that have been made have not all been in relation to being more inclusive with transgender individuals. Many have banned or limited access to gender affirming care to a harsh extent. In this case, doctors are put in the position of following the law that the government has placed regarding transgender individuals.

The Netherlands passed the "transgender law" allowing transgender individuals over the age of 16 to legally change their gender without surgery.

Norway allows transgender minors ranging in ages 6-16 with parental consent to change their legal gender without medical treatment.

Both attempts above outline steps towards changing legal gender like modifying documents and official names, they do not however, address the topic of surgery and physical gender altering medical procedures. Although these can be steps in the right direction, they do not solve or outline consensus on physical switches.

Australia's court rulings such as “re jamie” and “re kelvin” making access to gender transitioning medical treatments easier to access for minors by reducing the need for court approval and focusing more on medical and parental consent.

The National Health Service (NHS) provides detailed guidelines and what to do when dealing with minors who have gender dysmorphia including assessments before any medical action is taken to analyze the situation. Which is a good solution for governments who do not condone the physical transition before the age of 18.

There are some attempts at regulating and creating frameworks and ideas surrounding the topic that some countries have made. Many countries have gone in the opposite direction with the solutions, meaning that their governments do not believe in the physical gender transition before the age of 18, and are creating framework to prohibit such procedures.

The United States has been banning and restricting gender affirming care for minors in over 23 states, these legislations will ultimately have an effect on 144,000 people and in specific states, an example being Florida, parents can risk losing custody of their child if they allow such treatments to occur. The United States is increasingly producing more legislation that restrict such care for minors, although it does vary on a state to state basis.

Sweden has recently retracted their laws and made it more difficult, if even possible, for minors to access gender affirming care. Such changes were made as the long term side effects were being considered, Sweden's National Board of Health and Welfare said that at the current moment the

health risks outweigh the benefits. The treatments were originally designed to be used in only very specific extreme cases therefore not causing such concerns with the amount of people wishing to undergo treatment, and the side effects it might have. In this case, the Swedish government is following their premise of protecting their minors from possible harm.

## Possible Solutions

Solutions on this topic can be difficult due to the varied opinions internationally, some of the solutions can be small steps in the direction of fighting for the rights of everyone no matter how they identify themselves or framework outlining steps to consider of how to go about a gender switch may an individual request one as to make the lives of these individuals easier, and come to more of an international consensus.

### Court approval

In cases where parental or legal guardian consent is not an option, minors wishing to undergo treatment can take their request to court making a case for their side. The case can be simple, just the minor presenting their request, type of treatment they would like, reason they would like it, proof that they are positive about their decision and overall background information. The court can then decide if they will grant the minors request to access the treatment or not. This can be a prominent solution as many minors might not have access to parents or legal guardians who can help them with this aspect of their adolescence.

### Helpline organization

For those minors who don't have access to parents or legal guardians, or even kids that do and just want another opinion or voice to listen during this phase in their life, a helpline would be a manageable solution that could help the overall ease of this issue. As mentioned before, many children identifying themselves as transgender can face numerous challenges, such as



discrimination, bullying, mental health struggles, and more. A helpline can be a safe place for them to express how they feel with someone who carries expertise in such categories and can help them work through their feelings in a positive way.

## Discrimination awareness

Transgender individuals face greater risk of experiencing discrimination in their everyday life because what they are conveying themselves as to the world, may not match what is written on their official documents. Many people dislike the idea of transgender individuals and although the world is evolving, there are still several challenges to overcome, discrimination being a large one. To combat this issue, multiple approaches can be taken, some including education courses embedded in school programs, websites to raise awareness, educate those who aren't as informed on such topics, and provide a safe space to those who identify as transgender, punishments for discrimination, posters or flyers in public spaces, and many more. Because these individuals face a greater risk of human rights violations, discrimination awareness is a key tool to opening more mindsets and taking steps in the right direction of access to treatments for minors.

## Parental consent

Parental consent is a solution that should work in many circumstances as the minor wishing to undergo the physical change can talk to their legal guardians who have custody until they turn 18, the legal age to make such decisions on their own. If the legal guardian grants consent for the medical treatment, it can be carried out without further complications. In the case that a child does not have a legal guardian or parent willing to help them with the process, an organization should be created to help minors talk through the decision and take legal action if decided upon to bring about the physical change. It is extremely important for minors to have outlets to talk through their feelings when it comes to being transgender and the steps they want to take for themselves to make sure that they are positive about their decision and ready to carry it out. Many countries already have laws similar to this solution, with parental and medical consent to carry out treatments, nonetheless the solution ought to be more widespread.

## Legal age

As this topic refers to the protection of minors under the law, this can be interpreted in the biological sense, meaning that the physical changes that the surgery will alter, will be irreversible. Many countries believe this is a good solution to implement as the individuals are no longer minors, and in this case the government would be protecting the minors should they be at risk for any conditions, or irreversible changes before they are 18. This solution would include a legal framework that outlines the procedures and processes for undergoing such physical transitions when they are the legal age.

This means that once old enough the care will be granted to such individuals given specific circumstances relating to the country's standpoint on the issue. The government will be in this case protecting the possibility for harm of the minor. The complications with this topic will include the protection of rights regarding the question "Is it a right to be granted access to such medical procedures?" but the answer to this will vary from country to country.

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