

## Report on Norway for 6<sup>th</sup> round of the Universal Periodic Review

This report is submitted by Grimstad MPAT-Institute, Grimstad, Norway and the Sexual Rights Initiative<sup>1</sup>. It was written by Esben Esther P. Benestad<sup>2</sup>. The report deals with the situation of **LGBT rights** in Norway.

### Transpeople:

1. There are two categories whose enjoyment of their rights is very different: Those satisfying the requirements for the F64.0 – transsexualism, and those who do not satisfy those requirements. The political intentions concerning those qualifying for the F64.0 are the best, but practice has not lived up to those intentions. That gives rise to severe human rights challenges of subtle character.
2. F64.0 transsexualism is defined as follows: *A desire to live and be accepted as a member of the opposite sex, usually accompanied by a sense of discomfort with, or inappropriateness of, one's anatomic sex, and a wish to have surgery and hormonal treatment to make one's body as congruent as possible with one's preferred sex.*
3. We can see that this is a fundamentally subjective state linked to individual desire. There are no true objective measures to affirm the diagnose. Diagnostics in the field of transphenomena are inaccurate and do not reflect all faces of an experienced gender identity that is not in accordance with the sex assigned at birth.
4. In the World Association for Transgender Health (WPATH) the continuum between transvestitism and transsexualism is described as the “transgender spectre”. A large proportion of individuals across that spectre, in other words: not limited to those fitting the F64.0 criteria-, are in deep need of medical assistance in order to support their yearn for gender belonging. *Gender belonging* arises when one is perceived as being of the same gender as one perceives oneself to be, and the belonging is positive when the gender perceived is rendered a positive value when linked to the individual in question. Transpeople are struggling for gender belonging in a gender binary world, and thus, even if their self perception may fall outside the binary, they are greatly in need of functioning “cards of negotiation” to get a liveable belonging within. Cards of negotiation meaning the total capacity to convince the other that you are what you feel you are in terms of gender. The Standards of Care (SOC) of the WPATH acknowledge these needs. That acknowledgement has not been implemented in the Norwegian health care system.
5. In Norway, as in many other societies, the treatment of transpeople including the F64.0s is delegated to the medical field of psychiatry. This represents an organisational and discrimination inducing problem, since psychiatrists are trained to recognise and at best treat emotional problems and psychiatric diseases through psychotherapy and/or medications. Transpeople are treated with support therapy, hormones and surgery, not in order to change any emotional disturbance, but to bring their bodies in accordance with their mental status, and to place them in position to negotiate for gender belonging in society. The organisational problems raised by linking the health care offers for transpeople to psychiatry, can disturb the ever so good intentions of any society, since transpeople in that way are viewed as mentally disturbed, and thus not provided with appropriate therapy, therapeutic attitude and/or offered any positive gender belonging.
6. There are two points to be noted in relation to the diagnosis of F64.0. One is that one psychiatry headed ward, the G.I.D - clinic at the Central Hospital of Oslo is given a monopolised duty and right to treat the specific group of F64.0s. The other concerns the practice of the same clinic to define a number of clients, who actually by professional evaluation do satisfy the F.64.0 requirements, as not transsexuals. They are given diagnoses like F64.8: Gender identity disorders not otherwise specified (GIDNOS). The latest practice of the G.I.D clinic is to define the so-called LOTS (i.e. individuals who do not come to perceive themselves as transsexual before they reach adulthood) as GIDNOS, even though they by the diagnostic standard satisfy the F64.0. The added result of the monopoly and the discriminatory ways in which F64.0 is diagnosed, gives rise to a large group of individuals who see themselves as F64.0, but who are not treated as such. This group is supplied by all those who do not define themselves as F64.0, but nevertheless need medical assistance according to the SOC of the

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<sup>1</sup> A coalition including Mulabi – Latin American Space for Sexualities and Rights; Action Canada for Population and Development; Creating Resources for Empowerment and Action-India, the Polish Federation for Women and Family Planning, and others

<sup>2</sup> Esben Esther P. Benestad is an associate professor at the University of Agder, Norway, a physician, a family therapist IAP, a specialist in clinical sexology NACS, member of the World Association for Transgender Health (WPATH), member of the Scientific Committee for the WPATHs XXI biannual symposium in Oslo, Norway in June 2009. Benestad is also a transperson and a trans/queer activist.

WPATH. As of spring 2009 this group has no formalised offer of assistance in the Norwegian health care system.

7. What motivates the G.I.D.- clinic to treat LOTS and GIDNOS in this discriminatory way is obscure both to the author and to the transpeople in question. The motives may involve matters of economy, there might not be funds to treat more than a narrow and selected group of “true transsexuals” (i.e. individuals with a consistent transsexual career from childhood of). Another reason may be that the G.I.D. – clinic gives higher priority to research, and hence canalise means to such endeavours, instead of offering treatment in accordance with the SOC. There are signals to indicate that the discrimination is a result of attitudes held by the head doctor of the G.I.D-clinic, who for instance recently met a self-perceived male – to – female transsexual, a father of children, with a statement telling her that if she had been man enough to impregnate a woman, she could not be transsexual. All attempt made by the author to make the head of the G.I.D. - clinic display her motives, have been met with silence.
8. The Norwegian Health care system has designated the treatment of transsexuals to the G.I.D. – clinic, but do not have the insight to detect neither the dismissed self-perceived F64.0 or the GIDNOS'es, thus they believe that all transpeople, but those who do not need any medical assistance are taken care of.

***Treatment of transsexuals:***

9. Transsexuals satisfying the F64.0 are, as already stated, treated in an adequate, but monopolised and exclusive way by the G.I.D. –clinic- It must nevertheless be noted that F64.0 transsexuals have no law enforceable right to treatment

10. To obtain the F64.0 diagnose, the clients are first evaluated by psychiatric standards. As a general rule, those who are diagnosed with “comorbidity”, will be referred back to local psychiatric wards. Comorbidity means suffering from other diseases and conditions in addition to the gender identity disorder. The term comorbidity is discriminatory and pathologising. As a rule those working in psychiatric wards do not have any competence concerning trans phenomena. Textbooks of psychiatry have but a minimum of information, and the psychiatric education in Norway gives no clues as to how to address trans-issues. Most clients have already met psychiatric professionals and have been traumatised by the experience.

11. As stated, a number of clients are refused treatment on grounds that they are not true transsexuals. In Norway there is a general access to second opinion if a client of the health care system is dissatisfied with a treatment. This right does not include transpeople, since the State Hospital has a monopolised function. If any client finds reason to complain, that complaint is evaluated by the same people who performed the treatment.

12. Those who are found fit to continue their process at the G.I.D - clinic, must for two years live, work and act according to their preferred gender.

For reasons obscure to the author; clients who are unemployed; clients that have problems reading or writing; who are fathers or mothers; and clients who are above the age of 35, are generally declined and excluded by the G.I.D - clinic's team. Those who stay in and succeed in living the preferred gender, are after two years given hormonal treatment to assist them in their gender endeavour.

13. Living as the preferred gender is called “real life test”. More deeply considered, this test is rather unreal when for instance a big-breasted bodily woman, who perceives himself as a man, shall venture a “real life” as a male without having the breasts removed, and likewise when a rough, heavily bearded bodily male shall live and act like a “real” woman without hormonal and surgical support.

14. As a continuation of hormonal treatment, gender confirming surgery is offered at the cost of the Norwegian State. The whole treatment of F64.0 individuals in Norway is funded by the State. For bodily females, surgery will include removal of breasts, and internal genitalia and the construction of external ones. Bodily males will get their testicles removed, their penis content removed and the penis skin inverted into a neo-vagina. All surgery is performed at the Central Hospital in Oslo by plastic surgeons, who have many other tasks than those concerning F64.0s.

15. After this treatment the gender confirmed individuals are given new birth certificates and new Identity Card cor number. There are but two formally accepted genders in Norway, and those are pointed out by gendered “birthnumbers”. The third last digit in Norwegian Identity Card cor numbers depict the appearance of the newborns' genitalia, girls thus given an even and boys given an uneven digit.

16. In Norway names can be changed from one gender to another without any medical treatment. Thus most of the transsexuals and many self perceived non-transsexuals have used their right to name change long before more invasive gender confirming procedures. Those who have changed their

names, but nevertheless are denied by the G.I.D – clinic are left with a name not supported by their Identity card numbers.

17. When all is done to the selected group of F64.0s, the “new” woman or man enjoys exactly the same social and legal rights as ordinary Norwegian women and men.

18. There is a significant lack of therapeutic offers to Norwegian transsexuals, but for a strictly selected group who on the basis of standards constructed by the gender team at G.I.D.- clinic, satisfy requirements for their F64.0 diagnosis. The attitude of the gender team is gender dichotomised and conservative. This renders a large group of transsexuals in the void. Even if competent and experienced transtherapists see them eligible for hormonal and surgical treatment, they are dismissed by the G.I.D. – clinic, leaving many of them in a state of deep despair, and sending those who can afford it to surgery abroad.

19. The policy of the G.I.D - clinic and the formalised health care system on treating transsexuals and other transpeople, is not in accordance with the newly issued Government Plan of Action for LGBT persons, that will be discussed below.

#### ***The non-transsexuals:***

20. Those who do not satisfy the requirements for the F64.0 have no formalised offer of professional or legal assistance. Professionals who have ventured to assist this group according to the Standards of Care of the WPATH, have been accused of malpractice and received formal warnings and threats of losing their licence.

#### ***Activism:***

21. Several activist groups are fighting for the rights of non F64.0 transpeople. There is a strive to render individuals who perform their gender in a “third of fourth” way, options of legitimisation/identification. Likewise transactivists fight to demopolitise the offers to all transpeople including F64.0. All efforts are supported by professionals outside the G.I.D -clinic and also by LGBT groups and organizations. The State has met this positively by including them in the making of the Plan of Action.

#### ***The LGBT Plan of Action***

22. The Norwegian Government issued a “ A Government Plan of Action” to “Improve the quality of life for lesbians, gays, bisexuals and transpersons 2009 -2012” The plan was launched in the fall of 2008 and is meant to strengthen all government influenced activity in the designated period. The Plan was authored in co-operation with transpeople, with professional transtherapists, queer activists and with an organization for transpeople. The name of the latter is FTP (Association for Transpersons). The report has been very well received by the same organization, and by the transcommunity as such, apart from some leading transsexuals who do not see themselves as related to the LGBT sector – a matter that will be discussed later.

23. The Plan outlines the rights to be recognized and valued as lesbians, gays, bisexuals or transpeople, and includes the rights of children who transe, family members of transpersons, and of young and adult transpeople themselves. The Plan emphasises the floating boundaries between children who transe and adult transpeople, lesbians and gays, acknowledging that a majority of children who transe grow up to become lesbians and gays. The rights of LGBT people **as well as the actions the government will take in regards to them** are described and include **the following areas:** Work with LGBT people in a lifespan perspective, research and knowledge building, school and education, children and family politics, leisure time, sports and voluntary organisations, work and professional life, immigration and integration, the Sami group and other national minorities, equal and satisfying health and care services, legal issues, police and prosecuting authorities, Norway in the international society, - battling discrimination of sexual minorities.

24. When some leaders of the transsexual group abstained from having the diagnosed F.64s included in the plan, they motivated this by claiming that they are not queer, nor persistently transsexual, but merely women and men trapped in a wrong body, a body that has been made corrected, rendering the individual a right gender status.

25. The aim of the plan is **to act** on all levels of society, to supply LGBT people of all ages with the same rights as given to the non-LGBT population. Much emphasis is put on the need to educate everybody from the educators to the bureaucrats and the politicians. **As a best practice**, the Plan could be an eminent tool for other nations to improve the quality of life for LGBT people.

26. The Plan is still young, but there are signs implying that it will have positive consequences. The author of this report is receiving an increased number of questions from Norwegian health bureaucrats on issues concerning health care for non – transsexual trans clients. The Norwegian State has given

means to perform a meta-study on the effect of sexological treatment. This can be seen as an initiative that will profit the LGBT population, since sexologists are the professional group with most insight in these issues. The Plan has been sent to all institutions where it may be applicable.

27. In accordance with this Plan and with the anti-discriminatory motives of transe- and queer activists and with the insights described above, we recommend that the Norwegian State takes the following actions:

- Allow transsexual clients the same access to a second medical opinion that is currently enjoyed by all others in the Norwegian health system by empowering at least one second professional institution to provide second opinions in diagnoses of transsexuality.
- Establish centres of competence where people with transtalents can meet skilled therapists who can meet their needs be they of transsexual or other transe-state qualities.
- As the State now supports and funds the treatment of F64.0s, the State must also fund and support the various needs of other transpeople.
- The options of identification must be made varied enough to encompass all genders including non-transsexual transpeople and intersex people (the latter group has thus far not been mentioned, but represent a growing group of people demanding their right to be something in addition to the thus far formalised two genders).
- Identification options must be based on self-perception and gender expressions, and not require any bodily changes.
- The offers to children who trans, that is children who do not perform gender in accordance with the one assigned to them at birth, must be decentralised in order for these children to be met by networks that have the knowledge and capacity not to be disturbed by the children's gendered expressions.
- The gender confirming surgeries must be centralised on Scandinavian basis in order for the surgeons to be sufficiently skilled in the surgical artwork of neo-genital construction.
- The offers of treatment to all transtalented must be a right enforceable by law that cannot be changed by shifting attitudes of therapists, bureaucrats or politicians.
- Gender must be basically self-determined.