



The status of human rights of transgender and intersex identifying persons in Zimbabwe.

***Zimbabwe Stakeholders Report submitted by 15 July 2021  
For Consideration at United Nations Third Cycle of the Universal Periodic Review  
By  
Trans Research, Education, Advocacy & Training, Gender Dynamix and Trans Intersex Raising  
Zimbabwe***

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## **Introduction**

This stakeholder report has been submitted by the following civil society organisations, Trans Research, Education, Advocacy and Training, TIRZ and Gender Dynamix for the third cycle of the universal periodic review. The report's purpose is to provide an overview of the status of the human rights specifically for transgender and intersex identifying persons in Zimbabwe before the United Nations Universal Periodic Review Committee. It aims is not just to direct the UPR committee to human rights violations but to further make recommendations that will assist Zimbabwe to improve the human rights of transgender and intersex persons.

## **Legislative framework**

### **Discrimination and stigma:**

Zimbabwe's current legislation prohibits discrimination based on sex and gender. Section 56 of the constitution prohibits discrimination based on gender and sex but makes no mention of sexual orientation as the ground to prohibit discrimination<sup>1</sup>.

### **Access to health services**

Though Article 12 (1) of the International Covenant on Economic Social and Cultural Rights<sup>2</sup> and the Article 16 (1 and 2) of the African Charter on Human and People's Rights adhere to the right to good health by attaining to the highest standard of physical and mental health<sup>3</sup>. Zimbabwe has been unable to fully fulfil it's obligation in as far as the intersex and transgender populations are concerned.

Stigma and discrimination experienced in the hands of health services providers also play a role in denying transgender and intersex identifying persons their right to health care. For instance, in 2019, intersex persons were subjected to stigma by a health facility namely Mpilo clinic where public call was made and stated that people with ambiguous genitalia should

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<sup>1</sup> [Transgender-rights-in-Zimbabwe.pdf \(southernafricalitigationcentre.org\)](https://www.southernafricalitigationcentre.org/transgender-rights-in-zimbabwe.pdf)

<sup>2</sup> <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

<sup>3</sup> [https://au.int/sites/default/files/treaties/36390-treaty-0011\\_-\\_african\\_charter\\_on\\_human\\_and\\_peoples\\_rights\\_e.pdf](https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf)

approach the hospital and register for medical examination<sup>4</sup>. It is such messaging from health providers that subject discrimination and prejudices to intersex people, just because their bodies do not conform to the typical binary categories of either male or female.

Affirming health services for transgender and intersex person are only accessed by a few that have access to private services. Public health facilities do not provide affirming health services.

### **Gender marker change:**

The birth and death registration act of 1986 section 18 (2), subsection 3 allows Zimbabwean nationals to change their assigned names and surnames at birth but does not make provision for reassignment of gender nor sex<sup>5</sup>. Thus Zimbabwe does not have a specific law that allows trans gender and intersex identifying persons to change their gender marker on their national identification and other official documents.

Hence, this results in transgender and intersex identifying persons facing challenges with immigration services when travelling beyond their country borders. The very same population cannot fully enjoy their right to health care that is provided by section 76 of the national constitution, because the gender marker in the official identification documents does not match with the self-assigned or self-determined gender and names.

### **Criminalisation of same sex activities:**

Zimbabwe still criminalises sodomy according to criminal law act 23 of 2004. Such a law subjects trans and intersex persons to be targeted especially if public indecency is not defined. Continuation of criminalising consensual same sex activities subjects transgender and intersex identifying persons to corrective rape and the criminalisation contravenes Zimbabwe's obligation to protect the right to privacy under the ICCPR<sup>6</sup>. Criminalisation has impacts negatively on Zimbabwe's ability to safeguard citizens' rights guaranteed by both the constitution and ICCPR.

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<sup>4</sup> <https://cite.org.zw/mpilo-under-fire-for-ambiguous-genitalia-testing/>

<sup>5</sup> [Transgender-rights-in-Zimbabwe.pdf \(southernafricalitigationcentre.org\)](https://southernafricalitigationcentre.org/transgender-rights-in-zimbabwe.pdf)

<sup>6</sup> <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

## **Recommendations:**

- ❖ there is need for law enforcement agency to be sensitised on sex, sexual and gender minorities so as to be taken into consideration when it comes to reporting discrimination on the basis of sexual orientation, gender identities, and expression and sex characteristics.
- ❖ Zimbabwe should repeal sections 61, 73, 77,77 subsection 1 [a.], 77 subsections 2, and section 78 in the criminal law act of 2004.
- ❖ Government should provide the legislative framework to legalize same-sex marriages in Zimbabwe
- ❖ Introduce a specific law that enables transgender and intersex persons to change their gender marker on national identification documents and other official documents.
- ❖ The medical charter curriculum should include transgender and intersex affirming health care
- ❖ In order to achieve universal health coverage, Zimbabwe must provide affirming health services for transgender and intersex-identifying persons.
- ❖ Prohibit any discrimination by health practitioners towards transgender identifying persons
- ❖ -Introduce laws that prevent genitalia corrective surgeries without consent.
- ❖ -Section 56 of the constitution should be amended in order to include sexual orientation as one of the grounds on which discrimination should be prohibited.

## **Concluding notes**

- Transgender and intersex persons lack access to basic services including health care, (no gender-affirming services or health care provider) and police protection due to the hostile environment created by the government.
- Zimbabwe constitution provides no protection against discrimination based on sexual orientation thus subjecting transgender and intersex to discrimination and stigma
- Zimbabwe Criminalises consensual same-sex activities

## **Advanced questions**

- ✓ Will government repeal all provisions that discriminate against persons on grounds of their sexual orientation?

- ✓ How is the government going to take measures to protect transgender and intersex persons against discrimination and acts of violence?
- ✓ What measures have been taken at the national level since the last UPR to ensure the full respect of the fundamental rights of intersex and transgender identifying persons?
- ✓ How far is Zimbabwe with the process of reviewing and aligning its legislature with the constitution and incorporating its international commitments into domestic laws?

Annex

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