

Protection of the Rights of Transsexuals in the Light of the General Comments of the Committee on the Rights of the Child

*Sajad Bagherzadeh**

*Mahmood Abbasi***

*Hossein Sharifi Tarazkoochi****

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Abstract

Despite obvious differences between transsexuals and other social minorities, they are face fundamental human rights violation from birth. Neglect or misbehavior of the parents in the family as the first and most important center of society-, is a headline for the incorrect continuation of this practice in schools, workplaces and social activities of transsexual children. In most societies, transsexuals are considered to be homosexuals or transvestites from birth, but the reality is that transsexuals are neither homosexual nor transvestite; the difference is in the gender identity of these patients. Due to the lack of public understanding of this distinction in the societies and despite the support provided by the Convention on the Rights of the Child, which explicitly includes transsexual children, these patients always suffer from widespread violations of their fundamental human rights within the family,

* Ph.D. Student of International Law, Islamic Azad University, Qom, Iran.

Email: bagherzadeh9920@yahoo.com

** Associate Professor, Medical Ethics and Law Research Center, Shahid Beheshti University of Medical Sciences, Tehran, Iran.

Email: dr.abbasi@sbmu.ac.ir

*** Emeritus Professor, Faculty of Law, Imam Hossein University (AS), Tehran, Iran.

Email: hsharifit@yahoo.com



school, and other social institutions. One of the most effective tools of the Committee on the Rights of the Child (as a Supervisory body of the Convention on the Rights of the Child) to protect the rights of transsexual children is the legal authority to General comments of the provisions of the Convention, which plays an important role in guiding member States to reform the cultural, social and economic structures and approaches of societies.

Keywords: Transsexual; Convention on the Rights of the Child; Committee on the Rights of the Child; International Human Rights System; Gender Identity Disorder.

Bibliography

A) Books & Articles

- Amparo, San Jose Jill. "International Responsibility of Governments for Human Rights Violations." trans. Ebrahim Bigzadeh, *Journal of Legal Research* 3, no. 29-30 (Winter 2000), 255-307. [In Persian]
- Currah, Paisley. "Transgender rights without a theory of Gender?" *Tulsa law review* 52, (spring 2017): 443.
- Kariminia, Mohammad Mehdi. *Gender Reassignment from the Perspective of Jurisprudence and Law*. Qom: Jurisprudential Center of the Imams, 2010.
- Mc Dermott, Rose, and Peter K. Hatemi. "Distinguishing Sex and Gender." *Political Science and Politics* 44, no. 1 (January 2011): 89-92.
- Meyer, Elise. "Designing Women: The Definition of Woman in the Convention on the Elimination of All Forms of Discrimination against Women." *Chi. J. Int'l L.* 16, (January 2016): 553-590.
- Movahed, Majid and Morteza Hoseizadeh Kasmani. "The Relationship between Gender Identity Disorder and Quality of Life." *Social Welfare Quarterly* 12, No. 44 (Spring 2011), 111-141. [In Persian]
- Najafi Abrandabadi, Ali Hossein, Ali Khaleghi, and Amirhamzeh zeinali. "Criminal protection of children against sex tourism, from global prohibition to the reaction of domestic penal systems." *Journal of Legal Research*, no. 50 (autumn and winter 2009), 81-122. [In Persian]
- Nojavan, Davood. "Jurisprudential and legal principles of gender reassignment." *Medical Law Quarterly* 3, no. 9 (Summer 2009), 149-189. [In Persian]
- Razavi, Parisa. "The role of gender reassignment in transgender victimization." *Thesis in Criminology and Criminology*, Mofid University, 2014. [In Persian]
- Robles García, Rebeca; Ana Fresan; Hamid Vega-Ramirez and Jeremy Cruz-Islas. "Removing transgender identity from the classification of mental disorders: a Mexican field study for ICD-11." *Lancet Psychiatry* 3 (September 2016).
- Stryker, Susan. *Transgender History*, Berkeley: Seal Press, 2008.
- Vidal-Ortiz, Salvador. "Teaching and Learning Guide for: Transgender and Transsexual Studies: Sociologys Influence and Future Steps." *Sociology Compass* (March 2008): 799-807.

B) Documents

- "The text of the law allowing the accession of the Government of the Islamic Republic of Iran to the Convention on the Rights of the Child", Research Center of the Islamic Consultative Assembly (2020/02/09), <https://rc.majlis.ir/fa/law/show/92374>. [In Persian]

Committee on the Rights of the Child. "General comment no. 11 (2009). Indigenous children and their rights under the Convention, Fiftieth session Geneva" (January 12-30, 2009), <https://www.refworld.org/docid/49f6bd922.html>.

Committee on the Rights of the Child. "General comment no. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)" (2013), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11.

Committee on the Rights of the Child. "General comment no. 20 (2016). on the implementation of the rights of the child during adolescence" (December 6, 2016), <https://www.refworld.org/docid/589dad3d4.html>.

Committee on the Rights of the Child. "General comment no. 4, Adolescent health and development in the context of the Convention on the Rights of the Child" (July 2003), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11.

Committee On The Rights of The Child. "Provisional Rules Of Procedure, Adopted by the Committee at its 22nd meeting (first session) and revised by the Committee at its thirty-third session" (April 25, 2005), <https://tbinternet.ohchr.org>.

Human Rights Committee. "CCPR General Comment no. 18: Non-discrimination" (November 10, 1989), <https://www.refworld.org/docid/453883fa8.html>.

International Court of Justice, Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain), Judgment of 5 February 1970. Available at: <https://www.ohchr.org/Documents/ProfessionalInterest/cmw.pdf>.

Shebrang, Mohammad. *United Nations Charter, in addition to the Declaration of Human Rights*. Tehran: Daneshvar Publications, 2007. [In Persian]

Taleghani, Mohammad Ali; Zandi, Hushang. *United Nations Charter and Statute of the International Court of Justice*. United Nations Coordinating Office in Iran, 6th edition. [In Persian]

The general comment no. 14 on the right to the highest attainable standard of health of the Committee on Economic, Social and Cultural Rights.

United Nation. "Vienna Convention on the Law of Treaties 1969" (2005).

United Nations Treaty Collection. "Convention on the Rights of the Child", https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en

C) Websites

Merriam-Webster Dictionary (January 21, 2020), [//www.merriam-webster.com/dictionary/transsexual](http://www.merriam-webster.com/dictionary/transsexual). Accessed 2020.

Drescher, Jack; Peggy T. Cohen-Kettenis and Sam Winter. "Minding the body: Situating gender identity diagnoses in the ICD-11." *International Review of Psychiatry* 24, no. 6 (December 2012): 568-577. Quoted by: World Health Organization (December 2012), Available at: <https://edition.cnn.com/2018/06/20/health/transgender-people-no-longer-considered-mentally-ill-trnd/index.html>.

ICD-11 for Mortality and Morbidity Statistics (Version: 04/2019), <http://id.who.int/icd/entity/334423054>.

International Court Of Justice, Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania), Judgment of 9 April 1949. Available at: <https://www.refworld.org/cases,ICJ,402399e62.html>

National Center for Transgender Equality, Understanding Transgender People: The Basics, (April 1, 2020), <https://transequality.org/issues/resources/understanding-transgender-people-the-basics>.

Pickman, Ben, and Brandon Griggs. "The World Health Organization will stop classifying transgender people as mentally ill" (June 20, 2018), <https://edition.cnn.com/2018/06/20/health/transgender-people-no-longer-considered-mentally-ill-trnd/index.html>.

World Health Organization (April 1, 2020), <https://icd.who.int/browse11/lm/en/#http://id.who.int/icd/entity/90875286>.