



**Submission to the Call for Inputs on Human Right to Sanitation with
Non-Discrimination issued by the Special Rapporteur on the rights to water and
sanitation**

Submitted by **Global Action for Trans Equality and Asia Pacific Transgender Network**

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Founded in 2009, **Global Action for Trans Equality (GATE)** is an international advocacy and expert organization focused on gender identity and expression. GATE works towards justice and equality for trans and gender diverse communities at the global level. Rooted in our movements, we collaborate with international, regional and national strategic partners to ensure access to resources, knowledge, and decision-making spaces.

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A. Introduction

1. This submission focuses on the human rights of trans and gender diverse individuals in accessing sanitation without discrimination. While the human right to sanitation requires that these facilities be accessible, affordable, safe, acceptable, and non-discriminatory regardless of one's sexual orientation, gender identity, expression or sex characteristics, trans and gender diverse individuals across the regions continue to face a structural barriers to realizing these rights in the predominantly binary design of sanitation facilities and pose a risk of facing inaccessibility, exclusion, harassment, and violence. This submission examines this structural exclusion across four dimensions: the recognition of trans and gender diverse persons within the rights to sanitation framework; the legal barriers that compound sanitation exclusion; the documented consequences for physical and mental health and safety; and recommendations for ensuring that the right to sanitation is realized without discrimination.

B. Trans rights and rights to water and sanitation

2. While there has been measurable progress under SDG 6 Access to Water and Sanitation, the current rate remains insufficient to meet 2030 targets, with billions still lacking access to sanitation and hygiene services. This indicates that the goal is significantly off track.¹ These gaps are not evenly distributed. Trans and gender diverse people experience compounded barriers due to gender-segregated infrastructure, stigma, and legal constraints, placing them even further behind in access to safe and dignified sanitation.
3. The recognition that trans and gender diverse persons face specific barriers to sanitation is well-documented in UN Special Procedures reporting. In 2012, the former Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, issued a report on stigma and the realization of the human rights to water and sanitation.² This report established the fundamental link between stigmatization and the deliberate exclusion of marginalized groups from sanitation services. The report demonstrated that sex-segregation of public bathrooms, where privacy is limited or compromised, has been linked to exclusion, denial of access, harassment, abuse, and sometimes even the arrest of trans and intersex individuals.
4. Building on this foundation, the subsequent Special Rapporteur, Léo Heller (2016), highlighted the gender inequality affecting access to sanitation, menstrual hygiene, and toilets for LGBTI people and an increased risk of gender-based violence.³ Some Member States restrict individuals to use only the toilets that match the biological sex listed on their birth certificate, which undermines trans people's ability to live safely, free from violence and discrimination. Particularly, gender non-conforming people face additional challenges in humanitarian situations such as conflicts or natural disasters when water and sanitation resources are scarce.⁴
5. Subsequently, the Special Rapporteur's compilation on gender identity (2020) further identified LGBTI persons as a population with significant unmet needs in accessing water and sanitation rights.⁵ The lack of disaggregated data and their invisibility in emergency settings are also concerns. For instance, gender non-conforming people often feel compelled to diminish their freedom of expression, as gender segregation in sanitation facilities, including public toilets, detention centers, relief camps, and schools, presents a risk of exclusion, humiliation, and violence.⁶
6. Beyond the UN reports, CSOs across the world also identified similar challenges faced by trans and gender diverse people in accessing sanitation and non-discrimination. For example, a 2019 report from India found that public spaces - including streets, parks, public transport, malls, and places of cultural and religious significance - were the most frequently cited sites of violence and discrimination. Trans and gender diverse persons reported particular difficulty accessing toilet

facilities, stemming from infrastructural deficiencies and the pervasive risk of gender-based violence and harassment. These conditions carry serious consequences, compelling many trans and non-binary persons to limit their fluid intake and endure prolonged periods without using facilities, ultimately limiting their freedom of movement, ability to travel, and right to work.⁷

C. Trans-Specific Restrictions and Legal Protection Rollbacks

7. Criminalization of sexual orientation, gender identity, and gender expression, through penal codes, morality laws, or State-administered religious frameworks, continues to restrict access of trans communities across the world to sanitation, by legitimizing surveillance and enforcement in gender segregated spaces. This transforms access to toilets into a site of control and exclusion, where fear of harassment, arrest, or outing compels many transgender individuals to avoid public facilities or be forced to conform to the sex assigned at birth, which further increases their exposure to the risk of outing, violence and legal persecution. This dynamic has been documented in Malaysia, where LGBTI individuals may face structural and systemic discrimination, especially under civil and state-administered Syariah laws that criminalize people based on sexual orientation, gender identity, and gender expression.⁸
8. According to the 2019 study on discrimination faced by trans individuals in Kuala Lumpur and Selangor by the Human Rights Commission of Malaysia (SUHAKAM), out of 100 respondents, 65 trans participants reported facing difficulties in accessing public facilities, including toilets, changing rooms, prayer rooms, and gyms. In educational settings, some respondents reported avoiding school restrooms or using them discreetly due to fears of bullying, discomfort, and potential confusion or negative reactions from other students. Furthermore, additional challenges were reported in hostel facilities, where trans individuals were often required to share rooms and bathroom facilities with cisgender peers. These findings illustrate how criminalization extends beyond formal legal sanctions into everyday practices that deny transgender people safe and dignified access to sanitation.⁹
9. Beyond outright criminalization, a broader pattern of LGBTI rights rollbacks has emerged in recent years, carrying significant consequences for trans and gender diverse communities' access to gendered spaces, including sanitation. GATE (2023) documented the impact of anti-gender movements around the globe, which have become transnational, well-funded, and coordinated movements influencing policymakers, leading to further rights restrictions and State-enabled violence against trans and gender diverse individuals.¹⁰ Recently, the challenges to the rights of the trans and gender diverse populations, particularly those related to access to toilets, have been weaponized by anti-gender actors, with the aim of further dehumanizing trans communities by presenting them as inherently dangerous to cis women's safety. This is a strategy to fuel hatred against trans communities for political gains for wider anti-democratic political agendas.
10. The Human Rights Research Center (2025) has also documented a broader pattern of LGBTI rights rollbacks across Europe. These LGBTI rights pushbacks include laws criminalizing surrogacy, bans on SOGIESC-related education in schools, and restrictions on Pride events.¹¹ While these measures do not directly target sanitation, they create a hostile legal and social environment that reinforces the exclusion of trans people from public life, including from public facilities.
11. Research from the U.S. clearly illustrates the point. The fact sheet by GLAAD (2025) highlights that U.S. legal restrictions preventing trans people from using restrooms aligned with their gender identity are based on misinformation and fear rather than evidence.¹² According to a Williams Institute study (2025), while policy debates about trans individuals' access to restrooms

and other gendered facilities often focus on claims about protecting women's safety and privacy, the various studies found that these narratives are not supported by evidence. Nondiscrimination laws that allow trans people to use facilities based on their gender identity have not led to increased harm for cisgender individuals. Instead, trans people are the ones who frequently experience harm in these spaces, such as being denied access, verbally harassed, or physically assaulted. ¹³

12. A prominent example is the landmark ruling by the UK Supreme Court in 2025, which determined that the term "sex" under the Equality Act refers to a person's biological sex assigned at birth rather than their legally recognized gender. The ruling empowers authorities to lawfully exclude trans individuals, even those with official government gender recognition, from single-sex spaces that align with their gender identity, representing a significant restriction on trans people's rights.¹⁴ In practice, the ruling has significant implications for sanitation access, as it provides legal grounds for barring trans women from women's facilities and trans men from men's facilities.

D. Consequences on Trans and Gender Diverse Persons

13. The legal and structural barriers described above produce measurable consequences for the physical and mental health of trans and gender diverse persons, for their menstrual health and hygiene, and for their safety from sexual violence.

D.1. Physical and Mental Health

14. The denial of safe, accessible sanitation produces measurable physical and mental health consequences. Several studies have documented that limited access to safe and inclusive toilets often compels trans and gender diverse individuals to restrict their water intake to avoid using public restrooms, to delay urination for extended periods, or to hide their gender identity to use the facilities, leading to both physical and mental health issues.
15. For example, in Australia, despite the Sex Discrimination Act 1984 affording legal protection against discrimination on the basis of gender identity - and thereby enabling trans and gender diverse people to use toilets consistent with their gender identity - the provision of all-gender facilities remains inconsistent in practice. A study conducted in 2025, based on a subsample drawn from the 2024 Australian Workplace Equality Index (AWEI) Employee Survey, found that those with access to all-gender facilities and the freedom to use toilets of their choice reported significantly higher levels of workplace well-being across multiple domains, such as productivity, belonging, and safety. ¹⁵
16. In addition, the psychological toll of sanitation exclusion is severe and, in extreme cases, life-threatening. A 2024 study from Australia demonstrated that avoidance of public bathrooms is both widespread and has a harmful impact on physical and mental health.¹⁶ 49% of trans and nonbinary young people reported sometimes avoiding public bathrooms, while 22% reported always avoiding them due to safety concerns and discomfort.¹⁷ This avoidance was linked to significant physical health impacts, with 67% reporting holding it when using the bathroom and 38% limiting food or water intake to avoid using such facilities.¹⁸ The study also found strong associations with mental health risks. Those who avoided public bathrooms had significantly higher rates of anxiety and depression and were nearly twice as likely to attempt suicide compared to peers who did not avoid these spaces.¹⁹

D.2. Menstrual Health and Transmasculine People

17. The gender equality dimension of the right to sanitation has historically centered on cisgender women and girls. When menstrual product dispensers are placed exclusively in women's restrooms, transmasculine, non-binary, and assigned female at birth individuals who menstruate are forced to choose between accessing a facility incongruent with their gender identity and, therefore, facing the risk of violence, and forgoing menstrual hygiene management.
18. In India, these challenges are further exacerbated by limited research, policy gaps, and the absence of inclusive service provision for trans persons. Existing studies and reports indicate that trans men face barriers in accessing public toilets to change menstrual products due to fear of harassment and violence, as well as difficulties obtaining menstrual supplies that are typically distributed through women-focused programs. Healthcare access is also constrained by a lack of sensitized providers and limited clinical guidance on the intersection of menstruation and gender-affirming care, as highlighted by organizations such as UNFPA. These barriers are often intensified by intersecting inequalities, including poverty, caste, and rural location, further restricting access to safe and dignified menstrual health management.

D.3. Sexual Violence

19. A critical dimension of the safety element of the right to sanitation is the reality that restrictive bathroom policies, purportedly designed to protect cisgender users, in practice increase the vulnerability of trans persons to sexual violence.
20. The National Transgender Survey (2015) found that trans people in the U.S. frequently experience harassment and violence in public restrooms.²¹ 68% reported verbal harassment, and 9% reported physical assault while using these facilities.²² Additionally, 8% experienced kidney or urinary tract infections as a result of avoiding restrooms due to safety concerns.²³ These figures from 2015 and research in 2025 demonstrate clearly that the consequences of sanitation exclusion are not hypothetical; they are documented over a decade and have severe effects on the health and safety of trans individuals.
21. In custodial settings, the challenge for trans and gender diverse people in accessing sanitation is intensified. According to the 2026 annual prison report on Thailand, interviewed prisoners and former prisoners reported that most male prisons designated separate cells or zones for trans women, arrangements varied considerably and lacked consistency.²⁴ Trans women and gay men held in male prisons were subjected to verbal abuse, mockery, physical assault, sexual harassment, and intimidation by fellow inmates due to prison authorities providing inadequate protection and largely ineffective responses to reported incidents of gender-based violence. For example, some trans women were required to shower alongside male inmates while covering their breasts. Some reported unwanted physical contact, including the touching of their breasts. Critically, many chose not to report these incidents to prison authorities in order to "avoid problems." This reflects a profound institutional failure to create safe and trustworthy reporting mechanisms for the most vulnerable in detention.

E. Recommendations

22. Taken together, the evidence presented in this submission reveals a consistent pattern that trans and gender diverse persons face systemic exclusion from sanitation across every setting. This exclusion is not incidental. It is produced by the binary design of sanitation infrastructure, reinforced by criminalization and legal rollbacks of LGBTI rights, and the weaponization of trans people for wider anti-democratic political agendas.

23. On the basis of the evidence presented in this submission, GATE and APTN recommend as follows:

E.1. To Member States:

24. Repeal discriminatory and criminalization laws of people with diverse sexual orientation, gender identity, expression and sex characteristics, and enact anti-discrimination legislation as preventative and reparation measures.
25. Repeal “sex-based” bathroom legislations. Laws requiring the use of facilities corresponding to the sex assigned at birth are incompatible with the human right to sanitation and should be repealed.
26. In line with the YP+10, Principles 35(A) and (D), ensure that adequate public sanitation facilities are accessible safely and with dignity to all persons, without discrimination on the basis of sexual orientation, gender identity, gender expression, or sex characteristics. This obligation extends across all public and private settings.
27. Adopt gender-inclusive language for menstrual health and hygiene policies, ensuring that menstrual hygiene products are available across all restrooms, regardless of their gender designation, particularly for transmasculine, non-binary, and assigned female at birth (AFAB) individuals.
28. Collect data disaggregated by gender identity to render visible the lived experiences of trans and gender diverse populations and to inform evidence-based policy responses.
29. Review and revise requirements that mandate fixed minimum numbers or proportions of gender-segregated facilities in public or commercial buildings, enabling the expansion and designation of all-gender sanitation facilities.

E.2. To International Stakeholders:

30. Apply intersectional analysis incorporating sexual orientation, gender identity, expression and sex characteristics, along with other identity categories, to the right to sanitation, and funding to ensure that the compounding effects of race, disability, migration status, incarceration, and poverty on trans persons’ access to sanitation are addressed and financially sustained.
31. Support Member States and private actors in implementing practical measures, such as staff training on gender inclusion, the designation of all-gender accessible facilities, and the integration of privacy-enhancing infrastructure in all relevant public spaces.

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