



**GENDER  
RECOGNITION  
LEGISLATION:  
POLICY BRIEF**

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# OVERVIEW AND SYNOPSIS





**W**hile there is common vulnerability across the lesbian, gay, bisexual, and transgender (LGBT) population in Jamaica, recent studies show that the subset of trans and gender non-conforming (GNC) people confront unique characteristics and obstacles. Chief among these challenges are the trans community's disproportionate experience of homelessness, limited access to employment prospects, high levels of violence directed against them, and impediments to healthcare access are among these challenges.

According to the United Nations Development Programme (UNDP), the lack of legal gender recognition is one of the most challenging barriers to trans and gender-diverse people's social inclusion. Trans people are confronted on a daily basis with the reality of the lack of gender recognition under Jamaican law. There is no legislative or policy framework that allows trans people to have their gender identities formally recognized through changes on their birth certificates and other forms of identification.

Gender recognition legislation is an important pathway for trans and gender non-conforming people in Jamaica to experience a life that is free from stigma, discrimination and violence. In 2016 there were only a few examples in the world of a legal framework for gender recognition that was enabling and supportive of the reality of trans people - Malta and Argentina being chief among them, and now, there has been a significant increase in different approaches. It is critical that TransWave Jamaica lay the necessary groundwork by engaging our community, our partners and other key stakeholders to help them understand what more needs to be done for trans and gender non-conforming Jamaicans so that this society can be one they do not have to run from.









# Recommendations for Policymakers and Government





## **T**aking account of the desires of local trans and GNC community, the ideal Gender Recognition Legislation for Jamaica has the following features:

1. It takes an administrative approach, using the Registrar General Department to affect changes.
2. The standard of proof is on the basis of self-determination, with the possibility of requiring community members to provide a letter or statement from medical or psychological professionals, attesting to their trans identity.
3. It avoids all the additional proof requirements that would make it prohibitive.
4. It facilitates in, some measure, the ability to change gender markers two-three more times after the first change.
5. It is accessible to all citizens, permanent residents and refugees who are over 18 years of age.
6. It provides for binary and non-binary gender options.
7. It amends the Registration (Births & Deaths) Act so that – at least – the trans and GNC Jamaican will have a birth certificate that can be used to have all their other identity documents changed.
8. It amends the Passport Act 1962, the Road Traffic Act 2018 and the Representation of the People Act 1944 to create process to have the gender markers on those documents adjusted to align with the identity of trans and GNC Jamaicans.
9. It harmonizes the collection of sex and gender information across all identity legislation using the NIDS framework.
10. It prohibits misgendering and discrimination on the basis of gender identity.
11. It places a duty on the government to sensitize all public sector workers around trans issues and prescribes penalties for failure to register changes of gender.
12. It establishes the positions of trans and GNC persons vis a vis other areas of law such as sexual offences, family law and prescribes how they are to be treated across spheres of life such as penal institutions, hospitals etc.





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