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Germany's Transgender Law seen as 'archaic, degrading'

Trans* people in Germany are subjected to a long, expensive assessment process to change their legal gender. A new self-determination law would reform this — and activists say it's long overdue.

By Elliot Douglas

Deutsche Welle (28.12.2020) - <https://bit.ly/38pMJv1> - "Degrading, expensive and illogical" — that is how one trans* person described her experience of legally changing her gender in Germany.

Felicia Rolletschke is one of many activists who is fighting for a reform to the so-called Transsexual Law, which determines the legal process for trans* people to change their gender and name in Germany. By the beginning of 2021, the law will have been in place for 40 years — a time frame in which many countries around the world have seen great upheaval in their legislation around trans* rights.

There are currently two bills before the German parliament that aim to ease this process with a new "self-determination law" (Selbstbestimmungsgesetz). Activists hope such a law would reform the current costly, lengthy process — but the reform has faced some stiff opposition.

Payment holds trans* people back

"It really is such a hassle and inconvenience to change your legal name and gender," Felicia Rolletschke explained. She should know — she went through the process herself, between 2015 and 2018.

Rolletschke is a 26-year-old workshop leader and public speaker based in Berlin. After growing up in a "very Catholic" Bavarian village of 4,000 people, she moved to the German capital at the age of 17 to attend university. It was there that she came out as a trans* woman for the first time, at 21.

After coming to terms with her identity and coming out to friends and family, Rolletschke began the process of legally changing her name and gender in the German courts.

"In late 2015, before I even came out properly, I found a really good therapist," Rolletschke said. "Then we agreed I should begin the paperwork for the court in order to change my name, even before I began hormone therapy and surgery. But in order to get that process started, I needed to pay €1,600 (\$1,955)."

This payment is often a barrier for trans* people, especially those who are younger and lack independent resources. Rolletschke was also hampered by being under 25, meaning any state financial support she could receive was assessed based on her parents' income — even though her mother had cut off contact with her.

"It shouldn't be a requirement to have enough money lying around in order to change your legal name," Rolletschke said.

Assessments by psychotherapists

According to Kalle Hümpfner from the German Trans* Association (BVT), this amount is typical. "We often see costs of several thousand euros," they said. "These hurdles are far too high."

After an initial hearing with a judge, the money is needed for applicants to pay for two "expert opinions" — in almost all cases, licensed psychotherapists — who both need to independently assess the trans* person in question.

"You are assigned the psychotherapists [by the court]," Rolletschke explained. "You can request which ones you get and in Berlin normally you are assigned who you want — but that is not necessarily common in the rest of Germany."

Rolletschke described her experience with the psychotherapists as mostly an assessment of "old-fashioned gender roles."

"My two assessments each took two hours, four hours in total. They are psychological assessments where they talk about your entire life story. They ask about sexual experiences, sexual orientation, fetishes, family structures. They covered many topics that were not relevant to gender," she said.

As someone trying to change her legal gender to female, Rolletschke believed she was particularly judged based on her adherence to a stereotypical female appearance.

"They judged how well my makeup was applied. They also noted that I crossed my legs when I sat down," she said. "And they judged my sexual orientation. For example, if you are a trans* woman and you are interested in men exclusively, that means bonus points."

"It felt like they came from a place of pathologization. They seem to believe that being trans* is a mental illness."

The idea that being transgender is a mental disorder was dismissed by the World Health Organization in 2019.

The assessors then submit their findings to the relevant judge. According to Hümpfner, 99% of the expert opinions ultimately come to the same conclusion as what the trans* person has said about themselves.

"They are not only superfluous, but can also be degrading and invasive for trans* people," said Hümpfner.

Rolletschke had to wait another two months after her assessments before, in early 2018, she received the letter that her change of gender and name had been approved. All in all, the process had lasted over two years and cost thousands of euros, hours of her time and a great deal of stress.

Self-determination for ages 14 and above?

It is this process that the self-determination law hopes to simplify, by replacing the 40-year-old Transsexual Law. Under the latest bill, proposed by the Green party in June 2020, "all people could submit a declaration on the indication of gender and the use of their first name at a registry office" without any need for psychological assessment.

A second bill, proposed by the pro-business Free Democratic Party (FDP), calls for largely the same thing. Both bills would allow self-determination for those aged 14 and above.

The issue came to a head in November when both bills were discussed in a special hearing of the German parliament. A panel of experts gave evidence, most agreeing the need for reform — except for one. Munich-based doctor Alexander Korte expressed his doubts about the change in the law, especially about the low age limit of 14.

"Girls are often clearly uncomfortable with their own bodies at the start of puberty," the child psychologist also warned in an interview with German broadcaster Deutschlandfunk.

But activists like Rolletschke and Hümpfner dispute whether there is any evidence to justify this concern.

"From the age of 14, young people can decide independently of their parents whether to join or leave a religious community," Hümpfner pointed out. "Freedom of religion is a fundamental right. The recognition of one's own gender identity is also protected by fundamental rights such as the protection of human dignity or the right to the free development of personality."

Rolletschke was keen to emphasize that the change to the law does not affect the process to receive hormone treatment or surgery, which is carried out separately in consultation with a medical doctor.

"The thing is — legally changing your name is not that irreversible a step," she said. "And even if people do regret that step, that is the one thing that is easy to reverse."

Germany lags behind

There is precedence for reforms for trans* rights in Germany — the Transsexual Law was amended in previous decades to remove a requirement for infertility and evidence of surgery before applicants could change their gender. In 2017, Germany added a third legal gender — "divers" — to the options on official forms.

But a law of self-determination would bring Germany up to speed with many European Union partners and other countries around the world. A Council of Europe ruling in 2015 paved the way for many European countries, among them Malta, Denmark, Belgium, Luxembourg, Ireland, Iceland, Sweden, Norway and Portugal, to introduce variations on a law of self-determination.

"This call was also echoed in the recently published EU LGBTQI equality strategy," Hümpfner added. "There are many good reasons on an international level why the German government should now finally bring in a new law."

But Hümpfner and Rolletschke are far from confident of success.

"Since the bills come from the opposition (FDP and Greens), they have no chance in the Bundestag and will be rejected for party political reasons," Hümpfner said. "We therefore very much hope that the federal government will introduce its own draft law before the next election [in September 2021]."

"I really see German legislation as too conservative at the moment," Rolletschke added. "But I think it is really good we had a conversation about it."

"Just talking about changing this archaic law is a step in the right generation. I hope it will work, but I am not too optimistic."

Germany is 5th country to ban conversion therapy for minors

The discredited practice purports to turn a gay person straight, and jurisdictions around the world have moved to prohibit it.

By Tim Fitzsimons

NBC News (08.05.2020) - <https://nbcnews.to/3fxapiC> - Germany's legislature on Thursday passed a ban on the advertising and practice of so-called gay conversion therapy for people under age 18, joining a growing list of countries and local jurisdictions that have moved to prohibit the debunked practice in minors.

Germany is the fifth nation to pass such a ban, following Malta, Ecuador, Brazil and Taiwan. In the United States, 20 states and a number of cities have banned the practice for minors and some members of Congress have attempted to prohibit the practice federally.

"Young people are being forced into conversion therapies," German Federal Health Minister Jens Spahn said, "and so it is very important that they should find support in the existence of this law: a clear signal that the state does not want this to happen."

Some members of Germany's left-wing opposition declined to support the measure because it included just minors — those under 18 — instead of the traditional societal category of "youth," which extends to 26.

Gabriela Lünsmann of Germany's Lesbian and Gay Association (LSVD) said the bill did not go far enough because it did not protect those between 19 and 26, and she objected to the inclusion of the phrase "treatment performed on humans," which she and her organization said "has a positive connotation and suggests a promise of healing and an achievable treatment goal."

In response to critics of the ban's age limit, Spahn, who is gay, said that the law had to be able to withstand legal challenges.

New York City could serve as a cautionary tale: Unlike other U.S. states and localities, the city initially passed a ban that prohibited the practice of conversion therapy on people of all ages. The expansive measure led to a legal challenge by a conservative religious group on behalf of a man who sought religious counseling for his same-sex attraction. Fearing the challenge could lead to a Supreme Court decision unfavorable to the LGBTQ community, New York City lawmakers repealed the initial ban and rushed to pass an age-limited law.

"It's smart to start with bans on conversion therapy for minors, because we need to ensure there are no instances of child abuse and that minors are protected from harmful practices and unnecessary interventions that could have lasting impact on their development," Jessica Stern, the executive director of OutRight Action International, a global human rights organization, told NBC News.

"The challenge with restrictions on so-called conversion therapy for adults is that from a human rights perspective, we believe in the principle of self-determination," Stern said. "So when we look at ways to restrict, limit or ban conversion therapy, it becomes really important to look at other forms of regulation."

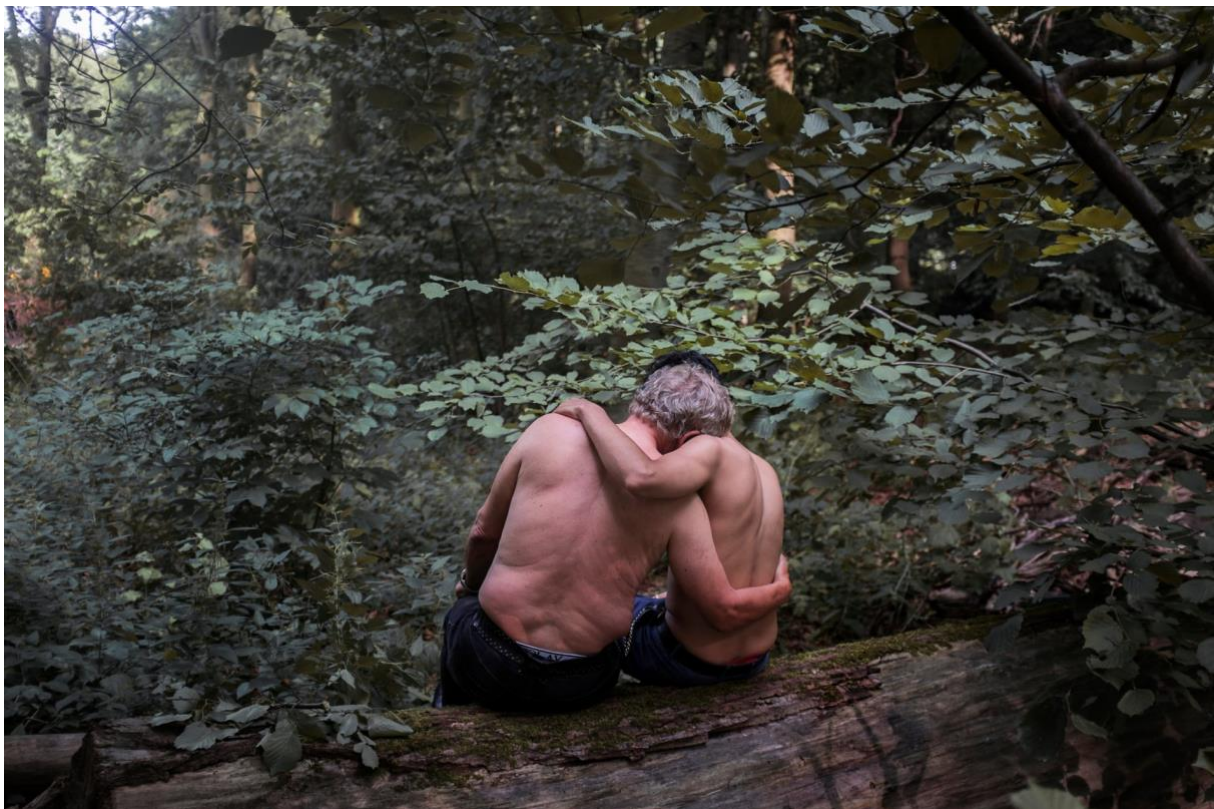
Some states and jurisdictions, including New York, allow adult individuals who felt that they were sold a false service the ability to pursue a civil suit for fraudulent business practices after the fact. Other potential strategies, Stern suggested, might involve simply enforcing existing bans on torture for practices like electro-shock therapy when used in at-risk populations.

A 2019 survey by OutRight Action International found that a third of people around the globe who have undergone conversion therapy chose to do it for themselves, while two thirds were coerced.

Conversion therapy has been associated with suicidal ideation and attempts, drug abuse and depression. In November, the American Medical Association endorsed a nationwide ban on the controversial practice. Other major medical and health associations, including the American Psychological Association and the American Psychiatric Association, have also spoken out against it.

'A step away from hell': the young male refugees selling sex to survive

Photographer Heba Khamis spent a year and a half documenting the lives of 'black birds': the male Afghan and Iranian sex workers in Berlin's Tiergarten.



Photograph by Heba Khamis

By Kate Hodal

The Guardian (21.02.2020) - <https://bit.ly/2Thhjy8> - The allure of romance is never far away in Berlin's Tiergarten park, a vast 520-acre expanse home to manicured lawns, dense forest, a picturesque boating lake and the city zoo. As families lay out picnics and millennials fire up barbecues, those seeking something more illicit head to the park's wooded north, where young male Afghan and Iranian refugees can be found selling sex to the hundreds of buyers who pass through Tiergarten each day.

In 2017, Egyptian photographer Heba Khamis was studying in Hanover when a flurry of news reports about Tiergarten's young male refugees made national headlines. "No one could get [photographic] access to the guys, but the German media were saying they were dangerous and to stay away [from them], that they were doing bad stuff," said Khamis. "I felt I needed to see for myself."

Initially accompanied by a male Farsi-speaking friend, Khamis spent ages searching for the refugees in Tiergarten, asking random park-goers if they'd seen or heard anything "unusual". She stumbled upon a pair of ping-pong players, who said they knew nothing about the prostitution in the park, yet as Khamis spent more time in Tiergarten it became clear that the ping-pong tables and the area around them were at the very heart of the sexual activity. "If you didn't pay any attention, you wouldn't notice it," says Khamis, 31. "But the prostitution was happening right in front of them [around the public toilets]. The elephant was in the room and no one wanted to see it."

Khamis began to visit the park every day and, through persistence and with the aid of translators, managed to make contact with the "boys", most of whom were ethnic Shia Hazaras from Afghanistan, a minority long persecuted by the Taliban, ranging in age from 15 to 32. Although they were wary of the press, one of the men, Ali*, became Khamis's go-to guide, introducing her to other boys in the park and their collective way of life. Over the course of a year and a half, she ended up watching – and documenting – as relationships blossomed, long-awaited papers came through and the boys moved out of the park, or didn't.

Germany legalised prostitution in 2002 and, in 2017, passed a law requiring sex workers to register with local authorities in order to prevent human trafficking and exploitation. But the 30-odd Afghan and Iranian men Khamis was photographing fell under no such support system, as refugees are barred from working legally or attending school while they wait for their documents. "When you are a refugee without papers, and you are Muslim and come from a background where gay sex is shameful and taboo, it is a very different situation," she says. "These guys don't represent 'prostitution in Germany' in any way. There are only a few of them, and this is a very different scenario."

Heavily saturated in earthy browns and greens, Khamis's photos have an eerily ethereal quality, the dappled light of the forest reflecting off the boys' necklaces, their youth made evident by their protruding clavicles and bony backs.

The result is deeply unsettling, reflecting the boys' experience of the park. "Once you are in the park," says one of Khamis's subjects Ahmed, an Afghan who had been selling sex in the park for three years, "you are one little step away from hell." For Khamis, the boys' search for belonging and humanity was what compelled her to continue photographing.

"When you look at them, [you can see] they're not enjoying it at all. They hurt themselves, they have depression. On all of them you will find [self-inflicted] cigarette burns or cuts. Everyone wants to get out of the park."

Drugs feature heavily in the boys' lives, numbing them and providing a small respite from the agony of waiting to become "legal", says Khamis. As Germany prioritises assistance to refugees from countries with an ongoing conflict, asylum seekers' papers from non-conflict countries such as Afghanistan and Iran take longer to complete, and the applicants are more likely to be deported, says Khamis.

The singularity of their situation – engaging in culturally taboo work while waiting in political limbo – inspired Khamis to call the boys "black birds", a nod to both the numerous blackbirds in the park and a play on the term "black sheep". "When you are different in the family, you are the 'black sheep', and for me these guys were the same: their whole lives they've been undocumented, unable to 'fly', unable to live normal lives, unable to find anywhere that will accept them."

While some boys were lucky enough to get their papers and move out of the refugee camps or even the park itself, others were required to find another means of escape. For some that meant entering into relationships with their regular buyers (the photo of one such couple won Khamis second prize in the 2019 World Press Photo portraits category), or converting to Christianity as means of claiming political asylum. Still others have remained in Tiergarten.

Khamis began her photographic career covering the 2011 and 2013 revolutions in Egypt, then turned her focus to socially taboo subjects relating to the body, such as breast ironing in Cameroon and Egypt's transgender community. The practice of focusing on such "unacceptable" issues has transformed her as a person, she says.

"When you work long term on stories it's not just one image you deliver, you invest your whole life in these stories and they teach you lessons and change you in the long run," says Khamis.

"You become less and less judgmental. You no longer look at things from the surface of your own perspective; you try to see through the people instead. From outside [Tiergarten], you could look at these boys and say, 'Go work in the black market instead [of doing sex work]'. But they have fought their whole lives, first being born in Afghanistan, then fleeing to Iran and finally to Europe, thinking they will have a nice life at last. Yet they no longer have a home – or a destination.

"This is [what] human failure [looks like]: sometimes we all fight so hard for something that once we finally arrive, we're so tired from fighting that we just surrender."

* All subjects' names have been changed to protect identities.