



OUTRIGHT
INTERNATIONAL

POLICY BRIEF

Legal Gender Recognition: Abolishing the Medical Model

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- Legal gender recognition refers to the process through which a person's **gender identity is formally acknowledged** by the state in official documents.
- When people can update their legal documents to reflect who they are, they are **less likely to face discrimination, danger, or disrespect**. This is especially important for trans, nonbinary, gender-diverse people, and some intersex people.
- Human rights standards call for states to ensure that legal gender recognition procedures are **quick, transparent, accessible**, and based on **self-determination**.
- Several countries implement a “medical model,” which conditions gender marker changes on requirements such as surgery, sterilization, or psychiatric diagnosis. This **violates human rights** and undermines bodily autonomy.
- Good practices affirm that legal gender recognition should not depend on a person’s medical history, medical or mental health treatment, or appearance, and must be **accessible** regardless of sexual orientation, gender identity, gender expression, sex characteristics, marital status, or parental status.

KEY POINTS

What is self-determined legal gender recognition?

Legal gender recognition is the process through which a person's gender identity is formally acknowledged by the state in official documents and records, such as identity cards, passports, and birth certificates.

For trans and gender-diverse people, access to legal gender recognition can be fundamental for participation in society, access to services, travel, and protection from violence and discrimination. Legal gender recognition procedures should allow individuals to amend their name and gender marker based solely on their declaration, without medical or other intrusive or arbitrary requirements.¹

What is the purpose of this policy brief?

This brief articulates the position that legal gender recognition is a fundamental human right rooted in personal autonomy, dignity, and non-discrimination. It advocates for the universal adoption of self-determined legal gender recognition. A straightforward administrative process enables a person to update their legal sex or gender marker on official documents solely based on their gender identity, in line with international human rights standards.

Why does legal gender recognition matter?

The ability to obtain accurate identity documents is integral to one's personality and a core aspect of self-determination. When official documents do not reflect a person's gender identity, they face a "spiral of exclusion and marginalization," which exposes them to higher risks of violence, discrimination, and denial of access to essential services.² Inaccurate documents increase risks of harassment, discrimination, psychological distress, and denial of basic rights.³

"If my identity document does not say my name, my gender, or my sex, it does not represent me. That document does not represent me. And I am an undocumented woman in my country. It can't be possible that in your own country, you are an undocumented person, a foreigner, a person who is not recognized in that place, and that despite you having all that predisposition, the state does not want to recognize you. Therefore, the identity document for trans people represents this, our existence. It is us who are in that document."

–Diane Rodríguez, trans activist, Ecuador⁴

Historically and in many jurisdictions today, gender recognition procedures are either nonexistent or are medically or judicially gatekept, with requirements such as forced surgery, diagnosis, or divorce that aim to preserve rigid binaries and maintain heteronormativity. These obstacles will be discussed in the section on barriers to legal gender recognition.

What are the international human rights standards for legal gender recognition?

“Self-determined gender is a fundamental part of a person’s free and autonomous choice in relation to roles, feelings, forms of expression and behaviours, and a cornerstone of the person’s identity. The resulting obligation of States is to provide access to gender recognition in a manner consistent with the rights to freedom from discrimination, equal protection of the law, privacy, identity and freedom of expression.”

–UN Independent Expert on sexual orientation and gender identity, 2018⁵

International and regional human rights bodies have repeatedly stated that medical or psychiatric requirements for legal gender recognition violate rights to privacy, autonomy, equality, and non-discrimination.

- **Self-determination, not medicalization:** The UN High Commissioner for Human Rights, the UN Independent Expert on sexual orientation and gender identity, and several UN human rights treaty bodies affirm that self-determined legal gender recognition is a human rights imperative.⁶
- **Legal recognition as protection from discrimination:** The World Health Organization points out that the lack of legal gender recognition leads to discrimination, thereby hindering trans people from accessing full medical care.⁷

- **Quick, transparent, and accessible administrative procedures:** The Inter-American Court of Human Rights has established that states must provide an adequate, effective, and prompt procedure for name and gender change in official documents “so that they correspond to the self-perceived gender identity,” based solely on the free and informed consent of each person, and without abusive requirements.⁸ The Parliamentary Assembly of the Council of Europe has called on member states to “develop quick, transparent, and accessible procedures, based on self-determination, for changing the name and registered sex of transgender people in official documents.”⁹
- **Prohibition of sterilization and other invasive requirements:** The European Court of Human Rights (ECtHR) in *A.P., Garçon and Nicot v. France* (2017) set a key human rights standard by ruling that requiring transgender people to undergo sterilizing surgery or treatment as a prerequisite for legal gender recognition violates Article 8 of the European Convention on Human Rights, which protects the right to respect for private life.¹⁰
- **Respect for dignity, privacy, and equality:** Principle 3 of the Yogyakarta Principles calls on states to “take all necessary legislative, administrative and other measures to fully respect and legally recognise each person’s self-defined gender identity” and ensure that legal gender recognition procedures are “efficient, fair and non-discriminatory, and respect the dignity and privacy of the person concerned.”¹¹

What are the existing barriers to legal gender recognition?

- **Forced sterilization or surgery:** Mandatory sterilization or medical interventions, often aimed at producing a body that fits rigid binaries, is a requirement in many countries.¹² These forced interventions have been denounced as forms of torture and ill-treatment by human rights bodies.
- **Compulsory medical diagnosis:** Requiring a diagnosis of “gender dysphoria” or a similar psychiatric classification pathologizes a person’s identity and treats it as a mental health condition rather than a matter of basic human rights.¹³ For example, while Sweden passed a simplified law on gender recognition in 2025, it still demands a medical assessment and a decision by a health authority, continuing to pathologize trans identity.¹⁴
- **Divorce requirements:** Some countries impose forced divorce for married trans people seeking legal gender recognition, undermining family and social stability. Requiring a trans person to divorce their spouse to obtain legal recognition violates the right to marry and found a family.¹⁵ As of 2025, 18 countries in Europe and Central Asia still require married trans people to divorce to obtain legal gender recognition.¹⁶ Italy requires divorce or conversion of marriage into a civil union upon legal gender recognition due to its legal framework that defines marriage as exclusively between individuals of different sexes.¹⁷

What is the current global landscape for self-determined legal gender recognition?

- As of October 2025, twenty countries, listed in the following two sections, have enabled legal gender recognition based on **self-determination**.¹⁸
- Many other countries retain **onerous barriers** in order to change one’s gender marker.
- An absolute lack of any legal gender recognition process persists in a majority of countries—exposing trans people to discrimination and violence, and preventing their full access to education, employment, and social services.¹⁹

What are the leading examples of self-determined legal gender recognition?

In 2012, **Argentina** was a global first, granting legal gender recognition through self-determination with no medical requirements. It now also makes available “X” gender markers for nonbinary people.²⁰

Malta, in 2015, became the leading example in Europe in providing efficient, accessible, and transparent self-determination procedures, including recognition of nonbinary people.²¹

The 2023 Trans Law in **Spain** allows for legal gender recognition and applies to migrants as well as citizens and includes extensive protections for trans and intersex people, including a requirement that schools implement anti-bullying and trans inclusion protocols to combat violence and exclusion and a ban on medically unnecessary surgeries on intersex children.²²

What are good practices from other jurisdictions?

- **Costa Rica** removed sex markers from adult national identity cards in 2018.²³ Identity documents should only include relevant and necessary information that is useful to identify a person.²⁴ Sex markers are inadequate in accurately describing people's identities, and many of the challenges faced by trans people who do not have access to legal gender recognition would be resolved by not requiring sex markers on documents at all.²⁵
- **Germany** passed a self-determination law effective from November 2024, allowing minors under the age of 14 to change their legal gender only with the consent of their parents or legal guardians. For individuals aged 14 and older, parental consent is not required, but courts or youth welfare services may be involved to assess the minor's maturity and best interests. This tiered approach ensures that younger children receive family and institutional support, while older adolescents can exercise greater autonomy in their legal gender recognition process.²⁶
- **Belgium** allows for gender marker changes through a statutory declaration, with no medical intervention required, and a simple, supportive legal process.²⁷

Fourteen other countries have enacted self-determined legal gender recognition, with few or no burdensome requirements:

- Brazil (2018)
- Chile (2019)
- Colombia (2015)
- Denmark (2014)
- Ecuador (2016)
- Finland (2024)
- Iceland (2019)
- Ireland (2015)
- Luxembourg (2018)
- New Zealand (2023)
- Norway (2016)
- Portugal (2018)
- Switzerland (2022)
- Uruguay (2019)

Gender Recognition as a Human Rights Issue

Several legal gender recognition laws include expansive language affirming the human rights of trans people.

Article 4 of **Chile's** La Ley de Identidad de Género guarantees "recognition and identification according to gender identity and expression of gender in public and private instruments." It upholds the right to the "free development of one's person, according to their gender identity and expression."²⁸

Article 1 of **Portugal's** Law No. 38/2018 of August 7 recalls that "all people are free and equal in dignity and rights" and prohibits any discrimination based on "the exercise of the right to gender identity and gender expression and the right to protection of sexual characteristics."²⁹ Article 3 further proclaims that "the exercise of the right to self-determination of a person's gender identity and gender expression is ensured, namely, through the free development of the respective personality in accordance with their identity and gender expression."³⁰

How does legal gender recognition uphold the best interests of minors?

Legal gender recognition is a “time-sensitive” matter for minors.³¹ Having identity documents that reflect their lived names and gender identities helps protect them from school bullying and discrimination, reduces suicidal ideation and other mental health risks, and is linked with positive educational outcomes.³²

In Argentina, for example, a 2017 report by the Ministry of the Public Defender of Buenos Aires found that of the 13 transmasculine respondents who were enrolled in secondary or tertiary education at the time of the study, 11 said that their peers and teachers’ treatment of them improved after the enactment of the Gender Identity Law of 2012.³³

Along with legal gender recognition, school policies that affirm young people’s gender identities, such as those that allow them to join social and sports activities or use school facilities based on their gender, help them develop a healthy sense of self at this crucial period of their lives.³⁴

However, in several jurisdictions, legal gender recognition procedures that are available to adults are either restricted or inaccessible to minors. These limitations often take the form of minimum age thresholds, parental consent requirements, or additional medical or judicial assessments not required of adults.³⁵ Such measures create unequal access to legal recognition and leave many young people without accurate identity documents, despite well-established evidence that timely recognition is essential to their safety, well-being, and participation in education and public life.³⁶

Opponents of minors’ access to legal gender recognition often link it with gender-affirming health care, sowing fear and misinformation. While both are important, gender marker changes are a legal matter that should be treated independently from health interventions.

Others also falsely claim that trans minors are just going through a phase, and that legally recognizing their gender marker changes throughout adolescence can create significant administrative and legal burdens. However, several studies have shown that an overwhelming majority of trans youth persist in identifying as trans.³⁷ Concerns about the administrative burdens of recording and updating gender markers can be resolved not by stopping it altogether, but by only reflecting gender on documents where it is relevant.³⁸

Several international and regional human rights bodies have affirmed children’s right to access legal gender recognition in accordance with the best interests of the child and their evolving capacities:

- **Right to legal recognition:** The UN Committee on the Rights of the Child has recommended that states “adopt legislation that recognizes the existence of the transgender children and their rights” in order to fully “recognize the right to identity of lesbian, gay, bisexual, transgender and intersex children and put in place measures to ensure that they all enjoy their freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy.”³⁹ The Inter-American Commission on Human Rights also affirmed the importance of legal gender recognition based on self-determination, “without imposing pathologizing or stigmatizing requirements, including for children and adolescents under the age of eighteen.”⁴⁰

- **Best interests of the child:** Under international human rights law, the best interests of the child must be given primary consideration.⁴¹ A 2022 Council of Europe report praised positive developments “making self-determination-based LGR [legal gender recognition] accessible to children.” It recommended that states ensure that procedures for children are centered on the principle of the best interests of the child and “review explicit or implicit age restrictions that may obstruct that principle.”⁴²
- **Right to express their views and be heard:** The Inter-American Court of Human Rights recommended that legal gender recognition procedures “necessarily be designed based on the principles of the child’s best interests, progressive autonomy, and right to be heard and that the child’s views be taken into account in any procedure that concerns the child, respect for the right to life, survival and development, and also the principle of non-discrimination.”⁴³ The UN Independent Expert on sexual orientation and gender identity emphasized that procedures for children must respect “the child’s right to express views in accordance with age and maturity.”⁴⁴
- **Proportionate protections:** The Inter-American Court of Human Rights has asserted that “any restriction imposed on the full exercise of that right by provisions aimed at the protection of the child can only be justified based on these principles and should not be disproportionate.”⁴⁵ The UN High Commissioner for Human Rights similarly pointed out that “safeguards for minors should not be discriminatory or disproportionate, and should respect the rights enshrined in the Convention on the Rights of the Child,” while the UN Independent Expert on sexual orientation and gender identity emphasized that such safeguards must “give recognition to the autonomy and decisional power of children of a certain age in other areas.”⁴⁶

What are recent barriers to self-determined legal gender recognition?

Anti-gender movements. More than a decade of global progress toward rights-based legal gender recognition—including clear human rights guidance on self-determination and the abolition of sterilization and other invasive requirements as the gold standard—is now facing a new wave of political and ideological opposition from well-funded **anti-gender movements** that oppose bodily autonomy and gender diversity. These groups leverage fears about women’s safety and privacy to oppose self-determination, suggesting a false conflict between women’s and trans people’s rights and fueling animus against trans people.

Anti-gender movements refer to “religious bodies, academics, politicians, certain right-wing governments, civil society, think tanks, individuals, and donors who broadly stand against rights relating to gender, under the remit of fighting against ‘gender ideology.’”⁴⁷

Where progress on the legal recognition of trans people is rolled back, new barriers cause trans people to lose access to education, employment, and housing opportunities due to mismatched or missing identity documentation.⁴⁸ Misinformation and anti-trans hate speech can also contribute to exclusion and violence.

Government rollbacks and legal challenges.

Several countries have reversed progress on legal gender recognition in recent years, imposing stringent medical requirements or outright denying the right to change one's gender marker.

In the **United States**, President Donald Trump issued a federal executive order in 2025 that restricts the ability of trans, nonbinary, and intersex individuals to update gender markers on passports and other documents. This rollback reduces options to a male/female binary rooted in sex assigned at birth, forcing many to carry documents that misgender them, putting them at increased risk of discrimination and harassment, especially when traveling.⁴⁹

In 2023, **Pakistan's** government introduced regulatory measures that effectively suspended the implementation of the Transgender Persons (Protection of Rights) Act, 2018, which allowed self-identified gender recognition without mandatory medical or surgical requirements.⁵⁰ Recent administrative actions and proposed amendments have sought to impose medical and bureaucratic hurdles. However, no formal nationwide ban on legal gender recognition has been enacted.

In 2020, **Hungary** abolished the possibility of changing legal gender entirely.⁵¹ The Constitutional Court upheld this in 2023, ruling that gender is determined by "biological sex at birth."

Kyrgyzstan previously allowed legal gender recognition with limited administrative procedures, but since 2020, authorities have suspended all legal gender recognition processes.⁵²

How should states approach self-determined legal gender recognition?

- **Enact self-determined legal gender recognition:** States should establish administrative procedures for gender marker change that are based solely on self-identification, quick, transparent, and accessible to all people, regardless of age or citizenship status.
- **Have ethical legislative debates:** States and political parties should ensure that all legislative debates on self-determined legal gender recognition are conducted with the highest ethical standards, grounding all discussions in robust evidence and established best practices, while actively avoiding misinformation and stigmatization. Such an approach is especially important given that comparable laws have been successfully implemented in many jurisdictions for several years.
- **Prohibit abusive requirements:** States must repeal sterilization, medical, psychiatric, judicial, or divorce requirements for legal gender recognition.
- **Include all gender identities:** Governments should explore possibilities for adequate recognition of nonbinary, gender-diverse, and intersex people, with options beyond the female/male binary.
- **Protect children's rights:** Uphold the best interests of children and young people, providing access to legal gender recognition with appropriate participation and protections.
- **Guarantee data protection and privacy:** Safeguard individuals' information in legal and administrative systems, and ensure that historic gender markers are not disclosed without consent.
- **Implement public awareness and training:** Undertake public information campaigns and training of public officials to end discrimination against trans and gender-diverse people.

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