

Empowering Identity:

The Case for Self-Determined Legal Gender Recognition

November 2024



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Outright is dedicated to working with partners around the globe to strengthen the capacity of the LGBTIQ human rights movement, document and amplify human rights violations against LGBTIQ people, and advocate for inclusion and equality.

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www.outrightinternational.org
hello@outrightinternational.org
facebook.com/outrightintl
twitter.com/outrightintl youtube.com/@OutrightIntl

Outright International
216 East 45th Street, 17th Floor New York, NY 10017 USA
P: +1 (212) 430.6054

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Glossary

Gender: The social and cultural codes (linked to but not congruent with ideas about biological sex) used to distinguish between society's conceptions of "femininity" and "masculinity."

Gender-Affirming Health Care: Health care that may involve psychological, behavioral, medical, and surgical interventions aimed at positively acknowledging an individual's gender identity when it is not in alignment with the assigned sex or gender at birth. Gender-affirming health care is used interchangeably with "trans-affirming health care" or "trans-specific health care." It refers to a broad range of physical and mental health services, including but not limited to hormone therapy, voice therapy, surgeries, and puberty blockers. For more detail on this and a citation to the definition of trans affirming healthcare, refer to The World Professional Association for Transgender Health, Standards of Care.

Gender Identity: A person's internal, deeply felt sense of being a woman or girl, man or boy, a combination of these, neither, or something else.

LGBTIQ (lesbian, gay, bisexual, transgender, intersex, and queer): An inclusive term used to categorize people whose identities or bodies do not meet cultural expectations of endosex, cisgender heteronormativity. Outright uses the term LGBTIQ as an umbrella term that includes people who may not themselves identify as lesbian, gay, bisexual, transgender, intersex, and queer.

Nonbinary: A term to describe the gender identity of someone who does not identify exclusively as a woman or girl or as a man or boy. This term is sometimes used interchangeably with the term "genderqueer."

Sex Assigned at Birth: Classification of bodies at the time of birth as female, male, or other, based on factors such as external sex organs, internal sexual and reproductive organs, hormones, and chromosomes. Most individuals are "assigned female at birth" or "assigned male at birth." Typically, the sex assigned at birth is recorded on a person's birth certificate and some official identification documents. A person's sex assigned at birth may or may not match their gender identity.

Trans: for the purposes of this report, means transgender (men/women).

Transgender: A term to describe people whose sex assigned at birth does not conform to their gender identity. A transgender person usually adopts, or would prefer to adopt, a gender expression in accordance with their gender identity but may or may not desire to alter their physical characteristics to conform to their gender identity.

Transgender Men: People designated female at birth but who identify and may present themselves as men. Transgender men are generally referred to with male pronouns.

Transgender Women: People designated male at birth but who identify and may present themselves as women. Transgender women are generally referred to with female pronouns.

Transphobia: Fear of, contempt of, and/or discrimination against transgender, nonbinary, or gender nonconforming people, usually based on negative stereotypes. Transphobia can be both individual and institutional: entrenched damaging opinions about transgender identities may influence the enactment of discriminatory laws and policies and how individuals, the government, organizations, the media, and society in general behave toward people whose identities do not conform to mainstream gender roles.

I. Introduction

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In 2012, Argentina created what was then the most accessible pathway for legal gender recognition in the world. Its Gender Identity Law, *Ley de Identidad de Género* 26.743, allows trans people to change their gender marker on all official records simply through personal declaration. This law removed obstacles that have stood in the way of countless trans people around the world, wherein doctors, lawyers, and judges are asked to vouch that a trans person's gender is what they say it is. What Argentine lawmakers proposed as an alternative was simple, yet profound. Rather than creating barriers by mandating consultation with a range of professionals, what if the trans person's voice was enough?

Human rights activists around the world were astonished. How had Argentina's trans movement made such a spectacular leap?

Only a generation before, under dictatorship, thousands of pro-democracy Argentine activists were kidnapped and killed in Argentina, leaving their children to be seized and raised by their parents' murderers. But these children's stories did not stay buried. As the truth was painstakingly uncovered and the adopted generation re-established ties with grandparents and other blood family, it became clear that the nation was built on the identities of its people and that their right to those identities must be ardently defended.¹

Argentina's government understood that robbing a person of their identity restricts their ability to participate fully in society—to pursue their goals and dreams, and ultimately even to contribute to the country as a whole.

Rejecting the history of dictatorship meant that Argentine trans people would be empowered to dictate their own identities and, indeed, their own lives. And that declaration of identity would not only be heard, but honored and affirmed. This core idea—that the right to declare one's own personhood is fundamental, and that illegitimate violent authoritarianism that controls the most intimate aspects of one's life must be rejected in all its forms—is among the fires that fuel the global movement for trans lives and those of all marginalized people.

In the 12 years since the passage of Argentina's Gender Identity Law, 19 other nations have followed Argentina's lead by centering self-affirmation in legal gender recognition processes, with Germany joining the list just this year. In these places today, trans people are less vulnerable to the discrimination that occurs when presenting an identity document that does not match their presentation. In place of endorsing or contributing to that discrimination,

¹ Two longtime LGBTIQ activists from Argentina shared with Outright International in informal conversations during the drafting of this report that the history of confronting the dictatorship fed directly into public support for personal autonomy and, as a corollary, trans rights. See also Alessandra Viggiano and Siobhán McGuirk, "How Trans Rights Activists Changed Argentina," Red Pepper, 26 June 2022, <https://www.redpepper.org.uk/society/lgbtqplus/trans-travesti-movement-rights-gender-identity-feminism-inclusive-argentina-abortion-lgbtq/>; Abuelas de Plaza de Mayo (The Grandmothers of Plaza de Mayo), homepage, accessed 13 October 2024, <https://www.abuelas.org.ar/>.

a government's message in enacting a gender identity law sends a clear message that trans people's experience is legitimate and people of all genders are a part of the diverse fabric of the country's community.

Recognizing the importance of this movement, in 2023, Outright International launched the ongoing campaign "Celebrating Legal Gender Recognition" to elevate existing best practices and to challenge the inaction of governments on legislating self-determined gender identity.² As part of the project, Outright spoke to individuals who were able to legally change their gender marker from 13 of the 20 countries that have established self-determined legal gender recognition for trans people.

Outright's standard for self-determination involved assessing whether gender identity laws sidestepped or abolished the broad range of obstacles that have complicated trans people's right to identity in other countries. These include, for example, requirements that trans people undergo medical procedures, psychological evaluation, or divorce before changing their legal gender identity. These requirements and a slew of others, which stem from a failure to understand "gender" as a simple matter of personal identity, are discussed further in section II below.

Outright excluded countries that provide for a non-binary "X" gender marker based on self-determination, but do not allow people to change their gender markers from "female" to "male" or vice versa, such as Pakistan.³ Similarly, Nepal was excluded because Nepalese law only allows gender markers to be changed from "M" (male) or "F" (female) to "O" (other).⁴ There are no provisions allowing trans women to have an "F" marker or trans men to have an "M" marker.

We included in our "good practices" list several countries that imposed minor barriers that are not likely to be extremely onerous for the majority of trans people, even though Outright's position is that all such barriers should be removed from gender identity laws. For example, Ecuador's 2016 Organic Law on Identity Management and Civil Data does not fully meet the standard of self-determination, as it requires two witnesses to testify as to the gender identity of a person who wishes to change their gender marker.⁵ In addition, every citizen in Ecuador is assigned a "sex" marker on their documents, but if a trans person changes their official gender, their documents will say "gender" and not "sex." We also included countries with age restrictions, despite these restrictions limiting access to gender recognition. Outright's position is that governments should continue to take steps to remove even minor barriers and that

² Outright International, "Celebrating Legal Gender Recognition," <https://outrightinternational.org/legal-gender-recognition>.

³ Global Action for Trans Equality (GATE) and Asia Pacific Transgender Network (APT), Joint Submission on the Situation of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) People in the Islamic Republic of Pakistan, for the Fourth Cycle of Universal Periodic Review (UPR) of the Islamic Republic of Pakistan (January–February 2023), 24 July 2023, "Right to Recognition," sec. 34, 12, https://gate.ngo/wp-content/uploads/2024/02/GATE_Joint-Submission-UPR-Shadow-Report-LGBTI-Pakistan_2023.pdf. Although it contains such limitations, the Transgender Persons (Protection of Rights) Act of 2018 gave some leeway for trans people to identify, and in so doing provided them with some protection from discrimination. However, on 19 May 2023, Pakistan's Federal Shariat Court ruled that the Transgender Persons Act is incompatible with Islamic principles and temporarily halted it. The ruling prevents transgender people from changing their gender markers on official documents to match their gender identities. This decision has led to increased violence, abuse, and discrimination against the transgender community. Trans rights advocates filed an appeal, and as of this writing, the Act is back in effect while awaiting final adjudication at the Supreme Court.

⁴ Human Right Watch, 15 February, 2024 <https://www.hrw.org/news/2024/02/15/nepal-barriers-transgender-legal-recognition#:~:text=Nepal's%20pioneering%20recognition%20of%20a,requirements%20for%20harmful%20medical%20practices>.


⁵ Outright International, "Celebrating Legal Gender Recognition" <https://outrightinternational.org/legal-gender-recognition>

according to best practices, gender marker change should not be categorically off-limits to children of any age.⁶

Since 2012 to date, in chronological order, the countries Outright identified as having the best practices on legal gender recognition are:

1. 2012 Argentina
2. 2014 Denmark
3. 2015 Colombia
4. 2015 Ireland
5. 2015 Malta
6. 2016 Ecuador
7. 2016 Norway
8. 2017 Belgium
9. 2018 Brazil
10. 2018 Costa Rica
11. 2018 Luxembourg
12. 2018 Portugal
13. 2019 Uruguay
14. 2019 Chile
15. 2019 Iceland
16. 2022 Switzerland
17. 2023 New Zealand
18. 2023 Spain
19. 2023 Finland
20. 2024 Germany

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- Alex Caruana from Malta 
- Alma Aguilar from Colombia 
- Andreo Gustavo from Portugal 
- Annett Crepsussett from Luxembourg 
- Antonia Moreira from Brazil 
- Diane Rodriguez from Ecuador 

⁶ According to the World Professional Association for Transgender Health (WPATH), “appropriate legal gender recognition should be available to transgender youth.” WPATH, “WPATH Identity Recognition Statement,” 15 November 2017, <https://www.wpath.org/media/cms/Documents/Web%20Transfer/Policies/WPATH%20Identity%20Recognition%20Statement%2011.15.17.pdf>.

- Mars Proppe from Iceland 🇮🇸
- Oscar Fitzpatrick from Ireland 🇮🇪
- Sally Dellow from New Zealand 🇳🇿
- Sam Gaegellar from Switzerland 🇨🇭
- Xander Bach from Denmark 🇩🇰

In this report, we explore the benefits to both trans individuals and countries overall when self-determined legal gender recognition is available. This exploration is split into six sections, followed by a series of policy recommendations:

- Simplifying bureaucratic processes;
- Promoting personal autonomy and empowerment;
- Increasing public safety and reducing violence;
- Enhancing physical and mental health;
- Improving access to employment, education, and housing;
- Encouraging positive social attitudes and cultural shifts; and improving economies through inclusion.

Legal gender recognition is a crucial legal foundation for trans life in any country, moving trans people from the margins—underground economies, homelessness, black market health treatments—to the center, where stable employment, housing, healthcare, and equitable social integration lead to full participation and integration.

Legal gender recognition also helps to advance Agenda 2030, the United Nations’ “plan of action for people, planet and prosperity.”⁷ In accordance with a resolution adopted by the UN General Assembly in 2015, UN member states made a firm commitment that “no one will be left behind” in the global journey toward sustainable development.⁸ To enact Agenda 2030, the UN established 17 Sustainable Development Goals covering topics ranging from ending poverty, to achieving gender equality, to making cities and human settlements safe and inclusive.⁹ This report highlights areas in which a failure to recognize trans people’s gender identity inevitably leaves them behind, and where progress toward legal gender recognition will advance sustainable development.

The core of self-determined gender recognition is the principle of autonomy: the idea that individuals are best suited to define their own identities. Mandating gender markers on documents undermines this principle, as it places a bureaucratic lens over deeply personal experiences. Each person’s journey with their gender identity is unique, and enforcing arbitrary gender markers fails to acknowledge the complexity of these identities. Outright’s hope is that a day will come when the need to have a mark denoting one’s gender or sex, on a document will be a thing of the past.

⁷ United Nations, Department of Economic and Social Affairs, United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development*, <https://sdgs.un.org/2030agenda>

⁸ Ibid.

⁹ United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development*, A/RES/70/1, 21 October 2015, https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf?_gl=1*epdq8*_ga*MTQxMzYxMjE4NC4xNzE5MjMIMzA3*_ga_TK9BQl5X7Z*MTcyNTAzODIxNS45LjAuMTcyNTAzODIxNS4wLjAuMA.

II. Simplifying Bureaucratic Processes

II. Simplifying Bureaucratic Processes

The process of legal gender recognition for trans individuals varies significantly across the globe, often involving complex and cumbersome bureaucratic procedures that can greatly impact the lives of those involved. In many countries, as indicated above, the legal recognition of a gender transition involves a multifaceted series of steps requiring extensive documentation, medical interventions, and interactions with various government bodies.

Some countries require individuals to undergo specific medical procedures, such as hormone therapy, gender-affirming surgery, or even sterilization before they can change their legal gender.¹⁰ Others mandate that trans individuals obtain one or more psychiatric evaluations to diagnose gender dysphoria before their legal gender can be changed.¹¹

Trans individuals may be required to prove they have lived for a certain amount of time in their identified gender before legal recognition is granted. This often involves presenting evidence like attested statements from employers, friends, or psychologists and can be both invasive and subjective. In some countries, married individuals are required to divorce their spouse to have their gender legally recognized.¹² This requirement is based on the prohibition of same-sex marriage in these jurisdictions. In other countries, trans individuals must go through lengthy and costly legal proceedings to change their gender markers on official documents.¹³ These proceedings can require attendance at court hearings, and navigating complex legal systems can be a significant barrier. Once legal

Right: Alma Aguilar holding her ID.

¹⁰ Human Right Watch, 25 May 2021, <https://www.hrw.org/report/2021/05/25/law-undermines-dignity/momentum-revise-japans-legal-gender-recognition-process>

¹¹ Nora Noralla, Human Rights Watch, 8 April 2022, <https://www.hrw.org/news/2022/04/08/tough-territory-transgender-people-middle-east-and-north-africa#:~:text=The%20legislative%20vacuum%20when%20it,to%20treat%20their%20psychiatric%20illness.%E2%80%9D>

¹² Morgan Childs, Politico, 16 February, 2017, <https://www.politico.eu/article/between-genders-in-prague-transgender-czech-republic-id-card/>

¹³ Be True 2 Me Org, <https://www.betrue2me.org/resources/be-true-2-me-guideline-legal-gender-marker-and-forename-change/> Be True 2 Me Guideline: Legal Gender Marker and Forename Change



recognition is achieved, changing gender markers on various official documents such as birth certificates, passports, and driver's licenses often involve separate processes for each type of document. Each agency may have its own requirements and timelines, complicating the transition process. In conjunction with gender marker changes, trans individuals are also often seeking legal name changes. This process can also vary widely in complexity and cost, requiring additional legal proceedings and interfacing with numerous institutions to update records.

Self-determined legal gender recognition simplifies bureaucratic processes. It recognizes that each individual understands their own gender better than so-called professional experts do. It allows individuals to obtain identification documents that reflect their gender identity without unnecessary obstacles or intrusive procedures. This streamlines trans people's interactions with institutions, reducing the risk of unintentional outing or discrimination that may arise. It empowers individuals to have control over their own gender identity and expression. Self-determined legal gender recognition eliminates the requirement for medical diagnoses or interventions, simplifying the process and removing unnecessary medical gatekeeping. It eliminates mandates for unwanted or economically unobtainable surgical procedures. It saves individuals from having to navigate complex and time-consuming procedures, which can often be emotionally taxing.

In addition, self-determined legal gender recognition reduces the bureaucratic burden on government institutions. Many existing systems of legal gender recognition involve extensive administrative work, such as court appearances and submission of medical records. By allowing individuals to self-determine their gender, these bureaucratic processes are simplified, saving time and resources for both applicants and administrative bodies. In Iceland, the free process is done online through a centralized website, without the applicant having to undergo any medical treatments or needing to appear in person in front of an authority.¹⁴

Of the 19 remaining countries that allow trans people to self-identify, the majority of them have uncomplicated processes. According to our interviewees:

In Malta, "to change the documents, you only have to go to a notary with your birth certificate. There, you undertake the contract to change the name and the gender, and then after a month or two, you can get hold of the documents."¹⁵

In Luxembourg, "the general process of legal gender recognition request is extremely easy and fast."¹⁶

In Belgium, "we are allowed to just go to city hall and ask to change it. Before 2018, you actually had to go through surgery."¹⁷

In Colombia, "the process wasn't so full of barriers because Colombia, fortunately, guarantees a process that somehow is simple."¹⁸

¹⁴ Iceland, Act on Gender Autonomy No 80_2019, https://www.government.is/library/04-Legislation/Act%20on%20Gender%20Autonomy%20No%2080_2019.pdf

¹⁵ Malta, Ministry for Equality, Research and Innovation, "Maltese Government Guidelines on the Recognition of Sex, Sexuality and Gender," accessed 13 October 2024, <https://humanrights.gov.mt/wp-content/uploads/2024/04/Sex-Sexuality-and-Gender-Guidelines-EN.pdf>.

¹⁶ Outright interview with Annett Crepusset, virtual, 8 August 2023.

¹⁷ Outright interview with Aiden de Prins, virtual, 6 July 2023.

¹⁸ Outright interview with Alma Aguilar, virtual, 4 June 2023.

III. Promoting Personal Autonomy and Empowerment

III. Promoting Personal Autonomy and Empowerment

For a country to thrive, it must have a population comprising individuals, families, and communities that are empowered to build toward the future they want. Granting legal gender recognition to trans people is one piece of the puzzle to create a community where all individuals can pursue a meaningful life and fully participate in making a country all it can be.

Allowing trans people to determine how they are recorded on official documents offers a sense of control over an aspect of personal life that ultimately extends well beyond just those documents. When a trans person feels in control of their identity and how it is documented, they may also grow to feel they are strong and can be resilient.

In environments where trans people have a sense of their own power, they have pursued access to spaces previously denied to them, up to and including running for political office, as was the case with Alba Rueda from Argentina. As an openly trans politician, Alba held a senior governmental position as the undersecretary of diversity policies within the Ministry of Women, Genders, and Diversity. She told Outright, “The State is not our enemy; it can be a tool for changing and transforming inequalities.”¹⁹

Similarly, after changing his documents and records, Andreo Gustavo from Portugal returned to school, obtained a Master’s degree, secured a high-ranking job, and ultimately gained “a very positive extra confidence.”²⁰

Right: Alba Rueda – former Undersecretary of Diversity Policies within the Ministry of Women, Genders and Diversity (Jan 2020 to May 2022).

¹⁹ Outright interview with Alba Rueda, virtual, 2 April 2024.

²⁰ Outright interview with Andreo Gustavo, virtual, 12 July 2023.



IV. Increasing Public Safety and Reducing Discrimination

IV. Increasing Public Safety and Reducing Discrimination

16 PEACE, JUSTICE AND STRONG INSTITUTIONS



Goal 16: Promote peaceful and inclusive societies for sustainable development²¹

16.1: Significantly reduce all forms of violence and related death rates everywhere

16.b: Promote and enforce nondiscriminatory laws and policies for sustainable development

Trans individuals face significant challenges and discrimination worldwide and are exposed to disproportionate levels of violence and aggression. Violence against trans people exists in various forms, including verbal harassment, physical assaults, sexual violence, and murder. These acts are rooted in ignorance, fear, and prejudice, as trans individuals often face discrimination due to their gender identity not aligning with societal norms.²² In Belize, high levels of violence have even deterred trans people from enjoying the liberty of walking the street.²³

Globally, 4,685 murders of trans people were documented between 2008 and 2023. The majority were transgender women, and 400 of the deaths occurred while in police custody.²⁴

²¹ United Nations, *The 2030 Agenda for Sustainable Development*, 30.

²² Kyle Knight and Neela Ghoshal, "Recognizing the Rights of Transgender People," Human Rights Watch, 13 February 2016, <https://www.hrw.org/news/2016/02/13/recognizing-rights-transgender-people>.

²³ GATE, Belize Trans Colors' Submission to the Universal Periodic Review on the Situation of Trans People in Belize, 29 July 2023, "Barriers to Movement," sec. 5, 4, <https://gate.ngo/knowledge-portal/un-document/belize-trans-colors-submission-to-the-un-upr/>.

²⁴ Transgender Europe, "Transrespect versus Transphobia Worldwide," 2020, https://transrespect.org/wp-content/uploads/2020/11/TvT_TMM_TDoR2020_Tables.pdf.

Alba Rueda from Argentina described the violence she grew up with, which many trans people around the world still face today. In the 1980s, she said,

This was in a brutal climate of institutional violence. The police, arrests on the street, not being able to finish school, not getting a job, being rejected by your family, being the disgrace of your family. All this was part of Argentine society....If they beat me up, it was my fault. If they insulted me, it was because I wasn't walking right, and if they insulted me, it was my fault. We grew up in settings of extreme violence.²⁵

With the introduction of self-determined legal gender recognition, the positive shift in eradicating this discrimination was tangible.

Legal recognition reduces the chances of individuals being subjected to violence, hate crimes, and systemic discrimination. In the United States, where access to legal gender recognition varies greatly by state, one-third of respondents have reported being verbally harassed, assaulted, asked to leave a location, or denied services when they showed an ID with a name or gender that did not “match” their presentation.²⁶ This is commonplace globally for trans people, with examples found in countries ranging from China,²⁷ to Kenya,²⁸ to El Salvador.²⁹

Even when an incongruent identity classification on a document is not the trigger for discrimination, self-determined legal gender recognition laws send a message to the entire country that trans people’s truth is rightfully acknowledged and protected under the law.³⁰

Antonia Moreira of Brazil said,

I can access a place of dignity. It is obvious that violence can still occur. I can still be dragged out of a bathroom, as still happens in Brazil. But today, we have the concept that this is wrong. There is a judicial system that says that throwing a trans person out of a bathroom is wrong.³¹

Right: Antonia Moreira filling out paperwork to change her name and gender marker on her ID.

²⁵ Rueda interview.

²⁶ National Center for Transgender Equality, “The Report of the 2015 U.S. Transgender Survey,” December 2016, 7, <https://transequality.org/sites/default/files/docs/usts/USTS-Executive-Summary-Dec17.pdf>.

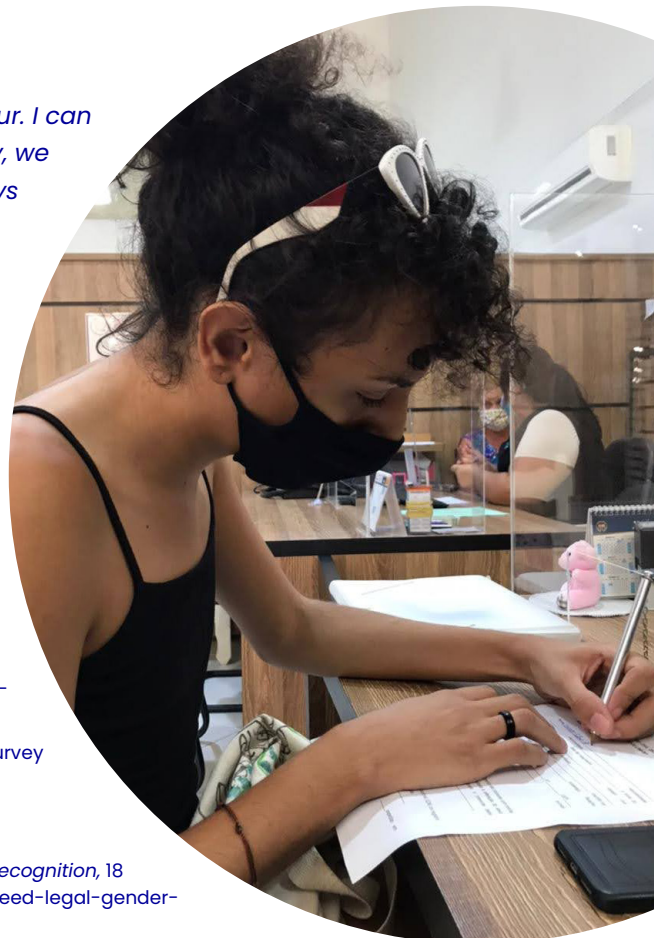
²⁷ Beijing LGBT Center, “2017 Chinese Transgender Population General Survey Report,” 2017, sec. 7.4, 20, <https://chinadevelopmentbrief.org/wp-content/uploads/2020/04/2017-Chinese-Transgender-Population-General-Survey-Report.pdf>.

²⁸ Trans* Alliance Jinsiangu, “Transform: A Report of the National Transgender Discrimination Survey in Kenya (NTDS),” 5–6, <https://static1.squarespace.com/static/5a1d2df4f6576eb8bfad8b0e/t/62827974b2c7e70d4d848962/1652718075824/NTDS+Report+Policy+Brief.pdf>.

²⁹ Human Rights Watch, “We Just Want to Live Our Lives”: El Salvador’s Need for Legal Gender Recognition, 18 July 2022, <https://www.hrw.org/report/2022/07/18/we-just-want-live-our-lives/el-salvadors-need-legal-gender-recognition>.

³⁰ Human Rights Watch, “Germany: Landmark Vote for Trans Rights Law,” 12 April 2024, <https://www.hrw.org/news/2024/04/12/germany-landmark-vote-trans-rights-law>.

³¹ Outright interview with Antonia Moreira, virtual, 6 July 2023.



v. Enhancing Physical and Mental Health

V. Enhancing Physical and Mental Health

3 GOOD HEALTH AND WELL-BEING



Goal 3: Good Health & Well-Being

Ensure healthy lives and promote well-being for all at all ages³²

For many trans individuals, aligning their legal gender identity with their experienced gender is crucial for mental and emotional well-being. Obtaining legal recognition can alleviate the distress associated with dysphoria, discrimination, and persecution. It provides a sense of validity, reducing anxiety and depression often faced by those whose gender identity has been undermined or dismissed.

Legal gender recognition validates a person's gender identity, affirming their self-perception and providing them with an official recognition that aligns with their innate sense of being. This helps alleviate the distress caused by a misalignment between their gender identity and the sex assigned at birth, increasing feelings of acceptance and belonging.

Legal recognition can help reduce the stigma and discrimination faced by trans individuals in various aspects of life, such as employment, education, healthcare, and interpersonal interactions. When people are legally recognized, they are more likely to have their identities respected and protected, leading to improved mental and even physical well-being.³³

Legal gender recognition facilitates improved access to specialized healthcare services that are essential for trans individuals, such as hormone replacement therapy and gender-affirming surgeries. Ensuring access to these services contributes to their overall well-being.³⁴

³² United Nations, *The 2030 Agenda for Sustainable Development*, 20.

³³ Arjee Restar et al., "Legal Gender Marker and Name Change Is Associated With Lower Negative Emotional Response To Gender-Based Mistreatment and Improved Mental Health Outcomes Among Trans Populations," *SSM - Population Health*, 11, May 2020, <https://doi.org/10.1016/j.ssmph.2020.100595>.

³⁴ Jesse Chou et al., "Gender-affirming Surgery Improves Mental Health Outcomes and Decreases Antidepressant Use in Patients with Gender Dysphoria," *Plastic and Reconstructive Surgery - Global Open* 11, no. 6S (2023): 1, <https://doi.org/10.1097/01.GOX.0000944280.62632.8c>.

Trans individuals often avoid seeking medical care due to discrimination and hostility encountered when their identity documents do not “match” their physical appearance. One of the main concerns for trans people in healthcare settings is the fear of being judged, misgendered, or discriminated against by healthcare providers and staff. This fear can be based on personal experiences or experiences of others within the trans community. If a trans person has experienced hostility, insensitivity, or discrimination when seeking medical help in the past, they are likely to avoid seeking care in the future to prevent re-experiencing trauma. Trans individuals may feel uneasy or unsafe sharing personal information about their gender identity with medical personnel, fearing that this information might be mishandled or disclosed without consent. Trans people who avoid visiting healthcare providers due to fear of discrimination and choose to self-medicate may place themselves at risk of both mental and physical health complications, such as hormonal imbalances and drug interactions. In the Caribbean, 71.6 percent of trans people who reported using hormones indicated that they had never had their hormonal levels tested, or other medical supervision of hormone therapy.³⁵ In 2020, in a nationally representative survey conducted by the Center for American Progress, it was found that two in three transgender individuals experienced some form of discrimination, with 65 percent of trans people of color reporting discrimination.³⁶ The World Health Organization has acknowledged that “a lack of legal recognition of transgender people contributes to their exclusion and marginalization.”³⁷

Alex Caruana from Malta told Outright that after changing his gender marker, “if I go to the hospital I don’t have to explain anything...because there are the documents that reflect who I am. It helped me to have a normal life...a very normal life.”³⁸

Legal gender recognition helps trans individuals integrate socially in various aspects of life, including family, school, work, and overall community. One trans man who was pursuing legal gender recognition in Japan shared this story with Human Rights Watch: “I came out to my parents during New Year’s, but they greatly opposed me. Even if my parents are reluctant to give me approval, I felt as though the certificate to indicate my gender would become beneficial when trying to persuade them.”³⁹

With only 20 countries having mechanisms for legal gender recognition by self-determination and others offering it conditionally, finding information globally on the adverse consequences of its unavailability or outright denial is challenging.⁴⁰ However, noting this dearth of global statistics, a report from Aotearoa/New Zealand has shown that trans individuals face significant mental health challenges in comparison to their cisgender counterparts.⁴¹ The struggles and discrimination they experience due to the consequences of the lack of legal

³⁵ Outright, *Discrimination at Every Turn: The Experience of Trans and Gender Diverse People in Eleven Caribbean Countries*, April 2023, 24, https://outrightinternational.org/sites/default/files/2023-04/CaribbeanTrans_Revised_OutrightInternational_1.pdf.

³⁶ Center for American Progress, “Protecting and Advancing Health Care for Transgender Adult Communities,” 18 August 2021, <https://www.americanprogress.org/article/protecting-advancing-health-care-transgender-adult-communities/>.

³⁷ World Health Organization, “Trans and Gender Diverse People,” accessed 17 October 2024, <https://www.who.int/teams/global-hiv-hepatitis-and-stis-programmes/populations/transgender-people>.

³⁸ Outright interview with Alex Caruana, virtual, 8 August 2023.

³⁹ Human Rights Watch, “A Really High Hurdle”: Japan’s Abusive Transgender Legal Recognition Process, 19 March 2019, <https://www.hrw.org/report/2019/03/20/really-high-hurdle/japans-abusive-transgender-legal-recognition-process>.

⁴⁰ Outright, “Celebrating Legal Gender Recognition.”

⁴¹ Kyle KH Tan et al., “Barriers to Possessing Gender-Concordant Identity Documents are Associated with Transgender and Nonbinary People’s Mental Health in Aotearoa/New Zealand,” *LGBT Health* 9, no. 6 (2022): 401–410, pg 401, <https://doi.org/10.1089/lgbt.2021.0240>.

recognition can result in heightened levels of anxiety, depression, and, ultimately, an increased risk of suicide. In India, the suicide rate among transgender individuals is approximately 31 percent, and 50 percent of them have attempted to kill themselves at least once before their 20th birthday.⁴²

Andreo Gustavo from Portugal told Outright, after being able to easily change his legal gender marker, "It's very important because gender recognition is a matter of life or death..... I no longer suffer from anxiety or stress."⁴³

⁴² H G Virupaksha et al., "Suicide and Suicidal Behavior among Transgender Persons," *Indian Journal of Psychological Medicine* 38, no. 6 (2016): 505–509, pg 506, <https://doi.org/10.4103/0253-7176.194908>.

⁴³ Gustavo interview.

VI. Improving Access to Employment, Education, and Housing

VI. Improving Access to Employment, Education, and Housing

1 NO POVERTY



Goal 1: End poverty in all its forms everywhere

Create sound policy frameworks at the national, regional, and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions

Lacking legal recognition can introduce substantial barriers to accessing education, employment, and housing. By allowing individuals to self-determine their legal gender, they have easier access to the core institutions and building blocks of life. Eliminating these hurdles fosters equality and social inclusion, tackling social and economic marginalization and ultimately creating a more just and humane society.

Trans people are deprived of their basic human rights by being denied employment and other essential services like education, housing, and healthcare. The 2030 Agenda for Sustainable Development, adopted by the United Nations in 2015, sets goals that aim to end poverty and other deprivations while improving health and education and reducing inequality.⁴⁴ All UN member states signed on to these Sustainable Development Goals (SDGs), articulating that “As we embark on this collective journey, we pledge that no one will be left behind.”⁴⁵

⁴⁴ United Nations, *The 2030 Agenda for Sustainable Development*, accessed 18 October 2024, <https://sdgs.un.org/2030agenda>.

⁴⁵ Ibid, preamble, paras. 4, 8, 72.

EMPLOYMENT

8 DECENT WORK AND ECONOMIC GROWTH



Goal 8: Decent Work & Economic Growth

Sustainable economic growth will require societies to create the conditions that allow people to have quality jobs⁴⁶

As shown in the research reports cited above from China, Kenya, El Salvador, and the United States, levels of unemployment among trans people are high. In the United States they average three times that of the general population.⁴⁷ Even among those who are able to find employment, trans people still face discrimination in the workplace, are passed up for promotion, and often have to hide their gender identity to keep a job. This discrimination can at times manifest in physical abuse.

Trans individuals often face difficulties in finding employment when their identity documents do not align with their lived gender. Oscar Fitzpatrick, from Ireland, told Outright,

One of the main issues I had before I had legal gender recognition was that I was totally unable to find work. When I got to the interview stage and finally in the room with people, they would realize that something wasn't matching up. I found that even without people saying it, my lack of [gender congruent] documents made it impossible for me to find work, which then stopped me from being able to achieve full medical transition because it was expensive.⁴⁸

Andreo Gustavo, from Portugal, told Outright that if countries “continue to stigmatize and discriminate against trans people, it will only contribute to the increase in poverty, the increase in hunger, the rise in unemployment, the increase in social and economic injustice.”⁴⁹

Being employed empowers individuals financially, emotionally, and intellectually. It provides a sense of purpose, fosters personal growth, builds connections, develops skills, and allows individuals to make meaningful contributions to society. Most fundamentally, being employed keeps people fed, housed, and alive.

The ability to determine one's legal gender autonomously has a significant positive impact on psychological well-being. Employees who feel affirmed in their identity and do not frequently face misgendering or other discriminatory practices are more likely to be productive and engaged at work. Improved mental health has well-documented benefits for professional performance.

The mismatch between documents and gender expression can lead to potential employers using the wrong name and gender, causing distress and invalidating the individual's identity. It can also force trans individuals to involuntarily disclose their transgender status, leading to privacy breaches and the possibility of negatively influencing the employer's perceptions.

⁴⁶ Ibid, 23.

⁴⁷ National Center for Transgender Equality, “The Report of the 2015 U.S. Transgender Survey,” 12, <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

⁴⁸ Outright interview with Oscar Fitzpatrick, virtual, 27 April 2023.

⁴⁹ Gustavo interview.

Unfortunately, many misconceptions and prejudices about trans people exist, which result in biased judgments, discriminatory behavior, or even refusal to hire.

Promoting a norm where self-identity is legally recognized sends a powerful message about acceptance and diversity, potentially shifting societal attitudes to make workplaces more inclusive. As businesses become more welcoming to diverse workforce members, including trans individuals, they effectively enhance their access to employment opportunities.

Having identity documents that affirm a trans person's gender can reduce barriers caused by cognitive dissonance in others, creating a more inclusive workplace environment. When an employer or coworker sees official recognition of a transgender person's gender, they are likely to treat that identity with more respect, thus reducing cases of both intentional and unintentional discrimination.

EDUCATION

4 QUALITY EDUCATION



Goal 4: Quality Education

Obtaining a quality education is the foundation for improving people's lives and sustainable development⁵⁰

Trans individuals, like all people, have a fundamental right to education, and states have committed, through the Sustainable Development Goals, to provide a quality education to all. Education plays a vital role in personal growth, development, self-discovery, and economic self-sufficiency.

When trans people have access to self-determined legal gender recognition, they are able to fully participate in secondary and tertiary education systems, including those that institutionalize and rely upon gender binaries in policies related to admissions, uniforms, student housing, sports, and more. Legal gender recognition reduces the discrimination that trans students face at schools and opens up various opportunities to make education more equitable. It can create a more supportive educational environment for trans students, promoting their well-being and academic success.

In Japan, for instance, Human Rights Watch found that “Dozens of interviewees said that their negative experiences in school when they were forced to dress and present as their birth-assigned sex instead of their gender identity informed their anxieties about the future, including university life and employment.”⁵¹ Japan does not offer legal gender recognition through self-determination, but when students were able to jump through bureaucratic and medical hoops to obtain a gender dysphoria certificate, they found they could “successfully advocate for access to education according to their gender identity—including through restroom access and school uniforms according to their gender identity.”⁵²

⁵⁰ United Nations, Sustainable Development Goal 4, “Quality Education,” accessed 18 October 2024, <https://www.un.org/sustainabledevelopment/education/>.

⁵¹ Human Rights Watch, “A Really High Hurdle”: Japan’s Abusive Transgender Legal Recognition Process, 19 March 2019, <https://www.hrw.org/report/2019/03/20/really-high-hurdle/japans-abusive-transgender-legal-recognition-process>.

⁵² Ibid.

Legal gender recognition often sparks broader societal discussions about gender diversity, which can extend into educational curricula. In Portugal, where laws support gender recognition, regarding the educational and academic sphere, 41.2 percent of participants indicated legal gender recognition had a “very positive” impact, 5.9 percent of the participants reported that the impact was “positive,” and 23.5 percent of participants indicated that the impact was “neither positive nor negative.”⁵³

When trans people do not have access to legal gender recognition, on the other hand, they may be denied the right to education. Antonia Moreira of Brazil told Outright, “I find that in general, trans people who cannot get their correct name and gender on their documents, and can’t get them validated, are not accepted in certain spaces, like colleges. Many times, they can’t validate the existence of a trans person, so they are ignored, or not accepted in those spaces.”⁵⁴

HOUSING



Goal 11: Sustainable Cities and Communities

There needs to be a future in which cities provide opportunities for all, with access to basic services, energy, housing, transportation, and more.⁵⁵

The UN has committed, by 2030, to “ensure access for all to adequate, safe and affordable housing.”⁵⁶ Moreover, access to housing is a fundamental human right.⁵⁷ Access to self-determined legal gender recognition can significantly improve housing equity for trans people.

The lack of legal gender recognition for transgender individuals can significantly contribute to housing insecurity. Many aspects of housing applications require government-issued identification. Without legal recognition of their gender identity, trans individuals may face discrimination when applying for housing. Landlords and housing agencies might refuse to rent to them, or they might face bias during the application process. In Lebanon, for example, one trans woman told Human Rights Watch, “I’ve been rejected as a tenant three times, and I was explicitly told it’s because I’m trans.”⁵⁸ This discrimination can limit housing options, leading to instability.

In Malaysia, the National Human Rights Commission reported that trans people routinely faced housing discrimination: in one case, a trans man applying for public housing “shared that he

⁵³ Carla Moleiro and Nuno Pinto, “Legal Gender Recognition in Portugal: A Path to Self-Determination,” *International Journal of Gender, Sexuality and the Law* 1, no. 1 (2020): 218–240, 10, <https://doi.org/10.19164/ijgsl.viil.991>.

⁵⁴ Moreira interview.

⁵⁵ United Nations, Sustainable Development Goal 11, “Make Cities Inclusive, Safe, Resilient and Sustainable,” accessed 18 October 2024, <https://www.un.org/sustainabledevelopment/cities/>.

⁵⁶ Ibid.

⁵⁷ UN Office of the High Commissioner on Human Rights (OHCHR), Special Rapporteur on the right to adequate housing, “The Human Right to Adequate Housing,” accessed 18 October 2024, <https://www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing>.

⁵⁸ See, for example, Human Rights Watch, “Don’t Punish Me for Who I Am”: Systemic Discrimination Against Transgender Women in Lebanon, 3 September 2019, <https://www.hrw.org/report/2019/09/03/dont-punish-me-who-i-am/systemic-discrimination-against-transgender-women-lebanon>.

felt uncomfortable in filling up the house application forms, which will lead to exposing his gender identity. Therefore, he withdrew the house application.”⁵⁹

Many trans individuals might be forced into precarious living situations, such as temporary shelters or couch surfing due to their inability to find stable and accepting housing environments. Shelters, too, may offer access only according to a rigid gender binary and may be off-limits to trans people. This insecurity can exacerbate mental and physical health issues, contributing to a challenging cycle that makes it even harder to secure long-term housing.

Without legal recognition, trans individuals may struggle to access legal protections that could keep them safe from eviction or discrimination, leaving them more susceptible to unjust treatment by landlords or in the housing market more broadly.

⁵⁹ The Human Rights Commission of Malaysia (SUHAKAM), *Study on Discrimination Against Transgender Persons Based in Kuala Lumpur and Senegal*, 2019, 84, https://www.ohchr.org/sites/default/files/Documents/Issues/SexualOrientation/SocioCultural/NHRI/Malaysia_Human_Rights_Commission.pdf.

VII. Encouraging Positive Social Attitudes and Cultural Shifts

VII. Encouraging Positive Social Attitudes and Cultural Shifts

By embracing self-determined legal gender recognition, society as a whole develops a more inclusive and accepting mindset. State support for the notion that anyone can legally change their gender marker paves the way for cultural shifts that redefine gender norms, challenge stereotypes, and promote understanding. Increased institutional acceptance can nurture social acceptance, empathy, respect, and support, enabling trans people to thrive within a more harmonious and cohesive community.

By acknowledging and affirming individuals' autonomy and their right to self-identify, a government can promote the idea that everyone, regardless of gender identity, has the freedom to define their own gender, fostering a more inclusive and accepting society.

Policies that disrupt traditional understandings of gender can encourage a broader understanding of gender diversity. Conversations about gender norms invite society to question and challenge rigid stereotypes, facilitating a more inclusive and fluid understanding of gender.

Alex Caruana of Malta told Outright,

The fact that I have the documents that reflect who I am helped me carry on with my life. If I did not have the documents reflecting who I am, anything I do would be difficult. If I go to the bank, it would not be easy. If I go abroad, it would not be easy. This way, if I go to the hospital I don't have to explain anything...because there are documents that reflect who I am. It helped me to have a normal life...a very normal life.... One of the (positive) changes has been that more trans people are out in public now.⁶⁰

Right: Alex Caruana, leading Maltese trans activist at work.

⁶⁰ Caruana interview.



Andreo Gustavo from Portugal told Outright that after successfully changing his documents, “my life improved significantly. I was able to go to social events in a much safer way, in a much more social way, let’s say, by having a more active social life.”⁶¹

From an economic standpoint, promoting diversity and inclusion of trans people is not just the ethical thing to do but also makes good economic sense. By actively embracing diversity and creating an inclusive society, both the individuals and the country as a whole can reap the financial benefits of a more innovative, competitive, and prosperous future.



Right: Andreo Gustavo proudly holds up his ID.

⁶¹ Gustavo interview.

VIII. Policy Recommendations

Lessons from the 20 Countries

VIII. Policy Recommendations

Lessons from the 20 Countries

Establishing a supportive environment for trans people necessitates thorough and inclusive strategies that uphold their rights and guarantee their safety, well-being, and complete engagement in society. As the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity has noted,

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.⁶²

Below are suggestions for governments on how to comply with this obligation:

- 1. Remove barriers that require gender identity to be clinically diagnosed or validated by medical or psychological professionals.** Allow individuals to self-declare their gender identity in a straightforward administrative process without the need for medical evaluation. Trans people know their own gender better than anyone else.
- 2. Remove requirements that trans people undergo medical procedures before changing identities.** A person's identity is internal. It is not always dependent on changing anatomy. Whether a trans person accesses medical procedures to affirm their gender or not should be their decision, not a precondition to obtaining the gender marker that reflects their lived reality.
- 3. Enact laws, with supporting policy frameworks, that expressly allow for self-determination of gender identity.** Ensure that these laws and policies protect individuals from discrimination based on gender identity in employment, education, healthcare, and other areas.

⁶² United Nations General Assembly, Protection Against Violence and Discrimination Based On Sexual Orientation and Gender Identity, A/73/152, 12 July 2018, 8, <https://documents.un.org/doc/undoc/gen/n18/220/41/pdf/n1822041.pdf>.

4. **Ensure that the process respects the individual's privacy and confidentiality throughout.**
Any change of documents or public records should be handled in a way that does not expose the individual to the risk of discrimination or harm.
5. **Provide options beyond "male" and "female" for those who do not identify strictly within the binary gender framework, such as nonbinary, genderqueer, or a third gender option.**
Not everyone has the desire to be bound by a defined gender.
6. **Permit individuals to amend their gender marker and name on all official documents, including birth certificates, passports, educational records, and IDs, without undue burden.**
7. **Develop training programs for public officials, especially those working in health, education, social services, and law enforcement, to respect and correctly implement policies related to self-determined gender recognition.**
8. **Establish oversight mechanisms to monitor the implementation of self-determination gender recognition policies and assess their effectiveness.** Use feedback from trans and nonbinary communities to make necessary adjustments.
9. **Provide access to support services, including legal aid and counseling, to assist individuals in the process of obtaining legal recognition of their gender identity.**
10. **Strengthen anti-discrimination laws to explicitly include protections for individuals based on gender identity, ensuring legal recourse for discrimination and enforcing penalties for violations.**

IX. Parting Words from Participants

IX. Parting Words from Participants

Andreo Gustavo
PORTUGAL

*"Let trans people simply be. What matters is that no harm is due to the world if the gender of trans people is legally recognized."*⁶³

Alex Caruana
MALTA

*"If you truly care about an extremely vulnerable group in your society, then you should pass this law. Because it is evident that this law is working. For people like us, who are trans, in Malta the situation changed completely with this law."*⁶⁴

Xander Bach
DENMARK

*"Trans individuals just like me are ordinary people living ordinary lives. We are really just looking to live an authentic life in peace and harmony, just like other people. We are not hurting anyone and don't wish to inflict harm on other people. If we focus on our own life and show other people respect and see their humanity before paying attention to various identity markers, we can make great strides in the world and in our society in general."*⁶⁵

Annett Crepsussett
LUXEMBOURG

*"I would say that also for politics, the enhancement of general tolerance within their own nation should be one of their main goals. Tolerance within a nation creates happiness, happiness creates willingness to contribute in prosperity, which makes it possible to live as a nation with order and equal rights for everybody."*⁶⁶

Right: Annette CS delights audiences by performing stand-up. "Sometimes I'm even doing sets about (weird and funny) stuff which happened during transition. I really feel comfortable as a woman on stage!"

⁶³ Gustavo interview.

⁶⁴ Caruana interview.

⁶⁵ Outright interview with Xander Bach, virtual, 25 July 2023.

⁶⁶ Outright interview with Annett Crepsussett, virtual, 8 August 2023.



Diane Rodriguez
ECUADOR

“Trans people, to begin with, are human beings. There is a global framework for the universal recognition of human rights. Not recognizing the gender identity of trans people, excluding us from education, health, employment, justice, limiting our lives, that is a violation of human rights.”⁶⁷

Aiden de Prins
BELGIUM

“We just want the same as anybody else. Find someone we love. Make a family, have a career, no matter what path you wanna go, we’re just like anybody else.”⁶⁸

Providing trans and gender-diverse individuals with self-determined legal gender recognition brings forth an array of benefits both for individuals and society at large. It promotes personal autonomy and mental and emotional well-being and facilitates access to necessary services. Furthermore, self-determination diminishes bureaucratic hurdles, fosters personal and fiscal financial growth, enhances public safety, and cultivates an inclusive society. Embracing legal gender recognition that reflects individuals’ self-identified gender is an essential step toward creating a more equitable, compassionate, and respectful world for everyone.

Right: Diane Rodriguez, first trans woman elected to Ecuador’s National Assembly at work.

⁶⁷ Outright interview with Diane Rodriguez, virtual, 22 May 2023.

⁶⁸ de Prins interview.





OUTRIGHT
INTERNATIONAL

Contact:

Outright International

216 East 45th Street, 17th Floor, New York, NY, 10017

+1 212 430 6054

comms@outrightinternational.org

outrightinternational.org