

## Article

# The Right to Be Oneself: The International and Italian Situation Regarding Gender Incongruence, Focusing on Legislation, Rights, Access to Care, and Appropriateness

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**Abstract:** Gender incongruence is a current issue with implications in the legislative, social, and healthcare fields. In this context, misinformation is, at present, the main enemy of transgender rights equity. Over time, the scientific community has worked to reclassify this condition, removing it from psychiatric diagnoses. The method of our work involved investigating and comparing the different social and legislative measures adopted by various countries to ensure the rights and equality of individuals with gender incongruence. The result showed that there are various international approaches allowing adult and minor patients to access medical and administrative procedures for gender transition. In conclusion, there appears to be a need for international bioethical and legislative guidance in order to reduce and eventually eliminate the social inequalities faced by individuals with gender incongruence.

**Keywords:** gender incongruence; human rights; transgender; transsexualism; gender dysphoria; puberty blockers



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## 1. Introduction

The expression of gender characteristics and identity are concepts that are not stereotypically associated with the sex assigned at birth. Therefore, the term ‘gender incongruence’ (Drescher et al. 2016) was coined to define a common human phenomenon, corresponding to the condition in which a person’s gender identity does not align with their sex assigned at birth. This includes both individuals who identify with the opposite sex and those who do not recognize the binary social construct of male/female (non-binary identities) (Davies and Davies 2020). The main issue related to this field arises from the social stigma typical of every culture that stems from these conditions, leading to prejudice and discrimination. Although moral and psychological implications underlie such discomfort, it is important to emphasize that gender incongruence in itself is not a pathology, and the depathologization process, not yet fully completed, seems to follow the same path historically taken by homosexuality. The latter was originally included in the first Diagnostic and Statistical Manual of Mental Disorders (DSM) (American Psychiatric Association 1952) by the American Psychiatric Association (APA) as a sociopathic personality disorder. Homosexuality was officially removed from the list of psychiatric diagnoses in 1973, but subsequent editions of the Manual continued to include diagnostic categories involving cases of ‘persistent and

marked distress regarding one's sexual preferences' ([American Psychiatric Association 1952](#)). This situation created a division, still unresolved today, as it continued to pathologize the reaction of a Transgender (TGD) individual to the social construct they belong to. Similar to homosexuality, gender discordance has also had a troubled history dictated by the popular perception of the issue: gender, as a social and ideological construct, is a relatively new phenomenon gaining attention in the medical, social, and political spheres, where previously only a binary male/female view was deeply rooted ([Hyde et al. 2019](#)). 'Transsexualism' first appeared in the DSM-III ([American Psychiatric Association 1980](#)), in the 'psychosexual disorders' section, in which were included three gender identity disorders: transsexualism, childhood gender identity disorder (GIDC), and atypical gender identity disorder. It was only with the fifth edition of the Manual (DSM-V) ([American Psychiatric Association 2013](#)) that the first step toward the psychiatric depathologization of gender incongruence was taken, reflecting a growing social and medical understanding of gender fluidity. However, it is necessary to point out that the previous categories under this label were replaced with the sole diagnosis of gender dysphoria (GD), focusing primarily on the distress caused by gender incongruence. The definitive removal of gender incongruence from the list of mental illnesses was achieved with the World Health Organization's International Classification of Diseases, Revision 11 (ICD-11) ([Reed et al. 2016](#)), placing it in a new chapter on sexual health. The most significant implications of this change include the exclusion of psychiatric disorder in connection with gender incongruence, with evident social repercussions but without eliminating the persistent need for medical support and care ([Moser 2017](#)). Undoubtedly, around the world, TGD individuals commonly experience transphobia, stigmatization, and ignorance, leading to minority stress, which is associated with higher rates of depression, suicide, and self-harm compared to the cisgender population ([Puckett et al. 2023](#)). Furthermore, the issue of gender identity also has implications for TGD individuals' parenthood. In fact, parenthood is now a desired and expected life goal regardless of the sexual orientation and/or gender identity of individuals, despite the specific challenges these two groups face in family formation ([Shenkman et al. 2021](#)). In this respect, different bioethical interpretations will emerge in the near future to address the challenges of motherhood and fatherhood ([Frati et al. 2015, 2017, 2021](#)). To guide policymakers and health authorities in ensuring gender-affirming care, promoting optimal healthcare, and providing guidance for treatment, the World Professional Association for Transgender Health (WPATH) has released the eighth edition of the Standards of Care (SOC-8) ([Coleman et al. 2022](#)). This document includes evidence-based guidelines, derived from scientific literature reviews as well as expert recommendations, affirming the ability to proceed differently whenever required by specific anatomical, psychological, and/or social factors. Overall, the various therapeutic options indicated by the aforementioned guidelines include: (a) changing gender expression and role; (b) hormone therapy to feminize or masculinize the body; (c) surgery to change primary or secondary sexual characteristics (e.g., breasts/chest, internal/external genitalia, facial features, body shape); (d) psychotherapy (individual, couple, family, or group) to explore various gender identities/roles/expressions, mitigate the negative impact of gender dysphoria and stigma on mental health, alleviate internalized transphobia, improve social and peer support, enhance body image, and promote resilience. Of course, beyond therapeutic options, social support actions are also useful for alleviating the effects of gender dysphoria, such as organizations or groups that provide social and legal support to both the directly affected individual and their family and friends. Moreover, legislative interventions prove essential in ensuring that human rights are legally guaranteed for all individuals, regardless of their gender identity. The international scientific community has thus shown itself to be extremely progressive and open in trying to minimize the harm suffered over time by GI individuals,

while still facing barriers created by the political and social structures present in various countries. While international instruments do not specifically address transgender issues, many provisions are interpreted to include protections for transgender individuals under broader categories such as gender identity and expression. For example, the Yogyakarta Principles (2006, updated 2017), while not legally binding, are principles that specifically address sexual orientation and gender identity (SOGI). They outline states obligation to legally recognize gender identity without abusive requirements like sterilization or medical diagnosis, protect transgender individuals from violence, discrimination, and abuse, and also provide access to healthcare, education, and employment without discrimination. Despite the lack of a specific international treaty, protections for transgender people are increasingly recognized within broader human rights frameworks.

More specifically, it is worth recalling how the International Bill of Human Rights represents a set of fundamental instruments for the protection of human rights, composed of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). While these documents do not make direct reference to transgender individuals, the principles inspiring these documents include protection against discrimination based on gender identity.

Article 1 of the Universal Declaration of Human Rights enshrines the right to human dignity, according to which all individuals are born free and equal in dignity and rights. Based on this principle, it is obvious to deduce how a violation of the rights of transgender people, such as the denial of correct identity documents or the imposition of medical documents, violates this assumption.

Regarding the right to equality and non-discrimination, Article 2 of the same document states that all individuals should enjoy the same rights and freedoms, without distinction of “race, color, sex, language, religion, political or other opinion or of national or social origin, property, birth or other status”. While this article does not directly refer to gender identity, it is possible to admit that the latter is included in the words “other status”.

With reference to the right to privacy, Article 12 of the Universal Declaration of Human Rights, as well as Article 17 of the International Covenant on Civil and Political Rights, pronounce the individual’s right to privacy. It is therefore necessary to admit that any intrusion into the private lives of transgender people, such as the requirement of mandatory medical requirements for gender recognition, represents a violation of this right to privacy.

Another very important principle in terms of human rights is the right to work and social security. Article 23 of the UDHR and Article 6 of the ICESCR express themselves on this subject, stating that this right must be guaranteed uniformly to all subjects. It follows that discrimination at work against transgender people violates their right to fair and dignified working conditions.

Lastly, but certainly not least, is the right to health, established by Article 12 of the ICESCR. Since health is a primary good to be protected, access to health services, including those related to gender transition, must be considered essential to guarantee the well-being of transgender people.

The United Nations has also spoken out about the recognition of the rights of transgender people. More specifically, the Office of the High Commissioner for Human Rights (OHCHR) has stated that discrimination based on gender identity constitutes a violation of fundamental human rights. As a corollary assumption, it has then stated that Member States must adopt laws to protect transgender people and guarantee the legal recognition of gender.

Having illustrated how these principles are recognized at the international level, it can be stated that there is a solid basis for defending the rights of transgender people. However,

a continuous commitment on the part of the governments of all countries is necessary to translate these principles into concrete laws and policies, guaranteeing equality, dignity, and security for all. Interpretations and initiatives such as the Yogyakarta Principles and the work of the United Nations are crucial tools to bridge the gap between theory and practice. At the legal level, the aim of this article is to illustrate the evolution of international and Italian legislation regarding the requirements for accessing gender reassignment procedures, the rights of the individuals involved, and the appropriateness of care. Through these comparisons, it will be possible to highlight the strengths and limitations of each national context and to advocate for a future international policy framework.

## 2. Permissive Countries Regarding Transgender Rights

In Europe, Denmark was the first, in 2014, to allow adults to request a legal gender change without undergoing medical or psychological evaluations. The same applies to Malta, which, having already provided for equality of transgender citizens in its constitution, became the first European Union member state in 2015 to specify the right to change gender through self-declaration. The following year, conversion therapy was banned nationwide (Byne 2016). In 2012, Argentina passed the Gender Identity Law, ensuring that all individuals can request legal gender reassignment whenever they disagree with their perceived gender, making it the first country in the world to recognize gender identity with a simple declaration, without any prerequisites (Aristegui et al. 2017). Several Latin American countries followed suit, including Bolivia, Chile, Colombia, Ecuador, Peru, and Uruguay.

Additionally, that same year, New Zealand implemented a system for managing passports, allowing individuals to apply for gender markers (M, F, or X) through self-declaration (New Zealand Foreign Affairs Trade 2019). In France, a 2016 law allowed for the legal change of gender without the need for surgical reassignment; furthermore, in 2022, Law 1092/2022 permanently banned so-called “conversion therapies” based on pharmacological treatments aimed at curing gender incongruence or combating the sense of disconnection from one’s biological gender. This step seems to have been primarily influenced by the 2018 move by the European Parliament, the “Motion for a Resolution Paragraph 63 b (new) to the Annual Report on the Situation of Fundamental Rights in the EU in 2016 2017/2125(INI)”, which called on member states to end such practices [European Parliament 2016]. In Finland, under the 2002 Trans Act, it was possible to proceed with legal gender correction provided that specific conditions were met, including “sterilization”, even if pharmacological. However, a 2023 legislative reform abolished this prerequisite. Conversely, in 2023, the Spanish Congress definitively approved the “Ley Trans”, which recognizes the so-called right to gender self-determination, allowing individuals to change their gender on their ID cards without the need to provide medical certificates confirming gender dysphoria or undergo hormone treatments for two years. The process will be entirely free and guaranteed from the age of 16. When it comes to adults, the rights of U.S. TGD (transgender and gender-diverse) citizens vary significantly depending on the state of residence, although a recent political wave dominated by the Republican party has launched a campaign to de-legalize many legislative aspects related to this issue (The Washington Post 2023). Although the U.S. Department of State introduced in 2021 the option to use “X” as a third gender marker, neither male nor female, this had already been adopted in South Asia, Australia, India, Bangladesh, and, since 2018, in Germany.

The issue of minors’ rights remains open. In Spain, under the aforementioned “Ley Trans”, it will be possible to access the legal gender correction procedure starting at age 12 under certain conditions. Between ages 12 and 14, gender change requests require

judicial approval, while between ages 14 and 16, parental consent will be required; in case of disagreement, consent can be obtained through a judicial mediator (Frosina 2023).

This contrasts with the situation in the U.S., where 23 states currently have strict limitations on gender-affirming therapy for minors, severely restricting or entirely eliminating opportunities for action. Regarding puberty blockers, the recent Finnish Study (Ruuska et al. 2024) demonstrated the inconsistency of evidence supporting surgery or puberty-blocking pharmacotherapy compared to alternative therapies, at least in terms of suicide risk in the selected population. Therefore, Finland maintains the prohibition on minors under 18 correcting their legal gender or undergoing surgical reassignment procedures. Other countries, however, apply provisions for minors under the so-called “Dutch Protocol”, named after the first scientific experiment aimed at applying therapies for childhood gender incongruence (Gooren and Waal 1996). Among these is the United Kingdom, which, based on evidence from the same studies, has limited the use of such therapies to approved clinical trials only (NHS England 1927).

This issue, along with the still insufficient scientific evidence regarding efficacy, led the Karolinska University Hospital in Stockholm to ban the use of puberty-blocking drugs in 2021. Similarly, the French National Academy of Medicine recently called for maximum caution in terms of appropriateness in response to the growing number of requests for treatment access from minors”.

### 3. The Italian Situation

In Italy, the TGD (Transgender and Gender Diverse) movement began in 1979 following a public protest by a group of women. This protest spread widely across the country, becoming known as the Transsexual Identity Movement (MIT), supported by political parties and aimed at passing a law that would at least partially reflect the innovations brought by the contemporary German law no. 1654 of 1980 (Gesetz über die Änderung der Vornamen und die Feststellung der Geschlechtszugehörigkeit in besonderen Fällen [Transsexuellengesetz—TSG] (“Law on the Changing of First Names and the Establishment of Sex Status in Special Cases”) 10 September 1980, BGBl. I at 1654). This law provided two options: the possibility of a name change only or, following surgical sex reassignment, the right to also obtain the administrative change of the birth-assigned sex. In Italy, the legislative proposal underwent a long process, resulting in a compromise solution with Law no. 164 of 14 April 1982. This law, still in effect for the transition process of TGD individuals, requires the psychological assessment of gender dysphoria, hormone replacement therapy (HRT), surgical sex reassignment of primary genital organs, and, only after that, the possibility of a legal gender change. This is clearly a process aimed at normalizing bodies or names, and thus identities. Until recently, Italy only allowed legal gender change in cases of surgical reassignment, thereby excluding the possibility of moving beyond the “binary” concept of gender. Only more than 30 years later, the Supreme Court of Cassation [see Civil Cassation—Section I—ruling no. 15138/2015] ruled in favor of an individual who, after withdrawing consent for sex reassignment surgery, still requested the right to change their legal gender. To respect the Constitutional principles enshrined in Articles 2 and 3 of the Italian Constitution, concerning the right to political, social, and economic solidarity and the guarantee of equity for citizens, it is necessary for the country to implement initiatives aimed at anthropological and sexual education, as well as providing information on rights and the means to assert them. Currently, there is a heated scientific and social debate in Italy regarding the administration of the drug Triptorelin to minors. This drug, belonging to the class of Gonadotropin-Releasing Hormone Analogs (GnRHa), allows for the delay of pubertal development, giving minors time for self-analysis and decisions regarding their gender identity. A fundamental prerequisite for accessing this procedure is that the

patient provides valid and informed consent (Pallocci et al. 2023). The Italian scientific community has long recognized the medical efficacy of this treatment, which has already been approved by the Italian Medicines Agency (AIFA). However, its use on minors is allowed only if there is strict psychiatric or psychological monitoring of the patient. Concerns were raised by institutions when it was discovered that in some hospitals, this drug was being administered to minors without any psychological or psychiatric support (Fisher et al. 2024). Specifically, an inquiry was made in the Italian Parliament, which led to an inspection of the Careggi Hospital in Florence, an Italian reference center for the medical procedure in question. The result was the suspension of the treatment due to the absence of psychological or psychiatric support for young patients nationwide (Albolino et al. 2019). Moreover, prescribing this treatment without such support could lead to legal liability for the healthcare providers involved [24]. In any case, the Ministry of Health is currently awaiting a new evaluation of the drug's use from the National Bioethics Committee and AIFA (Comunicato Stampa Dei Presidenti Acp, Ait, Ame, Onig, Siams, Sid, Sie, Siedp, Sigis, Sima, Sinpia 2024). To provide individuals affected by gender identity (GI) issues with certified and accessible information, both in healthcare and legal fields, in 2020 the Italian Prime Minister's Office established the first institutional portal in Europe dedicated to the transgender population and, more generally, to all citizens: Infotrans.it.

The Infotrans.it website, which will soon be available in multiple languages beyond Italian, contains:

- Information on prevention, health, and the gender affirmation process, the protection of gender identity, the right to change documents, and the legal requirements before undergoing any gender affirmation surgeries;
- A map of all the reference points across the country offering services to TGD individuals, including associations, clinical centers, counseling centers, and helplines;
- Best practices for professionals in various sectors, including education, healthcare, work, unions, legal and institutional sectors, as well as communication and information fields.

#### *Intransigent Countries: Russia, Hungary, and North Korea*

This section will explore the legislative framework governing gender transitions in countries that have introduced significant legal restrictions on such practices, often through repressive laws aimed at limiting or completely banning gender-affirming interventions. These countries, which could be described as “intransigent”, stand in stark contrast to others that have embraced more progressive policies regarding the rights of transgender people. This analysis will focus on Russia, Hungary, and briefly touch on North Korea, representing various facets of the global landscape for transgender people seeking legal recognition of their gender identity and access to gender-affirming medical treatments.

Russia's approach to gender and sexuality has undergone significant transformations, reflecting broader societal changes that paved the way for reforms in the 1990s and, more recently, closed the door on them. In the period immediately following the collapse of the Soviet Union, the Russian Federation made notable steps toward legalizing and de-pathologizing homosexuality, culminating in the decriminalization of same-sex sexual relations in 1993 (Article 121 of the Soviet Criminal Code) and the removal of homosexuality from the official list of mental illnesses in 1999. These reforms were part of a broader process of social liberalization in the post-Soviet period, which also included a relatively more permissive attitude toward gender identity.

In 1997, Russia took a significant step forward by passing federal legislation that allowed people to change their gender on official documents (Russian Federal Law No. 143-FZ “On Acts of Civil Status”). This law, which allowed transgender people to legally

modify their gender on official documents, represented a rare example of progress in a region often characterized by conservative attitudes toward LGBTQ+ issues. For several years, it seemed as though Russia was moving toward a more inclusive legal framework, at least regarding gender recognition (Stella 2007).

However, in the last decade, Russia has taken a sharp turn toward reversing these progressive developments, particularly under the leadership of President Vladimir Putin. The early 2010s saw the introduction of increasingly restrictive laws aimed at limiting the rights of LGBTQ+ people, culminating in the infamous 2013 “Law Against the Promotion of Homosexuality to Minors”, also known as the “anti-gay propaganda law” (Russian Federal Law No. 135-FZ, 29 June 2013), which banned the promotion of homosexuality to minors. This law marked the beginning of a broader backlash against LGBTQ+ rights, which also extended to transgender issues (Horne and White 2020; Kondakov 2021).

In 2023, Russia passed a new law (Russian Federal Law No. 232-FZ, 14 July 2023) that not only revoked the rights of transgender people to legally change their gender, but also criminalized gender-affirming medical treatments such as hormone therapy and gender-affirming surgeries (Kirey-Sitnikova 2024). The legislation prohibits civil registries from making changes to personal documents based on medical certificates for gender transition. Essentially, transgender people who had previously legally changed their gender now face significant legal and social consequences. They are now excluded from the possibility of adopting children, and if one spouse in a marriage has changed their gender, the marriage will be automatically annulled.

This repressive legislative framework is part of a broader trend of conservative nationalism and traditionalism promoted by the Russian government in recent years. The shift toward a more anti-LGBTQ+ stance is further exacerbated by the rise in anti-Western rhetoric and the government’s emphasis on “family values” and heteronormativity. This evolution in Russia’s legal position highlights how political and social forces can dramatically influence the legislative framework regarding gender identity, moving from a more liberal approach to one that not only limits but actively punishes transgender people.

Similarly, in Hungary, a European Union country, the legal framework surrounding the rights of transgender people has taken a restrictive turn, reflecting broader trends in Eastern Europe where nationalist and conservative political forces have gained ground in recent years (Bordas et al. 2021). In May 2020, the Hungarian Parliament passed a controversial law that effectively stripped transgender and intersex people of legal recognition of their gender (Act on the Amendment of Certain Laws Relating to the Legal Recognition of Gender Identity, May 2020). This law prohibits the legal change of gender on official documents, including birth certificates, identity cards, and marriage certificates. Instead, the law stipulates that a person’s gender is determined by “biological sex”, based on primary sexual characteristics and chromosomes, which are recorded at birth (Vida 2019).

This new law also introduced a broad and general definition of “biological sex”, including physical characteristics such as external genitalia and chromosomal sex, thus preventing transgender people from having their gender legally recognized according to their lived gender identity. This measure specifically affects transgender and intersex people, as it denies them the ability to obtain legal documents that reflect their gender identity. Intersex people, whose bodies may not align with traditional definitions of male or female, are particularly affected by this law, as they are denied legal recognition of their gender in a way that reflects their biological characteristics rather than their gender identity (Nuñez-Mietz 2019).

The Hungarian government, led by Prime Minister Viktor Orbán and the right-wing Fidesz party, framed this law as part of a broader cultural and moral battle against liberalism and Western values. Orbán presented himself as a champion of “family values”, using

nationalist and religious rhetoric to justify the law. This is part of a broader trend in Hungary, where political discourse often emphasizes the preservation of traditional gender roles and the rejection of progressive gender policies. The law in Hungary, like the one passed in Russia, represents a significant rollback from previous legal frameworks that allowed for more liberal interpretations of gender identity.

The Hungarian government's decision to ban the legal recognition of gender transition has sparked criticism from human rights organizations, LGBTQ+ advocates, and even the European Union. These groups argue that the law violates the human rights of transgender people by denying them the ability to live authentically and have their identities recognized by the state. Despite this, the Hungarian government has remained steadfast in its commitment to the law, illustrating the growing challenges transgender people face in some parts of Europe, even within the European Union, which theoretically commits to upholding human rights standards (Primecz and Pelyhe 2024).

In contrast to Russia and Hungary, North Korea occupies a unique position when it comes to gender identity and rights. In this highly secretive and repressive regime, there is no legal recognition of LGBTQ+ rights, including those of transgender people. North Korea's totalitarian regime, under the leadership of Kim Jong-un, has focused on maintaining strict control over all aspects of society, and gender identity does not seem to be a topic of discussion or recognition within the country. The North Korean government does not have specific laws related to gender transition or gender-affirming medical treatments because the issue has never been publicly addressed or recognized.

In this context, it would be inaccurate to describe North Korea as "intransigent" in the traditional sense, as the government has not established any laws either promoting or limiting gender transition. Rather, the country operates in a framework where gender identity and sexuality are not recognized, and any form of dissent or non-conformity is severely punished. There is no public debate on gender identity or sexual orientation, and individuals who might express or act on non-heteronormative desires would likely face persecution, as homosexuality is not recognized and is considered a violation of state norms. This absence of a legal framework or recognition for gender issues in North Korea further highlights the variety of approaches to transgender rights globally. In some countries, like Russia and Hungary, governments have passed laws that actively limit the rights of transgender people, while in others, like North Korea, there simply is no legal infrastructure to even recognize the existence of transgender people.

#### **4. Situation in Africa and the Middle East**

In Africa and the Middle East, the rights of transgender people are largely limited or even nonexistent, with exceptions in a few countries. The legal and social situation for transgender people is predominantly repressive and discriminatory, with homosexuality and gender nonconformity often criminalized.

Nigeria, Uganda, and Sudan have very harsh laws against homosexuality and gender nonconformity, and transgender people face legal persecution, violence, and discrimination. In Egypt and other nations, laws against public indecency are applied to persecute transgender people as well.

South Africa is the only country with relatively more progressive legislation, allowing transgender people to legally change their gender on identity documents, although high levels of violence and discrimination persist. Saudi Arabia, the UAE, and Egypt criminalize gender nonconforming behaviors, and transgender people face social discrimination, violence, and difficulties accessing medical treatments.



Iran has unique legislation allowing sex reassignment surgery but severely penalizes homosexuality. Despite the legality of transition, transgender people still face social ostracism.

Israel is the exception in the region, with legal protections for transgender people, including access to gender-affirming treatments and anti-discrimination laws.

Overall, transgender people in these regions are exposed to violence, social exclusion, and discrimination, with few areas offering legal protection or access to gender-affirming medical treatments.

## 5. Future Considerations and Conclusions

National systems currently display disparities in legislation, linked to different socio-cultural contexts as well as to differing legal frameworks.

Countries like Russia and Hungary have seen a backslide in transgender rights due to rising nationalist and conservative ideologies. These governments have enacted laws that not only restrict gender recognition but also criminalize gender-affirming medical care, signaling a dangerous trend of repression. In contrast, regions like South Africa and Israel offer relative progress, with legal frameworks supporting gender recognition and protection against discrimination.

However, much of the global south, particularly in Africa and the Middle East, remains hostile to transgender rights, with laws criminalizing homosexuality and gender nonconformity. This hostility is often underpinned by cultural, religious, and political factors. The absence of legal frameworks in places like North Korea further highlights the extreme marginalization of transgender people, where their very existence is not acknowledged.

In permissive countries, while some of these require specific prerequisites to request a legal gender change (such as medical and/or psychological evaluations, surgical reassignment, or surgical or pharmacological sterilization), others allow the rectification of legal gender simply through self-declaration. At the same time, ‘conversion therapies’ aimed at ‘curing’ gender incongruence have been increasingly discouraged in many countries. As for the issue of gender change for adults, Italian legislation stands midway between countries that allow transition through simple self-declaration and those that obstruct this process [Hungary (On Amendments to Certain Administrative Laws and the Free Transfer of Property (T/9934), Article 33); Slovakia (Birth Number Act (Bill No. 301/1995); Russia; Idaho (House Bill 509, An Act Relating to Vital Statistics))]. Therefore, it is possible to suggest that Italian legislation could serve as an example, offering individuals the possibility of gender transition while ensuring it occurs only after meeting specific requirements. The issue concerning minors is equally complex, with countries often adopting opposing positions. In this regard, the current situation in Italy could offer a potentially applicable model for other countries. This solution permits such therapy to be prescribed, provided there is careful monitoring of the psychological and psychiatric profile of young patients. Additionally, it should be noted that this approach requires a case-by-case evaluation of each patient, in line with the principles of personalized medicine (Borro et al. 2017). In the future, for both minors and adults, legislative evolution that ensures TGD individuals’ rights—even in countries where such rights are not yet fully guaranteed and accessible—would be desirable. From this perspective, it would be beneficial if supranational organizations (e.g., WHO, EU) issued recommendations or guidelines outlining the procedures for gender transition. Specifically, clarification would be needed on whether and in which cases certain prerequisites are necessary to access the procedure. These requirements should be as mutually agreeable as possible across states, respecting the various national cultural identities.

Increasingly, courts and human rights bodies, such as the European Court of Human Rights and the Inter-American Court of Human Rights, are recognizing protections for gender identity. United Nations agencies, including the Human Rights Council and the Office of the High Commissioner for Human Rights (OHCHR), continue to call on states to adopt inclusive laws and policies. In this regard, the European Union's initiative to adopt the LGBTIQ Equality Strategy 2020–2025 is very useful. This strategy includes initiatives to strengthen gender identity and gender expression as protected grounds of discrimination, bringing EU legal standards up to the latest international and European human rights standards. Similarly, the Organization of American States (OAS) has established the Inter-American Commission on Human Rights, which has adopted resolutions and issued reports on the human rights of lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, including transgender rights. In summary, while international human rights law provides strong principles that protect transgender individuals, national governments still have many legislative gaps and a great deal of regulatory diversity from state to state. On the one hand, it will therefore be essential to implement the Yogyakarta Principles and to launch international awareness campaigns. On the other hand, it will be necessary to compensate for the remaining legislative gaps through regulations that determine the requirements for accessing gender identity transition in compliance with international human rights principles.

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## References

- Albolino, Sara, Tommaso Bellandi, Simone Cappelletti, Marco Di Paolo, Vittorio Fineschi, Paola Frati, Caterina Offidani, Michela Tanzini, Riccardo Tartaglia, and Emanuela Turillazzi. 2019. New Rules on Patient's Safety and Professional Liability for the Italian Health Service. *Current Pharmaceutical Biotechnology* 20: 615–24. [[CrossRef](#)] [[PubMed](#)]
- American Psychiatric Association. 1952. *Diagnostic and Statistical Manual of Mental Disorders*. Washington, DC: American Psychiatric Association Mental Hospital Service.
- American Psychiatric Association. 1980. *Diagnostic and Statistical Manual of Mental Disorders*, 3rd ed. Washington, DC: American Psychiatric Press.
- American Psychiatric Association. 2013. *Diagnostic and Statistical Manual of Mental Disorders*, 5th ed. Washington, DC: American Psychiatric Press.
- Aristegui, Inés, Pablo D. Radusky, Virginia Zalazar, Marcela Romero, Jessica Schwartz, and Omar Sued. 2017. Impact of the Gender Identity Law in Argentinean transgender women. *International Journal of Transgenderism* 18: 446–56. [[CrossRef](#)]
- Bordas, Noemi, M. Bizic, B. Stojanovic, and M. Djordjevic. 2021. Transgender healthcare in Hungary. In *EPATH Symposium*. Ghent: European Professional Association for Transgender Health.
- Borro, Marina, Giovanna Gentile, Luigi Cipolloni, Zeno Foldes-Papp, Paola Frati, Alessandro Santurro, Luana Lionetto, and Maurizio Simmaco. 2017. Personalised Healthcare: The DiMA Clinical Model. *Current Pharmaceutical Biotechnology* 18: 242–52. [[CrossRef](#)] [[PubMed](#)]
- Byne, William. 2016. Regulations restrict practice of conversion therapy. *LGBT Health* 3: 97–99. [[CrossRef](#)]

- Coleman, Eli, Asa E. Radix, Walter P. Bouman, George R. Brown, Annelou L. C. De Vries, Madeline B. Deutsch, Randi Ettner, L. Fraser, M. Goodman, J. Green, and et al. 2022. Standards of Care for the Health of Transgender and Gender Diverse People, Version 8. *International Journal of Transgender Health* 23: S1–S259. [CrossRef]
- Comunicato Stampa Dei Presidenti Acp, Ait, Ame, Onig, Siams, Sid, Sie, Siedp, Sigis, Sima, Sinpia. 2024. (Sezione di Psichiatria) SIPPS. Available online: [https://www.medicinadelladolescenza.com/sima\\_3/wp-content/uploads/2024/02/COMUNICATO-CONGIUNTO-DEFINITIVO-24.pdf](https://www.medicinadelladolescenza.com/sima_3/wp-content/uploads/2024/02/COMUNICATO-CONGIUNTO-DEFINITIVO-24.pdf) (accessed on 31 January 2024).
- Davies, Robert D., and Madeline E. Davies. 2020. The (Slow) Depathologizing of Gender Incongruence. *The Journal of Nervous and Mental Disease* 208: 152–54. [CrossRef] [PubMed]
- Drescher, Jack, Alan Schwartz, Flávio Casoy, Christopher A. McIntosh, Brian Hurley, Kenneth Ashley, Mary Barber, D. Goldenberg, S. E. Herbert, L. E. Lothwell, and et al. 2016. The growing regulation of conversion therapy. *Journal of Medical Regulation* 102: 7–12. [CrossRef] [PubMed]
- Fisher, A. D., J. Ristori, A. Romani, E. Cassioli, F. Mazzoli, C. Cocchetti, M. Pierdominici, M. Marconi, V. Ricca, M. Maggi, and et al. 2024. Back to the Future: Is GnRHa Treatment in Transgender and Gender Diverse Adolescents Only an Extended Evaluation Phase? *The Journal of Clinical Endocrinology & Metabolism* 109: 1565–79.
- Frati, Paola, Francesco Paolo Busardò, Gianluca Montanari Vergallo, Arianna Pacchiarotti, and Vittorio Fineschi. 2015. Surrogate motherhood: Where Italy is now and where Europe is going. Can the genetic mother be considered the legal mother? *Journal of Forensic and Legal Medicine* 30: 4–8. [CrossRef] [PubMed]
- Frati, Paola, Raffaele La Russa, Alessandro Santurro, Benedetta Fineschi, Marco Di Paolo, Matteo Scopetti, Emanuela Turillazzi, and Vittorio Fineschi. 2021. Bioethical issues and legal frameworks of surrogacy: A global perspective about the right to health and dignity. *European Journal of Obstetrics & Gynecology and Reproductive Biology* 258: 1–8. [CrossRef] [PubMed]
- Frati, Paola, Vittorio Fineschi, Mariantonia Di Sanzo, Raffaele La Russa, Matteo Scopetti, Filiberto M. Severi, and Emanuela Turillazzi. 2017. Preimplantation and prenatal diagnosis, wrongful birth and wrongful life: A global view of bioethical and legal controversies. *Human Reproduction Update* 23: 338–57. [CrossRef]
- Frosina, Laura. 2023. Le nuove frontiere dei diritti in Spagna tra autodeterminazione individuale e uguaglianza sostanziale. *NOMOS* 11: 1–23.
- Gooren, L., and H. Delemarre-van de Waal. 1996. The feasibility of endocrine interventions in juvenile transsexuals. *Journal of Psychology and Human Sexuality* 8: 69–74. [CrossRef]
- Horne, S. G., and L. White. 2020. *The Return of Repression: Mental Health Concerns of Lesbian, Gay, Bisexual, and Transgender People in Russia*. Washington, DC: American Psychological Association.
- Hyde, Janet Shibley, Rebecca S. Bigler, Daphna Joel, Charlotte Chucky Tate, and Sari M. van Anders. 2019. The future of sex and gender in psychology: Five challenges to the gender binary. *American Psychologist* 74: 171–93. [CrossRef] [PubMed]
- Kirey-Sitnikova, Yana. 2024. “You should care by prohibiting all this obscenity”: A public policy analysis of the Russian law banning medical and legal transition for transgender people. *Post-Soviet Affairs* 40: 452–71. [CrossRef]
- Kondakov, Alexander. 2021. The influence of the ‘gay-propaganda’ law on violence against LGBTIQ people in Russia: Evidence from criminal court rulings. *European Journal of Criminology* 18: 940–59. [CrossRef]
- Moser, Charles. 2017. ICD-11 and gender incongruence: Language is important. *Archives of Sexual Behavior* 46: 2515–16. [CrossRef] [PubMed]
- New Zealand Foreign Affairs Trade. 2019. Available online: <https://www.mfat.govt.nz/en/peace-rights-and-security/human-rights> (accessed on 12 March 2024).
- NHS England. 1927. Clinical Policy: Puberty Suppressing Hormones (PSH) for Children and Young People Who Have Gender Incongruence/Gender Dysphoria. Available online: <https://www.england.nhs.uk/wp-content/uploads/2024/03/clinical-commissioning-policy-gender-affirming-hormones-v2.pdf> (accessed on 12 March 2024).
- Nuñez-Mietz, F. G. 2019. Resisting human rights through securitization: Russia and Hungary against LGBT rights. *Journal of Human Rights* 18: 543–63. [CrossRef]
- Pallocci, Margherita, Michele Treglia, Pierluigi Passalacqua, Roberta Tittarelli, Claudia Zanovello, Lucilla De Luca, Valentina Caparrelli, V. De Luna, A. M. Cisterna, G. Quintavalle, and et al. 2023. Informed Consent: Legal Obligation or Cornerstone of the Care Relationship? *International Journal of Environmental Research and Public Health* 20: 2118. [CrossRef] [PubMed] [PubMed Central]
- Primecz, Henriett, and Valéria Pelyhe. 2024. Hungary as a precarious context for the lesbian, gay, bisexual, and transgender community. Interviews with transgender people. *Gender, Work & Organization* 31: 1812–27.
- Puckett, Jae A., Christina Dyar, Meredith R. Maroney, Brian Mustanski, and Michael E. Newcomb. 2023. Daily experiences of minority stress and mental health in transgender and gender-diverse individuals. *Journal of Psychopathology and Clinical Science* 132: 340. [CrossRef] [PubMed]

- Reed, Geoffrey M., Jack Drescher, Richard B. Krueger, Elham Atalla, Susan D. Cochran, Michael B. First, Peggy T. Cohen-Kettenis, I. Arango-de Montis, S. J. Parish, S. Cottler, and et al. 2016. Disorders related to sexuality and gender identity in the ICD-11: Revising the ICD-10 classification based on current scientific evidence, best clinical practices, and human rights considerations. *World Psychiatry* 15: 205–21. [CrossRef] [PubMed]
- Ruuska, Sami-Matti, Katinka Tuisku, Timo Holttinen, and Riittakerthu Kaltiala. 2024. All-cause and suicide mortalities among adolescents and young adults who contacted specialised gender identity services in Finland in 1996–2019: A register study. *BMJ Ment Health* 27: e300940. [CrossRef]
- Shenkman, Geva, Jorge Gato, Fiona Tasker, Chen Erez, and Daniela Leal. 2021. Deciding to parent or remain childfree: Comparing sexual minority and heterosexual childless adults from Israel, Portugal, and the United Kingdom. *Journal of Family Psychology* 35: 844. [CrossRef]
- Stella, F. 2007. The right to be different? Sexual citizenship and its politics in post-Soviet Russia. In *Gender, Equality and Difference During and After State Socialism*. London: Palgrave Macmillan UK, pp. 146–66.
- The Washington Post. 2023. LGBTQ+ Americans Have Stronger Support Than Ever—And Fiercer Backlash. Available online: [https://www.washingtonpost.com/dc-md-va/2023/06/14/lgbtq-rights-state-legislative-attacks/?pwapi\\_token=eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWJpZCI6IjE4MTYwNTM1IiwicmVhc29uIjoziZ2lmdCI6Im5iZiI6MTY4NjcxNTIwMCwiaXNzIjoic3Vic2NyaXB0aW9ucyIsImV4cCI6MTY4ODAxMTE5OSwiaWF0IjoxNjg2NzE1MjAwLCJqdGkiOiI5NTUyYTU4Mi1kOTVklTRiNDU0YTMzYi1iOTcyZjY0MzI2ZTQiLCJ1cmwiOiJodHRwczovL3d3dy53YXNoaW5ndG9ucG9zdC5jb20vZGMtbWQtdmEvMjAyMy8wNi8xNC9sZ2J0cS1yaWdodHMtc3RhZGUtbGVnaXNsYXRpdmUtYXR0YWNrcy8ifQ.s3zjrpe6OIB\\_r7Itmj7pilKmYUlsAuUpqMswzSerAel](https://www.washingtonpost.com/dc-md-va/2023/06/14/lgbtq-rights-state-legislative-attacks/?pwapi_token=eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWJpZCI6IjE4MTYwNTM1IiwicmVhc29uIjoziZ2lmdCI6Im5iZiI6MTY4NjcxNTIwMCwiaXNzIjoic3Vic2NyaXB0aW9ucyIsImV4cCI6MTY4ODAxMTE5OSwiaWF0IjoxNjg2NzE1MjAwLCJqdGkiOiI5NTUyYTU4Mi1kOTVklTRiNDU0YTMzYi1iOTcyZjY0MzI2ZTQiLCJ1cmwiOiJodHRwczovL3d3dy53YXNoaW5ndG9ucG9zdC5jb20vZGMtbWQtdmEvMjAyMy8wNi8xNC9sZ2J0cS1yaWdodHMtc3RhZGUtbGVnaXNsYXRpdmUtYXR0YWNrcy8ifQ.s3zjrpe6OIB_r7Itmj7pilKmYUlsAuUpqMswzSerAel) (accessed on 14 June 2023).
- Vida, Bianka. 2019. New waves of anti-sexual and reproductive health and rights strategies in the European Union: The anti-gender discourse in Hungary. *Sexual and Reproductive Health Matters* 27: 13–16. [CrossRef] [PubMed]

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