

Trans Rights are Human Rights

Dismantling misconceptions
about gender, gender identity,
and the human rights of trans people

Prepared by GATE, ILGA-Europe, and TGEU

July 2021





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Trans Rights are Human Rights: Dismantling misconceptions about gender, gender identity, and the human rights of trans people

Prepared by GATE, ILGA-Europe, and TGEU.

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GATE

Trans, Gender Diverse and Intersex Advocacy in Action

GATE is an international advocacy and expert organisation working towards justice and equality for trans, gender diverse and intersex communities. Rooted in our movements, we work collaboratively with strategic partners at the global level to provide knowledge, resources and access. gate.ngo

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ILGA-Europe

The European Region of the International Lesbian, Gay, Bisexual, Trans, and Intersex Association
ILGA-Europe is an independent, international non-governmental umbrella organisation bringing together over 600 organisations from 54 countries in Europe and Central Asia. We are part of the wider international ILGA organisation, but ILGA-Europe were established as a separate region of ILGA and an independent legal entity in 1996. ILGA itself was created in 1978. ilga-europe.org

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TGEU

TGEU is a membership-based organisation working to strengthen the rights and wellbeing of trans people in Europe and Central Asia. TGEU was created in 2005 and has established itself as a legitimate voice for the trans community in Europe and Central Asia. TGEU currently has 170 member organisations in 47 different countries. tgeu.org

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Introduction

Over the last years, we have seen important advances in recognising and advancing the human rights of trans people across Europe and globally. Several countries have started to review their policies and legislation for legal gender recognition, i.e. establishing procedures that enable trans people to have their gender recognised by the state without harmful requirements such as sterilisation or divorce, for example.

Trans people are also finally more represented in mainstream media, with trans voices participating in online news outlets, trans politicians and political leaders in important positions, trans actors playing trans roles in film and television, and representation in many other areas of life.¹ Compared to only 10 years ago, there has been an important shift in the visibility of trans and gender diverse people around the world.

Based on a population study in the Netherlands, approximately 0.95% of the adult population identifies as transgender.² Extrapolating that percentage to the EU, there should be approximately 4,230,000 people in the European Union³, which is slightly more than the population of Croatia in 2021.

Unfortunately, these developments towards the respect of human rights of trans people and a society that is safe and welcoming to trans people, come with a strong backlash. Visibility does not automatically lead to larger societal acceptance. Targeted attacks against trans rights aim at stopping the necessary and long-awaited reforms of legal gender recognition procedures, and at the same time launch a wider attack at gender equality.

In the current circumstance of frequent, hostile attacks on the human rights of trans people across Europe and globally, arguments are often being put forward that imply a fundamental opposition between the rights of trans people and the rights of women, or between the rights of trans people and the rights of children. These arguments are based on falsehoods and are misleading. As presented in the Primer below, the rights of trans people fundamentally aim to protect trans persons themselves; fulfilment of these rights does not harm other individuals nor infringe on their rights, as will be explained throughout this document. The following paper aims at helping dismantle these falsely constructed arguments and provide talking points and references to address these false claims. This resource is designed for policymakers seeking to improve their ability to argue in favour of the human rights of trans people, as well as activists who work with policymakers on the same. The information and speaking points included here are being used extensively by trans activists in Europe in their efforts to combat anti-trans narratives and actors.

¹ Koch-Rein, A, Yekani, EH, Verlindern, J (2020) Representing Trans: Visibility and its discontents. European Journal of English Studies 24(1). Available from: <https://www.tandfonline.com/doi/full/10.1080/13825577.2020.1730040>

² Kuyper, Lisette & Wijsen, Ciel. (2013). Gender Identities and Gender Dysphoria in the Netherlands. Archives of sexual behavior. 43. 10.1007/s10508-013-0140-y.

³ Based on EuroStat Population on 1 January [TPS00001], available from: <https://ec.europa.eu/eurostat/databrowser/bookmark/c4367906-9015-4486-b5e3-9fa06d78e71a?lang=en>

- **The right to recognition before the law** is protected within the Universal Declaration of Human Rights and ensures that all individuals can be seen by their government as a person and treated as such. For trans people specifically, this right encompasses legal gender recognition – or the ability to change one’s documents to accurately reflect one’s name, appearance, and gender identity rather than one’s registered name and gender marker⁵ – because being recognised as a person requires accuracy and usability of identity documents as a core issue.
- **The right to private and family life**, in the context of the European Convention on Human Rights, protects trans and gender diverse people from invasive requirements for legal gender recognition, such as sterilisation⁶, as well as from requirements that force trans people to share intimate information about their bodies with State officials.⁷
- **Freedom from discrimination** is a fundamental issue in international human rights; while “gender identity” and “gender expression” are not specifically listed as grounds of many conventions or treaties, there is a building consensus that these grounds are included either in “sex” or “other grounds”. Treaty Bodies⁸, the Court of Justice of the EU⁹, and the European Court of Human Rights¹⁰ increasingly hold to this interpretation. This right is also relevant to the application of other rights, meaning that protection of the right to private and family life for trans people must look as similar as possible in practice to the protection of this right for non-trans people, or the difference may constitute discrimination on a protected ground.¹¹
- **The right to safety and security** is interlinked with the above rights for trans people, because trans people who cannot access legal gender recognition and trans-specific healthcare are subject to extreme violence, including murder.¹² If a person is outed against their will, this increases their vulnerability to violence; trans people who are unable to have matching

⁴ For more detail, see European Commission (2020). *Legal gender recognition in the EU: the journeys of trans people towards full equality*. Luxembourg: Publications Office of the European Union. Annex 5, pp 230-244. Available from: https://ec.europa.eu/info/sites/info/files/legal_gender_recognition_in_the_eu_the_journeys_of_trans_people_towards_full_equality_sept_en.pdf

⁵ A “gender marker” is the designation of “male”, “female”, “divers”, “X”, or some other gender on one’s identity documents. “Sex assigned at birth”, a commonly used phrase in discussions of the rights of trans people, refers specifically to one’s registered sex at birth, which is usually decided by a doctor upon inspection of the infant’s genitals. Each term emphasizes one aspect of the same concept. Both ideas are the same in practice for cisgender people (e.g. a person who is assigned female at birth and also has a female gender marker).

⁶ *AP, Garçon and Nicot v France* App Nos. 79885/12, 52471/13 and 52596/13 (ECtHR, 6 April 2017).

⁷ *L v Lithuania* [2008] 46 EHRR 22.

⁸ For example, Communication No. 2172/2012 (CCPR/C/119/D/2172/2012) (UN HRC, 15 June 2017); Committee on the Rights of the Child, ‘General comment No. 20 (2016) on the implementation of the rights of the child during adolescence’ (6 December 2016), UN Doc No. CRC/C/GC/20, [34]; Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the combined sixth and seventh periodic reports of Luxembourg’ (9 March 2018), UN Doc No. CEDAW/C/LUX/CO/6-7, [39]-[40].

⁹ *P v S and Cornwall County Council* [1996] 2 CMLR 247, [20].

¹⁰ *PV v Spain* App No. 35159/09 (ECtHR, 30 November 2010), [30]; *Identoba and Others v Georgia* [2015] 39 BHRC 510, [96].

¹¹ Communication No. 2172/2012 (CCPR/C/119/D/2172/2012) (UN HRC, 15 June 2017). Available from: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/AUS/CCPR_C_119_D_2172_2012_25976_E.pdf

¹² According to the FRA II LGBTI Survey, 2020 (available from: <https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer>), 30% of trans respondents ‘always’ or ‘often’ avoided expressing their gender for fear of violence. The European Commission Study Legal gender recognition in the EU: the journeys of trans people towards full equality, 2020 (available from: https://ec.europa.eu/info/sites/info/files/legal_gender_recognition_in_the_eu_the_journeys_of_trans_people_towards_full_equality_sept_en.pdf) notes that respondents regularly cited their exposure to violence caused by mismatched identity documents.

identity documents are regularly unable to finish education or access well-paying jobs, and thus have difficulties in accessing housing and basic necessities.¹³

This document is divided into three sections - claims about trans people, claims about the impact of trans rights on women, and claims about the impact of trans rights on children. Each box contains firstly what one might hear as arguments against the right to self-determination for trans people. After this is a section of “How to respond” - these are key facts on the situation and talking points on the topic, followed in some cases by an analogy to help conceptualise the claim, and references to further reading related to the facts.

Each set of arguments come from one or more actors in the region: far-right anti-gender actors, religious actors, and/or so-called “sex-based rights” activists or “gender critical feminists”. Defining characteristics of these arguments are (1) they are simple, (2) make a broad claim of potential (but usually unsubstantiated) harm to a broad group of people, and (3) do not leave an opportunity to find solutions.

This resource is not designed to be read from start to finish as a text, but rather as a quick reference to pick up when anti-trans narratives and claims come up.

¹³ Homelessness: FRA II LGBTI Survey, 2020, data explorer. Responses of trans respondents to 'Thinking of your household's total income, is your household able to make ends meet?' Available from: <https://fra.europa.eu/DVS/render/plots/html/LGBTI-ZXVCYXJz-REVYaDlw-IEFsbA==IEFsbA==dW5kZWZpbmVk-05--Trans-people.html>

Household income: FRA II LGBTI Survey, 2020, data explorer. Responses of trans respondents to “Have you ever experienced any of the following housing difficulties?” Available from: <https://fra.europa.eu/DVS/render/plots/html/LGBTI-ZXVCYXJz-REVYaDlw-IEFsbA==IEFsbA==dW5kZWZpbmVk-05--Trans-people.html>

Section 1.

About trans people

1A.

What you are hearing	The existence of trans people is a new phenomenon; it is a fashion.
How to respond - facts and talking points	- Trans people are not a phenomenon, but human individuals like you and me. Trans people have existed in all times and cultures.¹⁴ In relatively recent times, with growing visibility and advancements of the rights of trans people, trans people have become increasingly exposed to violence and discrimination, with, for example, 60% of trans people indicating that they had been exposed to discrimination in at least one area of life during the past 12 months in the second LGBTI Survey of the EU Fundamental Rights Agency 2019. - Over the last years, gradually legislation started to acknowledge the rights to safety and non-discrimination of trans people; at the same time, trans people feel better able to share their experiences, live more openly, and provide positive representation for being trans. Gradually, the general public is becoming more aware of the existence of trans people and what being trans means. In 2015, FRA found that with more visibility and positive representation of trans people, society overall becomes more aware of how everyone can change to make the lives of trans people safer.¹⁵
Analogies	The same has been said about people getting divorced, or being gay, lesbian or bisexual - when societal agreements shift toward progressive morals, those opposed to that progression frequently claim that there is a "social contagion" to blame. It is important to see these arguments as similar; while the focus of them might change, the argument itself is about controlling the rights of individuals to make choices about their own lives, often based on the religious or personal beliefs of others not impacted by those choices. The right to freedom of thought, conscience, and religion is about one's own beliefs and the right to hold these. It does not allow one individual to enforce their own beliefs onto the lives of others.
Further reading	<i>Academic:</i> Stryker, S. (2017). "Transgender History, second edition". Seal Press. Seal Press. <i>International institution:</i> FRA II LGBTI Survey, 2020. Available from : https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer

¹⁴ Feinberg, Leslie. Transgender warriors: making history from Joan of Arc to Dennis Rodman. Beacon Press, 1996.

¹⁵ European Fundamental Rights Agency, Professionally speaking: challenges to achieving equality for LGBT people, 2015. Available from: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-lgbt-public-officials_en.pdf

1B.

What you are hearing	"Gender Ideology" is what makes people trans.
How to respond - facts and talking points	• Long before "gender ideology", people identified as trans or gender diverse. Indeed, the field of psychology asserts that identity, including gender identity, is the result of a mix of biological predispositions and experience (i.e. psychological and sociocultural factors).¹⁶ • It is well-documented that the Vatican invented the concept of "gender ideology" as an empty signifier to consolidate opposition to progressive developments in society.¹⁷ Conservative movements have used this extensively in their anti-rights efforts.¹⁸ The term has been used at different times to attack different aspects of advancements of women's rights, sexual and reproductive rights, LGBTI rights, or increasingly so specifically trans rights,¹⁹ often to split up a strong unified civil rights movement.²⁰ But regardless of whoever is identified as the weakest group to be attacked at any given moment, it is a much wider attack on the very basis of the calls for gender equality and equality between women and men, namely that biology does not justify a different, and most often inferior, position of women in society. • The understanding of the differentiation between a person's sex (the anatomy of an individual's reproductive system and secondary sex characteristics) from that person's gender – which refers either to social roles based on the sex of the person (gender role) or personal identification of one's gender based on an internal awareness (gender identity) – was used as early as in the 1940s.²¹ • For the majority of people, their sex assigned at birth and their gender identity are aligned (e.g., a person assigned female at birth based on an assessment of her genitalia identifies herself as a woman). Sometimes gender identity differs from registered sex (e.g., a person registered as female at birth who identifies himself as a man). That is being trans.
Analogies	The same has been said about people getting divorced, or being gay, lesbian, or bisexual - so-called "gender ideology" is the "contagion" in the social contagion theory.
Further reading	Drescher et al, <i>Minding the body: Situating gender identity diagnoses in the ICD-11</i> ; December 2012, International Review of Psychiatry 24(6):568-77, p. 573, https://www.researchgate.net/publication/233938371_Minding_the_body_Situating_gender_identity_diagnoses_in_the_ICD-11

¹⁶ Vries, A.L., Kreukels, B., Steensma, T., & McGuire, J.K. (2014). Gender Identity Development: A Biopsychosocial Perspective.

¹⁷ Kuhar, R., & Paternotte, D. (Eds.). (2017). Anti-gender campaigns in Europe: Mobilizing against equality. Rowman & Littlefield.

¹⁸ Kovats & Pöim (2015). *Gender as symbolic Glue*. Foundation for European Progressive Studies.

¹⁹ Ibid.

²⁰ Russell I, E.L (2019). The Discursive Ecology of Homophobia. Unraveling Anti-LGBTQ Speech on the European Far Right. Bristol: Multilingual Matters.

²¹ Karlsen, G.H., 2019. Divide and rule: ten lessons about Russian political influence activities in Europe. Palgrave Communications, 5(1), pp.1-14

²¹ de Beauvoir, Simone. "Le deuxième sexe." *Paris éd Galimard* (1949).

1C.

What you are hearing	"Gender Ideology" promotes the rights of trans people against the rights of everyone else.
How to respond - facts and talking points	- It is well-documented that the Vatican invented the concept of "gender ideology" as an empty signifier to consolidate opposition to progressive developments in society.²² Conservative movements have used this extensively in their anti-rights efforts.²³ The term has been used at different times to attack different aspects of advancements of women's rights, sexual and reproductive rights, LGBTI rights, or increasingly so specifically trans rights,²⁴ often to split up a strong unified civil rights movement.²⁵ But regardless of whoever is identified as the weakest group to be attacked at any given moment, it is a much wider attack on the very basis of the calls for gender equality and equality between women and men, namely that biology does not justify a different, and most often inferior, position of women in society. - The trans movement seeks to ensure equal access to all human rights also for trans people. Ensuring equal access to human rights for all does not diminish or supersede the rights of other groups. - The movement that created and leverages the concept of "gender ideology" has been shown to negatively impact trans people's rights without adding rights for anyone else.²⁶ - The feminist and LGBTI movements have worked with the concept of gender for decades. Over this period, gender studies have helped to show how stereotyped gender roles oppress mainly women. - Speaking about sex as the only "objective reality" is a way of saying that biology is what makes someone a woman or a man - otherwise known as "biological determinism". - Biological determinism has been historically used to suppress women. For example, it has been used to assert that "women's place is in the home" because of the biological fact that they are bearing children or that violence towards women is inherent to a biological difference between men and women, and not a result of gendered power relations and the social construction of gender.
Analogies	Similar arguments have been made against same-sex marriage: that the ability to marry for same-sex couples will harm opposite-sex marriages.
Further reading	Ben Vincent, Sonja Erikainen, Ruth Pearce (Eds.) (2020), TERF Wars: Feminism and the fight for transgender futures. The Sociological Review, Monographs Series

²² Kuhar, R., & Paternotte, D. (Eds.). (2017). *Anti-gender campaigns in Europe: Mobilizing against equality*. Rowman & Littlefield.

²³ Kovats & Pöim (2015). *Gender as symbolic glue*. Foundation for European Progressive Studies.

²⁴ Russell I, E.L (2019). *The Discursive Ecology of Homophobia. Unraveling Anti-LGBTQ Speech on the European Far Right*. Bristol: Multilingual Matters.

²⁵ Karlsen, G.H., 2019. Divide and rule: ten lessons about Russian political influence activities in Europe. *Palgrave Communications*, 5(1), pp.1-14

²⁶ Datta, N. (2020). *Modern-Day Crusaders in Europe. Tradition, Family and Property: Analysis of a Transnational, Ultra-Conservative, Catholic-Inspired Influence Network*. EPF. Available from: https://www.epfweb.org/sites/default/files/2021-01/EPF%20TFP_EN_Oct30_0.pdf

1D.

What you are hearing	Trans people and gender identity laws are dismantling the objective reality of sex. or If we add gender identity as a protected ground, it means that sex is no longer equally protected.
How to respond - facts and talking points	• The distinction between sex and gender, and acknowledging that for trans people sex and gender are not aligned, does in no way deny the existence of sex. Someone can be discriminated against because of their registered sex; and therefore, it is important to firmly include this ground in legislation. People might and very frequently are also discriminated against because of their gender identity, especially when this is not aligned with their registered sex; so trans people are discriminated against because they are trans. Adding the ground of gender identity to non-discrimination legislation provides specific protection to trans people, who are still today one of the most discriminated groups in our societies in all aspects of everyday life. • In Europe, 5 States protect individuals from discrimination on the grounds of gender identity in their constitutions, and 44 more countries specifically include this protection in the context of employment. None of these countries reports a demonstrable negative impact regarding protection on the basis of sex as a result. • When a trans person realises that their gender identity differs from their registered sex, this in no way endangers the majority of our societies having a gender identity that matches with their registered sex. What it unfortunately still does in our societies today is expose trans people to extreme stigma, discrimination, and violence. The inclusion of the ground of gender identity in legislation is a statement that in our societies, trans people should not be discriminated against and is establishing legislation that can help protect trans people.
Analogies	Similar things have been said about previous feminist claims such as women's suffrage or women's right to protection from gender-based violence and domestic violence. Those opposing women's rights argued that recognising their rights went against "natural law" or biology, and that protection of the rights of women would harm the rights of men. As in that case, arguments regarding gender identity protections harming the rights of women are not based on facts. Advancement of the rights of one group does not constitute a loss of rights for another group.

1E.

What you are hearing	Many people are changing their minds about being trans and de-transition. "Detransitioners" prove that people do not know themselves for sure if they are trans and that psycho-medical supervision is needed to differentiate between real and false trans people.
How to respond - facts and talking points	• A very small number of people transition and then decide to live again in their assigned gender – less than 1% of those who have surgery.²⁷ • Media coverage of "detransition" frequently presents individual stories and anecdotes as representative of a large portion of those who medically transition; this is a speculative generalisation of a rare situation. • Trans people can have different transitional paths in their lives. Some paths, especially non-linear paths or paths that involve starting and stopping or reversing a process, can be reframed in bad faith as "detransition". • Transphobia (external and internalised) is a key factor for many (85% according to one large-scale study) of the very few cases of detransition that do occur.²⁸ Social stigma, family rejection, and barriers to employment can make life very hard for trans people - which is one reason why gender identity protections are so necessary. • The right to make one's own decisions is a fundamental component of international human rights principles, including when those decisions turn out to be mistakes. • See Section 1G for more information on why diagnosing trans people (i.e. assessing if they are trans or not) is problematic.
Analogies	The same has been said about same-sex marriage and the somewhat larger number of same-sex couples who get divorced compared to opposite-sex couples - the fact that an individual decision turns out to be the wrong one does not mean that the individual should not still have the right to make it. Similar arguments are also made against abortion, based on the supposed "post-abortion syndrome": the argument that a person may regret their own free choice after the fact should not be used to block that choice or make it more difficult for others.
Further reading	<i>Academic:</i> Danker, S., Narayan, S. K., Bluebond-Langner, R., Schechter, L. S., & Berli, J. U. (2018). Abstract: A Survey Study of Surgeons' Experience with Regret and/or Reversal of Gender-Confirmation Surgeries. <i>Plastic and Reconstructive Surgery Global Open</i>, 6(9 Suppl), 189-189. https://doi.org/10.1097/01.GOX.0000547077.23299.00

²⁷ For example, Danker *et al.* surveyed surgeons providing gender affirming surgeries, and found a detransition rate of around 0.2% among their patients. See Danker, S., Narayan, S. K., Bluebond-Langner, R., Schechter, L. S., & Berli, J. U. (2018). Abstract: A Survey Study of Surgeons' Experience with Regret and/or Reversal of Gender-Confirmation Surgeries. *Plastic and Reconstructive Surgery Global Open*, 6(9 Suppl), 189-189. <https://doi.org/10.1097/01.GOX.0000547077.23299.00>. Smith *et al.* surveyed trans adults and adolescents, and found a 0.6% regret rate. See Smith, Y., Van Goozen, S., Kuiper, A., & Cohen-Kettenis, P. (2005). Sex reassignment: Outcomes and predictors of treatment for adolescent and adult transsexuals. *Psychological Medicine*, 35(1), 89-99. doi:10.1017/S0033291704002776

²⁸ Turban, J. L., Loo, S. S., Almazan, A. N., & Keuroghlian, A. S. (2021). Factors Leading to "Detransition" Among Transgender and Gender Diverse People in the United States: A Mixed-Methods Analysis. *LGBT health*. <https://doi.org/10.1089/lgbt.2020.0437>

Civil society:

James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality. pp 108-111. Available from:
<https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

News media:

NBC News (2019). *Media's 'detransition' narrative is fueling misconceptions, trans advocates say*. Available from:
<https://www.nbcnews.com/feature/nbc-out/media-s-detransition-narrative-fueling-misconceptions-trans-advocates-say-n1102686>

1F.

What you are hearing	Being trans is, in itself, a mental disorder and needs to be “cured”.
How to respond - facts and talking points	• Everyone has a gender identity, including trans people. Most people have a gender identity that aligns with their sex assigned at birth (cisgender people); some people have another gender identity (trans, non-binary, and gender diverse people). • The World Health Organisation (WHO) itself established that being trans is not a mental disorder of any kind after an exhaustive process of more than 10 years.²⁹ • “Curing” a trans person, in this context, means to change their gender identity through a so-called “conversion therapy” process, which constitutes torture and inhuman treatment.³⁰ There is a trend toward banning these practices in Europe and around the world, as medical professionals, lawmakers, and civil society move toward a clear agreement that so-called “conversion therapy” is a harmful practice.
Analogies	The same has been said of gay and lesbian people, and it is now widely accepted that their sexual orientation is not a mental health disorder that so-called “conversion therapy” violates human rights. ³¹
Key reading	<i>Civil society:</i> Kara, S (2017) Gender is not an illness. How pathologizing trans people violates human rights law. ILGA World: Lucas Ramon Mendos, <i>Curbing Deception: A world survey on legal regulation of so-called “conversion therapies”</i> (Geneva: ILGA World, 2020). Available from: https://ilga.org/Conversion-therapy-global-research-ILGA-World <i>International institution:</i> World Health Organisation (2019). <i>WHO/Europe brief – transgender health in the context of ICD-11</i>. Available from: https://www.euro.who.int/en/health-topics/health-determinants/gender/gender-definitions/whoeurope-brief-transgender-health-in-the-context-of-icd-11#402873

²⁹ WHO: Revision of ICD 11 (gender incongruence - transgender): <https://www.youtube.com/watch?v=kyCgz0z05Ik>;
WHO/Europe brief - transgender health in the context of ICD-11 <https://www.euro.who.int/en/health-topics/health-determinants/gender/gender-definitions/whoeurope-brief-transgender-health-in-the-context-of-icd-11>

³⁰ Alempijevic, D., Beriashvili, R., Beynon, J., Birmanis, B., Brasholt, M., Cohen, J., et al. (2020). Statement of the Independent Forensic Expert Group on Conversion Therapy. *Torture Journal*, 30(1), 66-78. Available from: <https://tidsskrift.dk/torture-journal/article/view/119654>

³¹ Alempijevic, D., Beriashvili, R., Beynon, J., Birmanis, B., Brasholt, M., Cohen, J., et al. (2020). Statement of the Independent Forensic Expert Group on Conversion Therapy. *Torture Journal*, 30(1), 66-78. Available from: <https://tidsskrift.dk/torture-journal/article/view/119654>

1G.

What you are hearing	The only real trans people are the ones who have had “the surgery”.
How to respond - facts and talking points	● Trans people are people whose gender identity differs from their sex assigned at birth. Many trans people decide to modify their bodies and many trans people don’t. ● There are many reasons why a trans person would not seek surgeries, including cost, physical or medical limitations, or lack of a support system. Additionally, some trans people do not need or want certain surgeries as part of their transition. ● The idea of there being a “single surgery” that is the ultimate goal of any medical transition is a myth; there are many kinds of surgeries, with widely varying outcomes, costs, and recovery times. These surgeries can be accessed in many different orders as well. ● Requiring surgeries or hormones to recognise a person’s gender identity constitutes a human rights violation.³² ● For those trans people who do not need or want specific procedures, requiring such a procedure for access to legal gender recognition can be considered, in the context of their human rights, as “force”, resulting, for example, in forced sterilisation.
Further reading	<i>International institution:</i> PACE Resolution 2048 (2015). <i>Discrimination against transgender people in Europe</i>. Available from: https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=21736 PACE Resolution 1945 (2013). <i>Putting an end to coerced sterilisations and castrations</i>. Available from: https://pace.coe.int/en/files/19755

³² Madrigal-Borloz, V. (2018). Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, A/73/152. Available from: <https://undocs.org/A/73/152>

1H.

What you are hearing	Mental health practitioners are the best people to decide if someone is “really” trans. or People who want medical transition procedures should be assessed by a mental health professional beforehand to protect them from making a mistake.
How to respond - facts and talking points	• The top authorities in mental health science, including the World Health Organisation and the World Professional Association for Transgender Health, have said that being trans is not a mental disorder. • Gender identity cannot be externally verified, because it is a personal understanding of where one fits into societal systems of gender. Everyone experiences their gender in their own way.³³ • Trans people are those who identify in a gender that differs from their sex assigned at birth. Due to the discrimination against trans people in our societies, this realisation often does not come easily, but can be accompanied by exposure to rejection and violence. People know who they are. When a person asserts that they are trans, they take on the risk of social rejection as part of their path to being themselves. • Mental health diagnosis models limit access to transition procedures based on the reasoning that this will prevent potential harm. But their effect, for the majority, is exactly the opposite: these models increase the harm involved in the access process as the persons concerned are subject to distrust and humiliation, required to wait long periods to access care, and often must misrepresent themselves to fit the stereotypes held by providers to access care at all. • Bodily modifications such as surgical procedures and hormonal treatments are only available in late adolescence (after a certain stage in puberty) and adulthood and access to those modifications must be based on informed consent with the necessary medical supervision (e.g. regular blood tests). • The informed consent model involves the provision of all the information regarding procedures (i.e. medical requirements, outcomes, potential complications, etc.) so that the individual can make an informed decision about their body. This model protects the individual and the provider. Trans people, like all people, should have the right to decide about what they do with their own bodies.³⁴
Further reading	<i>International institution:</i> WHO (2018). WHO/Europe brief – transgender health in the context of ICD-11. Available from: https://www.euro.who.int/en/health-topics/health-determinants/gender/gender-definitions/whoeurope-brief-transgender-health-in-the-context-of-icd-11

³³ Kara, S (2017) Gender is not an illness. How pathologizing trans people violates human rights law.

³⁴ EU Charter of Fundamental Rights, Article 3 - Right to integrity of the person. Available from: <https://fra.europa.eu/en/eu-charter/article/3-right-integrity-person>

Professional association:

WPATH (2017). WPATH Identity Recognition Statement (revised). Available from: <https://www.wpath.org/media/cms/Documents/Web%20Transfer/Policies/WPATH%20Identity%20Recognition%20Statement%2011.15.17.pdf>

Academic:

Coleman, E., et al. (2017) Commentary: Revising the International Classification of Diseases (ICD-11) and Improving Global Sexual Health: Time for an Integrated Approach that Moves Beyond the Mind-Body Divide, *International Journal of Sexual Health*, 29:2, 113-114, DOI: 10.1080/19317611.2017.1311126

Civil society:

Kara, S (2017) Gender is not an illness. How pathologizing trans people violates human rights law.

Section 2.

About women

2A.

What you are hearing	Trans people and discussions about their rights (e.g., legal gender recognition) are erasing women and weakening the fight for equality for women.
How to respond - facts and talking points	• Gender equality is important to trans people, and they have no desire to erase women. Also, some trans people are women themselves. • Trans people are not erasing women (or men) by existing and accessing legal gender recognition. • On the contrary: protecting trans people's rights to self-determination is in line with everyone's rights to decide over their own identity and their own body, including the right of women to be whoever and whatever they want. • Acknowledging that people other than only women have experiences generally associated with women (e.g., abortion, pregnancy) does not erase women; it only expands the list of people having those experiences and deserving access to sexual and reproductive health and rights. • Larger numbers of increasingly diverse people defending sexual and reproductive rights represent a stronger group to mobilise to ensure service access for all, increased budget allocations, adequate standards of care, etc.
Analogies	The concern of losing certain rights that social movements have taken a long time to achieve results in the unnecessary overprotection of those by the exclusion of marginalised groups. Oppression does not come from recognising everyone's rights.
Further reading	<i>News media, citing government:</i> Newtral (2021). Helena Dalli, comisaria europea de Igualdad: "Ni una sola persona ha abusado de la ley de autodeterminación de género en Malta" ("Not a single person has abused the gender self-determination law in Malta") (in Spanish). Available from: https://www.newtral.es/helena-dalli-comisaria-europea-igualdad-feminismo/20210417/

2B.

What you are hearing	Concepts such as “gender” and “gender identity” and “gender expression” are removing or harming “sex” as a ground for protecting women’s rights.
How to respond - facts and talking points	• The addition of gender, gender identity, and gender expression is in no way removing sex as a ground for protection. Quite the opposite, the protected categories are being expanded to adequately address the lived realities associated with sexism, misogyny, and patriarchy and the extreme discrimination and violence trans people face. • These systems are based, in part, on the perceptions of others and their actions based on those perceptions. For many people, the perceptions others have of them are not based solely on their registered sex, but on a combination of sex characteristics (e.g. facial hair, body shape), their gender expression (e.g. how one walks or dresses), and their gender identity (how one identifies in terms of gender), and inclusion of only sex in protected grounds leaves many instances which are systemic in nature unaddressed. • Sexism, misogyny, and patriarchy impact both cis (non-trans) and trans people, most particularly cis and trans women. The addition of “gender identity” and “gender expression” as protected categories will be useful for both cis and trans people, too, in that, for example, if a woman is fired for being “too feminine”, this is discrimination on the basis of gender expression.
Analogies	The addition of protection grounds is often advocated against using the argument that additional grounds harm the principle by decreasing the sole focus and visibility of combatting discrimination on one ground. Whereas it is indeed important to ensure that specific grounds do not get drowned and neglected, this argument has the effect of blocking new protections, while failing to protect the principle that is at stake.

2C.

What you are hearing

Using “gender” and “gender identity” interchangeably erases women.

How to respond - facts and talking points

- No, women are not being erased. Gender-based rights and gender identity-based rights have historically advanced together, without interfering with each other; quite the opposite.³⁵
- “Gender” and “gender identity” are interrelated concepts, which serve purposes at different levels.
 - “Gender” describes overall social, cultural, linguistic, and temporal expectations and restrictions placed on people based on their sex, gender identity, and gender expression (it is a “macro” concept).
 - “Gender identity” describes an individual’s understanding of themselves within the system of “gender” (it is a “micro” concept).
- Modern usage of the word “gender” also refers to one’s own personal identification.
 - The sentences “My gender is ‘woman’” and “My gender identity is ‘woman’” are, in meaning, identical.
 - This usage does not erase women, on the contrary, it allows for the validation and recognition of all women’s gender, including those who are trans.
- Most people for whom sex assigned at birth and their gender identity match (cisgender or non-trans people) have probably never thought of having a gender identity. However, the insistence of some that there is a difference between gender and gender identity, and that using the terms interchangeably is harmful, is a bad faith argument, undermining the protection of trans and gender diverse people based on the ground of gender/gender identity.

³⁵ Fischer, O. (2019) When feminism supports trans rights, everybody wins – just like in Iceland, *The Guardian*. Available from: <https://www.theguardian.com/commentisfree/2019/sep/09/feminism-trans-rights-iceland-uk-movements>

2D.

What you are hearing	If trans women are allowed to enter single-sex spaces (such as shelters and bathrooms), women will be exposed to predators.
How to respond - facts and talking points	• Trans women are women. All women, including trans women, should be protected from violence against them. That violence is overwhelmingly perpetrated by cis men.³⁶ Therefore, cis men should be the target of protection policies. Excluding trans women leaves the problem unsolved and even makes it worse by exposing a particularly vulnerable group of women to structural exclusion. • Violence against women is very frequently perpetrated by their current or former husbands, boyfriends, partners, or lovers,³⁷ not by trans women or by random men pretending to be women. • Legislation that protects trans people from discrimination or that allows them to access legal gender recognition has not been shown to have any effect on aggressors' access to single-sex spaces.³⁸ • Trans people, especially trans women and those trans individuals who are gender non-conforming, are among the groups that suffer the most violence and harassment in public spaces, including single-sex spaces such as toilets. There is significant evidence of the high levels of discrimination these groups are exposed to in these settings.³⁹ • Trans people's rights cannot be undermined just because cis (non-transgender) men might potentially use those rights to commit a crime. According to that logic, no person should be granted any rights, as all rights can be potentially misused. • There has been one case of a trans woman assaulting cis women in prison; it is important to acknowledge that violence occurs among women, and in prison contexts, cis women commit violence against each other. Attempts to protect women from violence should be based on individual assessments of risk factors, not a blanket policy that requires all trans women to be detained among men and thus exposed to violence and human rights violations themselves. While this single case exists, claiming this is a systematic risk of LGR based on self-determination is non-factual. • Potential fraud or unfounded fear of such, should not prevent States from protecting human rights. • Safety rules should be applied to everyone, especially in safe spaces.

³⁶ According to the FRA 2012 survey on violence against women, 97% of women who experienced sexual violence before the age of 15 indicate that the perpetrator was male (p 128), 74% of non-partner violence since the age of 15 was perpetrated by men (p 48), 71% of perpetrators of sexual harassment since the age of 15 were male (p 112). FRA (2015). Violence against women: An EU-wide survey; Main Results. Available from: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf

³⁷ FRA (2015). Violence against women: An EU-wide survey; Main Results. Available from: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf

³⁸ Newtral (2021). Helena Dalli, comisaria europea de Igualdad: "Ni una sola persona ha abusado de la ley de autodeterminación de género en Malta" ("Not a single person has abused the gender self-determination law in Malta") (in Spanish). Available from: <https://www.newtral.es/helena-dalli-comisaria-europea-igualdad-feminismo/20210417/>

³⁹ 59% of all trans respondents indicated that they "Sometimes or always avoided bathrooms in the past year"; James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality. p 228. Available from: <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

Analogies	The argument of possible abuse has been used against many human rights protections, for example in asylum. People argue that when sexual orientation is a recognised ground for asylum, people can just pretend to be gay, lesbian or bisexual. Again, very few cases of abuse are known and recorded. But the argument completely disregards the human rights violations that gay, lesbian, and bisexual people face in some countries and their right to international protection. Instead of focusing on the abuse and violation of human rights of the most marginalised, these kinds of arguments turn victims into perpetrators and try to spread the idea of one minority posing a danger to another or the overall 'system'. Generally, this line of argumentation comes without adequate evidence - also known as scaremongering.
Further reading	<i>Government:</i> L. Adamietz and K. Bager, 'Regelungs- und Reformbedarf für transgeschlechtliche Menschen. Gutachten im Auftrag des Bundesministeriums für Familie, Frauen, Senioren und Jugend', German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), November 2016, p. 238. (In German) Available from: https://www.bmfsfj.de/resource/blob/114064/460f9e28e5456f6cf2ebdb73a966f0c4/imag-band-7-regelungs-und-reformbedarf-fuer-transgeschlechtliche-menschen-band-7-data.pdf <i>International institution:</i> FRA (2015). Violence against women: An EU-wide survey; Main Results. Available from: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf <i>Civil society:</i> James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality. pp 108-111. Available from: https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf

2E.

What you are hearing	Men could avoid being prosecuted for gender violence if they claim to be trans women.
How to respond - facts and talking points	• This would be a case of fraud, and fraud is illegal and has penalties associated with it. If it is determined that fraud has been committed to avoid sentencing enhancements, the perpetrator would also face charges of fraud. • Trans people's rights cannot be undermined just because cis (non-transgender) men might potentially use those rights to commit a crime. According to that logic, no person should be granted any rights, as all rights can be potentially misused. • This argument inverts the reality, positioning trans women as expected predators of gender-based violence. Trans women are among the most socially vulnerable groups in society; the gender-based violence they experience is well above the social norm for non-trans people.⁴⁰ • It is important to note that across all the countries which have self-determination-based legal gender recognition, governments indicate that these systems are not a high risk for fraud. With that in mind, potential fraud is not a valid reason to create a legal double-jeopardy - there a crime is already coded in law with a punishment attached and made doubly illegal by attaching additional unnecessary punishment as a deterrent. In many legal jurisdictions, this kind of double jeopardy criminal codification is itself illegal.
Further reading	Government: L. Adamietz and K. Bager, 'Regelungs- und Reformbedarf für transgeschlechtliche Menschen. Gutachten im Auftrag des Bundesministeriums für Familie, Frauen, Senioren und Jugend', German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), November 2016, p. 238. (In German) Available from: https://www.bmfsfj.de/resource/blob/114064/460f9e28e5456f6cf2ebdb73a966f0c4/imag-band-7-regelungs-und-reformbedarf-fuer-transgeschlechtliche-menschen-band-7-data.pdf Civil society: TGEU (2020). <i>TMM Update Trans Day of Remembrance 2020</i>. Available from: https://transrespect.org/en/tmm-update-tdor-2020/

⁴⁰ The FRA LGBTI II Survey (2019; available from: <https://fra.europa.eu/DVS/render/plots/html/LGBTI-aGVhdE1hcA==REVYkW5kdjFfMQ==IEFsbaA==IEFsbaA==dW5kZWZpbmVhZk05--Trans-people.html>) found that 34% of trans respondents were exposed to physical or sexual violence in the proceeding 5 years, compared to 8% of women according to the FRA Crime, Safety and Victims' Rights Survey (2021; available from: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-crime-safety-victims-rights_en.pdf); from the same sources, 21% of trans people were exposed to cyberharassment in the previous 12 months, compared to 13% of women.

2F.

What you are hearing	Collecting data on people's self-determined identities undermines producing statistics on key indicators (e.g., violence against women).
How to respond - facts and talking points	• The statistical impact of legal gender recognition is overall quite small. Recent studies in Belgium and the Netherlands found that between 0.8% - 1.1% of the general population reported a gender identity different from their sex assigned at birth.⁴¹ Additionally, from the time that the Argentine Gender Identity Law was approved in 2012 until February 2020, 9,000 people changed their gender marker. Considering the total population of Argentina in 2010, this number would represent 0.02% of the population. This percentage cannot change statistics remotely or substantially. • Exclusion of violence against trans women from statistics on gender-based violence reveals a belief by the State that trans women are not actually women. • If we want to have statistical evidence of the situation of women in society, it is important to look at women in all their diversity; women who experience multiple and intersecting discrimination – women of colour and Black women, Roma women, and trans women – are frequently the most marginalised groups and the most exposed to violence, including gender-based violence. • More nuanced indicators will allow for the expansion of both public understanding and interventions. • Human rights-based legal gender recognition will marginally improve the reliability of these data – as people will be able to ensure that their gender marker matches the gender in which they live. In other words, if a trans woman is a victim of gender-based violence but is not counted because her documents list her as male, this means that gender-based violence statistics are undercounting incidents.
Analogies	Self-identification and voluntariness are core principles in data collection on race and religion metrics. ⁴² This does not impede their effective use for statistical purposes and is compatible with EU law.

⁴¹ Kuyper, Lisette & Wijsen, Ciel. (2013). Gender Identities and Gender Dysphoria in the Netherlands. Archives of sexual behavior. 43. 10.1007/s10508-013-0140-y.

⁴² Ethnic Origin and Disability Data Collection in Europe: Measuring Inequality—Combating Discrimination p. 64 Available from: <https://www.opensocietyfoundations.org/publications/ethnic-origin-and-disability-data-collection-europe-measuring-inequality-combating>

2G.

What you are hearing	Removing gender markers from identity documents such as ID cards undermines producing statistics on key indicators (e.g., violence against women, gender equality).
How to respond - facts and talking points	• The gender marker being removed from ID documents does not erase gender markers from birth certificates or other state records. • For equality data collection, there is no practical requirement that all personal details of individuals be publicly visible; equality data on race and disability are collected without either of these being listed on identity documents.⁴³ In other words, the State can and does keep track of information about individuals that is not visible on their identity cards (such as disability status, race, or religion), and use that information to inform equality measures. Removal of visible gender markers from identity cards should have no impact whatsoever on these data maintenance and analysis processes. ○ In several contexts in Europe, gender markers are already not present on identity documents, such as German ID cards, without issue regarding data collection or other gender equality measures. • Gender markers are, however, regularly used to contest the identities of trans and non-binary people, and often lead to violations of the right to privacy. • Removal of gender as a visible marker on identity documents would increase the safety and security of trans and non-binary people while decreasing their exposure to individual discrimination – and would have no impact on cis (non-trans) people's lives.
Analogies	The same has been said about removing race and religion from identity cards, though the supposed negative impact of their removal did not come to pass (e.g. the removal of “religion” from identity cards and internal “passports” in many former communist countries in Europe).
Further reading	<i>International institution:</i> European Commission (2020). Legal gender recognition in the EU: the journeys of trans people towards full equality. Luxembourg: Publications Office of the European Union. <i>Yogyakarta Principles + 10:</i> Principle 31, the Right to Legal Gender Recognition. Available from: http://yogyakartaprinciples.org/principle-31-yp10/ <i>Government:</i> In 2020, the Netherlands announced plans to remove gender markers from identity documents, to be phased out in the next 5 years, see: Human Rights Watch (2020). <i>Netherlands Sees No Role for Gender Marker on ID Documents: Move Raises Questions of When Gender Markers Are Necessary</i>. Available from:

⁴³ Ethnic Origin and Disability Data Collection in Europe: Measuring Inequality—Combating Discrimination p. 64 Available from: <https://www.opensocietyfoundations.org/publications/ethnic-origin-and-disability-data-collection-europe-measuring-inequality-combating>

<https://www.hrw.org/news/2020/07/08/netherlands-sees-no-role-gender-marker-id-documents>

Civil society:

Human Rights Watch (2020). *Netherlands Sees No Role for Gender Marker on ID Documents*. Available from:

<https://www.hrw.org/news/2020/07/08/netherlands-sees-no-role-gender-marker-id-documents>

2H.

What you are hearing	The gender-neutral title of “parent” on birth certificates instead of “mother” and “father” will undermine the rights of mothers such as maternity leave.
How to respond - facts and talking points	• Gender-neutral parenthood signifiers on legal documents serve to protect trans parents and their children from discrimination and violence and to protect their fundamental right to privacy. • The use of the word “parent” instead of “mother” in no way hinders women from accessing their rights. ◦ Maternity leave grants the specific right to physically recover to the parent who gave birth and thus mainly mothers. Recognising which parent gave birth does not take away anything from mothers who give birth. What it does is simply recognise that trans men and non-binary people are giving birth as well, and when they do, they also should have access to “maternity leave” (or a “giving birth leave” specifically for recovery).⁴⁴ • Parental leave to take care of the child should be universally accessible to parents. • The legal status of parenthood is actively gendered in many jurisdictions, which creates problems for trans parents, for example, because it:⁴⁵ ◦ creates mismatching documents between parent and child, ◦ forces outing of the trans person, ◦ forces reversal of legal gender recognition, ◦ removes agency from the child to decide when and to whom to reveal their family background.
Further reading	<i>News media:</i> PinkNews (2020). Trans man who gave birth Freddy McConnell will take his fight to be legally recognised as his child’s dad to the Supreme Court. Available from: https://www.pinknews.co.uk/2020/04/30/freddy-mcconnell-trans-man-birth-legal-recognition-parent-supreme-court-laytons/ <i>Civil society:</i> Karsay, Dodo/TGEU (2021), <i>Stuck on the swing: experiences of trans parents with freedom of movement in the EU</i>. Available from: https://tgeu.org/trans-parenthood-and-freedom-of-movement-in-the-eu/

⁴⁴ “Maternity leave” is in quotation marks here to make clear that the name of this specific leave is not inclusive of some people who may use it, namely trans men and nonbinary people who are gestational parents.

⁴⁵ Karsay, Dodo/TGEU (2021), *Stuck on the swing: experiences of trans parents with freedom of movement in the EU*. Available from: <https://tgeu.org/trans-parenthood-and-freedom-of-movement-in-the-eu/>

21.

What you are hearing	Men will abuse women's quotas by pretending to be trans.
How to respond - facts and talking points	• Fraud is a crime. • For as long as gender inequalities and discrimination against trans people persist, men only stand to lose by pretending to be trans. No one could rationally volunteer to walk in the shoes of those who are heavily discriminated against. Across all the countries which have self-determination-based legal gender recognition over the past 10 years, governments have not identified fraud as a problem in relation to that legislation.⁴⁶ • Potential fraud is not a valid reason to create a double jeopardy – where a crime is already coded in law with a punishment attached and made doubly illegal by attaching additional unnecessary punishment as a deterrent.
Further reading	<i>International institution:</i> Article 50 Charter of Fundamental Rights of the European Union, Principle of <i>non bis in idem</i> <i>Government:</i> L. Adamietz and K. Bager, 'Regelungs- und Reformbedarf für transgeschlechtliche Menschen. Gutachten im Auftrag des Bundesministeriums für Familie, Frauen, Senioren und Jugend', German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), November 2016, p. 238. (In German) Available from: https://www.bmfsfj.de/resource/blob/114064/460f9e28e5456f6cf2ebdb73a966f0c4/imag-band-7-regelungs-und-reformbedarf-fuer-transgeschlechtliche-menschen-band-7-data.pdf Ministry of Justice, Spain (2018), Informe sobre la proposición de ley para la reforma de la ley 3/2007, de 15 de marzo, de rectificación registral de la mención relativa al sexo de las personas. (In Spanish) Available from: https://assets.documentcloud.org/documents/20485874/pdf-ministerio-de-justicia.pdf

⁴⁶ L. Adamietz and K. Bager, 'Regelungs- und Reformbedarf für transgeschlechtliche Menschen. Gutachten im Auftrag des Bundesministeriums für Familie, Frauen, Senioren und Jugend', German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), November 2016, p. 238. (In German) Available from: <https://www.bmfsfj.de/resource/blob/114064/460f9e28e5456f6cf2ebdb73a966f0c4/imag-band-7-regelungs-und-reformbedarf-fuer-transgeschlechtliche-menschen-band-7-data.pdf>

Section 3.

About children and adolescents

3A.

What you are hearing	Children are too young to know who they are, maybe they are just confused (e.g., by social media, by sex education, by peers). Therefore, respecting the gender identities of children by using their name or pronouns will increase their confusion, but contradicting them can help them to understand who they truly are.
How to respond - facts and talking points	● Allowing children to identify and express themselves in their gender provides them the support, time, and space that they need to explore who they are in a loving environment, which contributes greatly to their health and wellbeing.⁴⁷ ● In the same way non-trans (cis) children are aware of their gender identity (e.g. they feel comfortable being addressed with pronouns in line with the sex assigned at birth), trans children are aware too and can communicate this. ● Scientific evidence proves that respecting a child's gender identity and expression contributes to their health and well-being; the experience of those people whose gender identity and expression was not respected by their parents reflects long-lasting pain, trauma, and other health-related consequences (e.g., depression). ● For more specifics on "rapid-onset gender dysphoria" or ROGD, please see section 3G below.
Analogies	The same has been said about "masculine" boys and "feminine" girls and to children identifying as gay or lesbian - that media positively portraying gays and lesbians would result in children being "turned gay".
Further reading	<i>News media:</i> University of Texas at Austin. "Using chosen names reduces odds of depression and suicide in transgender youths." ScienceDaily. ScienceDaily, 30 March 2018. Available from: http://www.sciencedaily.com/releases/2018/03/180330085648.htm <i>Academic:</i> Russell, S., Pollitt, A., Li, G. & Grossman, A. (2018). Chosen name is linked to reduced depressive symptoms, suicidal ideation, and suicidal behavior among transgender youth. Journal of Adolescent Health. DOI: https://doi.org/10.1016/j.jadohealth.2018.02.003 Olson, K.R., Durwood, L., DeMeules, M., McLaughlin, K.A. (2016). Mental Health of Transgender Children Who Are Supported in Their Identities. Pediatrics. DOI: https://doi.org/10.1542/peds.2015-3223

⁴⁷ Olson, K.R., Durwood, L., DeMeules, M., McLaughlin, K.A. (2016). Mental Health of Transgender Children Who Are Supported in Their Identities. Pediatrics. DOI: <https://doi.org/10.1542/peds.2015-3223>

Civil society:

Strauss, P., Cook, A., Winter, S., Watson, V., Wright Toussaint, D., Lin, A. (2017). Trans Pathways: the mental health experiences and care pathways of trans young people. Summary of results. Telethon Kids Institute, Perth, Australia. Available from: <https://www.telethonkids.org.au/globalassets/media/documents/brain-behaviour/trans-pathways-report.pdf>

3B.

What you are hearing	Children are being forced into being trans. There is pressure from peers, parents, and society overall these days to question one's gender identity and to be out as trans or non-binary.
How to respond - facts and talking points	• Being trans is something that no one can be forced into, including children. • There is no reason to believe that parents would find any kind of benefit in forcing their children to believe that they are being trans or non-binary and push them into living this openly in social settings (socially transition, which refers to changing one's name and/or pronouns for social purposes, such as attending school). • While supporting children is beneficial, forcing trans children to comply with imposed gender rules by treating them using different names and pronouns than those preferred by them, and/or forcing them to adopt a gender expression that contradicts their own, can be identified as harmful and abusive behaviour, and act as a kind of "conversion therapy", which is a form of "cruel or inhuman treatment or torture".^{48,49} • Social transitions often receive negative social responses towards the child and the family due to the still existing prejudice. Rather than parental pressure to transition, the reality is that very frequently children face a lack of support from their families, which connects to the high rates of suicidality and homelessness among trans youth. Even supportive families are afraid of the discrimination their child will face when coming out.
Analogies	External influence has also been attributed to children and adolescents exercising their sexual and reproductive rights.
Further reading	<i>International institution:</i> UN Committee on the Rights of the Child, General Comment 20 (CRC/C/GC/20), 6 December 2016. <i>Academic:</i> Russell, S., Pollitt, A., Li, G. & Grossman, A. (2018). Chosen name is linked to reduced depressive symptoms, suicidal ideation, and suicidal behavior among transgender youth. <i>Journal of Adolescent Health</i>. DOI: https://doi.org/10.1016/j.jadohealth.2018.02.003 Olson, K.R., Durwood, L., DeMeules, M., McLaughlin, K.A. (2016). Mental Health of Transgender Children Who Are Supported in Their Identities. <i>Pediatrics</i>. DOI: https://doi.org/10.1542/peds.2015-3223 <i>Civil society:</i> Kara, S (2017) Gender is not an illness. How pathologizing trans people violates human rights law.

⁴⁸ UN General Assembly. Interim Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, relevance of the prohibition of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to the Context of Domestic Violence. 12 July 2019. A/74/148. Available from: <https://undocs.org/A/74/148>

⁴⁹ Alempijevic, D., Beriashvili, R., Beynon, J., Birmanis, B., Brasholt, M., Cohen, J., ... & Viera, D. N. (2020). Statement on conversion therapy. *Journal of Forensic and Legal Medicine*, 72, 101930. <https://doi.org/10.1016/j.jflm.2020.101930>

3C.

What you are hearing	Children are being forced into legal transition (e.g. changing their legal name and/or gender marker).
How to respond - facts and talking points	• Legal transition for children is often a complicated, long, and pathologising process for both the child and the family. There is no reason for a family to force such a process. • Access to legal gender recognition in childhood, where available, is based on the right of the child to be heard and the best interest of the child. - o All countries have legal provisions on children's rights. These provisions also affect gender identity laws. - o Regardless of the legal process, the opinion of the child is always a component of legal gender recognition processes. - o Most countries require parental consent and set this limitation up to different ages. In some cases (e.g., Argentina), children are represented by their lawyer. • Access to legal gender recognition in childhood improves the quality of life of trans children, as it facilitates the recognition and respect of their name and gender in everyday life and it protects them (e.g. at school) • Children often face a lack of support from their family and/or the legal system, including when accessing legal gender recognition. • Human rights-compliant legal gender recognition processes are fast, accessible, transparent, and based on self-determination, when the principle of non-discrimination is applied, this means that these processes should be equally accessible to children.
Further reading	<i>Civil society:</i> IGLYO, Trustlaw, Dentons Europe LLP, and the NextLaw Referral Network (2019). Only adults? Good practices in legal gender recognition for youth. Available from: https://www.iglyo.com/wp-content/uploads/2019/11/IGLYO_v3-1.pdf TGEU, Köhler, R. (2018). Legal Gender Recognition and the Best Interest of the Child. Available from: https://tgeu.org/wp-content/uploads/2018/11/tgeu-policy-brief-legal-gender-recognition-for-children-2018.pdf

3D.

What you are hearing	Children are being forced into “medical transition” (e.g. puberty blockers, hormones, or surgeries)
How to respond - facts and talking points	• No one receives transition-related medical treatment before the onset of puberty. • There are two different subjects in this discussion - children before adolescence, and legal minors under the age of 18. It is important to clarify which group of legal minors is being discussed, as their circumstances and needs are different. - o There are no medical treatments whatsoever for children to transition before the onset of puberty. Transition for pre-pubertal children is entirely a social process (e.g. name and pronoun changes, access to information, and support). - o Adolescents who are legal minors may seek medical treatments such as puberty blockers or hormone therapies. Hormone blockers can be used from a certain stage in puberty (Tanner stage II) and are used to delay the development of secondary sex characteristics. Hormone therapies are used to bring about the development of secondary sex characteristics in line with the individual’s gender identity; the decision to start hormone therapies for adolescents is based on their physical and psychological developmental stage. In many countries, the legislation sets age limits for accessing hormone therapies (e.g. after 2 years of hormone blockers or starting from 14 or 16 years of age). • No one should be subject to medical treatment against their wishes or without their fully informed, personal consent. • Children are not being forced into medical transition. There is no reason for a family to force such a process. Quite the opposite, many children have a really hard time getting their gender identities and expressions seen, heard, understood, respected, and supported. Very frequently, instead, children are denied access to medical transition options that would be appropriate for them based on their age and development. This denial comes in many forms, including opposition by parents, very long waiting lists for care, and the unethical use of a “wait and see” approach by healthcare providers. • For all trans people, including trans children, informed consent is a central principle in transition-related medical care. - o For trans children, this means that children must participate, based on their evolving capacities, in all relevant medical decisions. - o General Comment 20 from the Committee on the Rights of the Child on the implementation of the rights of the child during adolescence as well as under the right to the highest attainable standard of health indicate that children should have “full, free, and confidential access to information, commodities, services, and counselling on the physiological changes brought on by puberty and options around puberty suppressing agents, without stigma or discrimination based on their gender identity or expression.”

Further reading

International institutions:

UN Committee on the Rights of the Child, General Comment 20 (CRC/C/GC/20), 6 December 2016.

National gender clinic guidelines:

Gender Identity Development Service (UK). Available from:

<https://gids.nhs.uk/puberty-and-physical-intervention>

Academic:

Turna, J.L., King, D., Carswell, J.M., Keuroghlian, A.S. (2020). Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation. *Pediatrics*. DOI:

<https://doi.org/10.1542/peds.2019-1725>

Professional association:

WPATH, Statement Regarding Medical Affirming Treatment including Puberty Blockers for Transgender Adolescents. Available from:

<https://www.wpath.org/media/cms/Documents/Public%20Policies/2020/FINAL%20Statement%20Regarding%20Informed%20Consent%20Court%20Case%20Dec%2016%202020.docx.pdf>

Medical blog:

GenderGP (2020). Puberty Blockers are Reversible. Available from:

<https://www.gendergp.com/puberty-blockers-are-reversible/>

3E.

What you are hearing	The introduction of trans issues in sex education is encouraging children and adolescents to become trans by indoctrinating them and making them believe that sex is not real.
How to respond - facts and talking points	● Education allows children to recognise, accept and value their identity or respect others who do not conform with societal expectations of gender. ● Gender diversity in childhood has always existed.⁵⁰ This shows that it is not social and/or educational influences that cause gender diversity in children. Recognising and including this in curricula at schools is a simple way of fostering safe environments for all children and supports strategies to reduce bullying at schools. ○ As a point of reference, the LGBTI FRA Survey II (2019) shows that an EU average of 38% of trans respondents between the ages of 15-17 had “often” or “always” experienced negative comments or conduct at school because of them being trans. ● Sex education does not encourage children to change their gender or their sexual orientation. Quite the opposite, if a person’s identity could be externally influenced, trans and gender diverse people would not exist. Traditional binary ideas of sex and gender are still the norm in our societies and violence is directed towards those who fall outside of those. ○ Sex education helps children to understand how diverse gender and sexuality really are. ○ It helps them to approach information and to process it critically, so they will be better prepared for the information that can be found in social media, for example. ○ It also helps them to realise who they are and who they are not.
Analogies	The same has been said about sex education making children gay or lesbian, or preparing them to promote abortions. Sex education has also been said to sexualize children.
Further reading	<i>Civil society:</i> IGLYO (2018). LGBTIQ Inclusive Education Report (preview), IGLYO – The International LGBTIQ Youth & Student Organisation, Belgium, available from: https://www.iglyo.com/wp-content/uploads/2018/01/LGBTIQ-Inclusive-Education-Report-Preview.pdf <i>International institution:</i> van Driel, Barry (2021). Thematic Fiche: Education and LGBTIQ Diversity, ET 2020 Working Group on Promoting Common Values and Inclusive Education. Available from: https://op.europa.eu/en/publication-detail/-/publication/305973ae-5164-11eb-b59f-01aa75ed71a1/language-en

⁵⁰ Stockton, K. (2009). *The Queer Child, or Growing Sideways in the Twentieth Century*. Duke University Press.

3F.

What you are hearing	There is a high number of young women (particularly young lesbians) transitioning to become men because they are promised a better life as straight men.
How to respond - facts and talking points	• Transitioning in today's society still entails facing violence and discrimination on multiple levels (e.g. social, legal, medical, employment, education, etc.) and in everyday life. The costs – including both financial and social costs – of transition are so high that no one would pursue it for purely opportunistic reasons. • Access to information and gender-affirming services have been historically challenging. The current trend toward removing those challenges has contributed to increasing the number of transitioning individuals. • Trans men have usually been disregarded in surveys on trans populations; as a consequence, more adequate modern research methodology will produce an increase in the number of trans men. • Throughout history, trans men have been socially less visible than trans women. The current increased visibility may give a false impression that numbers have risen. • Trans men have all kinds of sexual orientations. Starting a transition as a lesbian does not necessarily mean becoming a straight man. Also, many trans men were never attracted to women.
Analogies	The same has been said about women “becoming” lesbians: this argument style assumes that those assigned female at birth (such as cisgender women and girls and trans men) are not able to make informed decisions about what is best for them, and is inherently misogynist.
Further reading	<i>News media:</i> Slate.com (2017). Why Are Trans Youth Clinics Seeing an Uptick in Trans Boys? Available from: https://slate.com/human-interest/2017/09/trans-youth-clinics-are-seeing-more-trans-boys-than-before-why.html Advocate.com (2015). Op-ed: Trans Men Experience Far More Violence Than Most People Assume. Available from: https://www.advocate.com/commentary/2015/07/23/op-ed-trans-men-experience-far-more-violence-most-people-assume <i>Academic:</i> McDowell, M.J., Hughto, J.M.W. & Reisner, S.L. Risk and protective factors for mental health morbidity in a community sample of female-to-male trans-masculine adults (2019). BMC Psychiatry 19, 16. https://doi.org/10.1186/s12888-018-2008-0 Sabra L. Katz-Wise, Sari L. Reisner, Jaclyn White Hughto & Colton L. Keo-Meier (2016) Differences in Sexual Orientation Diversity and Sexual Fluidity in Attractions Among Gender Minority Adults in Massachusetts, The Journal of Sex Research, 53:1, 74-84, DOI: https://doi.org/10.1080/00224499.2014.1003028

3G.

What you are hearing	ROGD, or “rapid-onset gender dysphoria”: Social pressure leads to young people unexpectedly wanting to change their gender, and that this pressure is spreading amongst young people, rapidly increasing the number of people wanting to transition out of the blue.
How to respond - facts and talking points	• Social pressure can be harmful. No one should be pressured into anything. Social pressure pushes people towards gender conformity and punishes experiences that fall outside of the binary norm and not the other way around. The discrimination and violence trans people face are a reality that is supported by multiple studies and extensive research.⁵¹ • ROGD, or “rapid-onset gender dysphoria”, is a theory that originated in 2016 that has been widely criticised and discredited due to the flagrant flaws in its research approach.⁵² • The story of “rapid-onset gender dysphoria”: In a paper published in 2018, Littman professed to have discovered a “new type of gender dysphoria” - one based on social pressures, generally affecting people assigned female at birth, and based on parents’ perceptions, appearing without prior warning from their children. The study on which this idea is based is methodologically biased, so much so that the journal, PLOS One, printed a correction and apologised to the trans community for publishing the original article. Specifically, the study used online parent support groups wherein the general feeling of parents tends toward unsupportiveness of their trans children and surveyed those parents on the gender identities of their children. This flaw - seeking specific data from a source that is primed to provide only one view - is called a “confirmation bias”. While the research findings and methodology match one another (e.g. the findings make sense based on the methods), Littman originally presented the findings as evidence for a new diagnostic category, and this is where the bias becomes particularly relevant. A biased sampling strategy, without efforts at triangulation or verification, cannot be used as the basis for the development of diagnostic or treatment guidelines. Littman’s institution, Boston University, took down its press release about the paper and chose to stop publicising the work after the above issues came to light.

⁵¹ According to the FRA II LGBTI Survey, (2020) available from: https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer?locale=EN&dataSource=LGBTI&media=png&width=740&topic=3.+Violence+and+harassment&question=DEXindv1_2&answer=01--Yes&subset=AllSubset&subsetValue=0--All&superSubset=05--Trans-people&plot=heatMap&M2V=heatMap an EU average of 17% of the trans sample had experienced physical or sexual attacks due to being trans in the past 5 years and 60% reported being discriminated against in 8 areas of life in the 12 months prior to the survey https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer?locale=EN&dataSource=LGBTI&media=png&width=740&topic=2.+Discrimination&question=DEXover_discr&answer=01--Yes&subset=AllSubset&subsetValue=0--All&superSubset=05--Trans-people&plot=heatMap&M2V=heatMap

⁵² WPATH Global Board of Directors (4 September 2018). WPATH Position on “Rapid-Onset Gender Dysphoria (ROGD)” (PDF). WPATH. Available from: https://www.wpath.org/media/cms/Documents/Public%20Policies/2018/9_Sept/WPATH%20Position%20on%20Rapid-Onset%20Gender%20Dysphoria_9-4-2018.pdf

Further reading

Academic:

From Littman's employer, Brown University:

"Updated: Brown statements on gender dysphoria study". Expanded Brown University Statement – Tuesday, Sept. 5, 2018. News from Brown (Press release) (March 19, 2019 ed.). Providence, R.I.: Brown University. September 5, 2018.

Available from:

<https://www.brown.edu/news/2019-03-19/gender>

Ashley, F. (2020) A critical commentary on 'rapid-onset gender dysphoria'. SAGE journals. The Sociological Review.

<https://doi.org/10.1177/0038026120934693>

Professional associations:

WPATH Global Board of Directors (4 September 2018). WPATH Position on "Rapid-Onset Gender Dysphoria (ROGD)" (PDF). WPATH. Available from:

https://www.wpath.org/media/cms/Documents/Public%20Policies/2018/9_Sept/WPATH%20Position%20on%20Rapid-Onset%20Gender%20Dysphoria_9-4-2018.pdf

