

MYTH BUSTERS

When discussing gender-recognition procedures and how to reform them, certain stereotypes and fears reoccur. In the following, we address a number of frequent myths and provide ideas and facts on how to counter them.

Easier access to gender recognition procedures would lead to the following scenarios:

1. Criminals will abuse the procedure to mask their identity, avoid prosecution or conviction, obtain fraudulent gender-related benefits or commit other kinds of fraud.

There is no scientific evidence suggesting that simplified procedures would lead to increased abuse, e.g. the Dutch authorities investigated this question thoroughly before reforming their gender recognition law and could not identify relevant obstacles to lowering access requirements. Given the high emotional costs and social burdens associated with the change of legal documents, it is rather unlikely that a gender-recognition law will be abused systematically. Restricting access in order to prevent hypothetical abuse, however, would undermine the function of the law (to serve those persons who need such a law to access their human rights). The abuse of a law is already punishable under criminal law.

Under the simplified procedures of the Argentinean Gender Identity Law 3.000 ID cards were changed in one year without a documented case of misleading or fraudulent intentions.

2. Societal functioning will suffer as the norms of “man” and “woman” will be challenged.

Gender recognition is requested only by a relatively small group and does not impact the social fabric. States without invasive medical requirements – like Austria, Germany, UK, Hungary, Sweden and Portugal – have not forgone the social and legal notion of men and women.

3. A male convict would be able to transfer to a women’s prison.

A trans woman in detention has the right to be treated as any other woman and hence to be placed in a facility according to her gender identity. In fact, the safety and dignity of trans women in male prisons is often threatened due to transphobic discrimination and harassment by other inmates and prison authorities.

4. Easier access to gender recognition will lead to pregnant men and women begetting children.

Reproductive rights do not depend on a person's gender identity; they are an individual's human right. While some trans people might wish to reproduce, they are a minority within the trans community. So far, there is no evidence at all that the gender identity of trans parents might have a negative effect on their children.

5. People will switch identities back and forth.

There is no evidence that in countries with quick, accessible and transparent procedures, the number of gender recognition procedures per person increases. Nor is there any evidence that trans people's gender identity is less stable than any one else's. Trans people do not wake up one morning and think they are trans from this moment on. Coming to terms with one's gender identity is often a long process involving careful considerations before taking decisive steps.



A person obtaining several gender recognitions would be as burdensome as a person getting married several times. While it may create additional bureaucratic hassles, administrations should serve people's needs and not the other way around.

6. *Allowing a married trans person to stay married throughout identity recognition automatically leads to same-sex marriages.*

It is a state's obligation to protect the rights of a valid and lawfully concluded marriage, both for the trans person and their spouse. These rights cannot be set off against the right to integrity or gender recognition.

The parties to the union were legally of a different gender at the time that the marriage was initially entered into, and, the conditions for marriage were therefore complied with. It is irrelevant to the validity of the marriage that, at some later stage, one of the spouses seeks to have the gender marker on their birth certificate legally changed. Protecting an existing marriage is not the same as enabling two persons of the same (registered) gender to get married under the national marriage law.

7. *Children's well-being will suffer and/or they will be influenced to be(come) transgender.*

Available evidence does not support concerns that a parent's transgender identity directly adversely impacts a child's well-being, nor does it lead to an increased number of transgender children (Green, R.,(1998; Freedmann, D, 2002). The longterm evidence of children raised by same-sex couples demonstrates that quality of parenting is far more significant for children's psychological well-being than whether they are being raised in one type of family or another (Golombok, S, 2000).

Children are growing up in increasingly diverse societies. However, the majority of their experiences will occur in a society where people are not transgender.

8. Whether a person is really transgender can only be assessed by an expert (doctor, lawyer, etc).

Evidence shows that requiring a transsexual, transgender or similar diagnosis in gender recognition procedures is neither possible nor appropriate. It is not “possible” because there is no objective assessment available to assess a person’s gender identity. In fact, applicants often adapt their personal stories to meet the expert’s expectations in order to obtain the diagnosis. It is also not “appropriate” because the inherent power imbalance between expert and applicant prevents the establishment of a trustful relationship, which is a pre-condition for any therapeutic relationship. The state-of-the-art expert approach is to respect a person’s self-determination.

While the assessment of a person’s gender identity (in contrast to assessing a disorder or dysphoria) by an expert may appear less intrusive, the problematic aspects of a gatekeeping system – undermining a person’s dignity – remain.

9. Sex offenders will have an easier time to accessing women’s bath rooms.

Sexual harassment is a criminal act independent of a person’s gender recognition certificate. Again, the social costs of transitioning (all ID documents show the adapted data) are so high that gaining access to women’s washrooms cannot be assumed to be a big enough incentive to obtain gender recognition. There is no evidence showing a link between lowering access requirements in gender recognition and an increase in sexual offenses.

10. A confused person who is not transgender will be manipulated into obtaining legal gender recognition.

Every person has the right to make decision for themselves within their legal capacities. This is particularly true for such an intimate area as a person’s gender identity. If a person was to explore their gender identity, quick, accessible and transparent legal gender recognition procedures do not involve irreversible any steps. Gender recognition is a purely administrative process of adapting official registries and ID documents and does thus not create an entitlement to access gender-reassignment treatment.