

## FREEDOM OF GENDER

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ON MAY 29, 2020, a change to the Hungarian Registry Act came into place that made it impossible for trans people to legally change their gender.<sup>1</sup> Because of this law, trans people in Hungary now cannot change their legal gender from the gender that they were assigned at birth to the gender that matches their gender identity and cannot change their gender markers on their official legal documents, such as their passports, to match their gender identity. Furthermore, Hungary has two distinct official lists for the names of men and women. Trans people now cannot adopt and use a name on their legal documents that is on the list for the gender they were not assigned at birth.<sup>2</sup> So trans women in Hungary cannot change their name so that a woman's name appears on their identity documents (such as their driving licenses) and cannot change their gender marker on their legal documents (such as their passports): trans women who did not change their legal gender prior to May 29, 2020, will forever have Hungarian passports and legal names that label them as men. Some US states have recently followed in Hungary's footsteps. In 2023 and 2024, Kansas, Montana, North Dakota, Tennessee, Oklahoma, Florida, and Texas all made it impossible for trans people in these states to change their gender markers on their birth certificates and driving licenses.<sup>3</sup> And in early 2025, the US federal government made it impossible for trans people to renew or get new passports

1 See Faye, *The Transgender Issue*, 160.

2 See Andersson, "I Won't Even Be Allowed to Use My Name Now that Hungary Has Scrapped All Rights for Trans People."

3 See Reed, "Anti-Trans Legislative Risk Assessment Map," "Kansas, Other States Threaten to Undo Legal Gender Changes," and "Tennessee Law Rolls Back Trans Rights, Regressively Defines Sex"; Hanna, "Kansas Attorney General Sues to Prevent Transgender People from Changing Driver's Licenses"; Lang, "Texas Just Quietly Revoked Trans People's Ability to Change Their Birth Certificates"; Rummler, "Florida Is Quietly Denying Transgender Residents Updated Birth Certificates"; Yurcaba, "Florida Bars Transgender People from Changing the Sex on Their Driver's Licenses"; and "Identity Document Laws and Policies" by the Movement Advancement Project, [https://www.lgbtmap.org/equality-maps/identity\\_documents/birth\\_certificate](https://www.lgbtmap.org/equality-maps/identity_documents/birth_certificate) (regularly updated).

that label them as the gender that matches their gender identity rather than the gender they were assigned at birth.<sup>4</sup>

Trans people who are unable to change their name or gender marker on their identification documents face many harms. We have to present our identification documents all the time: to collect mail and prescriptions, at airports, when setting up a bank account or renting a house, when buying alcohol, entering bars or music venues, or when requested by the police. Many trans people appear to be the gender that matches their gender identity rather than the gender they were assigned at birth: many trans women are socially perceived to be women rather than men; many trans men are socially perceived to be men. A trans person showing an identity document that presents them as the gender they were assigned at birth rather than the gender they take themselves to be, present as, and are taken to be a member of by others often outs them as trans. And trans people are widely stigmatized and subject to abuse and attack.<sup>5</sup> So because trans people's showing an identity document on which their gender does not match their gender identity and presentation often outs them as trans, trans people's having to use such identification documents subjects them to abuse. According to the 2015 US Transgender Survey, 25 percent of trans people have experienced verbal harassment because they have had to use identification documents that present them as the gender they were assigned at birth.<sup>6</sup>

This article asks whether trans people have moral rights to change their gender markers on their legal identification documents. It argues that trans people have rights to relatively easily ensure that their gender markers on their legal identification documents do not clash with their gender identities and that these rights have a particularly stringent grounding—namely, they are grounded in basic liberal rights to live and act with integrity.

It is useful to clarify some issues about sex and gender as they are understood in this article and by legal systems. I assume that we can distinguish between sex and gender. However, in many legal systems such as the United Kingdom and Australia, there is only a category of legal sex/legal gender, and sex and gender are conflated and grouped into a single category by the law. For instance, in a document explaining that its passports present gender information rather

4 See Hansler, "State Department Suspends Processing Passport Applications with 'X' Marker"; Theil, "Trans Americans Accuse Trump of 'Travel Ban'"; and CNN, "This Trans Influencer Received a Passport with the Wrong Gender After Trump's Executive Order."

5 See James et al., "The Report of the 2015 US Transgender Survey"; Faye, *The Transgender Issue*, esp. 166–67; Trevor Project, "National Survey of LGBTQ Youth Mental Health (2020)"; Reed, "Tennessee Law Rolls Back Trans Rights, Regressively Defines Sex"; and Weiss, "The Gender Caste System," 133, 150, 152, 168.

6 James et al., "The Report of the 2015 US Transgender Survey," 89.

than sex information despite using the categories ‘male’, ‘female’, and ‘X’, the Australian government notes that “although sex and gender are conceptually distinct, these terms are commonly used interchangeably, including in legislation.”<sup>7</sup> In the United Kingdom, one is often taken to have only a legal sex, not a legal gender, but as Davina Cooper and colleagues explain, ‘legal sex’ and ‘legal gender’ are often used interchangeably in UK contexts, and this is true in government documents.<sup>8</sup> For instance, the UK government states that one’s “affirmed gender” will be legally recognized (e.g., a trans man will be legally recognized as a man) if one has a gender recognition certificate; and a gender recognition certificate is the certificate one needs to change the marker on one’s birth certificate from male to female or vice versa.<sup>9</sup> It might seem that we are not assigned a gender at birth but are only assigned a sex on our birth certificates. However, some jurisdictions such as Australia explicitly reject this claim.<sup>10</sup> And many other jurisdictions (including the United Kingdom and most US states) allow trans men, for instance, to change their birth certificates and passports to present them as men rather than women because they have male gender identities and live as men—not because they have changed from being biologically female to being biologically male.<sup>11</sup>

This article does not rely on claims about the metaphysics of sex or gender. It does rely on the idea that an adult being presented as female on their identification documents presents them as a woman. There are several reasons for this. For instance, first, as discussed above, many jurisdictions take their female and male gender markers on documents to denote gender, not sex. Second, ‘female’ and ‘male’ are often used as synonyms for ‘woman’ and ‘man’, and in part because of this (and in part because of other views they have), many, and perhaps most, people will assume that an adult is a woman if they are presented as female on their documents or that they are a man if they are presented as male on these documents.<sup>12</sup> In general, this article aims to stay neutral on what

7 See Australian Government, “Guidelines on the Recognition of Sex and Gender.”

8 Cooper et al., “Abolishing Legal Sex Status,” 91.

9 See the UK government webpage “Apply for a Gender Recognition Certificate,” <https://www.gov.uk/apply-gender-recognition-certificate/> (updated November 26, 2024; accessed August 21, 2025).

10 Australian Government, “Guidelines on the Recognition of Sex and Gender,” 4.

11 See, e.g., the UK government webpage “Apply for a Gender Recognition Certificate” (above n. 9); and, for discussion, Hines, *Gender Diversity, Recognition and Citizenship*.

12 This synonymous use is present even in (trans-inclusive) philosophical literature on gender, where, for instance, ‘female gender identity’ generally appears as a synonym for ‘the gender identity “woman”’ because it is sometimes easier to use. See, e.g., Jenkins, “Amelioration and Inclusion,” 404, 410.

gender is, for this metaphysical issue is irrelevant to the question of what our moral rights are regarding the gender on our legal documents.<sup>13</sup>

Section 1 sketches our basic liberal rights to live and act with integrity, arguing that given that we have such basic liberal rights to live and act with integrity, we have *pro tanto* rights to *freedom of legal gender identification*—that is, *pro tanto* rights to change our legal documents so that they do not clash with our gender identities.

Section 2 argues that these *pro tanto* rights to freedom of legal gender identification give rise to all-things-considered rights to freedom of legal gender identification; these *pro tanto* rights are not outweighed by other considerations. In this case, as I explain, blanket bans on gender marker changes, such as Hungary's, Kansas's, North Dakota's, Montana's, Oklahoma's, Florida's, Texas's, Tennessee's, and the US government's, are unjust and breach trans people's all-things-considered rights. Section 2 also discusses policies that require that trans people have sex reassignment surgery before they can change their gender markers and policies that do not allow nonbinary people to have X markers (rather than markers denoting male or female) on their passports. I argue that these policies breach trans and nonbinary people's all-things-considered rights too. Section 2 then argues that, in light of these arguments, there is a strong presumption in favor of one of several policies that make it relatively easy for trans and nonbinary people to have legal identification documents that do not clash with their gender identities.

The topic of trans people's rights to change their gender markers on their legal identification documents has received little attention in philosophy. And the few philosophical discussions of this topic have been critical of such rights: philosophers Holly Lawford-Smith and Kathleen Stock both argue that trans people do not have rights to change their genders on their legal identification documents because of the consequences of granting trans people these rights. Section 2 discusses these arguments and shows that they fail.

Beyond philosophy, the topics of gender marker change on legal documents and of the removal of gender markers from these documents altogether have been discussed by activists, human rights groups, academic lawyers, and legal theorists. Much of this discussion is primarily concerned with (1) the legal rights that trans people have in particular jurisdictions (and their legal grounds) or with (2) the virtues and vices of particular law reforms, rather than with (3) the moral rights that trans people have or how we should think about the moral

13 For similar claims and arguments, see Jenkins, *Ontology and Oppression*, ch. 8; and Dembroff, "Real Talk on the Metaphysics of Gender."

grounds of these rights.<sup>14</sup> For instance, the Yogyakarta Principles outline a set of principles for the application of international human rights law to sexual orientation and gender identity, and one of those principles requires states to ensure that “all state-issued identity papers which indicate a person’s gender/sex—including birth certificates, passports, electoral records and other documents—reflect the person’s profound self-defined gender identity.”<sup>15</sup> But the Yogyakarta Principles do not discuss the grounds of trans people’s rights to have their identification documents reflect their gender identities.<sup>16</sup> Some of this literature beyond philosophy is also somewhat skeptical that it is advantageous to think of these issues in a rights-based framework.<sup>17</sup> However, we can glean several alternative candidates for the grounds of rights to freedom of legal gender identification from this literature. Section 3 discusses such alternative (harm-based, privacy-based, and autonomy-based) grounds of our rights to freedom of legal gender identification and argues that there are virtues to adopting an integrity-based approach over these alternatives.

## 1. INTEGRITY-BASED RIGHTS TO FREEDOM OF LEGAL GENDER IDENTIFICATION

### *1.1. Basic Liberal Rights to Live and Act with Integrity*

Basic liberal rights include rights to freedom of religious belief and expression and freedom of political speech.<sup>18</sup> Basic liberal rights are not unlimited. We have a basic liberal right to freedom of speech, but this does not mean that

14 On 1, see, e.g., Cannoot and Decoster, “The Abolition of Sex/Gender Registration in the Age of Gender Self-Determination”; Hines, *Gender Diversity, Recognition and Citizenship*; and Weiss, “The Gender Caste System.” On 2 see, e.g., Ashley, “‘X’ Why?”; Cooper and Emerton, “Pulling the Thread of Decertification,” 5–9; and Neuman Wipfler, “Identity Crisis.” However, for examples of brief discussion of the moral grounds of the right to have legal documents match one’s gender identity, see Lau, “Gender Recognition as a Human Right,” esp. 194–95; and Pearce et al., “Introduction,” 15. See further section 3 below.

15 The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (March 2007), [https://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles\\_en.pdf](https://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf), 12.

16 Its principles regarding nondiscrimination and privacy are not connected to the right to not be forced to have identification documents that are out of line with one’s self-defined gender. See the Yogyakarta Principles, 10, 14.

17 See, e.g., Renz, “Genders that Don’t Matter”; Venditti, “Gender Kaleidoscope,” 72; and Spade, *Normal Lie*, ch. 3, 93. My argument in this article shows that we should not be skeptical in this way, since basic liberal rights establish that there are such rights to freedom of legal gender identification.

18 See, for instance, Dworkin, *A Matter of Principle*, esp. 191–92, and *Justice for Hedgehogs*, 371.

we have a right to yell "Fire!" in a crowded theater or a right to whip up a mob in front of someone's house, inciting them to burn it down; and according to many, our rights to freedom of speech do not establish that we have a right to spout hate speech. These basic liberal rights are codified in human rights conventions such as the United Nations Universal Declaration of Human Rights (1948) and the European Convention on Human Rights (1950). And some form of recognition and protection of these basic liberal rights is often taken to be a necessary condition on—or even constitutive of—a regime or political philosophical view being liberal.<sup>19</sup>

A state that forces all of its citizens to go to mass breaches basic liberal rights to freedom of religious belief and expression. In Malaysia, ethnic Malays are assigned Muslim at birth: they have 'Muslim' presented on their legal identification documents and are expected to engage in Islamic fasting and prayer—and can be fined for refraining from doing so. Ethnic Malays are assigned Muslim regardless of whether their families are Muslim or whether they ever practice Islam or ever believe the tenets of any form of Islam. In most Malaysian states, it is impossible to change one's legal status from Muslim to another religion or to no religion. In other Malaysian states, changing one's legal religion from Muslim is in principle possible, though only after months or years in a reeducation center; and in practice, most of those assigned Muslim at birth who wish to change their legal religion struggle to do so.<sup>20</sup> Malaysia breaches ethnic Malays' basic liberal rights to freedom of religious belief and expression. Other famous examples of breaches of freedom of religious belief and expression include polytheists being forced to pledge allegiance to a monotheistic God, Jehovah's Witnesses being forced to pledge allegiance to the US flag in US schools even though they take doing this to involve a wrongful form of idolatry, and Seventh Day Adventists being forced to work on their holy day (or else face poverty without pay or unemployment support).<sup>21</sup> I presume that it is unjust for a state to breach its citizens' freedom of religious belief and expression in these ways. And so I presume that basic liberal rights to freedom of religious belief and expression at least protect our religious belief and expression in these ways.

Many political liberals take these basic liberal rights to freedom of religious belief and expression to be grounded in more general rights to live a life that we take to be right, meaningful, or good. According to John Rawls, we have two

19 See, for instance, Dworkin, *Justice for Hedgehogs*, 371, and *Religion Without God*, 105–6.

20 See Ahmad et al., "Freedom of Religion and Apostasy"; Chen, "Renouncing Islam in Malaysia Is Dangerous"; Aziz, "Freedom of Religion by Religion for Religion"; Samuri and Quraishi, "Negotiating Apostasy"; and Nazri, "What Happens when Muslims in Malaysia Try to Leave Islam" (including the references therein).

21 See Nussbaum, *Liberty of Conscience*, 135–36, 204–14.

moral powers: a rational power to form, revise, and pursue a conception of the good or valuable life for us; and a reasonable power to form, revise, and pursue a conception of what is right and wrong.<sup>22</sup> Rawls holds that we need liberal rights to freedom of religious belief and expression in order to exercise these powers: in order to be able to form and revise conceptions of the good life for us and what is right, we need to freely discuss different religious and nonreligious views of the good life and of what is right; and we need to be able to act in line with our conceptions of the right and the good in order to exercise our powers to pursue our conceptions of the right and the good.<sup>23</sup> Ronald Dworkin, Jocelyn Maclure, Charles Taylor, and Robert Audi hold similar views, according to which our rights to freedom of religious belief and expression are grounded in more general rights to live a life that we take to be right, meaningful, or good.<sup>24</sup> On this view, basic liberal rights protect atheist conscientious objectors' rights not to be forced to go to war just as much as they protect religious minorities' rights not to have to pledge allegiance to a God they do not believe in.

This Rawlsian view of the grounds of basic liberal rights to freedom of religious belief and expression is given its most comprehensive articulation in Cecile Laborde's *Liberalism's Religion*. Laborde holds that the best way of understanding this Rawlsian view involves understanding basic liberal rights to freedom of religious belief and expression to be grounded in general rights to live and act with integrity. Laborde, following Bernard Williams, holds that someone acts and lives with integrity when they act in line with

1. their practical identities;
2. their views of what gives their life meaning or what their life is "fundamentally about";
3. their views, commitments, or ideals regarding the kind of person they should be; and
4. the way of life that they value, and take to be good for them, though not necessarily for everyone else.<sup>25</sup>

Integrity is a coherence notion on this picture. We have views or make judgments about what our acting in line with our practical identities, our ideal of how we should be or act, or our views of the good or meaningful life for us involves. And we act with integrity to the extent that we act in line with these

22 Rawls, *Justice as Fairness*, 45.

23 Rawls, *Justice as Fairness*, 45.

24 See Dworkin, *Justice for Hedgehogs*, 368–70; Maclure and Taylor, *Secularism and Freedom of Conscience*, 75–81; and Audi, "Religious Liberty Conceived as a Human Right," 418.

25 Laborde, *Liberalism's Religion*, 204–5. See also Williams, "A Critique of Utilitarianism," 108–18.



judgments and views. These ethical and moral views are not mere preferences. According to Laborde, unlike preferences, someone cannot act in a way that is out of line with these ethical and moral views without feeling negative reactive attitudes such as shame, remorse, or guilt.<sup>26</sup> So, according to Laborde:

*Integrity-Based Rights:* We have fundamental liberal rights to be able to live and act with integrity—that is, to live in line with our view of the life we ought to live, to live in line with our view of what the good or meaningful life is for us, or to live in line with our practical identities.<sup>27</sup>

This view generates the right results in the cases that we started off with. For instance, many judge that the good life for them does not involve pledging allegiance to a God that they do not believe in or attending mass, and many judge that they ought not work on their holy day. So the importance to us of living with integrity—which is something that everyone can agree is important—grounds these rights to religious belief and expression.<sup>28</sup>

These integrity-based rights are, at least normally, only negative rights. Suppose your ideal of the good and meaningful life for you involves going on a pilgrimage to a faraway important religious site; yet your fundamental liberal rights to live with integrity do not entitle you to all the resources you need to go on this pilgrimage.

Our rights to live and act with integrity are strong and important rights. Nonetheless, they are *pro tanto* rather than all-things-considered rights: if acting with integrity involves you encroaching on someone else's basic liberal rights, you do not have an all-things-considered right to act in that way. So by granting that we have integrity-based rights that ground our rights to freedom of religious belief and expression, we need not grant that all things that someone may feel entitled to as part of their freedom of religion are really things that they have a right to. For instance, many religious schools claim that they have a right to exclude LGBTQ+ children. We can hold that there are integrity-based rights but challenge the claim that religious schools have such a right in various ways: we can ask whether it is really true that in order to live with integrity anyone needs to not teach or receive schooling with LGBTQ+ children.<sup>29</sup> And if someone genuinely needs to not engage with LGBTQ+ people in order to live

26 Laborde, *Liberalism's Religion*, 204.

27 See Laborde, *Liberalism's Religion*. For similar views, see Bou-Habib, "A Theory of Religious Accommodation"; Dworkin, *Sovereign Virtue*, 270; and Billingham, "How Should Claims for Religious Exemptions Be Weighed?"

28 On how everyone can agree that this is important, see Laborde, *Liberalism's Religion*, 61; and Bou-Habib, "A Theory of Religious Accommodation," esp. 120.

29 See Sunstein, "On the Tension Between Sex Equality and Religious Freedom," 136–37.



with integrity, we might argue that they do not have an all-things-considered right to do this because of the message our state would send by allowing them to segregate themselves from LGBTQ+ people and the harm that this message would cause to LGBTQ+ people.<sup>30</sup>

I discuss alternatives to the integrity-based approach to rights to freedom of religious belief and expression in subsection 1.3 below. But in the next subsection, I first explain how if we have rights to live and act with integrity, these rights generate *pro tanto* rights to gender marker change.

## 1.2. Freedom of Legal Gender Identification

We can distinguish between the following.

*Gender Identity (GID)*: This is, most generally, the gender that you take yourself to be, your sense of what gender you are, or the gender category that seems to you to fit you.<sup>31</sup>

*Assumed Gender (AG)*: This is the gender that we are assumed to be by strangers, such as those to whom we present identification documents (that is, whether we are taken by others to be a woman, a man, nonbinary or some particular nonbinary gender).

*Documented Gender (DG)*: This is the gender that is listed and presented on our identification documents.<sup>32</sup>

Suppose that Alexa is a trans woman whose GID and AG are “woman” and whose DG is “man.” There are what we might think of as intrinsic and extrinsic effects of the conflict between (1) Alexa’s DG and (2) her GID and AG.

*Extrinsic Effects*: This conflict can lead to people treating Alexa as a gender that clashes with Alexa’s GID (e.g., treating her as a man).

*Intrinsic Effects*: By presenting her gender documents, Alexa presents herself as a gender that clashes with her gender identity (e.g., as a man).

30 For discussion of how such messages can limit permissible actions and policies, see, e.g., Lever, “Why Racial Profiling Is Hard to Justify,” 97; and Hellman, “Racial Profiling and the Meaning of Racial Categories,” 237.

31 See Stryker, *Transgender History*, 21; Jenkins, “Amelioration and Inclusion,” 409; Bettcher, “Through the Looking Glass,” 396; and Cosker-Rowland, “Gender Identity.”

32 I do not take our GID, AG, and DG to be all that matters to us, or even what matters most to us about sex and gender, and certainly not to be all there is to sex and gender. I make and use these distinctions for the purpose of explaining how restrictions on gender marker change impinge on the integrity of trans people.

These intrinsic and extrinsic effects of a clash between trans people's (1) DG and (2) GID and AG can impinge on their integrity in several ways.

### 1.2.1. *Practical Identity*

To be trans is to have a gender identity that is different from the gender you were assigned at birth. For instance, trans women were assigned male at birth but have female gender identities. (They have the gender identity 'woman'.)<sup>33</sup> To be trans and have the gender identity 'woman' involves seeing it as an important part of your identity that you live as, or should live as, a woman.<sup>34</sup> In order to live with integrity, we need to live and act in line with our practical identities. The intrinsic and extrinsic effects of the conflict between Alexa's documented gender and her female gender identity impinge on her ability to live as a woman: she has to present herself as a man rather than a woman whenever she produces her legal identification documents, and doing this will lead to her being treated by others as a man rather than as a woman. So Alexa's inability to change her documented gender to 'woman' impinges on Alexa's integrity by impinging upon her ability to live and act in line with one of her practical identities.

### 1.2.2. *Ought Judgments*

On many accounts of gender identity, trans gender identities involve normative judgments. According to Katharine Jenkins's account of gender identity, to have a trans gender identity is to judge or to have the experience that you ought to navigate the world, categorize yourself, and be categorized in line with norms associated with a gender other than the gender that you were assigned at birth.<sup>35</sup> According to Susan Stryker, gender identities involve our judgments about the gender category that fits us or that it is correct for us to present ourselves as or be treated as.<sup>36</sup> Many trans people discuss their first experiences of their gender identity and gender in terms of their normative experiences. For instance, trans women Julia Serano and Mia Violet explain how it seemed to them that they *ought* to line up with the girls rather than the boys when they were at school and *should* use the girls' bathrooms rather than the boys' bathrooms.<sup>37</sup> Many trans people also discuss and understand their genders in terms of the gender

33 See Stryker, *Transgender History*, ch. 1; and Faye, *The Transgender Issue*, xiv.

34 See Bettcher, "Evil Deceivers and Make-Believers," 46; and Barnes, "Gender and Gender Terms," 709.

35 Jenkins, "Amelioration and Inclusion," 411, 413.

36 Stryker, *Transgender History*, 21. See also Cosker-Rowland, "Gender Identity."

37 Serano, *Whipping Girl*, 78; and Violet, *Yes, You Are Trans Enough*, 24.

categories that fit them or that it is correct to categorize them as.<sup>38</sup> And if it is fitting or correct to  $\phi$ , other things equal, one ought to  $\phi$ . For example, if it is fitting or correct for me to admire someone, then other things equal, I ought to admire them.<sup>39</sup> According to the account of integrity explained in section 1.1, if I judge that I ought to live as gender  $G$  or that my ideal of the life I ought to live involves living as a  $G$ , then in order to live with integrity, I must live as a  $G$ . Being unable to change our documented gender so that it does not clash with our gender identity and with the gender that we judge we ought to live as impinges on our ability to live as a gender that does not clash with our gender identity or the gender that we judge we ought to live as. For if we are unable to change our documented gender so that it does not clash with our gender identity, we must present ourselves as a gender that clashes with our gender identity to access many goods and services, and this is likely to lead to others frequently treating us as a gender that clashes with our gender identity. So a trans person's being unable to change their documented gender so that it does not clash with their gender identity and the gender that they judge they ought to live as impinges on their ability to live and act with integrity.

### 1.2.3. Authenticity

Many trans people judge that in order to be authentic, they need to live their lives as a gender that is different from the gender they were assigned at birth; they take it to be inauthentic to live as the gender they were assigned at birth.<sup>40</sup> Plausibly, to be trans involves judging that you are a gender other than that which you were assigned at birth and that your being authentic involves living as that gender.<sup>41</sup> If you judge that in order to be authentic, you need to live your life as gender  $G$ , to treat yourself and be treated as a  $G$ , then you take your living your life as who you really are to involve living as a  $G$ , or you take it that what your life is fundamentally about or your living a life that is meaningful for you involves living as gender  $G$ . And if you take living your life as who you really are to involve living as a  $G$ , or you take it that what your life is fundamentally about or your living a life that is meaningful for you to involve your living as gender  $G$ ,

38 See Roche, *Trans Power*, 16–17; Weiss, “9 Things People Get Wrong About Being Nonbinary”; and Rajunov and Duane, *Nonbinary*, 28, 94, 109, 231.

39 See Cosker-Rowland and Howard, “Fittingness,” 4–5.

40 See Kee, “35 People Who Transitioned on How It Impacted Their Mental Health”; Williams, “What It Means to Be Authentic”; Cook, “10 Transgender People Share What They Wish They Knew Before Transitioning”; Violet, “The Fact I Can’t Marry as a Bride Is Another Reminder of How Unequal Trans Rights Still Are”; and Cosker-Rowland, “Integrity and Rights to Gender-Affirming Healthcare,” 833–34.

41 See Stryker, *Transgender History*, 21; and Bettcher, “Through the Looking Glass,” 396.

then you need to live as a G in order to live with integrity.<sup>42</sup> (See section 1.1.) A trans person's being unable to change their documented gender so that it does not clash with the gender they take it that their authenticity requires them to live as impinges on their ability to live as that gender. So a trans person's being unable to change their documented gender so that it does not clash with the gender they take it that their authenticity requires them to live as impinges on their ability to live and act with integrity.

#### 1.2.4. *Reactive Attitudes*

Many trans and nonbinary people experience guilt, shame, or other negative reactive attitudes towards themselves or judge that they are living wrongly by living as the gender they were assigned at birth.<sup>43</sup> For instance, many trans men feel ashamed that they have not transitioned to live as men because they judge that they are not being true to themselves or living as who they really are because they are not living as men; they are hiding who they are by refraining from transitioning. As discussed in section 1.1, if one has such negative reactive attitudes towards one's not  $\phi$ -ing, then not  $\phi$ -ing clashes with one's integrity. Trans people's being unable to change their documented gender so that it is different from the gender they were assigned at birth impinges on their ability to live as a gender different from that which they were assigned at birth. For trans people who are unable to change their documented gender will have to present themselves as a gender that clashes with their gender identity to access many goods and services—and so, to that extent, will have to live as a gender that clashes with their gender identity. And this will likely lead to others frequently treating them as a gender that clashes with their gender identity—and so, to an extent, will lead to their not living in line with their gender identity. So trans people's being unable to change their documented gender so that it is different from the gender they were assigned at birth impinges on their ability to live with integrity.

#### 1.2.5. *What a Good and Meaningful Life for One Involves*

Many trans people judge that in order to live a good or meaningful life, or a life in which they can be happy, they must live as and be treated as the gender that matches their gender identity; and many trans people are very unhappy and find it impossible to live a good life while living as the gender they were

42 I argue elsewhere ("Integrity and Rights to Gender-Affirming Healthcare," 833–34) that if you need X in order to live authentically, then you need X in order to live with integrity.

43 See, e.g., Kee, "35 People Who Transitioned on How It Impacted Their Mental Health"; Rachel's story in Brighter, "Trans-Later"; Giordano, "Understanding the Emotion of Shame in Transgender Individuals"; and Serano, *Whipping Girl*, 78.

assigned at birth.<sup>44</sup> If one judges that one's living a good, valuable, or meaningful life involves one's living as gender *G*, then one's living with integrity involves one's living as a *G*. Trans people's being unable to change their documented gender so that it does not clash with their gender identity impinges on their ability to live as the gender that matches their gender identity. And so trans people's being unable to change their documented gender so that it does not clash with their gender identity impinges on their ability to live with integrity because it impinges on their ability to live a life that they take to be a good, valuable, or meaningful one for them.

### 1.2.6. *Misrepresentation*

There is a final slightly more indirect way in which trans people's being unable to change their documented gender so that it does not clash with their gender identity impinges on their ability to live with integrity. Many trans people judge that they are misrepresenting themselves or presenting themselves as someone who they are not by presenting themselves as the gender they were assigned at birth rather than the gender they take themselves to be.<sup>45</sup> And many people would judge that a good or valuable life for them, or a life in which they are living in line with their ideals of how they ought to live or are living authentically, is not a life in which they are frequently misrepresenting themselves or who they are to others. So, many people need to not be frequently misrepresenting themselves to others in order to live with integrity. But if one cannot change one's documented gender so that it does not clash with the gender one believes oneself to be, one cannot avoid frequently having to misrepresent oneself to others. So, for many people, their being unable to change their documented gender so that it does not clash with the gender they take themselves to be would stop them from living with integrity, or at least impinge on their ability to live with integrity. This is the ground on which intersex and nonbinary people were granted the right to have *X* gender markers on their US passports. In 2021, Dana Zzyym became the first US citizen to have an *X* gender marker (rather than an *M* or *F* marker) on their passport. The judge in Zzyym's case argued that nonbinary and intersex people ought to be able to have *X* markers on their passports because they have the right to travel internationally without lying to others about their gender, without presenting themselves as a gender that they take to be a lie.<sup>46</sup>

44 See, e.g., Oladipo, "Majority of Trans Adults Are Happier After Transitioning"; and Violet, "The Fact I Can't Marry as a Bride Is Another Reminder of How Unequal Trans Rights Still Are."

45 See, e.g., Renz, "Genders that Don't Matter," 10.

46 See Clarke, "They, Them, and Theirs," 919.

If the arguments that I have made in this section are sound, then our basic liberal rights to live and act with integrity establish (*pro tanto*) rights to freedom of legal gender identification—that is, *pro tanto* rights for trans people to be able to change their documented gender so that it does not clash with their gender identity.

### 1.3. *Objections*

One objection to my argument that there are *pro tanto* rights to freedom of legal gender identification is that we do not have basic liberal rights to live and act with integrity. But if we do not have basic liberal rights to live and act with integrity, then what would ground our basic rights to freedom of religious belief and expression?

Martha Nussbaum argues that the source of our rights to religious freedom lies in our common ability to search for the ultimate meaning of life and for its intrinsic worth and value.<sup>47</sup> This searching faculty merits respect, and our rights to freedom of religion are rights that exist to protect this faculty, its exercise, and the expression of its exercise. She takes her account to be different from the integrity-based approach because, for instance, the judgment that one morally ought not go to war need not be the result of a search for the ultimate meaning of life and its intrinsic worth and value.<sup>48</sup>

However, if Nussbaum's narrower meaning-, worth-, and value-based account of our rights to religious belief and expression holds, then several of the arguments I have made for the conclusion that trans people have rights to freedom of legal gender identification are still sound. For on Nussbaum's account, we have basic liberal rights to live a life that we take to be meaningful or valuable for us. And as I have been arguing, many trans people, after having engaged in a search for what a meaningful, worthwhile life for them involves, take such a life for them to involve their living as a gender different from the gender they were assigned at birth; and not being able to change their gender markers so that they do not clash with their gender identities clashes with their living such a life.<sup>49</sup> Put a different way, the arguments regarding authenticity, meaningful lives, and perhaps also misrepresentation that I have made for why trans people have basic liberal rights to freedom of legal gender identification still go through even if we accept (or should accept) Nussbaum's account of the grounds of our basic liberal rights to freedom of religious belief and expression rather than the integrity-based account.

47 Nussbaum, *Liberty of Conscience*, 168.

48 Nussbaum, *Liberty of Conscience*, 172.

49 See also Ashley, "What Is It Like to Have a Gender Identity?"

Alternatively, we might think that our basic liberal rights to freedom of religious belief and expression are grounded in our rights not to have to breach our perceived moral obligations—not to have to do something that we judge to be morally wrong. However, Nussbaum and Laborde plausibly argue that many religious believers do not take themselves to be morally obligated to practice their religion yet still seem to have rights to religious belief and expression.<sup>50</sup> In this case, their rights to religious belief and expression would have to be grounded in rights beyond rights to act in line with our perceived moral obligations. So we should reject a perceived-moral-obligation-based account of rights to freedom of religious belief and expression.

Second, the arguments that I have given might seem to show only that trans people who “pass” or are generally recognized as the gender that matches their gender identity have rights to freedom of legal gender identification.<sup>51</sup> This might seem objectionable because it might seem that only a small minority of trans people “pass,” and trans people have no obligation to “pass.”

However, first, it is not obvious that only a small minority of (binary) trans people will be outed by identification documents that label them as genders that conflict with their gender identities. For instance, one study found that 28 percent of trans women generally “pass” as women and 62 percent of trans men generally “pass” as men.<sup>52</sup> Furthermore, it is much easier to be accepted as the gender one presents as by a distracted and uninterested shop assistant or security guard who only briefly glances at you than it is to “pass” generally. (Many trans women do not “pass” because of how their voices sound or because of how their voices sound in prolonged conversations, but because of their appearance, they may nevertheless be assumed to be women by airport security, for instance.) And some trans people who do not exactly “pass” as the gender that matches their gender identity are people whose gender is not assumed or known by many people whom they encounter. Identification documents that label these trans people as particular genders lead to these trans people being thought to be particular genders (e.g., someone’s being thought to be a woman rather than unknown). And so identification documents that

50 Nussbaum, *Liberty of Conscience*, 172; and Laborde, *Liberalism’s Religion*, 66–67.

51 For problems with “passing” terminology (and suggestions for alternatives), see Serano, *Whipping Girl*, 176–80; and Plemons, *The Look of a Woman*, 14–15.

52 To et al., “Visual Conformity with Affirmed Gender or ‘Passing.’” This study was based on trans people’s perceptual reports. But many trans people are constantly worried about being perceived as (or expect to be perceived as) a gender different from their gender identity even when they are not so perceived. So we should not necessarily expect trans people to overestimate (rather than underestimate) the extent to which they “pass.”



clash with these trans people's gender identities will lead to them being treated as a gender that conflicts with their gender identity.

Of course, there are some trans people who are always thought to be the gender they were assigned at birth. However, first, identification documents that present a "nonpassing" trans woman as a man may still lead to her being treated as a man rather than as a woman by those with whom she interacts. For instance, such documents may lead to those to whom she presents her documents just thinking that she is a man and treating her as such rather than thinking that she is a trans woman and treating her as a woman. Finally, an important part of my argument is that trans people have *pro tanto* integrity-based rights not to have to present themselves to others as a gender that does not match their gender identity regardless of the extrinsic effects of this because many trans people judge that they ought not present themselves to others as a gender that conflicts with their gender identity, or judge that they would be misrepresenting themselves by doing this or that doing such is out of line with their practical identities. This part of the argument holds for all trans people regardless of whether they "pass" or are potentially outed by identification documents that do not match their gender identities.

A third objection to my argument for *pro tanto* rights to freedom of legal gender identification is that our passports and other identification documents present our sex, not our gender. However, first, as I discussed briefly at the start of this article, this is incorrect regarding many states and their identification documents. For instance, the Australian government notes that it collects, and its passports present, information about gender rather than sex—despite using the categories of male, female, and X.<sup>53</sup> Second, the laws of many countries draw an explicit link between sex and gender on legal identification documents even if they conceive of the marker on legal documents as marking sex. For instance, as mentioned earlier, Hungary forbids someone who was assigned female at birth from having a name from the state's list of names for men presented on their identification documents.<sup>54</sup> And the United Kingdom allows trans people to change whether they are presented as male or female on their passport so long as they have been diagnosed with gender dysphoria; it does not require that only biologically male people be listed as male, for instance. Thirdly and perhaps most importantly, the core argument that I have made goes through regardless of whether a legal document purports to present sex or gender information. For the argument that I have made is that, for instance,

53 See Australian Government, "Australian Government Guidelines on the Recognition of Sex and Gender," 4.

54 Andersson, "I Won't Even Be Allowed to Use My Name Now that Hungary Has Scrapped All Rights for Trans People."

a trans woman's being forced to have a passport that lists her as male will (1) force her to be outed as trans, (2) force her to present herself as a man, and/or (3) lead to others treating her as a man; and so it will impinge on her integrity.

## 2. ALL-THINGS-CONSIDERED RIGHTS TO FREEDOM OF LEGAL GENDER IDENTIFICATION

In the previous section, I established that trans and nonbinary people have *pro tanto* rights to freedom of legal gender identification. But these *pro tanto* rights could be outweighed by the rights of others or by harms to others. Relatedly, to establish that we have (*pro tanto*) rights to freedom of legal gender identification is not yet to establish what this means for the policies that we ought to have. In this section, I argue that (1) there are no rights, harms, or other considerations that outweigh trans and nonbinary people's *pro tanto* rights to freedom of legal gender identification. And I argue that because 1 is true, (2) the existing restrictions in many states on trans and nonbinary people's rights to freedom of legal gender identification are not justified and breach trans and nonbinary people's all-things-considered rights; and (3) there is a strong presumption in favor of one of several policies that make it relatively easy for trans and nonbinary people to have identification documents with gender markers that do not clash with their gender identities.

### 2.1. Blanket Bans on and Surgery Requirements for Gender Marker Change

First, I want to consider whether rights to freedom of legal gender identification generate all-thing-considered rights against blanket bans on gender marker change such as Hungary's, Kansas's, North Dakota's, Montana's, Oklahoma's, Florida's, Texas's, and Tennessee's blanket bans on gender marker change on birth certificates and driving licenses, and the US government's blanket ban on gender marker changes on passports. Do others' rights or the alleged harms averted by these blanket bans establish that these blanket bans do not violate anyone's all-things-considered rights? I consider these blanket bans on gender marker change simultaneously with another type of policy. Several US states, including Alabama, Arizona, Missouri, Nebraska, and Wisconsin (as well as many countries including Singapore and, until recently, Japan), require trans people to show proof that they have had sex reassignment surgery before they are permitted to change their gender markers on their legal documents.<sup>55</sup> Up to 90 percent of trans women have not had this kind of surgery, and up to 95

55 National Center for Trans Equality, "Summary of Birth Certificate Gender Change Laws." See also "Identity Document Laws and Policies" by the Movement Advancement Project (note 3 above).

percent of trans men have not have this kind of surgery; and many trans people do not want these expensive and invasive surgeries.<sup>56</sup> As I will argue in this section, it is implausible that alleged harms to others or the rights and interests of others can outweigh trans people's rights to freedom of legal gender identification and justify either a blanket ban or surgery requirements on trans people changing their gender markers.

Philosophers Holly Lawford-Smith and Kathleen Stock argue that we should not make it relatively easy for trans people to change their gender on their legal identification documents because this would put cis women at risk of harm in women-only spaces.<sup>57</sup> They seem to take their argument for this conclusion to favor policies like blanket bans.<sup>58</sup> This is their argument:

- P1. Cis men's being in women-only spaces would put cis women (and other people assigned female at birth) at risk of harm.
- P2. Many trans women share certain features of cis men that make them more likely to oppress and inflict violence on women—namely, high levels of testosterone, male genitals, and a history of having been socialized as men and treated as men. So permitting many trans women to use women-only spaces would put cis women (and other people assigned female at birth) at risk of harm.
- P3. If it were relatively easy to change one's gender on one's legal identification documents, cis men who wish to harm cis women (and other people assigned female at birth) could pretend to be women and thereby gain access to women-only spaces.
- C. Permitting trans women to change their gender on their identification documents relatively easily would harm cis women (and other people assigned female at birth) in women-only spaces because it would make it easier for cis men and trans women who pose a risk of harm to cis women in these spaces to access these spaces.<sup>59</sup>

I do not want to evaluate the merits of this argument yet; I will do that in section 2.3 below. First I want to establish that this argument could not justify

<sup>56</sup> James et al., "The Report of the 2015 US Transgender Survey," 101–2.

<sup>57</sup> Lawford-Smith, *Gender Critical Feminism*, 104–5; and Stock, *Material Girls*, 106–8.

<sup>58</sup> Lawford-Smith advocates for blanket bans in her philosophical articles (e.g., "Ending Sex-Based Oppression"), as well as in her popular work.

<sup>59</sup> This line of argument is also extremely popular in popular culture and is generally cited as the reason that those who are in favor of strong restrictions on trans people changing their gender markers are in favor of these restrictions. See, e.g., Bland, "Wednesday Briefing." Lawford-Smith approvingly quotes a gloss of her argument along the lines of the reconstruction presented here (*Gender Critical Feminism*, 104–5).

blanket bans or surgery requirements on gender marker change. There are at least two reasons for this. First, if there were still significant barriers on changing one's gender markers on one's legal documents, cis men would not be able to change their gender markers on their legal documents in order to access women-only spaces without bearing costs that no cis man would be willing to bear to do this. A state can allow trans women to change their legal gender markers but require that before doing this, they show documented evidence that they have lived as a woman for several months or years or that they have been on hormone replacement therapy for several months or years.<sup>60</sup> These are extraordinarily high costs to bear for a cis man. And these costs will not be borne by cis men who wish to access women-only spaces, especially since most cis men who wish to access these spaces simply walk into them.<sup>61</sup>

Second, many trans women do not have the features alluded to in P2. Around 70 percent of trans women have undertaken feminizing hormone replacement therapy (HRT); and 95 percent of trans women want to be on feminizing HRT.<sup>62</sup> Feminizing HRT lowers one's testosterone levels to average cis women levels and raises one's estrogen levels to average cis women levels.<sup>63</sup> There is no reason to believe that someone's having male genitals on its own—that is, without testosterone levels higher than average cis women levels and estrogen levels lower than average cis women levels—has any connection to harming cis women. And some trans women transition very young and so have not been socialized as men (and have been on feminizing HRT since transitioning). Lawford-Smith's and Stock's argument could not justify restricting the integrity-based rights of such trans women. So blanket bans and surgery requirements on gender marker change are unjust because they encroach on the integrity-based rights of many trans people without justification.

I have been asked: Why would it be better to (1) require that trans people have had HRT before being able to change their gender markers rather than to (2) require that they have had sex reassignment surgery before doing this? To be clear, I am not arguing that either 1 or 2 are justified requirements. I am arguing that Lawford-Smith's and Stock's argument cannot justify 2 over 1. However, 1 is better than 2 because over 90 percent of trans men and trans women have not had sex reassignment surgery, and this surgery can be extremely costly and invasive. HRT is not so costly nor so invasive, and most trans women, for

60 See further section 2.3 below.

61 See Doran, "Equality NC Director"; and Steinmetz, "Why LGBT Advocates Say Bathroom 'Predators' Argument Is a Red Herring."

62 James et al., "The Report of the 2015 US Transgender Survey," 99.

63 Vincent, *Transgender Health*, 152.

instance, are either on HRT or would like to be. So 1 encroaches less strongly on trans people's integrity-based rights than 2.

It has been put to me that my argument that surgery requirements and blanket bans on gender marker change cannot be justified by P1-C does not succeed because we need generalized policies regarding gender marker change, and I have not shown that we can hold such a generalized policy without adopting a blanket ban or surgery requirements. This is not the case. There are several general policies that I have argued that the argument from P1-C does not militate against and are inconsistent with blanket bans on gender marker change and surgery requirements, such as the following: trans people who transition before they are fourteen years old may change their gender markers on their identification documents; trans people who have been on HRT or who have lived as the gender that matches their gender identity for, e.g., three to six months (or twenty-four months) may change their gender markers. (A three-to-six-month policy regarding legal gender change was proposed by the Scottish government; a twenty-four-month period is the current UK policy regarding birth certificates.)<sup>64</sup> To reiterate, I am not arguing that any of these gatekeeping policies can be justified. I am just arguing that Lawford-Smith's and Stock's arguments do not justify blanket bans on gender marker change rather than these gatekeeping policies.

## 2.2. *No X Markers on Passports*

In the United Kingdom there is no option to have an X marker, which denotes neither binary gender, on one's passport.<sup>65</sup> After allowing X markers on passports from 2021, in early 2025, the US federal government returned to a policy of forbidding X markers on passports.<sup>66</sup> Forbidding X markers on passports encroaches on nonbinary people's ability to live and act with integrity (as outlined in section 1.2 above). And allowing nonbinary people to change their gender marker to X would not lead to any of the harms that Lawford-Smith and Stock are concerned about that might outweigh nonbinary people's integrity-based rights to have X markers on their passports. This is because having an X marker on one's documents or being legally nonbinary does not enable one to access women-only spaces.

The United Kingdom and United States could revise their laws in order to preserve the integrity of nonbinary people in several ways. They could allow X

64 On the Scottish proposal, see section 2.3 below; on the UK policy, see HM Passport Office, "Guidance."

65 See HM Passport Office, "Guidance."

66 See note 4 above.

markers on passports. But another option would be to entirely remove gender markers from passports. Some academic lawyers have argued that the state should decertify gender. If gender is decertified by a state, then that state stops collecting and presenting information about gender. If the United Kingdom decertified gender, it would treat its citizens' genders in a way that is similar to how it currently treats its citizens' religious identities and disabilities: the UK state does not collect and present information about religious identities and disabilities except in the census.<sup>67</sup> Rather than fully decertifying gender, the United Kingdom could also simply stop presenting gender information on passports or stop requiring that this information be presented on passports. The Australian state of Tasmania has adopted a similar policy with birth certificates: gender is no longer mandatorily listed on birth certificates issued in Tasmania, though parents can opt in to listing a gender on a child's birth certificate.<sup>68</sup> In order to preserve nonbinary people's integrity, the United Kingdom and United States could allow X markers, decertify gender, or adopt a Tasmania-style opt-in gender policy for UK and US passports. But the UK's and US's current policies that require binary gender markers on all UK and US passports is an unjust encroachment on nonbinary people's integrity.

### 2.3. *A Presumption in Favor of Self-Identification, Decertification, or Similar Policies*

There are several laws and policies that have been proposed and, in some places, implemented that (would) make it relatively easy for trans people to ensure that their gender markers on their legal identification documents do not clash with their gender identities. *Self-identification* policies allow trans people to change their gender markers by simply declaring themselves to be a gender other than the gender they were assigned at birth and, at most, paying the administrative fee needed to cover the costs of changing their gender markers on identification documents such as their driver's licenses and passports. Over thirty countries have self-identification policies, including Argentina, Brazil, Ireland, Norway, Portugal, and Spain.<sup>69</sup>

*Decertification* policies ensure that trans people do not have identification documents that clash with their gender identities by not presenting gender markers on anyone's legal identification documents. Related to generalized decertification are policies that stop the presentation of gender information on particular legal documents: for instance, although US states present gender

67 Renz and Cooper, "Reimagining Gender Through Equality Law."

68 Gogarty, "All Colours of the Rainbow."

69 ILGA Europe, "Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia"; and Chiam et al., "Trans Legal Mapping Report 2019."

information on driver's licenses, Australian states and the United Kingdom do not. A further related policy would be a Tasmania-style policy that makes the presentation of gender information on passports optional.

Finally, there are other policies that make it relatively easy for trans people to change their gender markers on their legal documents. For instance, in late 2022, the Scottish Parliament passed a bill allowing all trans people to change their legal gender and gender markers so long as they demonstrate that they have lived as that gender for three to six months. We can call this the *Scottish proposal*. In early 2023, the UK Parliament vetoed this bill.<sup>70</sup>

As I will explain, if we have integrity-based rights to freedom of legal gender identification, there is a strong presumption in favor of enacting self-identification, decertification, or the Scottish proposal. Trans people's basic liberal rights to live and act with integrity require that they be able to change their gender markers on their legal documents. And the bar for restricting our basic liberal rights to live and act with integrity is high: we may restrict these rights only if we have very good reason to believe that refraining from restricting these rights will infringe on others' basic liberal rights or otherwise seriously harm them. But the arguments for restricting trans people's rights and not enacting one of self-identification, decertification, or the Scottish proposal simply do not have this high evidential caliber.

Several arguments have been made against these policies that make it relatively easy for trans people to ensure that their gender markers do not clash with their gender identities. But these arguments fall into two categories: they are either *irrelevant* or *implausible*. First, the irrelevant arguments concern the negative effects of these policies for cis women in women's sports, prisons, and domestic violence shelters, and for trans children being prescribed supposedly dangerous puberty blockers. Such arguments have been made by Stock and Lawford-Smith.<sup>71</sup> *Contra* Stock's and Lawford-Smith's arguments, these policies regarding gender markers simply have no implications regarding these other domains. For instance, many trans women are legally recognized as women and have gender markers that match their gender identity on all of their legal documents, but all trans women are currently banned from participating in many international and domestic sporting competitions: World Rugby, World Aquatics, and World Athletics have recently banned all trans women, or all trans women who have gone through any stage of male puberty, from participating in their competitions—and this includes trans women who are legally recognized as women. And British Triathlon and England's Rugby

70 Bland, "Wednesday Briefing."

71 Stock, *Material Girls*, 105–18, 83–89; and Lawford-Smith, *Gender Critical Feminism*, 95–111.



Football Union and Rugby Football League are among domestic sporting organizations that have banned all trans women, including those legally recognized as women, from participating in their competitions.<sup>72</sup> Some intersex women have also been legally recognized as women for their entire lives but are unable to participate in women's sports.<sup>73</sup> So policies regarding trans women's gender markers have no implications for trans women's eligibility to participate in women's sports.

Similarly, if providing puberty blockers to trans children did genuinely harm them, this could justify not providing puberty blockers to trans children while enabling them to change their gender markers so that they do not clash with their gender identities.<sup>74</sup> Indeed, the UK has recently adopted a policy along these lines.<sup>75</sup>

In the UK, domestic violence shelters have an exemption to the Equality Act that allows them to refuse to admit trans women, including trans women who are legally women and have gender markers that match their gender identity on all their legal documents.<sup>76</sup>

If trans women were genuinely a risk to cis women in women's prisons, this risk could justify segregating trans women from cis women consistent with trans women's being legally recognized as women. Regardless, the current UK policy also requires most trans women prisoners who are legally women to be housed in men's prisons.<sup>77</sup> So it is clear that arguments regarding the negative effects in different domains of making it relatively easy for trans people to have gender markers on their legal identification documents that do not clash with their gender identities are irrelevant.

It might be objected that if freedom of legal gender identification really did not have implications for gender-affirming health care, prisons, sports, and domestic violence shelters, then this would show that freedom of legal gender identification is not that important or does not get trans people that much. But this is not so. As explained in section 1 above, trans people face significant costs

72 See BBC, "Fina Bars Transgender Swimmers from Women's Elite Events" and "UK Athletics Wants Open Category for Male and Transgender Athletes"; Reuters, "England's Rugby Union and Rugby League Ban Transgender Players from Women's Game"; and Roan, "British Triathlon Becomes First UK Sport to Create 'Open' Category for Transgender Athletes."

73 See, e.g., Savulescu, "Ten Ethical Flaws in the Caster Semenya Decision on Intersex in Sport."

74 Alternatively, permissions to change one's gender markers could be restricted to adults.

75 Trigg, "Puberty Blockers for Under-18s Banned Indefinitely."

76 Equality and Human Rights Commission, "Separate and Single-Sex Service Providers."

77 Ministry of Justice et al., "New Transgender Prisoner Policy Comes into Force."

to their ability to live with integrity and significant risk of harm if they are forced to have legal identification documents that out them as trans and/or label them as genders that clash with their gender identities. We must use legal identification documents all the time to access a variety of goods and services. Granting freedom of legal gender identification therefore (in itself) has significant beneficial consequences for trans people. And a state that forces trans people to have legal identification documents that clash with their gender identities constantly breaches trans people's significant rights and subject trans people to significant harm. So freedom of legal gender identification is important on its own.

An argument that may not be irrelevant concerns the effects of allowing trans women to use women's restrooms. I say that this argument *may not be irrelevant* because several US states, including Florida, have or have had bathroom bans that prohibit trans women—including trans women who are legally recognized as women and have gender markers that match their gender identities—from using women's restrooms.<sup>78</sup> In early 2024, members of the UK government proposed a similar policy, and in 2025, the UK government's Equality and Human Rights Commission issued guidance according to which trans women are not permitted to use any public or private women's restrooms (including trans women with female gender markers on all of their identification documents).<sup>79</sup> So arguments concerning the alleged harms to cis women in restrooms may not be relevant to questions about the policies regarding gender markers that justice requires that we have because trans women with female gender markers on their identification documents could still be banned from women's restrooms. But the argument that making it relatively easy for trans people to change their gender markers would harm cis women in restrooms is also *implausible*. As noted above, over thirty countries have self-identification policies, and there is no evidence from these countries that such policies have resulted in a spike in harm to cis women in women's restrooms.<sup>80</sup> So there is no evidence that

78 Ables, "Florida Passes Bathroom Bill in Latest Wave of Anti-Trans Legislation."

79 Elgot, "Kemi Badenoch Could Rewrite Law to Allow Trans Exclusion from Single-Sex Spaces." See also Stavrou, "Trans Women to Be Banned from Single-Sex Spaces Under New EHRC Guidance."

80 See Middleton, "Scotland's Trans Self-ID Bill No Risk for Women, Says UN Expert"; and Kelleher, "Ireland Has Had Trans Self-ID Laws for Years." Opponents of gender self-identification in Ireland do not cite any harms to cis women in restrooms resulting from Ireland's self-identification policy in the years since it was implemented in 2015; the only evidence they give of the policy's harms involve a lack of consultation with the Irish public regarding implementation and the fact that one violent trans woman may be housed in a women's prison in Ireland as a result of Ireland's particular policies regarding gender. See, e.g., the post by ripx4nutmeg, "Ireland Has Had Self ID for Years, and There Haven't Been Any

self-identification policies harm cis women in restrooms.<sup>81</sup> Proponents of the claim that self-identification policies result in harm to cis women in restrooms cite no evidence to support this claim.<sup>82</sup> Furthermore, there is growing evidence that one of the main results of banning trans women from women's restrooms is that cis women begin to be harassed by other cis women who mistakenly believe them to be trans.<sup>83</sup> So such bans in fact seem to harm cis women.

Perhaps the argument from harms in restrooms against self-identification, decertification, and the Scottish proposal will at some stage be made watertight and made stringently. But at the moment it does not seem that this argument has the evidential caliber to justify restricting basic liberal rights to live and act with integrity.

Proponents of arguments against policies like self-identification, decertification, and the Scottish proposal sometimes suggest that proponents of these

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Problems," *Glinner Update* (blog), May 11, 2022, <https://grahamlinehan.substack.com/p/ireland-has-had-self-id-for-years>; and Hayton, "How the Trans Activists Fooled Ireland."

- 81 See also Steinmetz, "Why LGBT Advocates Say Bathroom 'Predators' Argument Is a Red Herring"; and Serano, "Transgender People, Bathrooms, and Sexual Predators." It might be argued that although there is no evidence from these countries of a spike in harms in women's restrooms, this is just because it would be difficult or offensive to collect this data. However, this is not the case. It would not be difficult or offensive to collect evidence of a rise in harm (or lack thereof) to women in women's restrooms over a particular time-frame that coincided with the adoption of a self-identification policy. Indeed, Hasenbush et al. precisely assessed whether privacy and safety concerns and violations in women's restrooms had increased in US localities that had adopted ordinances permitting trans women to use women's restrooms and locker rooms; they found no evidence that they had ("Gender Identity Nondiscrimination Laws in Public Accommodations," 78).
- 82 The most that Stock does to support this argument in her published work is to provide one case of a trans woman who assaulted a cis woman in a public toilet (*Material Girls*, 106). But this is just one case; there are also cases of cis women attacking and harassing both other cis women and trans women in public toilets. See Halberstam, *Female Masculinity*, 19; Warr, "How Do Gender Non-Conforming Individuals Experience Gendered Public Toilets?"; Billson, "Cis Woman Harassed by Transphobe' Who Followed Her into Female Toilet Because She Has Short Hair"; Lopez, "Women Are Getting Harassed in Bathrooms Because of Anti-Transgender Hysteria"; Brooks, "I've Been Spat On"; and Stewart, "2 Women Charged with Sexual Battery of Trans Woman in North Carolina Bar." And the fact that one trans woman assaulted a cis woman in a women's public toilet cannot justify stopping all trans women from using women's public toilets. Similarly, the fact that one neonatal nurse who was a British cis woman killed seven infants in her care cannot justify forbidding all British cis women from being neonatal nurses.
- 83 Halberstam, *Female Masculinity*, 19; Warr, "How Do Gender Non-Conforming Individuals Experience Gendered Public Toilets?"; Billson, "Cis Woman Harassed by Transphobe' Who Followed Her into Female Toilet Because She Has Short Hair"; Lopez, "Women Are Getting Harassed in Bathrooms Because of Anti-Transgender Hysteria"; and Brooks, "I've Been Spat On."

policies must show that they would not harm cis women. As I have explained, there is a good case that proponents of these policies have shown this—that is, have shown that allowing trans people to (relatively) easily change their gender markers so that they do not clash with their gender identities does not harm cis women, or at least that we have no reason to believe this. Regardless, if trans people have integrity-based rights to freedom of legal gender identification, the burden of proof does not lie with proponents of these policies; it in fact lies with those who argue against them. For it must be shown that there is very strong evidence that such policies will harm cis women in order for encroachments on trans people's integrity-based rights to be justified. And this has not been shown.

#### 2.4. *Objections*

I have encountered several objections to my argument that trans people's all-things-considered rights establish that we should adopt a self-identification policy, decertification, or the Scottish proposal. First, a referee has put it to me that there is a disanalogy between (1) integrity-based rights to religious exemptions and rights for ethnic Malays to be able to not have 'Muslim' presented on their identification documents and to not be treated as Muslims by the Malaysian state and (2) integrity-based rights not to have the gender on one's identification documents present one as a gender that conflicts with one's gender identity. The referee argues that regarding 1, there is never a question of having to participate or practice another's religion or conception of the good in order to satisfy their integrity interest, but in the case of 2, this is not so. The referee mentions several cases in which trans people's gender marker change on their legal documents gives rise to obligations for others to believe things or act as if they believe them or face a discrimination allegation. First is the Australian case of *Tickle vs. Giggle*, in which the founder of a social media app was found to have unlawfully discriminated against trans woman Roxanne Tickle—who is legally a woman because she has changed her birth certificate to present her as female—by excluding Tickle from her women-only social media app. Second is the case of an Australian trans woman who is similarly legally a woman and so cannot be excluded from a woman's hockey team. I take it that this objection is best understood as an objection to the idea that trans people have *all-things-considered* rights to not have gender markers that conflict with their gender identities. The argument here is not that these cases and this contrast between 1 and 2 show that trans people have no such integrity-based *pro tanto* rights to change their gender markers but only that considerations about the knock-on effects of granting these rights for what others must do can make it the case that trans people do not have all-things-considered integrity-based rights to easily have gender markers that do not clash with their gender identities.

There are several things to say in response. First, there is not a contrast between the Malaysian case and the trans case here. Being assigned Muslim at birth in Malaysia involves being expected to be an observant Muslim, to engage in Islamic fasting and prayer, and to be subject to fines for failing to do these things.<sup>84</sup> Changing one's Malaysian identification documents so that they no longer label one as Muslim implies that the state and others may not hold one to these obligations and so may not treat one as Muslim. Second, I have argued only that trans people have integrity-based rights *not to be presented* as a gender that conflicts with their gender identity on their legal documents. One way for a state to satisfy this negative duty is for it not to present gender information or gender markers on any documents (i.e., decertification). If a state does not present any gender information on its legal identification documents, the information so presented cannot yield obligations for others, for there is no such information. Third, we must distinguish between

1. gender and gender marker change on legal identification documents; and
2. gender and gender marker change on legal identification documents having implications for the gender that others must treat someone as on pain of unlawful discrimination.

I have been making an argument only regarding 1 in this paper. Nothing I have said bears on whether it should be unlawful discrimination to exclude trans women from women-only spaces or women-only apps. Those who think that it should be permissible to do this can accept everything that I have said but hold that it is permissible for, for instance, those with different views about the metaphysics of gender to exclude trans women from women-only spaces. As I explained in section 2.3, 1 need not, and in many places does not, imply anything regarding 2.

But what of the referee's two cases? First is the question of whether Australian trans women who are legally women can be lawfully excluded from a women's hockey team. As I explained in section 2.3 above, all trans women, including those who are legally women, are excluded from many professional women's sports. Trans women are also excluded from women's sports in Australia. For instance, Basketball Australia forbade trans woman Lexi Rodgers from playing for a women's basketball team in 2023 and did not face any allegations of unlawful discrimination.<sup>85</sup> So it is not true that Australian women's sports

84 See the references in note 20 above.

85 See Guardian Sport, "Basketball Australia Rules Transgender Athlete Lexi Rodgers Ineligible to Play."

teams must allow trans women who are legally women to participate in their teams or face a discrimination lawsuit. In the second case, the Australian Federal Court found that it was unlawful discrimination for a trans woman who is a woman according to her birth certificate to be excluded from a women-only social media app in *Tickle vs. Giggle*. But although such exclusion is unlawful discrimination in Australia, it is not in other places. For instance, in 2024, the UK government stated that trans women—including trans women who are legally women because they have gender recognition certificates and have changed their birth certificates to present them as women—do not have legal rights to access women-only spaces.<sup>86</sup>

So my argument is about only (1) whether, for instance, trans women have all-things-considered rights not to be labeled as men on all their legal identification documents, not (2) whether trans women must always be treated as women and not excluded from women-only spaces. These two issues are separable. The arguments for 1 do not establish 2 on their own, and we must be careful to distinguish what our arguments are for and what they support: arguing that 2 should be permissible (that it should be permissible to exclude trans women from women-only spaces and apps) does not establish that it should be permissible for a state to label trans women as men.<sup>87</sup>

Finally, if it were somehow impossible to distinguish 1 and 2 in a particular jurisdiction (and if decertifying gender were infeasible), and it were concluded that people or service providers should be able to exclude trans women from women-only spaces, then one response would be to allow freedom of legal gender identification to the greatest extent possible without creating changes that force people and service providers not to exclude trans women from women-only spaces. For instance, first, in jurisdictions where one's legal gender is determined by the gender on one's birth certificate, gender change by self-identification could be permitted on all legal documents except birth certificates. Some, such as some young or poor people, have no identification documents other than

86 Office for Equality and Opportunity, "Response to Call for Input on Single-Sex Spaces." See also the other cases discussed in section 2.3 above. It should be noted that in 2025, legal decisions in the United Kingdom have been made that may be understood to imply that no trans woman is legally a woman; but in 2024, at least trans women with birth certificates presenting them as women were taken to be legally women.

87 It should be noted that *Tickle vs. Giggle* does not establish that gender-critical feminists cannot, for instance, exclude trans women from their events. It just establishes that spaces and apps that label themselves women-only cannot exclude trans women who are legally women on the basis that they are not women. One may still hold an event for cis women, people assigned female at birth, or even "biological females," consistent with this; and (Australian) gender-critical feminists do this. Similarly, trans organizations have spaces and events for only trans people and for only trans women.

birth certificates, so there are strong reasons not to adopt this kind of policy.<sup>88</sup> However, this policy better preserves trans people's integrity-based rights than many US states' policies, such as those in Kansas, Montana, North Dakota, Tennessee, Oklahoma, Florida, and Texas, as well as the US federal government's policies and the UK government's policies (since one cannot change one's gender on one's UK passport through self-identification). A second alternative policy is inspired by the Australian state of Tasmania, which has made gender information opt-in on birth certificates while still collecting sex/gender information for children born in Tasmania; this information is simply not presented (by default) on birth certificates. Similarly, a state might collect legal gender information about its citizens in some way that is not determined by self-identification, but although it may collect this information, it may not present it (or not present it by default) on any legal identification documents. The all-things-considered rights articulated in this paper seem consistent with such a policy.

A referee has put a different objection to me regarding my argument that trans people's all-things-considered rights establish that we should adopt self-identification, decertification, or the Scottish proposal. This referee argues that there are other arguments against a self-identification policy that do not concern physical harm, such as (1) "harms to women and the project of sex equality [as a result] of the new understanding of woman suggested by a self-identification policy ('a woman is anyone who identifies as a woman')" and (2) "the expressions of those born male who declare themselves as women [which] can strengthen stereotypes about what it means to be a woman or female."

However, regarding 1, I have not argued that we or our state should adopt the view that a woman is anyone who self-identifies as a woman. I have argued only that we should adopt either self-identification, decertification, or the Scottish proposal as policies regarding gender markers on identification policies. Those concerned about our state legally defining women as those who self-identify as women might opt for decertification, which involves the state not presenting (or not collecting and presenting) information about people's genders and so not adopting a legal definition of sex or gender.<sup>89</sup> Alternatively,

88 Neuman Wipfler, "Identity Crisis," 537.

89 The UK does this for religion, race, and disability. For discussion, see Renz and Cooper, "Reimagining Gender Through Equality Law." Alternatively, a self-identification policy for gender on legal documents might be undertaken, but the state might not take self-identification to be what uniquely makes someone a woman or socially treated as a woman. The state might take up a pluralist of what it is to legally be a woman, for instance. It might take self-identifying as a woman to be sufficient for being a woman (in terms of one's legal documents) but not necessary, since those who are assigned female at birth and do not change their gender markers do not necessarily self-identify as women or have legal documents that are sensitive to any such self-identification. At the same time, our state (or its



they might opt for (or argue for) the Scottish proposal, which does not define a woman as anyone who self-identifies as a woman but rather holds that to legally be a woman, one must have been assigned female at birth or lived as a woman for at least three to six months.<sup>90</sup>

Regarding 2, the variety of gender expressions of trans women is as large and as varied as the variety of gender expressions of cis women. So adopting self-identification would not strengthen the view that women ought to look a certain way. But if it somehow did, again, decertification would be a good alternative, since the removal of gender markers from legal documents does not involve claiming that trans women are women because they express themselves in particular ways; it does not involve holding that trans women are—or anyone is—any particular gender.<sup>91</sup>

So it seems that these objections do not undermine my case that trans people's all-things-considered rights establish that we should adopt self-identification, decertification, or the Scottish proposal.

### 3. ALTERNATIVE APPROACHES

There is little existing philosophical work on the moral grounds of trans rights to freedom of legal gender identification. But there are some brief discussions of the grounds of trans rights in general, there are some discussions of other trans rights in bioethics, and there is discussion in the law literature of the legal grounds of trans people's rights. These discussions present alternative pictures of the grounds of trans rights. In this section, I will argue that integrity provides

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legal system) might hold that to suffer sex- or gender-based discrimination, one need not self-identify as or be the relevant gender on one's birth certificate. For instance, someone who is hired as a woman but who subsequently self-identifies as nonbinary (and changes their birth certificate and other legal documents accordingly) might still be treated as a woman and might be subject to discrimination at work or elsewhere on this basis. It is consistent with a self-identification policy regarding identification documents that we hold that this nonbinary person is subject to sex/gender discrimination because they are treated as a woman—which has nothing to do with their gender on legal documents.

90 It is unclear why someone worried by the idea that a self-identification approach would define what it is to be a woman in terms of self-identification as a woman would prefer a law that says that one can be legally a woman so long as one has lived as a woman for two years (as per UK law from 2004 to 2024) over a law that says that one can be legally a woman so long as one has lived as a woman for three to six months (as per the Scottish proposal).

91 Some might worry about how gender discrimination and single-sex spaces would work under decertification. For sustained discussion of this issue and of how this might and can work, see Grabham, "Decertifying Gender"; Renz, "Gender-Based Violence Without a Legal Gender"; and Renz and Cooper, "Reimagining Gender Through Equality Law."

a better account of the grounds of rights to freedom of legal gender identification than these alternatives.

### 3.1. *Autonomy*

Some legal theorists have taken legal rights to freedom of legal gender identification to be autonomy-based rights.<sup>92</sup> In public, activist, and some academic discussions, many trans rights are taken to be autonomy based, and in bioethics, other trans rights have been argued to be autonomy based.<sup>93</sup> Furthermore, in one of the few discussions linking the potential moral grounds of rights to have the gender on our legal identification documents not clash with our gender identity to the legal grounds of these rights, Holning Lau argues that our personal autonomy provides a ground of this right.<sup>94</sup>

However, many of these discussions do not fully explain what the relevant notion of autonomy is or why we should think that our autonomy generates moral rights to freedom of legal gender identification.<sup>95</sup> Some accounts of autonomy understand it to be very similar to the concept of integrity that I outlined in section 1.1. For instance, according to Ben Colburn, autonomy involves living in accordance with one's own conception of what is valuable.<sup>96</sup> And many other philosophers hold similar views to Colburn's, on which trans and nonbinary people's living with autonomy involves their living with integrity, in the sense discussed in this article.<sup>97</sup> To the extent that we should understand autonomy in the way that Colburn and these other philosophers do, the integrity-based account of rights to freedom of legal gender identification is an integrity/autonomy-based account of rights to freedom of legal gender identification. If we should

92 See Cannoot and Decoster, "The Abolition of Sex/Gender Registration in the Age of Gender Self-Determination," 32–33, 35, 42. See also Renz, "Genders that Don't Matter," 11; and Ashley, "'X' Why?" 43.

93 See, e.g., Pearce et al., "Introduction," 15; Gerritse et al., "Decision-Making Approaches in Transgender Healthcare"; and Ashley, "Adolescent Medical Transition Is Ethical."

94 Lau, "Gender Recognition as a Human Right," 194–95.

95 See Cannoot and Decoster, "The Abolition of Sex/Gender Registration in the Age of Gender Self-Determination," 32–33, 35, 42. See also Renz, "Genders that Don't Matter," 11; and Ashley, "'X' Why?" 43.

96 Colburn, "Autonomy and Adaptive Preferences," 62.

97 Suzy Killmister distinguishes autonomy and integrity (*Taking the Measure of Autonomy*, 10), but similarly, on Killmister's account, acting out of line with one's judgments of how one ought to live and act involves both acting without integrity and (at least other things equal) acting without autonomy. Somewhat similarly, many understand the Rawlsian approach to basic liberal rights, which we discussed in section 1.1 and understood as integrity based, to be an autonomy-based approach to these rights. See, e.g., Christman, "Autonomy in Moral and Political Philosophy," secs. 3.1, 3.5.

understand autonomy (or one sense of it) as very similar to integrity, then we should understand my argument that we have rights to freedom of legal gender identification to be an argument that is in line with this idea that such rights are autonomy based. But since the case that there are such autonomy-based moral rights to freedom of legal gender identification has not been articulated in detail in existing literature, we should see my account as providing the first thorough articulation, development, and argument for the view that there are such autonomy-based rights to freedom of legal gender identification.

However, it is unclear that we should accept an account of autonomy like Colburn's that understands autonomy and integrity to be very similar. This is because other plausible conceptions of autonomy are broader than Colburn's and broader than the concept of integrity outlined in section 1.1. For instance, Stephanie Kapusta holds that an agent possesses personal autonomy *if they act on motives that are their own*.<sup>98</sup> As Sarah Buss and John Christman discuss, a view along these lines on which our acting autonomously is determined by our acting in line with (reflectively endorsed) motives is very much a, or even *the*, standard account of autonomy in moral and political philosophy.<sup>99</sup> But it is not clearly plausible that rights to freedom of legal gender identification could be grounded in our rights to be autonomous in this sense. For the idea that we have rights to be autonomous in this sense that can ground rights to freedom of legal gender identification would overgenerate rights. For instance, I might be strongly motivated to have my hobbies listed on my identification documents or to not have my age listed on my identification documents. But it does not seem to follow that I have a right to have my hobbies listed on these documents or to not have my age listed on these documents. So we should hold that there are integrity-based rights to freedom of legal gender identification, but it is unclear that it follows from this that we have autonomy-based rights to freedom of legal gender identification.

Is there another conception of autonomy or autonomy-based rights that might more plausibly ground rights to freedom of legal gender identification? This is not clear. For instance, in a forthcoming article, E. M. Hernandez and Rowan Bell briefly claim that trans rights are in general grounded in autonomy rights. They say a little about what they have in mind by 'autonomy rights'.<sup>100</sup> They explain that they endorse Thomas Hill's view that one's autonomy rights are one's rights "to make otherwise morally permissible decisions about matters

98 Kapusta, "Gender Autonomy," 346.

99 Buss and Westlund, "Personal Autonomy," esp. sec. 2; and Christman, "Autonomy in Moral and Political Philosophy," esp. sec. 1.

100 Hernandez and Bell, "Much Ado About Nothing," sec. 3.

deeply affecting one's own life without interference by controlling threats and bribes, manipulations and willful distortion of relevant information."<sup>101</sup> However, if we strongly, deeply, and persistently desire something, then whether this strong desire is satisfied will deeply affect our own life. Yet as I have argued, we should not think that our strong desires regarding our identification documents on their own generate rights regarding them. For we might strongly desire to have our age not listed on these documents or to have our hobbies listed on them, but this does not show that we have rights to these things.

### 3.2. *Privacy*

A different grounding of rights to freedom of legal gender identification that has been to some extent discussed in the legal literature is in our rights to privacy.<sup>102</sup> And in many jurisdictions, trans people have rights not to be forced to disclose the fact that they are trans and rights that others do not disclose this fact about them without their consent.<sup>103</sup> So we might think that one ground of our rights to change our gender markers on our legal documents so that they do not out us as trans lies in our privacy rights.

Our privacy might well provide us with rights here. However, privacy-based concerns may not be able to distinguish between (1) forcing a trans person to out themselves as trans by forcing them to have legal documents that present them as the gender they were assigned at birth and (2) forcing someone to disclose the city they were born in by forcing them to list it on their identification documents. Our rights to live with integrity provide a good account of why 1 is worse than 2. Furthermore, a privacy-based argument would seem to struggle to generate nonbinary rights to have X markers on identification documents. For having an X marker on one's identification documents is likely to out one as trans.

### 3.3. *Harm*

At the start of this article, I discussed the risk of harm that trans people are subject to if they are forced to present themselves as a gender that does not

101 Hill, *Autonomy and Self-Respect*, 48. Similarly, Lau characterizes our personal autonomy as our "freedom to make decisions about oneself, for oneself" ("Gender Recognition as a Human Right," 194). And Lau contrasts our gender identity with other aspects of our identity and other decisions that may not affect our life to the same degree (195).

102 See Cannoot and Decoster, "The Abolition of Sex/Gender Registration in the Age of Gender Self-Determination," 33–34; Lau, "Gender Recognition as a Human Right," 196–97; Weiss, "The Gender Caste System," 133, 168–73; and Hines, *Gender Diversity, Recognition and Citizenship*, 43. Cf. the Yogyakarta Principles (note 14 above) 14. Heath Fogg Davis notes that the case for removing race markers from identification documents was partially made on the basis of rights to privacy (*Beyond Trans*, 37).

103 See, e.g., Galop, "Trans Privacy Law."

match their gender identity and the gender that people assume them to be. Such harms are discussed by several lawyers and legal theorists as reasons that decertifying gender or removing gender markers from (some) legal documents would be a good idea—though not as reasons why we have rights to freedom of legal gender identification.<sup>104</sup> But perhaps trans rights to freedom of legal gender identification should be understood to be grounded in our rights not to be subject to such harms rather than grounded in integrity?

However, there are limits to what such a potential harm-based grounding can do. For instance, nonbinary people's being enabled to present themselves as nonbinary by being enabled to use X markers on their legal documents may subject them to more harm than they would otherwise be subject to. This is because nonbinary people are subject to abuse and assault, and without presenting themselves using identification documents that feature an X marker, nonbinary people would not (necessarily) present themselves to others as nonbinary; without presenting themselves with an X marker, most nonbinary people will be assumed to be a binary gender.<sup>105</sup> So a harm-based account struggles to generate nonbinary rights to X markers. But as I have argued, their rights to live with integrity provides nonbinary people with rights to X markers (if there are gender markers on legal identification documents).

Furthermore, a harm-based argument would not seem to provide rights to freedom of legal gender identification in a society in which transphobia has been eliminated; but the integrity-based argument that I made in sections 1 and 2 seems to show that even in a society that is not transphobic, where trans people are not subject to harm *qua* trans people, trans people have rights to change their gender markers so that those markers do not clash with their gender identities.

Finally, we might worry that such a harm-based account of trans rights to freedom of legal gender identification is too contingent upon what the right account of harm is. For instance, most accounts of harm hold that we are harmed whenever the state makes us do something that makes us very unhappy or that we prefer not to do.<sup>106</sup> But in this case, we do not have a *pro tanto* right that the state does not subject us to harm. For we might prefer to not present our date of birth or birth city on our identification documents (or be very unhappy if we are made to have this information on these documents), but this

104 See Neuman Wipfler, "Identity Crisis," 493, 536; Cooper and Emerton, "Pulling the Thread of Decertification," 7; Lau, "Gender Recognition as a Human Right," 197; Weiss, "The Gender Caste System," 173; and Ashley, "'X' Why?" 37.

105 See James et al., "The Report of the 2015 US Transgender Survey," 89; and Rajunov and Duane, *Nonbinary*, xxiv–xxvi.

106 See, e.g., Fletcher, *The Philosophy of Well-Being*.

preference or unhappiness does not seem to on its own establish that we have a right that our documents do not present this information about us. Similarly, we might strongly prefer to have our hobbies listed on our legal documents, but we do not have even a *pro tanto* right that the state allow us to do this. Harm may play some role in the case for trans rights to freedom of gender, but there is a good case that our rights to live with integrity also play a role and on their own are sufficient to ground strong rights to freedom of legal gender identification.

### 3.4. *Issues with Integrity*

I have been arguing that there are reasons to accept an integrity-based account of the grounds of rights to freedom of legal gender identification rather than alternative accounts. But there is an issue about the boundaries of integrity-based rights that might lead us to worry that we should favor an alternative grounding of rights to freedom of legal gender identification. We might wonder: Do pro-life pharmacists have integrity-based rights to refrain from selling the morning-after pill if they judge that they ought not do this because it would (in their view) facilitate the killing of a person? And does a religious bakery owner have the right to refuse to make a cake for a queer couple's wedding because the owner judges that her living a good or meaningful life involves her not being involved in queer weddings? If we grant that trans and nonbinary people's rights to change their gender markers on their identification documents are grounded in their rights to live and act with integrity, are we committed to holding that pro-life pharmacists and religious bakery owners have these rights?

I do not believe that we are so committed. One view of the boundaries of integrity-based rights, which I discussed briefly in section 1.1, is that the baker and the pharmacist have *pro tanto* integrity-based rights, but these *pro tanto* rights may be outweighed by the harms that their exercising these rights create.<sup>107</sup> On this view, my argument that trans and nonbinary people have *all-things-considered* integrity-based rights to change their gender markers that are not outweighed by any supposed harms does not imply that the pharmacist and baker have *all-things-considered* rights to refuse to sell the morning-after pill and to refuse to make a cake. For it might well be that there are bad consequences of the pharmacist and baker acting in line with their integrity—such as limiting people's access to abortions and the knock-on harms of this and the expressive harm done to queer people (see section 1.1). And it might well be that these bad consequences outweigh the pharmacist and baker's *pro tanto* integrity-based rights.

107 See, e.g., Billingham, "How Should Claims for Religious Exemptions Be Weighed?"

Furthermore, alternative views of rights to freedom of legal gender identification seem to be at least as likely to imply that the baker and pharmacist have these rights as the integrity-based account. If we hold that trans rights to change gender markers are autonomy based, then we similarly seem committed to the view that the pharmacist and baker have autonomy-based (*pro tanto*) rights to not be forced to sell the morning-after pill or to sell a wedding cake to a queer couple. And the pharmacist and baker might reasonably claim to be harmed by being forced to sell these things because they judge that they would be acting wrongly by selling these things, and this would harm them. Of course, we might hold that there is more harm done by allowing them to refuse services and therefore that a harm-based approach to rights to freedom of legal gender identification does not grant the pharmacist and the baker rights to refuse service. However, if we hold that granting them these rights would cause more harm than good, then we should hold that these bad consequences outweigh or defeat the baker's and pharmacist's *pro tanto* integrity-based rights such that they do not have all-things-considered integrity-based rights to refuse service. So a harm-based approach is not superior to an integrity-based approach in virtue of its implications regarding cases like these.

A different objection that I have encountered to my integrity-based approach is that autonomy, privacy, and freedom from harm might constitute integrity. However, living with integrity goes beyond living with autonomy and privacy and living free from harm. As discussed in section 1.1 above, to live with integrity we must live in line with

1. our practical identities;
2. our views of what gives our life meaning or what our life is "fundamentally about";
3. our views, commitments, or ideals regarding the kind of person we should be; and
4. the way of life that we value and take to be good for us, though not necessarily for everyone else.

Living in line with 1–4 goes beyond living with privacy and autonomy and living free from harm. Consider a case in which we need to do something *X* to live autonomously, to avoid harm, and to have privacy. Does this necessarily involve our needing to do *X* in order to live with integrity such that our living with integrity might be wholly constituted by our living with autonomy and privacy and avoiding harm? It does not seem so. Suppose that we strongly, deeply, and persistently desire not to have our age or height listed on our identification documents. The requirement that we list these things impinges on our autonomy, harms us, and plausibly impinges on our privacy too. But this does not



establish that we live without integrity if our age or height are listed on our identification documents, or that this requirement conflicts with our integrity. For we might just not want people knowing our age or height all the time or feel embarrassed if we are forced to present this information to others. This does not establish that we think that we cannot live a good or meaningful life while people know this information about us or while we are forced to present our age or height to others when we present our identification documents, or that we judge that we ought not present this information, or that our living in line with our practical identities requires that we not present this information to others. Our living in line with our integrity involves our living in line with our normative judgments. This involves something different from our living autonomously, with privacy, and free from harm. For we can be harmed and have our autonomy and privacy impinged upon without being forced to live out of line with our normative judgments (that is, out of line with 1–4)—for instance, without being forced to do something that we judge that we ought not do. So autonomy, privacy, and freedom from harm do not constitute integrity.

#### 4. CONCLUSION

In this article, I first argued in section 1 that our basic liberal rights to live and act with integrity ground *pro tanto* rights to freedom of legal gender identification for trans and nonbinary people. I then argued in section 2 that trans and nonbinary people have all-things-considered rights to be able to change their gender markers on their legal identification documents relatively easily so that their gender markers do not clash with their gender identities. As I explained, there are several ways of realizing such all-things-considered rights, including self-identification policies, decertification policies, and policies (such as Scotland's recent proposal) that involve relatively modest wait periods on such changes of gender marker. So blanket bans on gender marker change—such as Hungary's, Kansas's, North Dakota's, Montana's, Oklahoma's, Florida's, Texas's, and the US federal government's—unjustly violate trans and nonbinary people's all-things-considered rights, as do policies—such as those in Arizona, Missouri, Nebraska, Wisconsin, and Singapore—that require trans people to demonstrate that they have had sex reassignment surgery before they change their gender markers. Finally, in section 3, I discussed alternative possible ways of thinking about trans and nonbinary people's rights to freedom of legal gender identification—namely, other possible grounds for these rights that can be gleaned from the literature on gender marker change in law and legal theory and the more general literature on trans rights. I showed that the integrity-based approach to the grounds of rights to freedom of legal

gender identification is superior to alternative approaches. Trans and nonbinary people have all-things-considered rights not to be forced to have gender markers on their legal identification documents that clash with their gender identities. These rights to freedom of gender are grounded in basic liberal rights. And many states currently act unjustly by breaching these trans rights to freedom of gender.<sup>108</sup>

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#### REFERENCES

- Ables, Kelsey. "Florida Passes Bathroom Bill in Latest Wave of Anti-Trans Legislation." *Washington Post*, May 4, 2023.
- Ahmad, Nehaluddin, Ahmad Masum, and Abdul Mohaimin Ayus. "Freedom of Religion and Apostasy: The Malaysian Experience." *Human Rights Quarterly* 38, no. 3 (2016): 736–53.
- Andersson, Jasmine. "I Won't Even Be Allowed to Use My Name Now that Hungary Has Scrapped All Rights for Trans People." *The i Paper*, May 21, 2020. <https://inews.co.uk/news/i-wont-even-be-allowed-to-use-my-name-now-that-hungary-has-scrapped-all-rights-for-trans-people-429839>.
- Ashley, Florence. "Adolescent Medical Transition Is Ethical: An Analogy with Reproductive Health." *Kennedy Institute of Ethics Journal* 32, no. 2 (2022): 127–71.
- . "What Is It Like to Have a Gender Identity?" *Mind* 132, no. 7 (2023): 1053–73.
- . "'X' Why? Gender Markers and Non-Binary Transgender People." In *Trans Rights and Wrongs*, edited by Isabel C. Jaramillo and Laura Carlson. Springer, 2021.
- Audi, Robert. "Religious Liberty Conceived as a Human Right." In *Philosophical Foundations of Human Rights*, edited by Rowan Cruft, S. Matthew Liao, and Massimo Renzo. Oxford University Press, 2015.
- Australian Government. *Australian Government Guidelines on the Recognition of Sex and Gender*. July 2013, updated November 2015. <https://www.ag.gov.au/sites/default/files/2020-03/AustralianGovernmentGuidelinesontheRecognitionofSexandGender.pdf>.

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- Aziz, Muhammad Faisal Abdul. "Freedom of Religion by Religion for Religion." *Malaysia Now*, March 12, 2018. <https://www.malaysiakini.com/news/415372>.
- Barnes, Elizabeth. "Gender and Gender Terms." *Nous* 54, no. 3 (2020): 704–30.
- BBC News. "Fina Bars Transgender Swimmers from Women's Elite Events if They Went Through Male Puberty." June 20, 2022. <https://www.bbc.com/sport/swimming/61853450>.
- . "UK Athletics Wants Open Category for Male and Transgender Athletes." February 3, 2023. <https://www.bbc.com/sport/athletics/64514819>.
- Bettcher, Talia. "Evil Deceivers and Make-Believers: On Transphobic Violence and the Politics of Illusion." *Hypatia* 22, no. 3 (2007): 43–65.
- . "Through the Looking Glass: Trans Theory Meets Feminist Philosophy". In *The Routledge Companion to Feminist Philosophy*, edited by Ann Garry, Serene Khader, and Alison Stone. Routledge, 2017.
- Billingham, Paul. "How Should Claims for Religious Exemptions Be Weighed?" *Oxford Journal of Law and Religion* 6, no. 1 (2017): 1–23.
- Billson, Chantelle. "Cis Woman Harassed by Transphobe Who Followed Her into Female Toilet Because She Has Short Hair." *Pink News*, October 31, 2022. <https://www.thepinknews.com/2022/10/31/cis-woman-harassed-transphobe-female-toilet-short-hair/>.
- Bland, Archi. "Wednesday Briefing: The Scottish Trans Rights Law that Has Turned into a Constitutional Crisis." *Guardian*, January 18, 2023.
- Bou-Habib, Paul. "A Theory of Religious Accommodation." *Journal of Applied Philosophy* 23, no. 1 (2006): 109–26.
- Brighter, Cassie. "Trans-Later: Transitioning Late in Life." *Medium* (blog), May 19, 2020. <https://medium.com/empowered-trans-woman/trans-later-transitioning-late-in-life-d49d68b5213e>.
- Brooks, Libby. "'I've Been Spat On': Gender Non-Conforming Women Tell of Toilet Abuse After UK's Supreme Court Ruling." *Guardian*, August 13, 2025.
- Buss, Sarah, and Andrea Westlund. "Personal Autonomy." In *Stanford Encyclopedia of Philosophy* (Spring 2018). <https://plato.stanford.edu/entries/personal-autonomy/>.
- Cannoot, Pieter, and Ariël Decoster. "The Abolition of Sex/Gender Registration in the Age of Gender Self-Determination: An Interdisciplinary, Queer, Feminist and Human Rights Analysis." *International Journal of Gender, Sexuality and Law* 1, no. 1 (2020): 26–55.
- Chen, Heather. "Renouncing Islam in Malaysia Is Dangerous: We Spoke to Those Who Did It." *Vice*, April 2, 2021. <https://www.vice.com/en/article/pkd7gk/the-dangers-of-renouncing-islam-in-malaysia>.
- Chiam, Zhan, Sandra Duffy, Matilda González Gil, Lara Goodwin, and Nigel

- Timothy Mpemba Patel. "Trans Legal Mapping Report 2019: Recognition Before the Law." ILGA World, 2020. [https://ilga.org/downloads/ILGA\\_World\\_Trans\\_Legal\\_Mapping\\_Report\\_2019\\_EN.pdf](https://ilga.org/downloads/ILGA_World_Trans_Legal_Mapping_Report_2019_EN.pdf).
- Christman, John. "Autonomy in Moral and Political Philosophy." In *Stanford Encyclopedia of Philosophy* (Fall 2020). <https://plato.stanford.edu/entries/autonomy-moral/>.
- Clarke, Jessica. "They, Them, and Theirs." *Harvard Law Review* 132, no. 3 (2019): 894–991.
- CNN. "This Trans Influencer Received a Passport with the Wrong Gender After Trump's Executive Order." January 30, 2025. <https://www.cnn.com/2025/01/30/politics/video/trans-influencer-receives-wrong-gender-marker-on-her-passport-trump-executive-order-digvid>.
- Colburn, Ben. "Autonomy and Adaptive Preferences." *Utilitas* 23, no. 1 (2011): 52–71.
- Cook, Marceline. "10 Transgender People Share What They Wish They Knew Before Transitioning." *Self*, August 29, 2017. <https://www.self.com/story/before-transitioning>.
- Cooper, Davina, and Robyn Emerton. "Pulling the Thread of Decertification: What Challenges Are Raised by the Proposal to Refrom Legal Gender Status?" *Feminists@law* 10, no. 2 (2020): 1–36.
- Cooper, Davina, Robyn Emerton, Emily Grabham, Han Newman, Elizabeth Peel, Flora Renz, and Jessica Smith. "Abolishing Legal Sex Status: The Challenge and Consequences of Gender-Related Law Reform." King's College London, Future of Legal Gender Project Final Report, 2022. <https://www.kcl.ac.uk/law/research/future-of-legal-gender-abolishing-legal-sex-status-full-report.pdf>.
- Cosker-Rowland, Rach. "Gender Identity: The Subjective Fit Account." *Philosophical Studies* 181 (2024): 2701–36.
- . "Integrity and Rights to Gender-Affirming Healthcare." *Journal of Medical Ethics* 48, no. 11 (2022): 832–37.
- Cosker-Rowland, Rach, and Chris Howard. "Fittingness: A User's Guide." In *Fittingness*, edited by Rach Cosker-Rowland and Chris Howard. Oxford University Press, 2022.
- Davis, Heath Fogg. *Beyond Trans: Does Gender Matter?* NYU Press, 2017.
- Dembroff, Robin. "Real Talk on the Metaphysics of Gender." *Philosophical Topics* 46, no. 2 (2018): 21–50.
- Doran, Will. "Equality NC Director: No Public Safety Risks in Cities with Transgender Antidiscrimination Rules." *Politifact*, April 1, 2016. <https://www.politifact.com/factchecks/2016/apr/01/chris-sgro/equality-nc-director-no-public-safety-risks-cities/>.

- Dworkin, Ronald. *Justice for Hedgehogs*. Harvard University Press, 2011.
- . *A Matter of Principle*. Clarendon Press, 1985.
- . *Religion Without God*. Harvard University Press, 2013.
- . *Sovereign Virtue*. Harvard University Press, 2000.
- Elgot, Jessica. “Kemi Badenoch Could Rewrite Law to Allow Trans Exclusion from Single-Sex Spaces.” *Guardian*, April 5, 2023.
- Equality and Human Rights Commission (UK). “Separate and Single-Sex Service Providers: A Guide on the Equality Act Sex and Gender Reassignment Exceptions.” April 2022. <https://www.equalityhumanrights.com/sites/default/files/guidance-separate-and-single-sex-service-providers-equality-act-sex-and-gender-reassignment-exceptions.pdf>.
- Faye, Shon. *The Transgender Issue*. Penguin, 2021.
- Fletcher, Guy. *The Philosophy of Well-Being: An Introduction*. Routledge, 2016.
- Galop. “Trans Privacy Law.” June 10, 2021. <https://galop.org.uk/resource/trans-privacy-law/>. Archived August 28, 2023, at <https://archive.is/ZpssR>.
- Gerritse, Karl, Laura A. Hartman, Marijke A. Bremmer, Baudewijntje P. C. Kreukels, and Bert C. Molewijk. “Decision-Making Approaches in Transgender Healthcare: Conceptual Analysis and Ethical Implications.” *Medicine, Health Care and Philosophy* 24, no. 4 (2021): 687–99.
- Giordano, Simona. “Understanding the Emotion of Shame in Transgender Individuals: Some Insight from Kafka.” *Life Sciences, Society, and Policy* 14, no. 23 (2018): 1–22.
- Gogarty, Brendan. “All Colours of the Rainbow: Why Tasmania’s New Gender Identity Laws Are Warranted.” *Conversation*, June 21, 2020. <https://theconversation.com/all-colours-of-the-rainbow-why-tasmanias-new-gender-identity-laws-are-warranted-131664>.
- Grabham, Emily. “Decertifying Gender: The Challenge of Equal Pay.” *Feminist Legal Studies* 31, no. 2 (2023): 67–93.
- Guardian Sport. “Basketball Australia Rules Transgender Athlete Lexi Rodgers Ineligible to Play.” *Guardian*, April, 18, 2023.
- Halberstam, Jack. *Female Masculinity*. Duke University Press, 1998.
- Hanna, John. “Kansas Attorney General Sues to Prevent Transgender People from Changing Driver’s Licenses.” Associated Press, July 8, 2023.
- Hansler, Jennifer. “State Department Suspends Processing Passport Applications with ‘X’ Marker.” CNN, January 24, 2025.
- Hasenbush, Amira, Andrew R. Flores, and Jody L. Herman. “Gender Identity Nondiscrimination Laws in Public Accommodations: A Review of Evidence Regarding Safety and Privacy in Public Restrooms, Locker Rooms, and Changing Rooms.” *Sexuality Research and Social Policy* 16, no. 2 (2019): 70–83.

- Hayton, Debbie. "How the Trans Activists Fooled Ireland: Politicians Waved Legislation Through and the Public Isn't Happy." *UnHerd*, July 20, 2021. <https://unherd.com/2021/07/how-the-trans-activists-fooled-ireland/>.
- Hellman, Deborah. "Racial Profiling and the Meaning of Racial Categories." In *Contemporary Debates in Applied Ethics*, 2nd ed., edited by Andrew I. Cohen and Christopher Heath Wellman. Wiley-Blackwell, 2014.
- Hernandez, E. N., and Rowan Bell. "Much Ado About Nothing: Unmotivating 'Gender Identity.'" *Ergo* (forthcoming).
- Hill, Thomas. *Autonomy and Self-Respect*. Cambridge University Press, 1991.
- Hines, Sally. *Gender Diversity, Recognition and Citizenship: Towards a Politics of Difference*. Palgrave, 2013.
- HM Passport Office. "Guidance: Gender Recognition (Accessible)." April 10, 2024. <https://www.gov.uk/government/publications/gender-recognition/gender-recognition-accessible> (accessed August 21, 2025).
- ILGA Europe. "Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia: 2023." Brussels, February 2023. [https://www.ilga-europe.org/sites/default/files/2023/full\\_annual\\_review.pdf](https://www.ilga-europe.org/sites/default/files/2023/full_annual_review.pdf).
- James, Sandy E., Jody L. Herman, Susan Rankin, Mara Keisling, Lisa Mottet, and Ma'ayan Anafi. "The Report of the 2015 US Transgender Survey." National Center for Transgender Equality, December 2016. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.
- Jenkins, Katharine. "Amelioration and Inclusion: Gender Identity and the Concept of Woman." *Ethics* 126, no. 2 (2016): 394–421.
- . *Ontology and Oppression*. Oxford University Press, 2023.
- Kapusta, Stephanie. "Gender Autonomy." In *The Routledge Handbook of Autonomy*, edited by Ben Colburn. Routledge, 2022.
- Kee, Caroline. "35 People Who Transitioned on How It Impacted Their Mental Health." *BuzzFeed News*, October 5, 2017. <https://www.buzzfeednews.com/article/carolinekee/people-talk-about-transitioning-and-mental-health>.
- Kelleher, Patrick. "Ireland Has Had Trans Self-ID Laws for Years." *Pink News*, February 1, 2023. <https://www.thepinknews.com/2023/02/01/trans-self-id-laws-gender-recognition-reform-scotland-ireland/>.
- Killmister, Suzy. *Taking the Measure of Autonomy*. Routledge, 2018.
- Laborde, Cecile. *Liberalism's Religion*. Harvard University Press, 2017.
- Lang, Nico. "Texas Just Quietly Revoked Trans People's Ability to Change Their Birth Certificates." *Them*, September 3, 2024. <https://www.them.us/story/texas-trans-birth-certificate-gender-marker-change-ban>.
- Lau, Holning. "Gender Recognition as a Human Right." In *The Cambridge Handbook of New Human Rights: Recognition, Novelty, Rhetoric*, edited by



- Andreas von Arnould, Kerstin von der Decken, and Mart Susi. Cambridge University Press, 2020.
- Lawford-Smith, Holly. "Ending Sex-Based Oppression: Transitional Pathways." *Philosophia* 49, no. 3 (2020): 1021–41.
- . *Gender Critical Feminism*. Oxford University Press, 2022.
- Lever, Annabelle. "Why Racial Profiling Is Hard to Justify: A Response to Risse and Zeckhauser." *Philosophy and Public Affairs* 33, no. 1 (2006): 94–110.
- Lopez, German. "Women Are Getting Harassed in Bathrooms Because of Anti-Transgender Hysteria." *Vox*, May 19, 2016. <https://www.vox.com/2016/5/18/11690234/women-bathrooms-harassment>.
- Maclure, Jocelyn, and Charles Taylor. *Secularism and Freedom of Conscience*. Harvard University Press, 2011.
- Middleton, Lucy. "Scotland's Trans Self-ID Bill No Risk for Women, Says UN Expert." Reuters, December 21, 2022. <https://www.reuters.com/article/britain-scotland-lgbt-idUSL8N33949W>.
- Ministry of Justice (UK), HM Prison and Probation Service, and the Right Honourable Dominic Rab. "New Transgender Prisoner Policy Comes into Force." Press release, February 27, 2023. <https://www.gov.uk/government/news/new-transgender-prisoner-policy-comes-into-force>.
- National Center for Trans Equality. "Summary of Birth Certificate Gender Change Laws." January 2020. <https://transequality.org/sites/default/files/docs/resources/Summary%20of%20State%20Birth%20Certificate%20Laws%20Jan%202020.pdf>.
- Nazri, Jeffry. "What Happens when Muslims in Malaysia Try to Leave Islam." *Medium* (blog), May 10, 2020. <https://jefrinazri.medium.com/what-happens-when-muslims-in-malaysia-try-to-leave-islam-339389970791>.
- Neuman Wipfler, A.J. "Identity Crisis: The Limitations of Expanding Government Recognition of Gender Identity and the Possibility of Genderless Identity Documents." *Harvard Journal of Law and Gender* 39, no. 2 (2016): 491–554.
- Nussbaum, Martha. *Liberty of Conscience: In Defense of America's Tradition of Religious Equality*. Basic Books, 2008.
- Office for Equality and Opportunity. "Response to Call for Input on Single-Sex Spaces: Guidance." December 17, 2024. <https://www.gov.uk/government/publications/response-to-call-for-input-on-single-sex-spaces-guidance/response-to-call-for-input-on-single-sex-spaces-guidance>.
- Oladipo, Gloria. "Majority of Trans Adults Are Happier After Transitioning, Survey Finds." *Guardian*, March 24, 2023.
- Pearce, Ruth, Sonja Erikainen, and Ben Vincent. "Introduction." In *TERF Wars: Feminism and the Fight for Transgender Futures*, edited by Ruth Pearl, Sonja



- Erikainen, and Ben Vincent. Sage Publishing, 2020.
- Plemons, Eric. *The Look of a Woman*. Duke University Press, 2017.
- Rajunov, Micah, and Scott Duane. *Nonbinary: Memoirs of Gender Identity*. Columbia University Press, 2019.
- Rawls, John. *Justice as Fairness: A Restatement*. Harvard University Press, 2001.
- Reed, Erin. "Anti-Trans Legislative Risk Assessment Map: July 2024 Edition." *Erin in the Morning* (blog), July 11, 2024. <https://www.erininthemorning.com/p/anti-trans-legislative-risk-assessment-3dc>.
- . "Kansas, Other States Threaten to Undo Legal Gender Changes: What To Do." *Erin in the Morning* (blog), June 28, 2023. <https://www.erininthemorning.com/p/kansas-other-states-threaten-to-undo>.
- . "Tennessee Law Rolls Back Trans Rights, Regressively Defines Sex." *Los Angeles Blade*, May 18, 2023. <https://www.losangelesblade.com/2023/05/18/tennessee-law-rolls-back-trans-rights-regressively-defines-sex/>.
- Renz, Flora. "Gender-Based Violence Without a Legal Gender: Imagining Singe-Sex Services in Conditions of Decertification." *Feminist Legal Studies* 31, no. 1 (2023): 43–66.
- . "Genders that Don't Matter: Nonbinary People and the Gender Recognition Act 2004." In *The Queer Outside in Law: Recognising LGBTQ People in the United Kingdom*, edited by Raj Senthoran and Peter Dunne. Palgrave, 2020.
- Renz, Flora, and Davina Cooper. "Reimagining Gender Through Equality Law: What Legal Thoughtways Do Religion and Disability Offer?" *Feminist Legal Studies* 30, no. 6 (2022): 129–55.
- Reuters. "England's Rugby Union and Rugby League Ban Transgender Players from Women's Game." July 30, 2022. <https://www.reuters.com/lifestyle/sports/rfu-bans-transgender-women-participating-womens-game-2022-07-29/>.
- Roan, Dan. "British Triathlon Becomes First UK Sport to Create 'Open' Category for Transgender Athletes." BBC News, July 5, 2022. <https://www.bbc.com/sport/triathlon/62063359>.
- Roche, Juno. *Trans Power*. Jessica Kingsley, 2020.
- Rummler, Orion. "Florida Is Quietly Denying Transgender Residents Updated Birth Certificates." *19th News*, July 15, 2024. <https://19thnews.org/2024/07/florida-transgender-updated-birth-certificates/>.
- Samuri, Mohd al Adib, and Muzammil Quraishi. "Negotiating Apostasy: Applying to 'Leave Islam' in Malaysia." *Islam and Christian-Muslim Relations* 25, no. 4 (2014): 507–23.
- Savulescu, Julian. "Ten Ethical Flaws in the Caster Semenya Decision on Inter-sex in Sport." *Conversation*, May 10, 2019. <https://theconversation.com/ten>

- ethical-flaws-in-the-caster-semenya-decision-on-intersex-in-sport-116448.
- Serano, Julia. "Transgender People, Bathrooms, and Sexual Predators: What the Data Say." *Medium* (blog), June 8, 2021. <https://juliaserano.medium.com/transgender-people-bathrooms-and-sexual-predators-what-the-data-say-2f31ae2a7c06>.
- . *Whipping Girl: A Transsexual Woman on Sexism and the Scapegoating of Femininity*. Seal Press, 2016.
- Spade, Dean. *Normal Lie: Administrative Violence, Critical Trans Politics, and the Limits of Law*. Duke University Press, 2015.
- Stavrou, Athena. "Trans Women to Be Banned from Single-Sex Spaces Under New EHRC Guidance." *Independent*, August 8, 2025.
- Steinmetz, Katy. "Why LGBT Advocates Say Bathroom 'Predators' Argument Is a Red Herring." *Time*, May 2, 2016. <https://time.com/4314896/transgender-bathroom-bill-male-predators-argument/>.
- Stewart, Ian. "2 Women Charged with Sexual Battery of Trans Woman in North Carolina Bar." *NPR*, January 9, 2019. <https://www.npr.org/2019/01/09/683711899/two-woman-charged-in-alleged-attack-on-trans-woman-in-north-carolina-bar>.
- Stock, Kathleen. *Material Girls: Why Reality Matters for Feminism*. Fleet, 2021.
- Stryker, Susan. *Transgender History*. Seal Press, 2008.
- Sunstein, Cass. "On the Tension Between Sex Equality and Religious Freedom." In *Toward a Humanist Justice: The Political Philosophy of Susan Moller Skin*, edited by Debra Satz and Rob Reich. Oxford University Press, 2009.
- Trevor Project. "National Survey of LGBTQ Youth Mental Health (2020)." New York, 2020. <https://www.thetrevorproject.org/wp-content/uploads/2020/07/The-Trevor-Project-National-Survey-Results-2020.pdf>.
- Theil, Michele. "Trans Americans Accuse Trump of 'Travel Ban': 'They Will Not Give Me Any Passport with Any Name.'" *Pink News*, January 31, 2025. <https://www.thepinknews.com/2025/01/31/trans-americans-passport-ban-trump-state-department/>.
- To, Margaret, Qi Zhang, Andrew Bradlyn, et al. "Visual Conformity with Affirmed Gender or 'Passing': Its Distribution and Association with Depression and Anxiety in a Cohort of Transgender People." *Journal of Sexual Medicine* 17, no. 10 (2020): 2084–92.
- Triggle, Nick. "Puberty Blockers for Under-18s Banned Indefinitely." *BBC News*, December 12, 2024. <https://www.bbc.com/news/articles/clyz2ogx3p50>.
- Venditti, Valeria. "Gender Kaleidoscope: Diffracting Legal Approaches to Reform Gender Binary." *International Journal of Gender, Sexuality and Law* 1, no. 1 (2020): 56–75.
- Vincent, Ben. *Transgender Health*. Jessica Kingsley, 2018.

- Violet, Mia. "The Fact I Can't Marry as a Bride Is Another Reminder of How Unequal Trans Rights Still Are." *The i Paper*, February 24, 2020. <https://inews.co.uk/opinion/marry-bride-reminder-unequal-trans-rights-still-are-400587>.
- . *Yes, You Are Trans Enough: My Transition from Self-Loathing to Self-Love*. Jessica Kingsley, 2018.
- Warr, Megan. "How Do Gender Non-Conforming Individuals Experience Gendered Public Toilets?" BA diss., Coventry University, 2022. [https://assets.ctfassets.net/x5yvfvqvm38/3ETfh9BReNJ09hCjQHFSrZ/c2fo899ba40b33a9973b68b3745632b2/Megan\\_Warr\\_S\\_\\_6057HUM\\_CW\\_submission.pdf](https://assets.ctfassets.net/x5yvfvqvm38/3ETfh9BReNJ09hCjQHFSrZ/c2fo899ba40b33a9973b68b3745632b2/Megan_Warr_S__6057HUM_CW_submission.pdf).
- Weiss, Jillian Todd. "The Gender Caste System: Identity, Privacy, and Heteronormativity." *Law and Sexuality* 10 (2001): 123–86.
- Weiss, Suzannah. "9 Things People Get Wrong About Being Nonbinary." *Teen Vogue*, February 15, 2018. <https://www.teenvogue.com/story/9-things-people-get-wrong-about-being-non-binary>.
- Williams, Bernard. "A Critique of Utilitarianism." In *Utilitarianism: For and Against*, edited by Bernard Williams and J.J. C. Smart. Cambridge University Press, 1973.
- Williams, Rachel Anne. "What It Means to Be Authentic." *Medium* (blog), October 13, 2018. <https://medium.com/@transphilosophr/what-it-means-to-be-authentic-dbob8df40e50>.
- Yurcaba, Jo. "Florida Bars Transgender People from Changing the Sex on Their Driver's Licenses." NBC News, January 31, 2024. <https://www.nbcnews.com/nbc-out/out-news/florida-transgender-drivers-license-sex-change-gender-identity-rcna136395>.