

LGBTIQ HUMAN RIGHTS • POLICY BRIEF

FAMILY RECOGNITION

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KEY POINTS

- Families are a vital source of **belonging and stability**, making their recognition essential for human rights and social cohesion.
- Family recognition refers to the **legal acknowledgment and protection of diverse families in all their forms**, including those formed by same-sex couples, as well as families in which transgender, nonbinary, and intersex people are partners, parents, or caregivers.
- **Lack of legal recognition leaves families vulnerable** in areas such as parental rights, inheritance, healthcare, migration, education, and protection from violence.
- The right to form a family, and to have that family respected and protected, is a fundamental human right. According to international human rights law, states must ensure **equal recognition and protection of all families** without discrimination.
- In contexts in which political, social, and legal obstacles inhibit governments' political will to provide full recognition of diverse families, states can still advance protections through measures such as **civil unions, property and inheritance rights, parental recognition, access to benefits, and anti-violence protections**.

Why are families important?

Families are fundamental units of society, and can provide love, care, and mutual support across generations. For many people, they are among the first spaces where individuals experience belonging, protection, and identity, and they play a crucial role in social and economic stability. Ensuring that all families are recognized and respected is therefore not only a matter of private life but a cornerstone of human rights and social cohesion.¹

What is family recognition?

Family recognition goes beyond the institution of marriage or the issuance of documents. It encompasses the legal frameworks, policies, and practices that protect the dignity, security, and stability of all families. Families are not limited to biology or tradition; they are also formed through commitment, care, and mutual responsibility. For diverse families, such as same-sex couples with or without children, transgender or intersex parents, single parents, and multigenerational families, legal recognition ensures their existence is respected and protected.

"It would misunderstand these men and women to say they disrespect the idea of marriage. Their plea is that they do respect it, respect it so deeply that they seek to find its fulfillment for themselves. Their hope is not to be condemned to live in loneliness, excluded from one of civilization's oldest institutions. They ask for equal dignity in the eyes of the law. The Constitution grants them that right."

U.S Supreme Court. *Obergefell v. Hodges* (2015)

What are some examples of the impact of a lack of family recognition in different global contexts?

- **Parenting:** In many countries, only the biological parent in a same-sex couple is recognized, leaving the other parent without legal rights and responsibilities and the child without legally protected ties to one of their parents. Same-sex couples may also be barred from adopting jointly or from obtaining second-parent adoption,

leaving children without full legal protection from both parents.

- **Inheritance and Property:** Same-sex partners are often excluded from inheritance rights, with property reverting to biological relatives despite the significance of the relationship to the partners' family life.
- **Immigration:** Binational couples face forced separation when states do not recognize same-sex marriages or partnerships.
- **Education:** Children of diverse families are stigmatized when schools exclude same-sex parents from official forms or fail to address bullying.
- **Reproductive Rights:** LGBTIQ individuals are frequently denied access to assisted reproductive technologies, including surrogacy and fertility preservation.²

Why does family recognition matter?

Recognition of diverse families has concrete implications for dignity, equality, and survival.

- Securing **economic stability** through pensions, benefits, housing protections, and shared property rights.
- **Protecting surviving partners** from legal and economic insecurity after a death, including through inheritance rights and recognition in funeral and burial decisions.
- Guaranteeing **health and well-being** by granting spousal medical decision-making rights.
- Protecting against violence with inclusive domestic and family violence laws.
- **Protecting children** by ensuring equal parental rights and custody.
- Ensuring **family unity across borders** in migration and nationality frameworks.
- Promoting social inclusion through visibility and equal treatment in **education and employment**.

“The Court confirms that the American Convention does not define a limited concept of family, nor does it only protect a “traditional” model of the family. In this regard, the Court reiterates that the concept of family life is not limited only to marriage and must encompass other de facto family ties in which the parties live together outside marriage.”

**Inter-American Court of Human Rights.
Atala Riffo and Daughters v. Chile (2012)**

What rights are involved in family recognition?

The right to form a family, and to have that family legally recognized and respected, does not stand alone. It is closely connected to and dependent on the enjoyment of a range of other human rights.³ Without recognition, families are left vulnerable to violations in many areas of life. Key rights involved include, but are not limited to:

- **Right to Equality and Non-Discrimination:** Ensures that no one is denied family recognition because of their sexual orientation, gender identity or expression, or sex characteristics.
- **Right to Identity:** Protects the right of both adults and children to have their identities, including parental and family relationships, officially recognized.
- **Rights of the Child:** Guarantees that children are not deprived of their parents, that their best interests are prioritized, that intersex children are protected from unnecessary medical interventions, and that all children enjoy equal protection regardless of their parents' status.
- **Right to Health:** Includes access to reproductive technologies and the ability of families to make medical decisions for one another.
- **Right to Private and Family Life:** Recognizes that the family is a fundamental sphere of personal dignity and autonomy, protected from unjustified interference.

- **Right to Social Security and Economic Protection:** Ensures equal access to inheritance, pensions, and benefits that provide stability to families.
- **Right to Life, Integrity, and Security:** Ensures that all families are equally protected by laws and policies against domestic and family violence, safeguarding individuals from harm and guaranteeing their physical and emotional well-being.

Together, these rights demonstrate that family recognition is not a narrow or symbolic issue, but one that safeguards the full dignity, security, and equality of individuals and their loved ones.

“The Court concludes that in restricting the applicant’s parental rights and contact with her children without doing a proper evaluation of the possible harm to the applicant’s children, the domestic courts relied on her gender transition, singled her out on the ground of her status as transgender person and made a distinction which was not warranted in the light of the existing Convention standards.”

European Court of Human Rights. Case of A.M. and others v. Russia (2021)

How have courts protected the rights of diverse families?

Courts across jurisdictions have affirmed that States must recognize and protect diverse families. The following is a selection of landmark rulings that illustrate this global trend:

South Africa – *J and Another v. Director General, Department of Home Affairs* (2003).⁷ The Constitutional Court examined provisions of the Children’s Status Act that excluded same-sex partners from parental recognition when using assisted reproduction. The Court declared these provisions unconstitutional, ensuring that same-sex life partners could be legally recognized as parents. This ruling was one of the earliest in the Global South

to establish equal parental rights and paved the way for broader reforms, including marriage equality in 2005.

Inter-American Court of Human Rights – *Atala Riffo and Daughters v. Chile* (2012).⁸ Judge Karen Atala lost custody of her children after Chile’s Supreme Court ruled that her same-sex relationship would harm their development, despite no evidence of such risk. The Inter-American Court reversed that decision, finding that Chile had violated her rights to equality and non-discrimination under the American Convention. The ruling marked the first time the Court explicitly recognized sexual orientation as a protected category, setting a binding precedent across Latin America.

United States – *Obergefell v. Hodges* (2015).⁹ The U.S. Supreme Court consolidated several cases challenging state bans on same-sex marriage. In a 5–4 decision, it ruled that marriage is a fundamental right under the Fourteenth Amendment and that denying it to same-sex couples violated dignity and equality. The ruling struck down all remaining state bans and made marriage equality the law of the land, transforming family recognition in the United States.

European Court of Human Rights – *A.P., Garçon and Nicot v. France* (2017).¹⁰ Until this ruling, France required sterilization or irreversible medical procedures for transgender people to obtain legal gender recognition. The Court held that such requirements violated the right to private and family life under Article 8 of the European Convention. The decision established an important precedent across Europe, affirming that legal gender recognition is part of private and family life and that transgender people should not have to sacrifice bodily autonomy to secure recognition in family and civil records.

Taiwan – *Judicial Yuan Interpretation No. 748* (2017).¹¹ After decades of activism by veteran gay activist Chi Chia-wei and queer civil society groups, Taiwan’s Constitutional Court ruled in 2017 that restricting marriage to heterosexual couples was unconstitutional. The Court gave the legislature two years to amend the law, leading to the adoption of marriage equality legislation in 2019. This landmark made Taiwan the first country in Asia to recognize same-sex marriage.

European Court of Human Rights – Orlandi and Others v. Italy (2017).¹² The Court held that refusing any recognition to same-sex marriages contracted abroad violated the applicants' right to respect for private and family life.

Court of Justice of the European Union – Coman and Others v. Romania (2018).¹³ The CJEU held that, for the purposes of EU free movement law, a member state must recognize a same-sex spouse lawfully married in another member state, even if its domestic law does not allow same-sex marriage.

European Court of Human Rights – A.M. and Others v. Russia (2021).¹⁴ A transgender woman, A.M., was denied contact with her children solely because of her gender identity, despite no evidence that her transition harmed them. The ECtHR ruled that Russia had violated her rights to family life and non-discrimination. The judgment stressed that parental rights must be decided based on the best interests of the child, not societal prejudice, and highlighted systemic discrimination against transgender parents.

Peru – Ricardo Morán Case (2023).¹⁵ Ricardo Morán, a gay father of twins born through surrogacy in the U.S., was denied registration of his children in Peru because the law required a mother's name on birth certificates. The Constitutional Court ordered their registration and recognition of nationality, affirming that all children deserve equal protection regardless of their parents' marital status.

How can states advance the rights of diverse families?

1.Ensure Marriage and Partnership Equality: Extend marriage rights; pending full equality, provide equivalent civil unions or domestic partnerships.

2.Secure Economic Protections: Guarantee equal inheritance, property, pensions, and tax rights.

3.Guarantee Equal Parental Rights: Establish clear, non-discriminatory rules to recognize both intended parents at birth, including where parenthood is based on consent, caregiving, or assisted reproduction rather than genetic connection; ensure inclusive custody and adoption laws.

4.Reform Immigration and Nationality Laws: Ensure family reunification, grant nationality to children of same-sex parents, and allow foreign partners in same-sex couples to reside legally.

5.Protect Families from Violence: Ensure that diverse families are fully covered by existing domestic and family violence laws, with equal access to protective measures, shelters, and support services.

6.Expand Access to Reproductive and Fertility Services: Ensure equal access to IVF, surrogacy, and fertility preservation.

7.Recognize Gender Identity in Family Documents: Simplify processes to update family records; respect self-identified gender.

8.Promote Cross-Border Recognition: Ensure marriages, adoptions, and parental rights are respected internationally.

UN human rights bodies have increasingly weighed in to support the recognition and rights of diverse families as rooted in international human rights law.

The Williams Institute conducted research on Concluding Observations issued between 2016 to 2024 from three UN treaty bodies: the Human Rights Committee (HRC), the Committee on the Elimination of Discrimination Against Women (CEDAW Committee), and the Committee on Economic, Social and Cultural Rights (CESCR).

It found that these treaty bodies “have voiced support for same-sex marriage in 44 Concluding Observations. The HRC and CEDAW Committee have used especially strong language, characterizing same-sex marriage as a right encompassed within the treaties they oversee. The treaty bodies have also voiced support for same-sex civil partnerships in 35 Concluding Observations.”⁴

Further, the Concluding Observations “indicate that states must support samesex couples’ equality across a range of legal domains—including housing, property, inheritance, taxation, domestic violence protections, health care, social security, adoption, and assisted reproductive technologies.”⁵

UN treaty bodies have also challenged national laws that require trans people to undergo sterilization or divorce before changing their legal gender marker. These requirements undermine trans people’s families.⁶

What are some incremental measures to achieve full family recognition?

Family recognition often advances through step-by-step reforms that respond to different legal, political, and social contexts. These measures can provide meaningful protection and stability for families, including:

- **Civil Unions and Domestic Partnerships:** Extending property and inheritance rights.
- **Targeted Legal Reforms:** Establishing parental recognition and adoption laws.
- **Patrimonial Protections:** Guaranteeing joint property, inheritance, tax benefits, and pensions.
- **Sectoral Advances:** Extend family recognition across key policy areas, including employment benefits, healthcare access, education policies, and migration frameworks.
- **Public Education Campaigns:** Promote acceptance of family diversity and counter stigma against LGBTIQ people and their families.

ENDNOTES

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- 2 Outright International, "Surrogacy and Assisted Reproductive Technologies (ART)," October 2025, <https://outrightinternational.org/our-work/human-rights-research/surrogacy-and-assisted-reproductive-technologies-art>
- 3 Outright International, "What Does Family Legal Recognition Look Like?," February 2025, <https://outrightinternational.org/insights/what-does-family-legal-recognition-look>
- 4 The Williams Institute, *International Same-Sex Marriage Laws*, May 2026, 2, <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Intl-SS-Marriage-Law-May-2026.pdf>
- 5 Ibid.
- 6 United Nations High Commissioner for Human Rights, Discrimination and Violence against Individuals Based on Their Sexual Orientation and Gender Identity, A/HRC/29/23, May 4, 2015, paras. 17, 70, 79 <https://docs.un.org/en/A/HRC/29/23>
- 7 *J and Another v. Director General, Department of Home Affairs and Others*, Constitutional Court of South Africa, Case CCT 46/02, Judgment of March 28, 2003, <https://collections.concourt.org.za/handle/20.500.12144/2168>
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- 9 *Obergefell v. Hodges*, Supreme Court of the United States, 576 U.S. 644, Judgment of June 26, 2015, <https://www.justice.gov/sites/default/files/crt/legacy/2015/06/26/obergefellhodesopinion.pdf>
- 10 *A.P., Garçon and Nicot v. France*, European Court of Human Rights, Applications nos. 79885/12, 52471/13 and 52596/13, Judgment of April 6, 2017, <https://hudoc.echr.coe.int/eng?i=001-172913>
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- 12 *Orlandi and Others v. Italy*, European Court of Human Rights, Applications nos. 26431/12, 26742/12, 44057/12 and 60088/12, Judgment of December 14, 2017, <https://hudoc.echr.coe.int/eng?i=001-179547>
- 13 *Coman and Others v. Inspectoratul General pentru Imigrări and Ministerul Afacerilor Interne*, Court of Justice of the European Union, Case C-673/16, Judgment of June 5, 2018, ECLI:EU:C:2018:385, <https://eur-lex.europa.eu/legal-content/EN/TEXT/?uri=CELEX:62016CJ0673>
- 14 *A.M. and Others v. Russia*, European Court of Human Rights, Application no. 47220/19, Judgment of July 6, 2021, <https://hudoc.echr.coe.int/eng?i=001-210456>
- 15 Case No. 00882-2023-PA/TC, Judgment of September 21, 2023, <https://tc.gob.pe/jurisprudencia/2023/00882-2023-AA.pdf>

ABOUT OUTRIGHT INTERNATIONAL

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

Founded in 1990, with staff in over a dozen countries, Outright works with the United Nations, regional human rights monitoring bodies, governments, humanitarian and development institutions, and civil society partners. Outright holds consultative status at the United Nations, where it serves as the secretariat of the UN LGBTI Core Group.

**Together, for better LGBTIQ lives.
Outright.**

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