

Reimagining Parenthood: Challenging (Bio)logic in Legal Cases of Trans Families

The legal recognition of transgender parenthood is a rapidly evolving issue in European courts, shaping the rights of trans families across the continent. Our recent article, ‘(Bio)logical Phallacies in Legal Cases of Trans Families’ (2025 *Alternatives: Global, Local, Political*), examines the ways in which European jurisprudence has reinforced rigid, binary notions of parenthood—often to the detriment of transgender parents and their children. By unpacking the logic that underpins these rulings, we argue for a more inclusive approach that better reflects the lived realities of trans families.

The Problem with (Bio)logic

At the heart of our analysis is what we term “(bio)logic”—a form of reasoning that prioritizes certain biological processes over gender identity when determining parental status. This approach assumes a static and binary view of gender, reinforcing the idea that the individual who gives birth must be classified as the “mother” and the one who provides sperm as the “father.” This rigidity fails to acknowledge the realities of transgender individuals who become parents and denies them the right to be legally recognized according to their gender identity.

Recent European Court of Human Rights (ECtHR) cases illustrate this problem. In *A.H. and Others v. Germany* (2023), a trans woman was denied recognition as her child’s mother because she had contributed sperm. Similarly, in *O.H. and G.H. v. Germany* (2023), a trans man who gave birth was classified as the child’s mother rather than father. These decisions reflect an outdated framework that insists on aligning parenthood with biological reproductive functions rather than gender identity.

The Impact on Trans Families

This misalignment between legal definitions and lived experiences has profound consequences. Misgendering parents on birth certificates does more than just create bureaucratic challenges—it reinforces stigma, causes psychological harm, and denies trans families the legal protections they need. It also raises privacy concerns, as official documents that reveal a trans parent’s assigned sex at birth could lead to involuntary disclosure of their transgender status.

Furthermore, this rigid approach ignores the diversity of modern family structures. In many jurisdictions, surrogacy and anonymous birthing laws already create conceptual space between biological functions and legal parenthood—particularly between gestation and motherhood. Why, then, should trans parents be excluded from similar legal recognition?

Looking Beyond Binary Models

A more inclusive legal framework would move away from (bio)logic and recognize intention-based parenthood—an approach that prioritizes a person’s intended role and responsibilities as a parent over their biological reproductive function. Some European countries, such as Sweden, Iceland, and Denmark, have already adopted laws that recognize trans parents according to their gender identity in legal documents. These models offer a promising alternative for ensuring reproductive justice for all families.

International human rights bodies have also signalled the need for reform. The Parliamentary Assembly of the Council of Europe and the United Nations Human Rights Council have called on states to recognize the gender identity of transgender parents on birth certificates. The Yogyakarta Principles, which outline human rights protections for LGBTQ+ individuals, explicitly support this shift.

A Call for Legal Reform

European legal systems must evolve to reflect the realities of trans parenthood. This means, among other reforms:

- Updating birth registration laws to recognize parental roles based on gender identity, rather than reproductive function;
- Adopting intention-based models of parenthood, similar to those used in surrogacy arrangements;
- Ensuring trans parents' privacy and dignity by preventing unnecessary disclosure of assigned sex at birth on official documents;
- Following progressive legal precedents to extend protections to trans families across Europe.

Recognizing trans parenthood is not just about legal accuracy reflecting social reality—it's about reproductive justice and the right of all families to be treated with dignity. By moving beyond (bio)logic, we can ensure that legal systems serve, rather than marginalize, those they are meant to protect.

Read the full article here: [\[Insert hyperlink\]](#)

#TransRights #HumanRights #ReproductiveJustice #LGBTQ+ #FamilyLaw #GenderEquality

About the authors:

Simon Indesteege is a PhD candidate and research assistant in Law at the University of Hasselt. Their thesis is a critical legal analysis of inserting a gender diverse perspective into constitutional law in light of the principle of equality and nondiscrimination. They work within the European supranational framework in comparison with the UK and USA, regarding the situation of gender diverse individuals, in particular transgender pregnancy discrimination. They have published in academic journals on the above topics and in popular magazines on their gender fluidity and experience of trans pregnancy.

Dr Suki Finn is a Lecturer in Philosophy and Gender Studies at Royal Holloway University of London. Previously, she was a Postdoctoral Researcher at the University of Southampton on the ERC-funded 'Better Understanding the Metaphysics of Pregnancy' project. Her areas of research span feminist theory, bioethics, the philosophy of science, metaphysics, and logic. She has published on these topics in many journals, is the editor of 'Women of Ideas' (2021 OUP) and author of 'What's in a doughnut hole? and other philosophical food for thought' (2026 Icon). Dr Finn is co-Director of the Society for Women in Philosophy UK.