



# **Transgendered People and Equality ...Whose life is it anyway?**

Questions and Answers about Equality Issues  
for Transgendered People

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This booklet contains general legal information. It is not legal advice. The information is accurate as of May 4, 2000. But the law changes frequently. You should consult a lawyer for information about your particular situation.

## **1. Who are transgendered people?**

Trans people are people include everyone who does not fit neatly into one of the 'male/female' boxes:

- intersexed people, whose physical gender indicators are ambiguous.
- transsexuals, whose gender identity does not match their genitalia.
- Some but not all transsexuals have sex reassignment surgery to bring make their body congruent with their gender identity.
- cross dressers, who live full or part time in the gender 'other' than that of their genitals.
- people who identify as trans – neither male nor female, or both male and female.
- drag kings and drag queens – people who dress in the other gender as a performance piece, but whose gender identity is consistent with their birth gender.

## **2. But surely there are only two genders, male and female?**

Our society is built on this misconception. In fact gender is multifactoral and sometimes the factors do not match. The factors include genitalia, chromosomes, gender identity (how one feels about one's self), social gender (how others treat you), hormones, and secondary sex characteristics.

## **3. What is 'gender identity'?**

Gender identity is the sense one has of one's own gender.

Studies have shown that a child's gender identity is formed apart from how the child's family treats the child. In a famous case, where surgeons botched a castration one of two boy twins, the surgeon recommended that the mistake be dealt with by completing the removal of the penis and creating a vagina. Even though all of the child's family treated the child as a girl, he always knew he was a boy.

#### **4. But isn't gender innate, fixed at birth?**

Some gender characteristics are fixed at or even before birth. But the social significance accorded to those characteristics is not fixed at birth. Many cultures have more than two genders, and the person in the third gender is in many of those cultures honoured as a shaman or two spirited person.

We have come to understand that 'race' is not something innate, rather people's characteristics are 'racialized', that is, accorded social significance. In the same way, society creates genders by the process of gendering: assigning the acceptable number of genders, and rules about whether or when or how people can change genders temporarily or permanently.

#### **5. Do transgendered people have human rights or equality rights?**

Transgendered people have consistently been held to be protected by the ground of 'sex' and/or 'disability' in human rights cases, of which there have been 4 in B.C. and 1 in Quebec.

In a very recent case, Rape Relief v BCHRC (June 6, 2000, BCSC) the B.C. Supreme Court confirmed that transgendered people are protected by the ground of 'sex' in B.C.'s Human Rights Code.

There has been no Charter case as yet; however there is a Charter challenge in the works with respect to Census

Canada's gender question which currently includes only male or female.

**6. Trans women seem to be attacking women's groups. Is that true?**

No. Most transgender cases have settled. We know of about a dozen employment-related complaints in which the employer has agreed settle; EI has recognized transphobia as a reason to leave a workplace; and Corrections Canada and local police in B.C. have agreed that post operative transsexuals be housed in women's prison; and hospitals put trans people on the ward of their gender identity, not the ward of their genitals, where there is a discrepancy.

**7. Aren't transgendered people a threat to the safety of women-only spaces?**

No. There is literally no evidence that trans people have posed a threat when they have been part of women-only spaces or services when they have been part of those. On the other hand there is evidence that trans women have worked well in women's spaces.

**8. Do the equality rights of trans people conflict with those of non-trans women?**

Only in the sense that the equality rights of lesbians could be said to 'conflict' with the equality rights of non-lesbian women: i.e., not at all. Many of the same arguments now being made about trans participation in women's groups were made in the 70s about the participation of lesbians: that clients would be deterred from coming to the service if they knew there were lesbians/trans women there; that clients might be traumatized if they learned their care provider was a lesbian/trans person; that lesbians/trans women pose a threat to the women's

movement.

## **9. Couldn't trans people just stay away from women-only spaces?**

The essence of trans oppression is exclusion from gendered spaces – from washrooms, gendered classes, gendered competitions, gendered community groups.

Trans women, like other women, need women-only spaces to cope with the sexist, heterosexist, and genderist society we live in.

## **10. What support do transgendered people need in their struggles for equality?**

Equality seekers need to embrace the struggle for equality of trans people, and realize that feeling strongly about trans people is no more of a reason to exclude trans people than feeling strongly about Jewish people is a reason for anti-semitism. We need to speak up when gender conservatives say that there is a 'conflict' between the rights of non trans women and trans women. We need to recognize our own participation in 'gendering' and begin to unlearn that behaviour.

We need to recognize that equality is above all for the people that make us uncomfortable.

For more information, or copies of cases, or bibliographies, call the  
December 9 Coalition (604) 687-8752

This pamphlet contains legal information. It is *not* legal advice. Laws change quickly, and individual situations vary. To find out how the law affects your situation, contact me. First interviews are always free of charge.

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