

## Definitions to Understand Sex and Gender

### **BIOLOGICAL SEX**

Biological sex includes external genitalia, internal reproductive structures, chromosomes, hormone levels, and secondary sex characteristics (for example, breasts, facial and body hair). These characteristics are objective: they can be seen and measured.

The scale consists not just of two categories (male and female) but is actually a continuum. Most people exist somewhere near one end or the other. The space more in the middle is occupied by intersex people (who have combinations of characteristics typical of males and those typical of females, such as both a testis and an ovary, or XY chromosomes (the usual male pattern) and a vagina. Or they may have features that are not completely male or completely female. This space in the middle is also occupied by some trans people, including those who are in the process of sex re-assignment.

### **GENDER IDENTITY**

Gender identity is how people think of themselves and identify in terms of sex (man, woman, boy, girl). Gender identity is a psychological quality. Unlike biological sex, it can't be observed or measured, only reported by the individual.

Like biological sex, it consists of more than two categories, and there's space in the middle for those who identify as a third sex / gender, both, or neither. We lack language for this middle space because everyone in our culture is supposed to identify completely with one of the two extreme categories. The words "genderqueer" and "they" are sometimes adopted. In fact, many people feel that they have masculine and feminine aspects of their psyches, and some people, fearing that they do, seek to purge themselves of one or the other by acting in exaggerated sex-stereotyped ways.

## **GENDER EXPRESSION**

Gender expression is everything that we do to communicate our sex/gender to others. For example, the type of clothing we wear, our hair styles, mannerisms, the way we speak, the roles we take in interactions, etc.

Sometimes we communicate our gender expression purposefully, sometimes it's accidental. Our gender expression could be forced on us as children, or by dress codes at school or at work.

Gender expression is a continuum, with feminine at one end and masculine at the other. In between are gender expressions that are androgynous (neither masculine nor feminine) and those that combine elements of the two (sometimes called gender bending).

Gender expression can vary for an individual from day to day or in different situations, but most people can identify a range on the scale where they feel the most comfortable. Some people are comfortable with a wider range of gender expression than others.

## **SEXUAL ORIENTATION**

Sexual orientation indicates who we are erotically attracted to. The ends of this scale are labeled "attracted to women" and "attracted to men". In the mid-range is bisexuality. There are also people who are asexual (attracted to neither men nor women).

We tend to think of most people as falling into one of the two extreme categories (attracted to women or attracted to men), whether they are straight or gay. However, studies show that most people are in fact not at one extreme of this continuum or the other, but occupy some position in between.

Source: Center for Gender Sanity, Westchester, California

## TRANS

Trans is a category of people who are trans-identified. We may include:

- a) people who are transsexual (have had, or are in the process of having, sex re-assignment surgeries and/or hormone treatment)
- b) people who are transvestites some or all of the time (whose gender expression is opposite to their biological sex)
- c) people whose gender identity does not match their biological sex

“ Trans liberation is not a threat to any lesbian woman or gay man or bisexual person. . . We’re not taking away your identity. No one’s sex reassignment or fluidity of gender threatens your right to self-identity or self-expression. On the contrary, our struggle bolsters your right to your identity.

**My right to be me is tied with a thousand threads to your right to be you.”**

Leslie Feinberg, *Trans Liberation*, 1998

## CISGENDER

A term that was “born” within the trans community. It essentially means “anyone not trans”. It has become a standard referent inside and outside of the gender diverse community.

## GENDERQUEER

Means neither male nor female accurately describe their gender. “Women” includes both cis women and trans women, and likewise for “men.”

"Genderqueer folks" is one common term that encompasses people who don't identify as simply male or female.

## STEALTH

As defined within the trans community, stealth is the 100% distancing of oneself from their previous life. A total cut-off from the past insofar as to the rest of the world. The person’s previous <boynome> or <girlname> did not exist. To someone that has gone stealth, any life prior to their transitioned name and new circumstance does not exist.

**MTF** – Male to Female

**FTM** – Female to Male

## **CROSSDRESSER**

Generally speaking, crossdressers are heterosexual males who have a strong feminine side that they need to express, but are generally content to present as male on a daily, ongoing basis. There are some female crossdressers, but they are certainly much fewer and far less is known about them, as little research has been done in that area. A crossdresser generally identifies as their birth gender/anatomical sex, and their documentation reflects that.

## **DRAG QUEEN**

Generally speaking – a gay male parodying the stereotypes of females in our society. Exaggerated modes of dress, speech and mannerisms. Most often done for the “camp” factor. Very seldom do true drag queens go on to gender transition, although anecdotally, many transwomen often do drag shows as a way raise money or to slowly start to express themselves in what is perceived to be a relatively “safe” space.

## **GENDER DYSPHORIA**

Discontent with one’s biological sex and/or the gender they were assigned at birth.

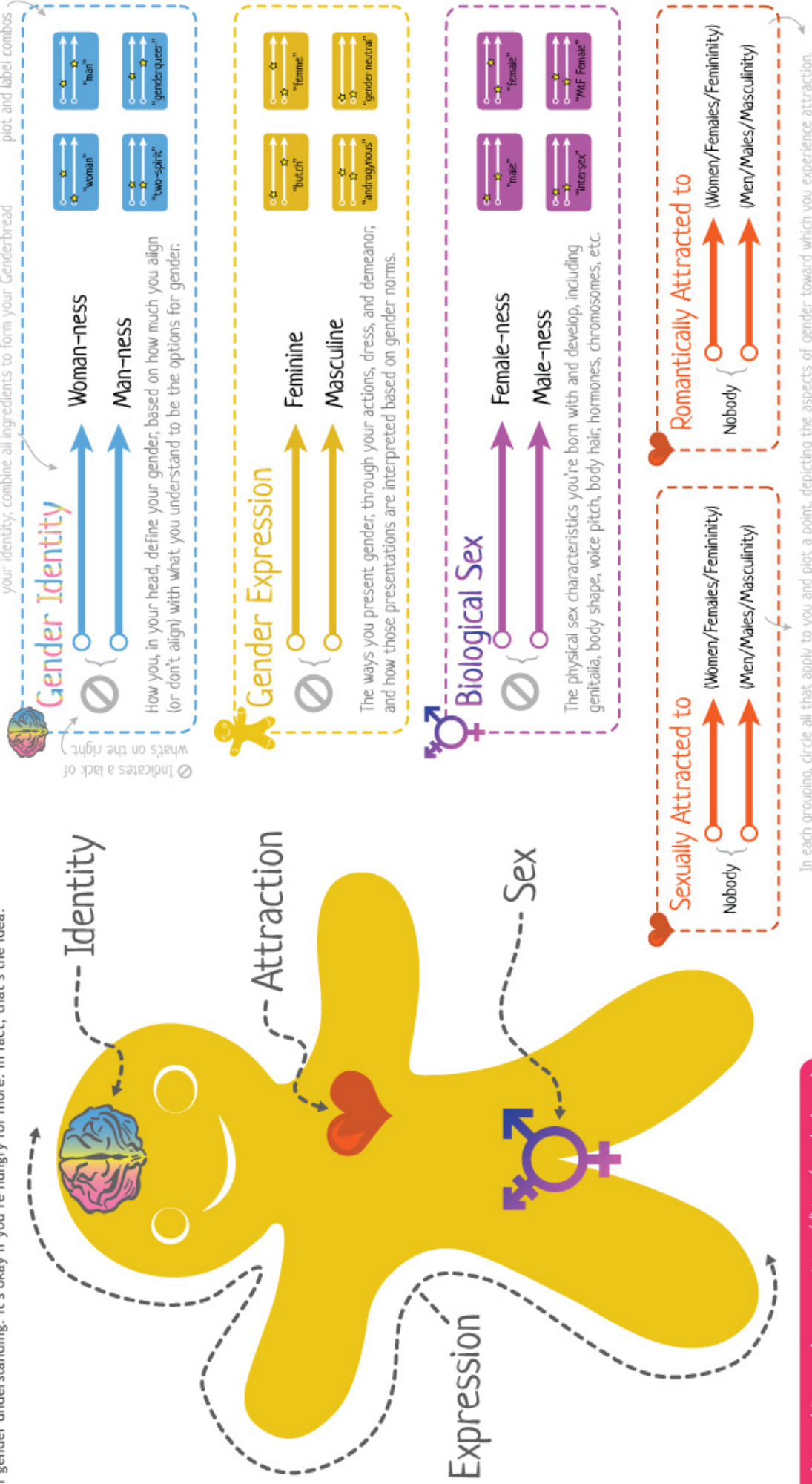
## **GENDER BINARY LANGUAGE**

Gender binary language divides people into "men" and "women" and traits or qualities into "masculine" and "feminine," with no other options. Many people do not identify as either wholly "male" or wholly "female." This means, for example, that using phrases like "men and women" to mean "all adult people regardless of gender" is inaccurate and incorrect (try "people of all genders" instead). Also be aware that "men" is not equivalent to "not women" or vice versa.

# The Genderbread Person v3.3

by its pronounced **METROsexual**.com

Gender is one of those things everyone thinks they understand, but most people don't. Like *Inception*. Gender isn't binary. It's not either/or. In many cases it's both/and. A bit of this, a dash of that. This tasty little guide is meant to be an appetizer for gender understanding. It's okay if you're hungry for more. In fact, that's the idea.



For a bigger bite, read more at <http://bit.ly/genderbread>

## Trans Challenge

- A) Gender Identity Disorder     \_\_\_After a year or two of living in their social gender many trans people will opt for this
- B) Hormone therapy     \_\_\_The trans individual lives in their proper gender for a prescribed period
- C) Social gender identity     \_\_\_Individuals who derive pleasure from dressing as the opposite sex but do not have issues with their biological sex
- D) Sex reassignment surgery (SRS)     \_\_\_The trans person will usually undergo this treatment early in their transition
- E) “Real life test”     \_\_\_The change of expression to their proper gender in terms of clothing, mannerisms, name change, etc.
- F) Cross Dresser     \_\_\_The diagnosis given by a specialist when someone is transsexual (even though the trans person usually already knows this)

## Trans Member Quiz

Answer True or False to the following:

1. \_\_\_ Trans members come from all walks of life – including every race, class, culture and sexual orientation.
2. \_\_\_ Trans members work in all sectors.
3. \_\_\_ Some Trans members “pass” in that nobody recognizes that their gender identity and gender expression don’t match their birth sex.
4. \_\_\_ Some Trans members don’t transition at work out of fear, but lead the rest of their lives in their chosen gender expression and identity.
5. \_\_\_ Some transition while in the workplace – from male to female (MTF) or female to male (FTM), while some adopt a non-gender-binary approach.
6. \_\_\_ The employer does not have a legal obligation to accommodate Trans people.
7. \_\_\_ Some Trans people quit their jobs to transition out of the all-to-real fear that it will be a hostile experience; fortunately, unionized workers have more protection from reprisal and more access to insurance coverage, than do non-unionized people facing transitioning.
8. \_\_\_ Many Trans people are shut out of workplaces because of discrimination. Although there is no statistical evidence, we know that many MTFs end up in the sex trade to survive.
9. \_\_\_ An estimated 2 to 5% of the population identify as LGBT of which 0.5% identify as transgender (i.e., experience some degree of gender dysphoria). The number of people who identify as transsexual and undergo sex-reassignment is smaller.
10. \_\_\_ Studies indicate that Trans persons have to deal with particularly high levels of discrimination, harassment and violence in society and at work. A recent Ontario survey showed that 18% were turned down for a job and 13% were fired or constructively dismissed because of their Trans identity.
11. \_\_\_ Egale Canada and Trans Pulse Canada have collected recent statistics related to bullying and employment. In terms of bullying, Egale Canada did a large-scale survey of LGBTQ across Canada. It found that 50% of trans-identified youth reported hearing transphobic comments daily directed at them.

## Roles and Responsibilities of the Parties During Transitions of Trans Members

### **Employers:**

- Are not permitted to discriminate on the basis of gender identity or expression when it comes to hiring, training, or promoting trans people
- Cannot fire trans workers because they transition or come out
- Must give trans workers access to appropriate washrooms, uniforms, dress codes, etc., during their transition
- Uphold the privacy, confidentiality and dignity of the worker
- Need to cooperate and change records for pension coverage, medical and health plans, EI, CPP, etc. to reflect the trans worker's new identity
- Cannot deny access to private health care benefits to trans workers that are available to other workers with other medical needs (i.e. if wigs are covered for cancer patients they should also be covered for trans people who require them, also for medical reasons)
- Must consult and collaborate with union representatives
- Have the primary legal responsibility to accommodate a worker up to the point of undue hardship

### **Unions:**

- Have a duty to represent all members fairly
- Work with the worker and the employer where an accommodation is required
- Defend workers whose rights are threatened or ignored
- Operate in a manner that is free from discrimination and harassment
- Have a responsibility to enforce the employer's obligation to prevent harassment in the workplace and to defend workers who are subject to harassment
- Respect the privacy and confidentiality of members
- Provide – and ensure the employer provides – education about equality issues, anti-harassment and duty to accommodate



## Transitioning Worker:

- To communicate with the union and the employer
- To supply job-relevant medical information (not all medical information)
- To be cooperatives and assist in identifying and implementing an appropriate accommodation, if required

## Example of PSAC Negotiated Trans Language

In 2015, the parties (Treasury Board and PSAC) signed off on a PSAC proposal to add *gender identity and expression* to the prohibited grounds of discrimination under Article 19 of the PA collective agreement.

### **Technical Services (TC), (exp. June 21, 2014) 19 – No Discrimination**

19.01 There shall be no discrimination, interference, restriction, coercion, harassment, intimidation, or any disciplinary action exercised or practiced with respect to an employee by reason of age, race, creed, colour, national or ethnic origin, religious affiliation, sex, sexual orientation, gender identity and expression, family status, marital status, mental or physical disability, membership or activity in the Alliance or a conviction for which a pardon has been granted.

### **Hamlet of Fort Providence (exp. June 30, 2017) 3 – Recognition Freedom from Discrimination**

3.03 The Employer and the Union agree that there shall be no discrimination, interference, restriction, or coercion exercised or practiced with respect to any employee by reason of age, sex, creed, colour, nationality, sexual orientation, religion, ancestry, ethnic origin, place of origin, marital status, gender identity, family status, family affiliation, political belief, political association, social condition, disability, a conviction for which a pardon has been granted, nor by reason of union membership or activity.

### **Government of the Northwest Territories (March 31, 2016) 3 – Discrimination**

3.02 The Employer and the Union agree that there shall be no discrimination, interference, restriction, harassment or coercion exercised or practiced with respect to any employee by reason of age, sex, race colour, creed, national or ethnic origin, marital status, family status, sexual orientation, disability, gender identity, conviction for which a pardon has not been granted, religious or political affiliation, or any other grounds proscribed by applicable legislation, by reason of Union membership or activity, nor by exercising their rights under the Collective Agreement.

## **SÉTUE (UQAM), (december 31, 2019) 5 – Droits et obligations des parties**

5.05 L'Employeur, par ses personnes représentantes, et le Syndicat, par ses membres, conviennent de n'exercer ni menace, ni contrainte, ni discrimination, directement ou indirectement, à l'endroit de l'une de ses personnes représentantes ou de l'un de ses membres en raison de sa race, de son sexe, de son état de grossesse, de son âge, de son apparence, de sa nationalité, de sa langue, de son handicap, ou de l'utilisation d'un dispositif quelconque pour pallier son handicap, de ses opinions ou autres actions politiques, religieuses ou syndicales, de son lien de parenté, de son statut social, de son orientation sexuelle, de son changement de sexe, ainsi que ses relations sociales, le tout conformément aux obligations contractées par la convention.

(The use of the term changement de sexe is worth noting. It is likely that this was included as a means of protecting members from discrimination on the basis of gender identity & expression. However, its meaning (directly, “the changing of their sex”) could be read as referring solely to those who undergo gender-reassignment surgery as part of their transition, and not to their broader gender identity and expression. It could potentially be problematic.)

## **Government of Yukon (December 31, 2015) 5 – Discrimination**

5.01 Subject to Section 10 of the Yukon Human Rights Act, the parties agree that there shall be no discrimination, interference, coercion, harassment, intimidation or disciplinary action exercised or practised by employees, the Union or the Employer with respect to an employee by reason of age, race, creed, colour, national origin, religious affiliation, sex, sexual orientation, family status, mental or physical disability, or membership or activity in the Union. For clarity, the parties agree that “sex” includes transgender identity or expression.

## **New Democratic Party Caucus in the Yukon Assembly (March 31, 2015)<sup>11</sup> – No Discrimination**

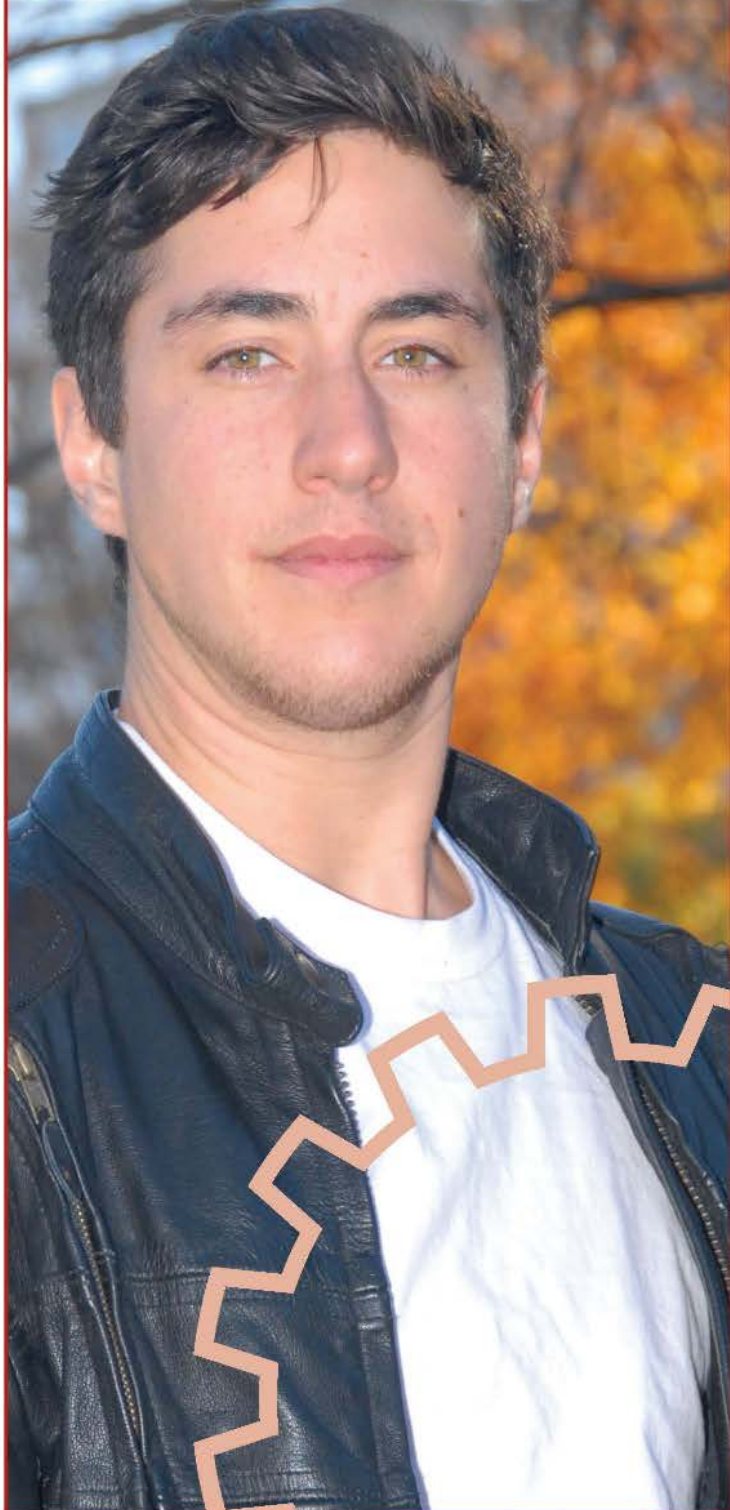
11.01 All employees, and the Employer, are entitled to work in an environment free of discrimination on the basis of their:

- (a) ancestry, including colour and race
- (b) national origin
- (c) ethnic or linguistic background or origin
- (d) religion or creed, or religious belief, religious association, or religious activity
- (e) age
- (f) gender, including pregnancy or pregnancy-related conditions
- (g) sexual orientation
- (h) gender identity
- (i) physical or mental disability
- (j) criminal charges or criminal record
- (k) political belief, political association, or political activity
- (l) marital or family status
- (m) physical appearance or attributes
- (n) source of income
- (o) place of residence
- (p) union activity or membership, or
- (q) actual or presumed association with others identified by the above characteristics.

**Trans rights  
are workers' rights**

**Trans rights  
are human rights**

**Take action now!**



## **Are you a man or a woman?**

**For some people, this is  
an uncomfortable question.**

For trans people—those whose gender identity and gender expression does not match their birth sex—accessing a public bathroom, applying for a driver's license, and similar daily interactions can trigger hostility, intolerance, discrimination and even violence.

The Canadian Human Rights Act and federal hate crimes legislation do not explicitly protect people from discrimination based on gender identity or expression.

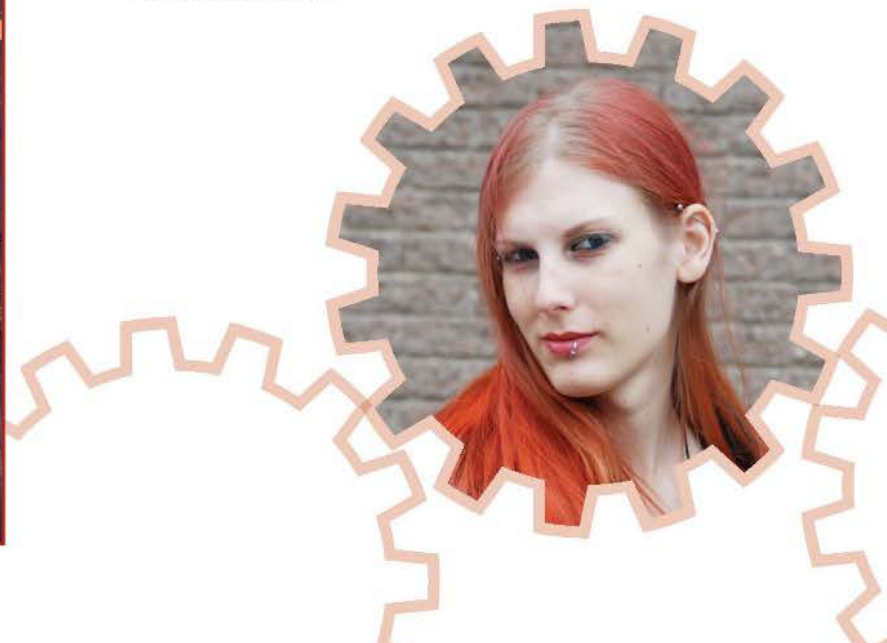
This means that a woman could be fired for refusing to wear make-up.

It means a trans person could be prevented from using the washroom that matches his or her affirmed gender identity.

It means a trans man could be denied a security clearance, because his identification doesn't match his appearance.

Everyone deserves dignity and respect in the workplace and on the streets.

That's why we are demanding that the Canadian Human Rights Act and federal hate crimes laws be amended to include gender identity and gender expression as prohibited grounds of discrimination.



## Trans rights are workers' rights

Trans people are workers, trade unionists and part of our movement.

We know it's wrong for employers to fire people based on irrelevant personal characteristics.

We know it's wrong when one of our members is afraid to come to work for fear of harassment and violence.

We know it's wrong when employers deny one of our members access to benefits while providing it to others.

We know it's wrong when one of our members is afraid to turn to the union for help, for fear of being rejected.

We know it's wrong when the majority stands silently by and watches a person suffer.

## Trans rights are human rights

Supporting trans human rights isn't about establishing 'special rights' for trans people. Trans people certainly aren't asking for anything 'special'— simply a safe place to work, a safe washroom or change room, the right to be called by their name, the right to accommodation, and the right to be referred to by the correct gender—the same rights most people take for granted.

That's why our union supports the inclusion of gender identity and gender expression in the Canadian Human Rights Act and in federal hate crimes legislation.

## Definitions

**Trans** is an umbrella term used to describe people whose birth sex does not match their gender identity. This includes transsexuals, who undergo a medical transition and transgender people, who may choose not to have surgery.

**Gender identity** refers to a person's inner sense of being male, female or somewhere in between.

**Gender expression** refers to the way that people physically display their gender—often visible in the way we dress or groom ourselves.

## What you can do

- Contact your MP and tell them that you support adding gender identity and gender expression to the Canadian Human Rights Act. Visit [psac.com](http://psac.com) to sign an online letter.
- Download the Canadian Labour Congress' guide, "Workers in Transition: A Practical Guide for Union Representatives" ([canadianlabour.ca](http://canadianlabour.ca)).
- Contact Egale Canada ([egale.ca](http://egale.ca)) for suggestions of resources and speakers on trans issues in your community.

**Trans rights are workers' rights.  
Trans rights are human rights.  
Take action now!**



Public Service Alliance of Canada  
Alliance de la Fonction publique du Canada

[www.psac-afpc.com](http://www.psac-afpc.com)

This campaign is sponsored by the Public Service Alliance of Canada, representing more than 172,000 workers from coast-to-coast-to-coast.





Public Service Alliance of Canada  
Alliance de la Fonction publique du Canada

**Submission to the House of Commons Standing  
Committee on Justice and Human Rights**

**on**

***Bill C-16, An Act to Amend the Canadian Human  
Rights Act and the Criminal Code***

**by the**

**Public Service Alliance of Canada**

**October 2016**

## **Introduction**

The Public Service Alliance of Canada (PSAC) is the largest federal public sector union, representing more than 180,000 people from coast to coast to coast. While the majority of PSAC members work for the federal government and its agencies, PSAC also represents workers in the private sector, in territorial governments and in the broader public sector, including universities.

PSAC has been advocating for several years that the federal government formally prohibit discrimination against transgender and transsexual (trans) persons.

*Please note that the quotations in this document from PSAC members are not identified in order to protect their privacy.*

## **Discrimination based on gender identity must end**

Bill C-16 amends the *Canadian Human Rights Act* and the *Criminal Code* by adding protections against discrimination based on gender identity or expression.

When the House of Commons overwhelmingly adopted this bill on October 18, 2016, PSAC members were heartened that, finally, the trans community would receive official recognition that discrimination and violence based on gender identity or expression are no longer tolerated in Canada.

We urge this Committee to support the bill and report it back without amendment as soon as possible.

*I am here to tell you we are as human as the rest of you. I am here to tell you that I am as equal as everyone else around me. Just because I do not fit into some people's preconceived notions of the binary nature of gender does not mean I deserve to die, be beaten, maimed, spit on, or maltreated.*

PSAC member

## **Trans people are among the most marginalized in our society**

Trans people are among the most marginalized persons in our society, and too many encounter obstacles and barriers in finding housing, employment and services. They also face extreme violence, prejudice and hate, which have sadly resulted in high rates of suicide.

For example, in an extensive, nationwide survey commissioned by the Egale Canada Human Rights Trust and released in 2011, 74 per cent of trans youth



reported experiencing verbal harassment in school and 37 per cent reported experiencing physical violence.<sup>1</sup>

Other studies indicate that transgender persons have to deal with particularly high levels of discrimination, harassment and violence in society and at work. A survey that was done in Ontario establishes that 18% were turned down for a job, and 13% were fired or constructively dismissed because of their trans identity<sup>2</sup>.

## **PSAC strongly supports the rights of our transgender members**

PSAC has been a strong supporter of the rights of our gay and lesbian, bisexual and trans members. We negotiated same-sex benefits in our collective agreements several years before the *Canadian Human Rights Act* was amended.

We have also challenged the discriminatory practices of federal employers before labour boards and the Canadian Human Rights Commission. For example, PSAC member Dale Akerstrom, whose spouse was being denied Public Service Health Care and Dental Plan benefits, filed a complaint with the Canadian Human Rights Tribunal in February 1993, discrimination on the grounds of sexual orientation. After the Supreme Court of Canada ruled in 1995 that Section 15 of the Canadian Charter of Rights and Freedoms provided equality rights to gays and lesbians (the Egan and Nesbit case), Treasury Board was forced to concede that its policy was discriminatory and the Human Rights Tribunal hearing the Akerstrom complaint issued a comprehensive order for the employer to end the discrimination.

As a result, gay and lesbian couples are able to receive health benefits, pension entitlements, life-insurance coverage, and many of the other benefits that our society had attributed exclusively to married, heterosexual spouses.

More recently, PSAC has been on the cutting-edge in achieving rights for our trans members. We have bargained language in our collective agreements on issues such as discrimination on the basis of gender identity or gender expression, access to safe washrooms and change rooms, and the right to be referred to by one's chosen gender.

The addition of "gender identity" to anti-discrimination clauses has also been negotiated in collective agreements with at least three museums and related arts groups, in nine airport-related bargaining units, in eight of 16 bargaining units in the Yukon and 21 of 29 bargaining units in the Northwest Territories. It helps that

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<sup>1</sup> [Every Class in Every School](#), the first national climate survey on homophobia, biphobia and transphobia in Canadian schools, Egale Canada Human Rights Trust, May 2011.

<sup>2</sup> G. Bauer, et al., We've got work to do: Workplace discrimination and employment challenges for trans people in Ontario, Trans Pulse E-Bulletin, May 30, 2011.2. Online:

[www.transpulseproject.ca](http://www.transpulseproject.ca)

the Northwest Territories was the first jurisdiction in Canada to amend their human rights legislation to prohibit discrimination based on gender identity and gender expression.

We have already negotiated the inclusion of “gender identity” in the anti-discrimination clause of one collective agreement with the federal government that covers members in the Technical Services (TC) bargaining unit. During the current round of bargaining, PSAC and Treasury Board have tentatively agreed to similar language for the largest federal government bargaining unit, the Program Administration (PA) group.

### **Bill C-16 will strengthen existing human rights protection**

PSAC believes that amending the *Canadian Human Rights Act* to prohibit discrimination based on gender identity and amending the *Criminal Code* would represent a huge step forward in the defense of trans peoples’ right to work in an environment where they are respected and protected against prejudice and hate.

Adding “gender identity or expression” in sections 2 and 3 of the *Canadian Human Rights Act* would make it explicitly unlawful for federally regulated employers to discriminate or harass on the basis of gender identity. This will strengthen existing human rights protections for trans people. And most importantly, it will help educate the public in general, and employers in particular on their legal responsibilities and obligations.

*“What I want to see is a world where those that come out as transgendered will not be humiliated.”*

PSAC member

This bill would also undoubtedly give Canada’s trans people better protection from hate crimes and it would greatly help ensure their dignity and equality in the community.

Those who assert that this bill would open the bathroom doors to male sexual predators in women’s washrooms are simply reinforcing discriminatory stereotypes and prejudices against the trans community. Yet, this phenomenon is not occurring in any jurisdiction that protects trans people through similar legislation. They are also conveniently ignoring the fact that the Criminal Code already prohibits voyeurism and sexual assault, for example.

These arguments are actually evidence as to why it is important to adopt Bill C-16: to dispel myths and prejudices, and to proclaim that we indeed respect the human rights of all persons.

## Conclusion

Given the extreme vulnerability to human rights abuse faced by trans people in Canada, Bill C-16 will help to prevent discrimination and ensure that those who commit hate crimes are held to account. By amending the *Canadian Human Rights Act* and *Criminal Code* to include gender identity or expression, the Bill will be an important step in ensuring that trans people have access to the justice and equality for which Canada is internationally-renowned and in ensuring Canada meets its international human rights obligations.

*"I have been harassed at work for being transgender and I have been passed over for job opportunities. I have received negative performance evaluations and I have been verbally abused by management. The right of transgender people to not only exist in our society, but to thrive, is one of the final frontiers of basic human rights. Let us lead instead of follow; build instead of destroy; protect instead of ignore. Transgender and gender identity rights are human rights."*

PSAC member

Bill C-16 is just the latest bill to propose to include gender identity in the *Canadian Human Rights Act* and the *Criminal Code*. The last attempt was a virtually identical private Member's bill, C-279. It almost became law in the previous Parliament.

We ask the Committee to expedite its hearings and to bring the Bill in its present form to the House of Commons for a final vote as soon as possible. Trans people have waited long enough.