

## ***2003 Solidarity & Pride Working Group: Canadian Labour Congress***

### **Trans Issues for the Labour Movement**

The Canadian Labour Congress Solidarity and Pride Working Group has been working on the issue of discrimination on the basis of gender identity and gender expression for some time. At the 1997 Solidarity and Pride Conference, a number of delegates passionately argued the need for the CLC to take up the issue of the rights of transgender workers.

Following the Conference, the Group began to work on transgender issues, recognizing that we needed serious input and education from transgender activists to help us define the role the union movement should play. We agreed that the Group would deal with discrimination issues on the basis of sexual orientation and of gender identity/expression.

Since that time, the Solidarity and Pride Working Group has met with trans activists from across the country. We organized numerous meetings, roundtables and discussions; reviewed any number of policy documents; and set aside a part of every meeting for trans issues. Transgender issues were a central theme in the CLC's second Solidarity and Pride Conference in 2001 and a large caucus of trans delegates made a number of important recommendations. We have also seen a number of initiatives in the labour movement, including several Canadian Labour Congress convention resolutions (2002) and some important legislative and legal changes.

Early in 2001, the CLC Solidarity and Pride Working Group prepared and distributed a "Transgender Discussion Paper", broadened our outreach and dialogue and sought the direct input of trans activists in our unions and in the community. The response was enormous and positive as individuals and groups from across Canada and Quebec provided suggestions and clarifications.

As a result, we have amended our discussion paper, and have prepared "Trans Issues for the Labour Movement" for further action, education, debate and discussion among trade unionists and LGBT community activists.

We hope that human rights activists and equality seeking groups can use our Paper for education and policy development and that you will continue to let us know how it can be improved. Members of the CLC Solidarity and Pride Working Group are prepared to meet with your group to help with discussions on LGBT issues. For more information or to contact the Working Group members, please contact the CLC Women's and Human Rights Department.

Thank you for taking the time to read this Paper and for taking action on transgender issues.

## **Introduction**

*“It is abnormal. It is unnatural. And, it is an act against God the almighty.”*

These words were spoken to challenge women’s right to vote. Today, when we hear these words, we assume that the reference is to gay, lesbian, bisexual or transgender people.

Discrimination against gay, lesbian, bisexual and transgender people is rooted in sexism and gender stereotyping. LGBT people do not fit the “norm”. Gays and lesbians do not fit the “norm” because they are not attracted to members of the opposite sex. Transgender people do not fit the “norm” because their personal gender identity or expression is not the same as their biological sex.

While sexual orientation refers to whether a person is attracted to men, women or both, gender identity concerns a person’s internal sense of being male or female. A transgender person is not comfortable with or rejects their biologically and socially assigned gender identity or expresses their gender in unconventional ways. A transgender person may be gay, lesbian, bisexual or heterosexual; there is no direct connection between gender identity or expression and sexual orientation.

Transgender people come from all walks of life and are represented in every race, class, culture and sexual orientation. The statistical information that does exist varies because of different definitions used, but the estimates are that the incidence of transgender persons is 1 in every 24 – 37,000 men and 1 in every 103 – 150,000 women. Approximately 1 in 30,000 adult men and 1 in 100,000 adult women seek sex reassignment surgery. Even these stats likely under-represent the number of individuals who are transgender, since so many keep their transgender identities secret.

Furthermore, these estimates reflect the population which is medically defined as transexual – that is, those who have surgery or come to the threshold of doing so, and thereby come to the attention of medical care providers who can count them. There is a much larger population of people who transition from their birth gender but don’t have surgery, either because they don’t want it or can’t afford it. As well, there are even larger numbers of drag queens, drag kings, and cross dressers, and gender transgressive people who don’t live full time in the gender opposite that of their assigned sex at birth. It is nearly impossible to estimate the numbers of those fitting the more inclusive definition.

The labour movement has taken up and supports the fight against sexual orientation discrimination – from lobbying for legal change, to bargaining for

same-sex benefits, to ensuring representation of lesbian and gay members in our union structures. In this paper, we look at our role in fighting to end discrimination on the basis of gender identity and/or gender expression.

### **Why should the labour movement take up the cause of transgender workers?**

- Unions have a legal and moral responsibility to defend all members.
- Unions have a demonstrated history of defending and bargaining for equality rights.
- Transgender people are workers, trade unionists and part of our movement. They are particularly vulnerable to discrimination and harassment on and off the job.
- Unions have a responsibility to fight for human rights for all: an injury to one is an injury to all.
- While it is important to focus on discrimination faced by trans people, there are important links between transphobia and other forms of discrimination – such as sexism, heterosexism and racism. By promoting gender diversity, equality and inclusion, all people would be freer; non-trans people will benefit from gender diversity and gender equity as much as trans people.
- Unions have the social weight to help embattled minorities win legal protections.
- Unions have the power to confront discrimination and promote social acceptance among union members and in the community.

### **Who are transgender people?**

There is a general lack of knowledge and misunderstanding about who transgender people are. While there continues to be wide-ranging discussion and debate in trans communities about “definitions”, there are a number of key explanations which we found useful.

*“One of the great myths of our culture is that at birth each infant can be identified as distinctly ‘male’ or ‘female’ (biological sex), will grow up to have correspondingly ‘masculine’ or ‘feminine’ behaviour (public gender), live as a ‘man’ or a ‘woman’ (social gender role), and marry a woman or a man (heterosexual affective orientation). This is not so. There is much disagreement as to why this is not so, but a significant number of people in fact do not fit this simple idea of biological gender destiny.”*

(Quote from the Ontario Human Rights Commission “Toward a Commission Policy on Gender Identity, Discussion Paper”, October 1999)

*“Transgendered” is used here as a generic term to describe people who are not comfortable with or who reject, in whole or in part, their birth-assigned gender identities.*

*“The category includes transsexuals, cross-dressers, intersexed individuals, ‘drag queens’, ‘drag kings’ and may also include female impersonators. It should be noted that each of these groups has distinct issues in relation to discrimination in society. The term ‘transgendered’ is, in effect, a form of shorthand that refers to a wide range of people and experiences. However, it is important not to allow the use of a single term to imply that their needs are identical or that their human rights issues are all the same.”*

(Quote from the Ontario Human Rights Commission “Toward a Commission Policy on Gender Identity Discussion Paper”, October 1999)

*“Transgendered” is a broad term that encompasses cross-dressers, intersexed people, transsexuals and people who live substantial portions of their lives as other than their birth gender. Generally speaking, a transgendered person manifests a sense of self and the physical characteristics and/or personal expression commonly associated with a sex other than the one he or she was assigned at birth.”*

(Quote from “Transgenderism and Transition in the Workplace”, The Human Rights Campaign, US)

*“Transgendered” and “trans” are convenient shorthand labels for the concepts expressed in the phrase “any person whose anatomy, appearance, identity, beliefs, personality characteristics, demeanor or behaviour diverges from or is perceived to diverge from prevailing social norms about gender.*

*“The contemporary term “transgender” arose in the mid-1990s from the grassroots community of gender-different people. Unlike the term “transsexual”, it is not a medical or psychiatric diagnosis.*

*“In contemporary usage, transgender has become an “umbrella” term that is used to describe a wide range of identities and experiences, including but not limited to: pre-operative, post-operative, and non-operative transsexual people; male and female cross-dressers (sometimes referred to as “transvestites”, “drag queens” or “drag kings”); intersexed individuals; and men and women, regardless of sexual orientation, whose appearance or characteristics are perceived to be gender atypical.*

*“In its broadest sense, transgender encompasses anyone whose identity or behaviour falls outside of stereotypical gender norms. That includes people who do not self-identify as transgender, but who are perceived as such by others and thus are subject to the same social oppressions and physical violence as those who actually identify with any of these categories. Other current synonyms for transgender include “gender variant”, “gender different”, and “gender non-conforming”.*

(Quote from “Transgender Equality: A Handbook for Activists and Policy Makers,” The Policy Institute of the National Gay and Lesbian Task Force, US)

### **What are the issues facing transgender workers?**

Trans workers experience acts of discrimination daily in the community and at work. Derogatory comments, refusal of medical care, denial of services, verbal and physical harassment, violent assault – are all examples of the kinds of direct and indirect discrimination encountered by trans people.

#### ***Issues at work:***

Employers refuse to hire, train, or promote trans workers.

Employers fire trans employees when they transition or come out (ie. let people know that they’re transgender).

Supervisors and coworkers taunt, isolate, verbally and physically abuse transgender individuals; supervisors and coworkers refuse to refer to trans people by the name and in the gender of their choice.

Use of gender appropriate washrooms and changing facilities becomes an issue, as does the question of appropriate uniforms and dress codes.

Access to leave – time off work required for medical procedures; duty to accommodate during transition.

Medical coverage for transition related expenses and ongoing expenses, such as hormone replacement therapy.

Confidentiality of records – name changes to reflect chosen identity for pension coverage, medical and health plans, EI, CPP etc.

### ***Issues in the community:***

Transgender people are regularly denied access to housing and services and/or are subject to ridicule by service providers and other clients. Accessible washrooms are virtually non-existent.

Personal experience of discrimination includes: loss of friends and family; exclusion from cultural and religious communities; body image distress; pressure to pass, stigma, internalized shame; difficulties with dating, relationships and sexuality – all of which contribute to high rates of depression, self-harm, suicidal tendencies, substance abuse and violence within relationships.

Medical issues include denial of medical treatment – even for non- transgender related illnesses, ridicule and mistreatment by providers, inability to obtain ongoing, routine medical care, exclusion of medical procedures required for transitioning from health care plans. Services to assist those in transition are limited, especially outside large urban centres. Involuntary surgery and hormonal treatment performed on intersex infants needs to be addressed legally and by the medical community.

Only the Northwest Territories has passed human rights legislation in Canada to provide explicit protection for transgender people. This important breakthrough has not been achieved in any other Canadian jurisdiction. Other human rights codes fail to provide protection on the grounds of “gender identity”, “gender expression” or “transition status”. Human rights laws provide that services – such as housing, medical care, social services, safe accommodation in correctional facilities, leisure activities – are not to be denied citizens on discriminatory grounds. Trans people have been denied services in all of these areas with no clear legal recourse. While the grounds of “sex” and “disability” have both been successfully used by trans people to fight the discrimination they have encountered, clear language to include gender identity/expression is much to be preferred.

Other issues relating to legal status as a man or a woman, such as marriage and divorce, adoption and child custody, inheritance, wills and trusts, and immigration have yet to be adequately addressed.

Hate crimes: transgender people are the subject of violent hate crimes. In the United States, “...although anti-transgender violence accounted for only about 2-4% of all reported incidents, those incidents accounted for approximately 20% of all reported anti-LGBT murders, and approximately 40% of the total incidents of police-initiated violence (National Gay and Lesbian Task Force, US). Anti-trans violence is prevalent and vicious.

Perhaps the group of trans people most subject to hate crimes are transsexual and transgender sex workers – most of the violence goes unreported and uninvestigated because the criminalized status of sex work makes relations with police problematic to say the least. The 2002 CLC Convention called on the labour movement to address this situation and examine the question of the decriminalization of sex worker as one step to improve the lives of sex trade workers, including trans workers, in this sector.

## **What can the union movement do?**

### **AT WORK**

Our unions have a responsibility to defend all members on the job. The collective agreement is one critical tool. Enforcing the collective agreement and defending trans workers makes the tool effective. Educating our members – and our employers – is another task our unions are well-positioned to take on.

#### **Negotiate collective agreement protection:**

- No discrimination on the basis of gender identity, gender expression or transition status. (Trans workers may be protected by language prohibiting discrimination on the basis of sex, or on the basis of disability. But, it is preferable to have clear language expressly prohibiting discrimination on the basis of gender identity.)
- Inclusion of transgender workers in anti-harassment provisions.
- Ensure that all information collected on employees is held in confidence. This is especially important for transgender workers who do not want to be out at work.
- Include trans workers in the duty to accommodate provisions re medical time off, access to appropriate washrooms, uniforms, dress code, etc.
- Negotiate benefit coverage for the medical treatments required for transition.
- Paid time for discrimination education sessions for employees on this and other human rights issues, developed jointly by the union and the employer.

(At York University, the CUPE local representing teaching assistants and part-time faculty recently negotiated ground-breaking language on Transsexual Transition Leave. “An employee who provides a certificate from a medical practitioner confirming that the employee requires a leave of absence in order to undergo the medical procedure(s) related to a physical change from one gender to another will suffer no reduction in pay for up to eight thirty-fifths of the period of her graduate assistantship.”)

### **Defend transgender workers:**

- Mandatory human rights training – including issues facing trans workers – for executive members and stewards.
- Let the employer know that the union will defend against any attempts to discriminate against trans workers.
- Make sure the union’s constitution and by-laws ensure protection against discrimination on the basis of gender identity or expression.
- Include transgender issues with other human rights issues the union supports.
- Include trans workers in union committees, including the human rights committee.
- Publicize the union’s support of the rights of trans workers among the membership.

(The British Columbia Human Rights Tribunal found that a union discriminated against a transsexual member by failing to properly represent her. The Tribunal ordered the union to pay the individual \$5,000 for injury to dignity, plus \$1,000 in lost wages. Our unions have a legal duty to represent all members fairly and not to discriminate.)

### **Education:**

- Include transgender workers’ issues in steward training, collective bargaining, human rights courses etc. at the local level and throughout the union, including CLC leadership training, CLC courses and winter schools.
- Provide educational sessions for members and union representatives.
- Invite activists from the trans community to speak at union meetings.
- Ensure that transgender members are encouraged to participate in union meetings, committees and caucuses.
- Report on the political battles for equality rights in the union newsletter.
- Publish the union’s anti-discriminatory positions and news about the actions the union takes to fight discrimination.

## **IN THE COMMUNITY**

Our unions play a very important role in helping to shape public opinion, in lobbying governments and in working with social justice groups. We are in the leadership of the women’s movement, the movements to defend health care and social services, social justice struggles and the fight for equality for lesbian and gay citizens among others. Our movement can use the skills and knowledge we

have developed in these campaigns to help further the struggle of transgender people for equality and dignity.

**Political action:**

- The labour movement should lobby in support of the inclusion of gender identity/expression in human rights laws, and publicly make that support known.
- Provide legal and financial support for individual court challenges.
- Support the public health initiatives to meet the needs of street-active trans people.
- Participate in public awareness campaigns and lobbies.
- Support and work with community groups of transgender individuals who are leading the struggle for legal and political rights, including sex-trade workers and trans youth organizations and initiatives.

**Public action:**

- Join protests and demonstrations in support of trans people.
- Support Pride Day events for the LGBT community.
- Take out ads in community papers expressing the union's support.

**Glossary of Terms**

*Bisexual:* Someone who is attracted to members of both sexes. Studies show that approximately 15% of people are actively bisexual.

*Cross Dresser:* Someone who dresses in clothing usually associated with the opposite gender: (an older term is “transvestite”; currently the terms “drag queen” or “drag king” are used).

*FTM:* Female to male – also trans man; used to specify the direction of movement of identification from female assigned or biological sex to male gender identity.

*Gay Man:* A man who is attracted to men. A gay man prefers and chooses other men on many levels – emotionally, intellectually and sexually – and defines himself as gay.

*Gender Expression:* The public expression of gender as male or female – through dress, mannerism, voice – which may or may not correspond to an individual's assigned sex as male or female.

*Gender Identity:* Characteristics linked to an individual's intrinsic sense of self as a man or as a woman, which may not be the same identity as one's biological sex.

*Heterosexual:* Someone who is attracted to members of the opposite sex.

*Intersex:* Someone born with full or partial sexual organs of both genders or with underdeveloped or ambiguous sex organs. About 4% of all births are intersex to some degree.

*Lesbian:* A woman who is attracted to women. A lesbian is a woman who prefers and chooses other women on many levels – emotionally, intellectually and sexually – and defines herself as a lesbian.

*MTF:* Male to female – also trans woman; used to specify the direction of movement of identification from male assigned or biological sex to female gender identity.

*Sexual Orientation:* Refers to choice of sexual partner – same sex or opposite sex or attracted to both.

*Transgender:* Someone who is not comfortable with, or who rejects, in whole or in part, their assigned gender identity. The umbrella term is used to describe transsexuals, transvestites or cross dressers, intersex people.

*Transsexual:* Someone who has a strong and persistent feeling that they are living in the wrong sex. A male transsexual has a need to live as a woman and a female transsexual has a need to live as a man. Some, but not all, transsexuals chose to have sex reassignment surgery; some use hormone therapy.

## **Some Resources**

### *Organizations*

Center for Gender Sanity, PO Box 30313, Bellingham WA 98228  
([www.gendersanity.com](http://www.gendersanity.com))

FTM International, 5337 College Avenue #142, Oakland CA 94618  
([www.ftm-intl.org](http://www.ftm-intl.org))

The International Foundation for Gender Education, PO Box 540229, Waltham, MA 02454-0229 ([www.ifge.org](http://www.ifge.org))

Intersex Society of North America (ISNA), PO Box 31791, San Francisco, CA 94131 ([www.isna.org](http://www.isna.org))

Trans Alliance Society (a BC coalition) c/o 1170 Bute Street, Vancouver BC  
V6E 1Z6 [www.transalliancesociety.org](http://www.transalliancesociety.org)

### *Reports*

Finding Our Place: Transgendered Law Reform Project, sponsored by The Law Foundation of British Columbia; prepared for High Risk Project Society, 449 East Hastings Street, Vancouver BC V6A 1P5

Systems Failure: A Report on the Experiences of Sexual Minorities in Ontario's Health Care and Social Services Systems, Coalition for Lesbian and Gay Rights in Ontario, Box 822, Station A, Toronto, ON M4W 1G3

Toward a Commission Policy on Gender Identity: Discussion Paper, Ontario Human Rights Commission, October 1999  
([www.ohrc.on.ca/english/Discussion/genderid.htm](http://www.ohrc.on.ca/english/Discussion/genderid.htm))

Transgender Equality, A Handbook for Activists and Policymakers, The Policy Institute of the National Gay and Lesbian Task Force, USA (121 West 27th Street, Suite 501, New York, NY 10001 [www.nglftf.org](http://www.nglftf.org))

Trans Inclusion Policy Manual for Women's Organizations, Julie Darke & Allison Cope, for the Women/Trans Dialogue Planning Committee and the Trans Alliance Society, Trans Alliance Society, c/o 1170 Bute Street, Vancouver BC V6E 1Z6 [www.transalliancesociety.org](http://www.transalliancesociety.org)