Equality and Identity
Transgender and Intersex Experience in Ireland
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Edited by Orlaith O’Sullivan
for
Transgender Equality Network Ireland

www.teni.ie
A publication of Transgender Equality Network Ireland
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This publication was made with the support of ILGA-Europe within its Documentation and Advocacy Fund and leads on from the research report Transphobia in Ireland (TENI, 2009) by Cat McIlroy. The opinions expressed herein do not necessarily reflect any official position of ILGA-Europe or of Transgender Equality Network Ireland.

Our heartfelt thanks:

Thanks to the contributors: faced with a tight deadline, you offered a wealth of thoughtful professional and personal perspectives on trans and intersex life in Ireland and beyond. Your care, attention, support and commitment make anything possible.

Special thanks to:

Michael Farrell of FLAC, for getting the ball rolling!
Lydia Foy and Louise Hannon, who entered the legal arena and withstood media scrutiny in order to effect change for all.
Holly Greenberry of IntersexUK, who was asked for a contribution and instead galvanised an international human rights movement.
Brian Finnegan and the GCN team, for support with this publication (and in everything else that we do). Happy 25th!
Cathal Kelly, for contributing and signposting above and beyond the call of duty.

Atlantic Philanthropies and Open Society Foundations for their support with our work.

About this book

The publication contains articles from professionals working for trans and intersex rights or with trans and intersex people, and first-hand accounts from trans people in Ireland.

‘Rethinking Daily Life’ is a series of quotes from people in Ireland. It offers glimpses of what makes life hard for trans people: judgement, abuse, derision, ignorance, fear. They are all things that as a society, we can help to change. It starts with understanding and awareness.

‘Uniting to Support’ traces some of the movements across the island of Ireland that have galvanised support for trans people and trans human rights at a grass roots level. From community groups to national fora, there is tremendous ongoing work being done across the island, largely by volunteers.

‘Language’

This anthology welcomes contributions from diverse individuals and groups who address and discuss transgender experiences. Transgender, trans or trans* refers to individuals whose gender identity and/or gender expression differs from the sex assigned to them at birth. Language is important and can accurately and respectfully ascribe meaning to experiences. However, language constantly evolves and terminology changes. In this collection you will find a variety of terms used such as transgender, trans*, trans and transsexual. Each author chose their words for personal or political reasons and we have decided not to change the language. This may seem confusing at times but it reflects the current discussions on terminology and is a celebration of diverse voices.

Please see the glossary at the back of the book for further detail on terminology.
Preface

All citizens shall, as human persons, be held equal before the law.
Irish Constitution, 1937.

In my work for transgender rights and equality in Ireland, I return to the words of our constitution time and again. The concept of legal equality seems straightforward; the part that resonates with me is ‘human persons’. In describing transgender (hereafter trans) experience, there is a certain vocabulary that recurs: humiliation, mockery, being scrutinised, having to validate one’s identity, fear - a lot of fear.

The language stems, I think, from not being seen as a human being. We see this in everyday life and in our media, where it’s still largely acceptable to laugh at trans people - not because they’re doing something funny or silly, but simply because they are trans; because of who they are at their core. We laugh. We ask questions about bodies and surgeries and ‘real’ names. And we stare. Isolation, lack of wellbeing, unemployment, depression, homelessness: there are many problems associated with living as a trans person in Ireland.

Being trans is not one of them.

As a society, we’re learning. Ireland is starting to discuss gender identity, and to realise that we all have one: a sense of whether we’re female, male, both or neither. And how we express that gender - in our dress, our speech, our mannerisms - is another thing entirely. We are coming to understand situations that we haven’t encountered before: a male friend who dresses in his female clothes for a night out, a dad who is female, a child who is a sibling - neither a brother nor a sister, but a beloved member of their family.

It’s very new to us, as a society. We’re talking about things that have been hidden. The thousands of children born with intersex conditions trigger our deep beliefs about male and female, our fear of societal judgements, our desire for a black-and-white clarity as we ask: “is it a boy or a girl?” In talking about our intersex citizens, we realise we have ignored them, left them outside our protection and our care. We have failed to imagine that this country has people with ambiguous sex or gender trying to live their everyday lives - they’re our co-workers, family members, fellow students. They’re entitled to the same privacy, safety and healthcare as everyone else. And thus far, our vision for society has been too small to include them. We need to expand.

As human beings, we compare and discriminate all the time, and gender/identity/expression is no exception: “he sounds gay”, “I wonder if she’s trans” - the thoughts form before we know it. Underneath those thoughts is a complex network of our own judgements: what a woman should look like, what a straight man should sound like, how everybody else should be presenting themselves. Our judgements limit ourselves; they limit those around us. What gives me hope is that once we recognise the network of our judgements, we can examine it. If it’s not structurally sound, we can choose to collapse it - just let ituncouple and crumple into a big heap of ‘different’ and ‘masculine’ and ‘feminine’.
And what remains are people.

Dr Orlaith O’Sullivan
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Chapter One: Recognition of identity

“I don’t believe I know any transgender people…”

At a time when being transgender comes with stigma and judgement, many trans people do not discuss their gender identity.

Some people will tell close friends or family members; some will go to a support group; some seek out fora online, where they can share their experience with people with the advantage of anonymity.

For some, gender identity and gender expression are distinct: they may identify as female, but present as male (see Sandra). You would never know unless they chose to tell you of their true gender.

Some people ‘out’ themselves and engage with advocacy groups and the media - making their personal story public in an attempt to raise awareness and understanding. Many people will never tell anyone.

You almost certainly do have people in your life who are transgender or intersex-affected. They may be five years old; they may be fifty. The point is not whether you know it or not. The point is whether your language and behaviour makes it clear that all people - all gender identities - and their human rights, are valued.
There is no excuse

Thomas Hammarberg

During the six years that I served as the Council of Europe’s Commissioner for Human Rights, I travelled frequently to member states, and was often reminded of the continued discrimination against individuals on account of their gender identity. Transgender persons still encounter severe problems in their daily lives as their identity is met with bureaucratic insensitivity, suspicion or outright rejection. I have been struck by the lack of knowledge about the human rights issues at stake for transgender persons, even among political decision-makers. This is probably the reason why more has not been done to address transphobia and discrimination on grounds of gender identity and gender expression. The result is that, in all countries, individuals are discriminated against, including in such crucial areas as housing, employment and health care.

Even access to ordinary health care can be a problem for people with a “non-standard” gender identity. The lack of trained staff and the lack of familiarity with the specific health care needs of transgender persons render this group of people very vulnerable to unpredictable and sometimes hostile responses when they use medical services.

In the United Kingdom, some 4000 male-to-female transgender persons have been struggling to get their gender status accepted, including for the purpose of accessing pension benefits. In spite of overwhelming legal arguments, they have so far been denied the pension rights that all other women in the country have. Other obstacles stand in the way of living a normal life. A major problem for transgender persons is the harassment and discrimination many of them face in workplaces. The effect is that some just leave their jobs, while others avoid undergoing gender reassignment surgery as they fear being stigmatised.

Data presented by the Agency for Fundamental Rights[1] has shown that some jobless transgender persons have been unable to find other employment and have then ended up in prostitution. A report from Human Rights Watch on the situation in Turkey[2] drew attention to the situation of transgender prostitutes in that country – victimised by violence, drug addiction, sexual abuse, lack of health insurance, homelessness, police attacks and a high risk of HIV/AIDS.

To date, very little factual information has been gathered on the situation of transgender people in Council of Europe member states. This information is needed to determine where the rights of transgender persons to recognition of their identity are infringed, and the extent of their problems in terms of discrimination and violence, and when accessing health care or other public services.

In a number of member states, problems start already at the stage of the state recognising a person’s gender identity when issuing birth certificates, passports and other documents. Most transgender persons who want to state that they no longer identify with their gender as registered at birth have difficulties in processing those changes in official records. This in turn has caused a number of practical problems when showing identification papers: in the bank or the post office, when using a credit card, crossing a border or in other similar situations.

One well-publicised case related to Dr Lydia Foy in Ireland who has tried since April 1997 to obtain a birth certificate to reflect her female gender. Five years ago the Irish High Court delivered a landmark judgment ruling that the state was in breach of Article 8 of the European Convention on Human Rights. The Irish Government appealed the decision, and later withdrew its appeal. Therefore, not only should Lydia Foy be legally recognised as a woman, it was obvious that the government had an obligation to introduce legislation to recognise transgender persons in their new gender, and allow them to obtain new birth certificates.

When I visited Dublin in December 2012, I was surprised - and disappointed - to learn that this had not happened.

In fact, legal recognition has now been addressed in most European countries, where it has become possible to obtain corrections of such records and also obtain new forenames. However, in some countries a change of birth certificate is still not allowed and, in others, such changes are permitted only upon proof that a person is sterilised, declared infertile, or has gone through other medical procedures such as gender reassignment surgery or hormone treatment. The medical obstacles thereby created for the individual are ignored, and the opinion of the individual is seen as insufficient.

Additionally, many countries require that a person divorce before the new gender can be recognised - regardless of whether or not the partners actually want to divorce. This in turn has a negative impact on the position of children - in fact, in several countries, the parent who has undergone gender change will lose custody rights of their own children. Such legislation needs to be reformed in the spirit of the best interests of the child.

For Gender Recognition, an individual’s opinion and experience as to their own gender identity must be given primacy. To require surgery as a condition for enjoying the right to one’s gender identity ignores the fact that only about 10% of transgender people in Europe undergo gender reassignment operations. Requiring divorce before the true gender can be recognised is harmful, and has a negative impact on children - both in terms of their rights and their relationships with their parents.

The European Court of Human Rights has ruled that states are required to recognise the gender change in post-operative transsexuals. A case was raised by Christine Goodwin from the United Kingdom who herself was a post-operative male-to-female transsexual. She complained of sexual harassment in the
workplace, discrimination in relation to contributions to the National Insurance system, and denial of her right to marry.

The Court stated that:
“… the very essence of the Convention was respect for human dignity and human freedom. Under Article 8 of the Convention in particular, where the notion of personal autonomy was an important principle underlying the interpretation of its guarantees, protection was given to the personal sphere of each individual, including the right to establish details of their identity as human beings.
“… In the twenty-first century the right of transsexuals to personal development and to physical and moral security in the full sense enjoyed by others in society could no longer be regarded as a matter of controversy requiring the lapse of time to cast clear light on the issues involved.”\(^3\)

There is no excuse now for not granting this minority their full and unconditional human rights. This message from the Court has to be followed through in all Council of Europe member states. States must take all necessary actions to ensure that transphobia is stopped and to end any discrimination against transgender persons.

Ireland is currently seeking to ensure that its society is inclusive and fair for transgender people and their families. It is important for Ireland to look deeply into the issues and effect change that will allow this minority their full and unconditional human rights.

Thomas Hammarberg
Council of Europe Commissioner for Human Rights 2006-2012; now an independent Human Rights Adviser


3) Christine Goodwin v. the United Kingdom, judgment of 11 July 2002; see also Grant v. the United Kingdom, judgment of 23 May 2006.
Lydia Foy’s 20-year Battle for Legal Recognition

Michael Farrell

In March 1993 transgender woman Lydia Foy wrote to the Irish Registrar General seeking a new birth certificate showing her female gender. Her request was refused. Twenty years later she is still battling for recognition in the gender she has lived in continuously since 1991. In January 2013 Ms Foy began her third set of legal proceedings against the Irish State as part of that struggle for recognition.

Lydia Foy first went to court in 1997, represented by Free Legal Advice Centres (FLAC), a legal NGO which has represented her ever since. There was very little awareness about transgenderism in Ireland at the time and when the case came on for hearing in the High Court in October 2000 lasted for 14 days as medical experts, psychiatrists and Lydia Foy herself sought to explain the reality of trans people’s lives.

Judgment was not given until 2002. The judge, Mr Justice Liam McKechnie, was not unsympathetic but he felt himself bound by narrow traditional definitions of male and female, and decisions based solely on physical characteristics. Lydia Foy had been determined at birth to be a boy and the judge could not see any way to alter that without a change in the law. He rejected the application but concluded by saying that the issues raised should be “of concern to any caring society”. He called on the Government “to urgently review this matter”.

Ms Foy had lost the case but she had achieved some success. The lengthy hearing had raised awareness of the position of transgender persons and the judge’s closing remarks had given her claim a degree of legitimacy and recognition. And then, by a peculiar quirk of fate, just two days after Judge McKechnie’s decision, the European Court of Human Rights in Strasbourg held that the UK had breached the European Convention on Human Rights (ECHR) by failing to legally recognise a trans woman called Christine Goodwin.

Two years later, and as a direct result of the Goodwin case, the UK introduced the Gender Recognition Act, 2004 to allow the recognition of trans persons in their acquired or lived-in gender. And in the intervening period Ireland had partially incorporated the ECHR into its domestic law through the ECHR Act, 2003.

Lydia Foy had appealed the High Court decision but before the appeal came on for hearing, FLAC had issued new proceedings on her behalf, this time relying on the new ECHR Act and the judgment of the Strasbourg Court in the Goodwin case. And by the time this second case was heard in April 2007, there had been several other successful transgender cases in the Strasbourg Court, the Court of Justice of the European Union, and state or national courts in the US and Australia.

The case was heard by the same judge and he gave his decision in October 2007. He still could not see his way to ordering the issue of a new birth certificate under the existing registration law but he was strongly influenced by the decisions of the Strasbourg Court and courts in other jurisdictions. He said that “Ireland, as of now, is very much isolated within the member states of the Council of Europe”.

Using the new ECHR Act, the judge held that Lydia Foy’s rights under Article 8 of the European Convention (protection of private and family life) had been breached and he made a declaration that the Irish law on this issue was incompatible with the ECHR. He also made very clear his frustration that the Government had done nothing to improve the position of trans people in the five years since he had called on it to do so in 2002.

The declaration of incompatibility was a new procedure introduced by the ECHR Act and modelled on a similar provision in the UK Human Rights Act, 1998. The idea was that where a court found a clear breach of the ECHR but did not have power to overrule or strike down legislation, it could formally notify the Government, which would be expected to speedily amend the law. This was the first such declaration to be made by an Irish court.

But instead of changing the law, the Government appealed the decision. On the other hand, FLAC, the newly established Transgender Equality Network Ireland (TENI) and other NGOs were lobbying European and international human rights bodies to press the Government to end this breach of the ECHR. In 2010 the Government dropped its appeal and set up an advisory group of civil servants to make recommendations on gender recognition legislation. The advisory group reported in July 2011. It accepted the need for change and for new legislation but its report was disappointingly cautious and conservative.

In the meantime, a new Government had come into office in February 2011, promising to introduce a gender recognition law, while the Council of Europe Human Rights Commissioner Thomas Hammarberg had called for urgent legislation.

But by January 2013, five and a half years after the declaration of incompatibility by Judge McKechnie and more than ten years after his call for the Government to deal urgently with this issue, there was still no gender recognition in sight. Further delay was unacceptable. Ireland had become the only state in the EU that had no provision at all for transgender recognition and, in the words of Judge McKechnie, it had become even more “isolated within the member states of the Council of Europe”. And the failure to act upon the first declaration of incompatibility made under the ECHR Act, 2003 was calling into question the effectiveness of the whole scheme for bringing domestic law into line with the ECHR.
Above all, the 20-year battle to secure legal recognition of her deeply felt and lived-in gender identity and the intolerable wait for action to be taken on the declaration of incompatibility, were placing an impossible burden on Lydia Foy. She was left with no option but to return to the courts.

She issued new proceedings in January 2013 and sought a declaration by the court that the Irish Government was under a legal duty to make provision to recognise her female gender identity. Alternatively, she sought declarations that the continuing failure of the Government to grant her legal recognition was in breach of the prohibition of degrading treatment under Article 3 of the ECHR, and of the requirements under the Irish Constitution and Article 13 of the ECHR to provide an effective remedy to anyone whose rights were violated.

And if the court were to hold that it had no power to order the Government to act on the declaration of incompatibility made under the ECHR Act, Lydia Foy sought a declaration that the Act itself was incompatible with the State’s obligations under the European Convention. The case is ongoing.

Michael Farrell
Senior Solicitor with Free Legal Advice Centres; he has been dealing with Lydia Foy’s case since 2005

“[Justice McKechnie] made very clear his frustration that the Government had done nothing to improve the position of trans people in the five years since he had called on it to do so in 2002.”

Michael Farrell

Lydia Foy and Michael Farrell (by Louise Hannon Photography and reproduced with the kind permission of GLEN)
It’s been a long road.

When this started - decades ago, now - I was completely alone. People didn’t want to know. They didn’t want to consider that this - people like me - happened in Ireland.

I encountered little understanding and no tolerance. I had one door after another closed in my face. Even those who sympathised with my case felt they could do nothing to help - they certainly couldn’t support me in public.

I was seen as a threat to society, told that I was going to turn Ireland into a lunatic asylum. And I was alone: I hadn’t the price of a stamped addressed envelope and I was expected to take on the Attorney General and the Irish State - take on the whole lot myself.

I was fair game. My home and car were vandalised. The media were nasty, writing about my case in the language of ‘castrated males’ and ‘sexual deviancy’. I felt treated like a dog in court. I wanted what any citizen should be entitled to: the right to reply; the right to be heard; a birth certificate that shows my true gender.

The process was barbaric. I faced many losses - my home, my family, my job, my privacy, my dignity. After all that, my back was to the wall. I had nothing else to lose. I had no choice but to fight.

People sometimes say to me: “You’re either very brave or very stupid”.

I wasn’t particularly brave. Many the time, I wondered if I would be able to carry on. I reached depths of depression: I was heartbroken and isolated. One day I collapsed. I thought I was dead, but I felt cold, and I realised I couldn’t be cold if I was dead. And so I went on: afraid to live and afraid to die.

There are amazingly good people in FLAC. And they listened. They might ask me hard questions, but at least they’d wait for me to reply.

Sometimes, things about my case spread to the evening news before I even hear about them. I feel I can’t win with the media: if I keep my head down it’s because I’m a criminal; if I hold my head up then I’m publicity-seeking and out for money. And I have no right to reply.

I might not have been brave, but I wasn’t very stupid either. I studied up on law, journalism, medicine, computers - what I needed to engage on an equal footing. And I didn’t give up.

Whatever happens, my privacy has been absolutely violated. Destroyed. And it will be, indefinitely. What I have lost will stay lost. But I’m still going to battle on for everyone else. It’s not going to be as bad for the next generations in Ireland.

I suppose that sounds like I’m a martyr, but I’m not. It’s just that no matter what I get now, it won’t make up for the loss.
Touching the Surface: Trans Voices in Ireland

In 2012 TENI created the landmark publication, *Touching the Surface: Trans Voices in Ireland.*

The book represented more than forty contributors and reflected a broad diversity of ages and gender identities. Portrait photographs, poetry, short stories, memoirs and artworks - the collection reflected the personal, political and creative spheres of trans people and their families across the country. A special section was reserved for trans and gender-questioning youth.

In a society where trans identities are ridiculed, ignored or simply invisible, *Touching the Surface* provided a space for trans people to represent themselves and their experience.

The publication was launched in Dublin by the Deputy Lord Mayor, Cllr. Maria Parodi on 17 May 2012 as part of Dublin City Council’s Social Inclusion week and also marked the International Day Against Homophobia and Transphobia. The event drew over 150 people. There were also launches of the publication in Cork by Deputy Lord Mayor, Cllr. Tony Fitzgerald, Waterford by Mayor Jim Doherty and Derry in conjunction with Foyle Pride.

The book was made possible through generous funding from LGBT Communities Fund from The Community Foundation for Ireland and the Social Inclusion Unit of Dublin City Council.

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Post office

Darrin, Cork

Picking up money from the post office before getting a new social card was always daunting and sometimes humiliating. I was asked whose card I had stolen. I would have to show ID and explain in front of everyone in the post office that I was trans. This would happen about once a month in the exact same post office with the exact same two tellers.

"Cupcake Reality” In life things that are good can just crumble away and it happens very fast, so it’s always best to make the most of what we have.
The Long Road to Recognition

Ben Power

As we enter 2013 the LGBT community marks 20 years since the decriminalisation of homosexuality. A lot has changed for the better in that time: active LGB organisations advocate for our rights; colleges without LGBT societies are the exception rather than the rule and the summer months see joyful, vibrant Pride Festivals taking place all over the country.

There is also Transgender Equality Network Ireland (TENI), an organisation working exclusively on the behalf of transgender people in Ireland. From humble beginnings when a small group of trans* activists sat together in a living room in Dublin in 2005, TENI has grown into a thriving organisation providing day-to-day support to trans people and their families, raising awareness of trans issues and advocating strongly for trans rights.

We have come a long way. However, there is one area that has seen little change since 1993, when a dentist from Athy, Co. Kildare wrote to the Registrar General to correct an error on her birth certificate. Dr Lydia Foy wanted to change the name on the document from the male one she had been given at birth to her correct, female name. Birth certificates are foundational identity documents, often requested for official purposes such as accessing social welfare, obtaining a PPS number and getting married. While Ireland does, in certain cases, allow for changing gender on documents like passports and driving licences, this results in trans people having inconsistent official identification documentation: recognised as one gender on certain documents and another gender on their birth certificate. The consequence of this can be a ‘forced outing’, where a person is outed as trans against their will when they apply for a job, a new passport or entry to university.

Dr Foy’s request was refused and so began her long struggle for legal recognition, which led in May 2010 to the Government’s formation of the Gender Recognition Advisory Group (GRAG), an inter-departmental working group “to advise the Minister for Social Protection on the legislation required to provide for legal recognition by the State of the acquired gender of transsexuals”. No member of this group was transgender, or even experienced in transgender issues, yet it was their task to come up with a pathway by which trans people might access their rights. The absence of trans people from the group was perhaps most evident in the section of their report that described us as lonely, distressed and passive, leading many of us to wonder if any of the GRAG had ever even met a trans person!

Over the next year, the GRAG embarked on a consultation process with medical and mental health experts and other stakeholders in Ireland. They received submissions from 14 organisations, including TENI, and 26 individuals. In July 2011, they published a 65 page document outlining recommendations for proposed gender recognition legislation. The hopeful atmosphere in the room at the launch of the publication quickly turned to disappointment: it was not the progressive, inclusive set of recommendations that had been advocated for, but seemed a carbon copy of the UK Gender Recognition Act 2004. At the time, the UK’s legislation was seen as quite progressive, mainly because it did not require the applicant to have undergone gender reassignment surgery. However, the intervening seven years highlighted the many practical shortcomings of the legislation and by July 2011, much of the UK criteria had been recognised as outdated and in serious need of reform. There are also aspects of the UK legislation that are not workable in an Irish context. Therefore, the GRAG’s recommendation that Ireland adopt something almost identical made no sense at all to the Irish trans community.

The GRAG’s suggested criteria for accessing gender recognition are restrictive and explicitly exclude a large portion of the population who require it. The most problematic of these criteria are:

1. Minimum Age: 18 years

Anyone under the age of 18 would be unable to obtain a new birth certificate. As it is possible to consent to medical treatment without the need for parental consent at the age of 16, this can leave a young person in ‘a state of limbo’ for up to two years as their identity documents mismatch. It can also cause problems with university applications as the name on Leaving Certificate results may not match the one on their CAO form. It should also be noted that minors below the age of 16 can and do undergo certain aspects of medical transition (such as taking blockers to delay puberty) if they have the support of their parents, and this is not taken into account under current recognition proposals.

2. Marital and Civil Partnership Status: Excluding Persons in an existing valid marriage or civil partnership

Arguably the most controversial criterion in the GRAG report, this amounts to a requirement for married trans people to divorce in order to obtain legal recognition. Under Irish divorce law, a couple must be living apart for 4 out of 5 years prior to being granted a divorce and they must be able to show that there has been an irreconcilable breakdown of the marriage. Trans marriages exist in Ireland; they are a reality. Forcing them to break so that one partner can access their human rights puts both partners in a horrific position, and may well be unconstitutional.

3. Medical Criteria: a formal diagnosis of Gender Identity Disorder (GID) or evidence that the applicant has undergone gender reassignment surgery, or evidence of the recognition of changed gender in another jurisdiction.

This is another extremely controversial requirement. This is the only instance where a person is required to be diagnosed with a mental illness (GID) in order to access
a fundamental human right. Furthermore, the latest revision of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association (forthcoming May 2013) has removed the category of GID, replacing it with the less stigmatising but still problematic diagnosis of Gender Dysphoria. Thus, any legislation containing this requirement would already be out of date at the time of enactment, as the diagnosis no longer exists.

This criteria also excludes intersex people, who cannot obtain such a diagnosis. Finally, the requirement for a diagnosis invalidates the identity of every genderqueer, gender-fluid or other non-binary identified trans person in the country. In a time where countries such as Australia and New Zealand are providing for gender options other than simply male or female on all official documents that require a gender marker, it feels almost barbaric to see our country leaning so far in the opposite direction.

TENI has also been busy since the publication of the GRAG report. We have met with many TDs and Senators to educate them on the issues facing Irish trans people and to advocate for progressive legislation that reflects their real lives. We have gained allies along the way who have been willing to stand up in the Dáil and call out those responsible for the delay in bringing in the bill. We have briefed the Oireachtas Committee for Justice, Defence and Equality and most recently, we have appeared before the Joint Oireachtas Committee on Education and Social Protection who will be responsible for examining the Heads of Bill and suggesting amendments when it is produced.

We have also been active on a community level, teaming up with Amnesty International to provide an advocacy workshop and holding training workshops to empower trans people and allies to lobby their TDs individually. We have also maintained a strong media presence with representatives from the community appearing on TV, radio and in print and online media to speak about the importance of gender recognition. In September 2012 when we hosted the 4th European Transgender Council in partnership with Transgender Europe, Minister Burton spoke at the opening ceremony and 250 activists from all over Europe and beyond were there to give support to our call for fully inclusive recognition.

The GRAG’s proposals have not become law yet. There is still time to influence the shape that the eventual Gender Recognition Act will take. It has taken 20 years to reach this point on the road to recognition. Dr Foy is still waiting but she no longer waits alone. The Irish trans community have shown that we are not the lonely, distressed, passive people described in the GRAG report. We are strong and together we can make our voices heard!

Ben Power
TENI Board Member, Co-Facilitator of the Cork Peer Support Group

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**Passport ‘rules’**

Transguy, aged 19

When applying for a passport in the correct name and gender I was refused, twice. The first time I was told it because I had only started hormone therapy in that year and had to have been on it for 2 years in order to change the gender marker. I was told to read the Passport Act at my leisure. When I did, I discovered that I was misinformed: the Act makes no mention of any period of time to be on the hormones for, it only mentions that you need to be undergoing treatment.

The second time I applied they refused to use the correct name, stating that I needed proof of use of name dating back 2 years. When I brought the topic of the subsection in the Act that grants one the use of name without 2 years proof, they dismissed it saying that they don’t follow that section of the passport act.

Which is a lie, as a friend of mine got a passport in the exact position as me a week prior.

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This article first appeared in Daonnacht, the Trinity College, Dublin Public Law and Policy Review, February 2013. Reproduced by kind permission.

“Any requirement of a medical diagnosis should be reviewed with a view to eliminating obstacles to the effective enjoyment by transgender persons of their human rights, including the right to self-determination. Moreover, divorce should not be a necessary condition for gender recognition as it can have a disproportionate effect on the right to family life…”

European Commissioner for Human Rights, Nils Mužnieks, in a letter to Minister Joan Burton, October 2012
4th European Transgender Council

In 2012, TENI acted as local host for the Fourth European Transgender Council, which brought over 300 activists from across Europe and beyond to Dublin to share research, best practice and set the agenda for trans rights work.

It was a landmark occasion, and represented a milestone in trans rights advocacy for Ireland. From Sligo to Slovakia, people came together to discuss and further trans rights in an inclusive and inspirational way. Attendees took part in a challenging programme of workshops and panels set by Transgender Europe.

President Higgins welcomed visitors by formal letter, which was reproduced in the conference programme. Minister for Social Protection Joan Burton spoke at the opening ceremony, setting for next steps for Gender Recognition legislation.

The conference galvanised many LGB allies for trans rights and resulted in a strong activist group that continues to support TENI’s ongoing work.

The event was nominated for a GALA (Gay and Lesbian Awards) for Event of the Year 2012.

Martine Cuypers, Leo Yannick Wilde, Alecs Recher, James Morton (by Louise Hannon Photography)

Senator Katherine Zappone and Broden Giambrone (TENI Director) at 4th European Transgender Council

Joan Burton, Minister for Social Protection speaks at the 4th European Transgender Council
Returning to Ireland

A.S.

I recently returned to Ireland to take up a job. Work has been fantastic as have friends and family. Getting a new phone, car insurance and financing have been no problem.

My letters (including deed poll) to update my Irish bank account and Social Welfare with my change of gender and name were ignored. I chased the bank, who said I needed a passport (chicken or egg situation as passport change requires evidence of living as a woman for at least two years including bills/bank a/c). I get paid cheques in my female name which the bank accept into my account but as a woman I carry out transactions using my male identity.

The Social Welfare Department sent me a tax certificate in my old male name and informed my new employer of the details.

As a citizen I want to be able to get on with my life without the need to explain my gender or the need to get others to sanction my identity. Proposals for legislation in Ireland will not change this as they do not allow for self-determination. I will continue to have to go to others to ask to sanction my identity.

Dublin’s Transgender Peer Support Group and the Foundation of TENI

The Transgender Peer Support Group (Dublin) was started in 2005 by Gil Dalton, with the first meeting held on the 6th of April. Since then, the group has provided an inclusive and supportive environment for everyone who identifies as transgender; who has been diagnosed with Gender Identity Disorder; who is gender questioning or feels they have a gender identity issue; who is exploring their gender role. We also welcome partners or supporters of members exploring their gender role, for over 7 years now. The group was facilitated, tirelessly, by Fiona Armstrong from 2006 to 2011.

The group was instrumental in the creation of Transgender Equality Network Ireland. In late 2005, members of the group met to discuss the need for education, capacity building and advocacy on behalf of the trans community in Ireland. From this meeting, TENI was formed - and that national organisation has gone on to provide support for the setup of other similar support groups throughout Ireland. Representatives from the Dublin group attended the inaugural Transgender Europe Council held in Vienna in November 2005, forging links with other trans organisations across Europe.

The group is now facilitated, since November 2011, by Sara Phillips. The group has provided support for over 80 members of the trans community in 2012 and over 20 members meet regularly every second Wednesday in Outhouse LGBT Community Centre.

The group continues to grow and grow providing a safe environment to discuss members concerns, issues and providing objective sharing of relevant information. An environment of inclusiveness, acceptance and trust has been established and members continue to build their own networks of friends and support through fortnightly meetings and social events.

Email: tpsgdublin@gmail.com

Being recognised

Anonymous, Belfast.

The crucial point came when I moved house ten years ago. I knew then I had to make a decision - now or never. I lost some friends that were really false friends. My faith is fundamental to my life - because of what I’ve been through. All my documents and identity are right and I’ve been all over the world as I am - I’ve legal protection which makes it easier for me.
Argentina’s Legislation: Rights-Inclusive Gender Recognition

Tanya Ni Mhuirthile

In May 2012, Argentina introduced the Gender Identity Law. This law is generally considered the most cutting edge, most rights respecting legal scheme for recognising the preferred gender identity of people worldwide. It is the culmination of many years of development in international human rights discourse. The first mention of gender identity as a rights issue was raised in 2006 before the UN Human Rights Council in a joint statement by Norway, representing 54 signatory states. The statement simultaneously represented the first formal acknowledgement of sexual orientation and gender recognition rights at the UN, and the first time the term ‘gender identity’ had been included in a UN statement.

The following year saw the publication of the Yogyakarta Principles. These consist of a set of principles on the application of international human rights law in relation to sexual orientation and gender identity. The Principles relate sexual and gender rights issues to established human rights norms, so as to ‘collate and clarify State obligations’ and establish a legal framework for assessing sexual and gender rights claims. The Principles also include specific recommendations for the UN, urging UN bodies to integrate sexual and gender rights issues into their procedures. They were celebrated as a crucial tool, but without official sponsorship from sovereign states or a multilateral organisation, the Principles were non-binding and did not immediately address the legal status of those who question the heteronormative understanding of sex/gender. Nonetheless, the Principles use existing international human rights conventions to insist that states are obliged to protect sexual minorities, including trans and intersex people, from the vast majority of abuses that they face – not as a minority, but as humans entitled to human rights.

On the 18th of December 2008, a landmark statement was issued by Argentina at the United Nations General Assembly. Supported by 66 member states, the draft UN Declaration on Sexual Orientation and Gender Identity affirmed that ‘all human rights [must] be applied to all human beings, regardless of their sexual orientation or gender identity’, and ‘condemned all human rights violations based on sexual orientation or gender identity, whenever or wherever they might occur’. This was a milestone in UN history. For the first time, the issue of gender identity had been formally placed on the General Assembly’s human rights agenda. However, immediately following the Declaration, an Alternative Statement was issued by Syria on behalf of 57 member states, opposing the mention of the ‘so-called notions of sexual orientation and gender identity’. Nonetheless, the Draft Declaration explicitly recognises sexual orientation and gender identity as legitimate grounds for protection under international human rights law, and condemns a range of human rights violations based on sexual orientation and gender identity.

The world’s first intergovernmental agreement codifying the application of human rights standards to the issue of gender identity as the unanimously adopted recommendations on combating discrimination based on sexual orientation or gender identity was issued by the Council of Ministers of the Council of Europe on 31 March 2010. The Recommendations specifically took note of the UN Draft Declaration and its condemnation of human rights violations based on sexual orientation and gender identity. They further stress that discrimination on this issue may be overcome by targeted measures at both those who experience the discrimination and wider society. Central to these Recommendations were two concepts: first that member states examine and keep under review legislative measures to combat such discrimination whether direct or indirect, and second that legislative and other measures are adopted to combat such discrimination and to ensure respect for the human rights of and tolerance for LGBT people.

Increasingly these developments in international human rights discourse urge a move away from medical diagnosis as a pre-requisite to recognition. This is known as depathologisation of gender recognition. Furthermore, those EU member states that have most recently introduced, or amended their legal gender recognition mechanisms have dispensed with the need for such interventions.

It is this which renders Argentina’s new law so revolutionary: it specifically states that ‘[i]n no case will it be needed to prove that a surgical procedure for total or partial genital reassignment, hormonal therapies or any other psychological or medical treatment has taken place [for recognition to be granted]’. The Argentinian law simply relies on a self-declaration by the applicant as to their gender identity. Thus the proposal put forward by the Irish Gender Recognition Advisory Group requiring medical evidence is out-of-step with best international practice on this question.

In introducing gender recognition legislation for Ireland, the Government should be mindful of the moves towards depathologisation at international level, follow the Argentinian example, and simply require a declaration from the person seeking recognition as to their gender identity. Such a scheme would better ensure the vindication of the rights of all people, whether trans or intersex, who might wish to exercise the rights contained in such a legislative scheme.

Dr Tanya Ni Mhuirthile
TENI Board Member; Senior Lecturer in the Law Faculty
at Griffith College Dublin
“The Argentinian law simply relies on a self-declaration by the applicant as to their gender identity. Thus the proposal put forward by the Irish Gender Recognition Advisory Group requiring medical evidence is out-of-step with best international practice on this question.”

Dr Tanya Ní Mhuiirthile

“For Gender Recognition, an individual’s opinion and experience as to their own gender identity must be given primacy. To require surgery as a condition for enjoying the right to one’s gender identity ignores the fact that only about 10% of transgender people in Europe undergo gender reassignment operations. Requiring divorce before the true gender can be recognised is harmful, and has a negative impact on children - both in terms of their rights and their relationships with their parents.”

Thomas Hammarberg
Council of Europe Commissioner for Human Rights 2006-2012
Lydia Foy’s Victory: Five Years On

Friday 19 October 2012 marked the 5th anniversary of Dr Lydia Foy’s victory in the High Court. To mark this date, the Human Rights in Ireland blog hosted a blog carnival: six articles were being published every 30 minutes starting at 11am. From TENI, Dr Tanya Ní Mhuirthile and Dr Orlaith O’Sullivan contributed on depathologising gender identity and on the growth of trans activism since 2007.

The articles highlighted the delay in the introduction of gender recognition legislation in Ireland and focus on the legal, political and personal difficulties associated with the proposed recommendations of forced divorce and a diagnosis of Gender Identity Disorder. For details see www.humanrights.ie

The following day - Saturday 20 October 2012 - the newly established group Trans* Education and Advocacy hosted a Rally for Recognition outside Dáil Éireann. The event highlighted the ongoing delay in legislating for Gender Recognition Legislation and also marked the International Day of Action for Trans* Depathologisation.

Several hundred people took part in the rally, and speakers from a range of activist groups from Ireland and Europe spoke at the event. For further information on TEA see www.transgender.ie

Vanessa Lacey speaking at the Rally for Recognition
Gender Recognition and Marriage

Fergus Ryan

In its report to the Minister for Social Protection on gender recognition legislation, the Gender Recognition Advisory Group (GRAG) recommended that transgender applicants who meet certain conditions should be allowed to access a gender recognition certificate. This would allow the recipient to be deemed for all legal purposes as being of the gender in which they wish to be recognised.

The Group, however, recommended that applicants, if they are to be granted a gender recognition certificate, should not be in an existing marriage or civil partnership. The implication is that those who are currently married or in a civil partnership will need to obtain a divorce, a civil partnership dissolution or an annulment as a precondition to legal gender recognition.

Notably, a similar legislative requirement applies in the United Kingdom and has been upheld as lawful by the European Court of Human Rights (Parry v. UK (2006)). That said, measures requiring applicants for legal gender recognition to be unmarried or divorced have been declared unlawful by the courts in Austria and Germany, and have been trenchantly criticised by the Council of Europe’s Commissioner on Human Rights.

Certainly, many marriages do not outlast a gender transition, but some do. Where the relationship has survived the process of transition, it seems cruel and inhumane to require that couples be faced with such a dilemma. It is all the more invidious given that it is not, in my view, legally necessary to require the applicant to take such a step.

Crucially, the legal validity of a marriage is typically assessed solely by reference to factors in place as of the date of the marriage, a point affirmed by the English and Welsh Court of Appeal in Napier v. Napier (1915). For instance, if when two people marry either of them is underage (and no court exemption has been obtained) the marriage is void. The fact that the underaged party reaches the minimum age after the marriage does not retrospectively make the marriage valid.

Similarly, the question here is what each party’s legal sex was at the time of the marriage. If gender recognition legislation is introduced, a person who is granted a gender recognition certificate will most likely be regarded as having legally acquired that gender as of the date of the certificate and no earlier. It is very unlikely that legal gender recognition will be made retrospective. Thus, even where a spouse transitions, the couple remain in what is legally a heterosexual marriage as they were respectively male and female as of the date of their marriage.

For civil partnership, the point is even clearer. Civil Partnership legislation states that a civil partnership will be void “if at the time the civil partners registered in a civil partnership” the parties were not of the same sex. The union’s validity is thus determined by reference to the parties’ situation as of the date of the civil partnership ceremony and no later.

By contrast, the GRAG’s proposal is essentially predicated on a view that gender recognition converts an existing opposite-sex marriage into a same-sex marriage and a same-sex civil partnership into an opposite-sex union. As the law currently stands, marriage is legally confined to opposite-sex couples, and civil partnership to same-sex couples. The Group assumed that same-sex marriage is not permitted by the Constitution of Ireland 1937. (It also suggested that permitting an opposite-sex civil partnership might infringe the constitutional preference for marriage, as the couple would be able to dissolve their civil partnership more easily than a marriage, thus incentivising civil partnership over marriage.)

As against this view, several eminent legal academics - including Eoin Carolan, Eoin Daly and Conor O’Mahony and Brian Tobin - have convincingly argued that while the Constitution does not confer a right to same-sex marriage, neither does it prevent legislation that would allow same-sex marriage. The better view is that the courts would defer to the Oireachtas if the latter were to introduce same-sex marriage.

Yet, even if there is a constitutional barrier to same-sex marriage, it is clear that granting a gender recognition certificate technically does not convert an opposite-sex marriage into a same-sex marriage: when the marriage was celebrated, the parties were of opposite sex and in law it is the situation as of the date of the marriage that counts in determining its validity.

It might be added that as the law currently stands, what is in substance a same-sex marriage is already permitted. A trans person, born biologically male, now living as a female, may currently marry a person born a biological female and living as such. Provided both parties consent with full information as to all relevant facts, the marriage is a valid one, as one of the parties is legally male and one legally female, though both parties identify and relate to each other as female. What is this, in substance, other than a lesbian marriage?

A bigger problem looms. When divorce was introduced in 1996, it was firmly considered a last resort, to be employed only when all else failed. This is evidenced by the lengthy living apart requirement – the parties must have been living apart for four out of the previous five years. A divorce will only be granted, moreover, if there is no reasonable prospect of reconciliation.

As a result, theoretically at least, it is probably impossible for spouses to obtain a divorce where both wish to remain together as a couple. If a married couple are not living apart, they will not meet the constitutional requirements for divorce. To ‘live apart’ for this purpose, physical separation on its own is not enough. Even if they secure separate accommodation, they will not be treated as ‘living apart’ if neither party
has mentally resolved to end their marital relationship. Thus, if both parties still wish to maintain their relationship, technically, they cannot divorce. This would mean that the trans party would not be able to obtain a gender recognition certificate.

This barrier to relief is reinforced by the requirement that a judge cannot grant a divorce unless there is no reasonable prospect of reconciliation. (This prerequisite does not apply to civil partnership dissolution). If both parties wish to remain married, but are being forced to divorce, technically the divorce cannot be granted.

Even if the parties are willing and able to divorce, the divorce process is likely to delay access to a gender recognition certificate, given the long living apart requirement, not to mention the expense involved.

The traditional and much-abused alternative approach to broken marriages – the annulment – presents its own problems, not least that a nullity decree denies both parties access to the important remedies available on divorce and civil partnership dissolution. Such a decree also lends an air of unreality – it says there never was a marriage, when plainly there was.

Admittedly, many marriages do not survive gender transition. Nonetheless, some marriages remain intact. Forcing such couples to divorce as a precondition to legal gender recognition – which is vital to the dignity of many trans people – is not only cruel and inhumane; it is, arguably, also inimical to the special position of marriage secured by the Constitution. It seems, moreover, to run counter to the constitutional policy that divorce should be permitted only as a last resort, when there is no prospect of reconciliation.

While it is perhaps understandable that some marriages may not survive gender transition, a marriage that is sustained in the wake of an event as significant as a spouse’s gender transition is a testament to the parties’ commitment, whatever eventualities life presents. If GRAG’s proposals are accepted in full, applicants for legal gender recognition will be forced to present as atomised entities, shorn of prior civil status. Given the very small numbers that will no doubt be involved, this approach seems disproportionate, not to mention (as I hope I have demonstrated) legally unnecessary.

Dr Fergus Ryan
Lecturer in Law, Dublin Institute of Technology.


“Forcing such couples to divorce as a precondition to legal gender recognition - which is vital to the dignity of many trans people - is not only cruel and inhumane; it is, arguably, also inimical to the special position of marriage secured by the Constitution.”

Dr Fergus Ryan

“My marriage is fully valid under Irish Law, as at the time of getting married we were physically and legally opposite genders. We have three fantastic children. But due to a worsening of my medical condition over the years and acting on medical advice, I underwent full gender reassignment surgery. I am now physically female, whether my Country chooses to acknowledge this fact or not. So I ask you, what of my family? Does Government have no obligations to us? Is my family not also entitled to the full protection of the Irish Constitution? Why should anyone be forced to choose between family and basic human rights?”

Victoria Mullen, Testimony before the Joint Oireachtas Committee on Social Protection and Education, 5 December 2012
Chapter Two: Equality in all areas of life

For those of us whose gender is the same as everyone assumed it was on the day we were born, we rarely consider what life is like for people with transgender identities. This section examines equality and inequality in various aspects of life and legislation.

Human Rights for All

Colm O’Gorman

Transgender rights are human rights. There is no second class set of rights for transgender, or trans, individuals. All of us are entitled to the same fundamental human rights simply by virtue of our shared humanity. Everyone must enjoy human rights on an equal basis, without any form of discrimination, including based on gender identity.

Discrimination against people on the basis of their gender identity is prohibited. This has been made clear by the United Nations Committee on Economic, Social and Cultural Rights and the United Nations High Commissioner for Human Rights.

It is up to the State, in our case the Irish Government, to ensure that those rights are protected.

It is a direct obligation of our Government to ensure that human rights for trans people are respected and fulfilled, that they have the same right to life, to employment, to education, to healthcare, to public services as anyone else. And when, as will happen, trans people do suffer discrimination, are treated differently, are denied the same entitlements as anyone else; they must be given the opportunity to obtain justice, to seek redress.

Human rights law does not just apply to what the State should do, it applies to what they should prevent. Transgender people are frequent targets for violence and hate crimes. The Trans Murder Monitoring Project has identified more than 1,100 cases of trans people having been killed worldwide between 2008 and 2012.

We know, with all of the difficulties monitoring trans issues in some countries, that the real figure is far, far higher. In many cases, the perpetrators of these crimes escape without punishment, sending a signal that crimes against trans people will be ignored, or even tolerated.

Violence and harassment targeting trans people violates their rights to life and to be free from cruel, inhuman and degrading treatment.

These rights are neither vague, nor aspirational. They are contained in legally binding international human rights treaties to which Ireland, and most countries in the world, are signed up to. They are backed by the full weight of international human rights law and the United Nations.

But it is one thing to have rights contained in a treaty, and another to ensure that a trans person can walk down the street of their hometown without having to be home by nightfall, or that they will be treated like anyone else when trying to access healthcare.

It is up to States to introduce the domestic legislation to make the rights they have signed up real for trans people, and then to ensure that these new laws are fully
implemented. It’s not just enough to introduce strong hate crime legislation, for example, that covers crimes committed on the grounds of gender identity. Those laws need to be enforced and the police and the judiciary need to be trained and equipped to implement them.

For many trans people, the greatest barrier they face is being recognised for who they are.

Barriers in accessing legal gender recognition, including onerous requirements such as forced sterilisation, forced divorce and psychiatric diagnosis, access to medical and hormonal treatment are major issues for trans individuals across the globe.

In many countries, including Ireland, trans individuals cannot seek legal recognition of their gender. As a consequence the gender indicated on their official documents such as birth certificates does not match their true gender identity, making them more vulnerable to discrimination in the workplace or at school.

Such situations violate a whole set of human rights including the rights to private and family life and to recognition before the law without any discrimination.

The United Nations Human Rights Committee, the body overseeing the implementation of the International Covenant on Civil and Political Rights, expressed concerns on the lack of legislation ensuring legal gender recognition for trans individuals in Ireland in 2008. The European Court of Human Rights found that France (B v France, 1992) and the United Kingdom (Christine Goodwin v the United Kingdom, 2002) violated the right to private and family life of trans people by failing to put in place legislation on gender recognition.

The lack of gender recognition legislation in this country means Ireland isn’t living up to its human rights obligations to our trans community. This must be corrected, and it is an issue that all of us, trans or not, need to play a role in. For unless governments get the message that all human rights need to be protected for all people, then none of our human rights are ever truly safe, ever fully protected.

Colm O’Gorman
Executive Director, Amnesty International Ireland

“For many trans people, the greatest barrier they face is being recognised for who they are.”
Colm O’Gorman
Irish Structures for Transgender Equality: An Overview

Brian Merriman

Some of the earliest visibility for transgender people in Ireland came about with the Employment Equality Act 1977, which offered protection to people who were discriminated on grounds of their gender or marital status. The Employment Equality Agency (EEA) was established to vindicate these rights. Under the leadership of Sylvia Meehan and Catherine Mc Guinness, the first Boards of the EEA worked to give a broad interpretation to gender discrimination and included transgender in their interpretation of the gender ground. In late-1970s Ireland, this was radical and far-sighted.

This inclusive interpretation was maintained in the work of the Equality Authority (established in 1999). When the Authority set up the first State Advisory Committee on Lesbians, Gays and Bisexuals, a distinction was drawn between the sexual orientation ground for lesbians, gays and bisexuals and the gender basis of discrimination of transgender people under the Gender ground. Transgender rights have benefited from the work done in progressing gay rights, as the LGBT community came together in a common experience of identity-based discrimination.

In 2004 the Authority commissioned a small study of healthcare services and need of transsexual people in Ireland - the research by Eoin Collins and Brian Sheehan was ground-breaking, and marked another important first in the debate for recognition of gender difference. The Report is still available on http://www.equality.ie/en/Research/Research-Publications/Access-to-Health-Services-for-Transsexual-People.html.

The CEO of the Equality Authority Niall Crowley provided the Foreword to the research, asserting: “The current experience and situation of transsexual people is characterised by stigma and exclusion. They experience an invisibility in policy making. Ignorance, fear and denial are a feature of attitudes towards them.”

Louise Hannon first approached the Equality Authority in March 2007 for advice regarding a particularly difficult and discriminatory situation. She was granted legal assistance under Section 67 of the Employment Equality Acts and we proceeded to represent her before the Equality Tribunal.

Because of the controversial circumstance being imposed on trans people, they are deemed to have ‘a disorder’ by virtue of the act of another individual. At birth, a gender is prescribed on a baby usually on physical evidence alone. If this well meaning (and frequently accurate) analysis is flawed in some way then the recipient is deemed to have ‘a disorder’ rather than recognising a systems failure. We were able to press Louise’s case on the basis of discrimination on grounds of her gender and her ‘disability’ due to the presence of this ‘disorder’. It was useful in law.

Louise won her case in March 2011, and to their credit, her employer, who had made many mistakes in failing to handle her transition in the workplace, accepted the judgement and promptly honoured the award.

The decision represented a landmark for trans rights, as Equality Authority Chairperson Angela Kerins pointed out at the time: “Transsexual people are born into a society which is not structured to cater for their own identity. The journey undertaken by transsexual people to recognise their own identity, as being different from their assigned identity, involves a process and decision making that is both courageous and beyond the capacity of many to fully appreciate.

“With the diagnostic progress made in recent decades to recognise this disorder, it is fair and essential that society assists transsexual people to make this journey by removing as many obstacles for discrimination as possible. I am pleased the Employment Equality Acts have proven to be robust in the defence of transsexual rights in the workplace. The Equality Authority has already made a submission to the transgender recognition group and looks forward to further legislative progress for this important minority, still invisible in many aspects of Irish life, with the publication of their Report.”

The Equality Officer stated that transsexualism is a recognised medical condition which is treated by a combination of hormone therapy, surgery (in some cases) and “real life experience”. The Equality Officer went on to state that to gain “real life experience the person must be able to live their life continuously in the other sex without the need to revert to the birth sex”. This applied to the workplace and that there is an obligation on employers to accommodate such “real life experience” she added. We later made this point a cornerstone of our submission to the Gender Recognition Advisory Group (established after Dr Lydia Foy won her case against the Irish Government). Here there was a danger that protection from discrimination would be confined to those who had successfully transitioned, but our point was the greatest danger of discrimination was in the transition process itself and that protection must be expended to include that most challenging time.

Many employers and others who have a colleague or friend in transition struggle for advice to enable such a transition to take place in their workplace or social group. Here the Hannon case was also useful in setting out best practice as had been argued by the Equality Authority legal team. The Equality Officer found that the plan formulated by the company to allow the transition from male to female was clearly a unilateral approach which had not been fully explored with the complainant.

The Equality Officer was satisfied that requesting Ms Hannon to switch between a male/female identity whenever the respondent felt the need for it constituted direct discrimination on the gender and disability grounds. She was not satisfied that the
company had a genuine business need for the complainant to work from home. She found that had Ms Hannon remained in her male identity she would not have been requested to work from home. She concluded that the request to work from home was discriminatory on both the gender and disability grounds.

The Equality Officer found that the Respondent had little if any understanding that the gender transition process was a form of treatment relevant to the complainant’s condition. She was satisfied that an employer has a duty to obtain enough knowledge about an employee’s disclosed disability to ensure that their actions do not discriminate against a person whose disability may require the person to behave or act in a certain way. While the Equality Officer found the complainant did not require reasonable accommodation per se, she did require a workplace that recognised her right to dress and be identified as a female. The Equality Officer pointed out that the difficulties concerning the complainants gender lay entirely with the respondent and that it was apparent that the company presumed that there would be negative consequences because of the complainant’s female identity. These were clear and strong findings. The case sets out a standard of behaviour and accommodation necessary to support transition for the first time in Ireland.

The Equality Officer found that the complainant had suffered discriminatory treatment on the grounds of gender and disability. The Equality Officer found that Ms Hannon received no relevant support from the company and was isolated in her home from late April 2007. She found that the respondent’s approach amounted to discriminatory dismissal on the gender and disability grounds. The issue of victimisation was raised in relation to ex-gratia payments but this was not upheld. The Equality Officer awarded redress in the sum of €35,422.71. She also ordered the company to pay the complainant interest at the courts rate on the award. Louise’s three year battle has been restorative for herself after a very difficult time, and had set out new ground rules for the recognition of transgender workers in Ireland.

The media coverage achieved by this case was significant in raising awareness, recognising the presence of trans people in the workplace and in mapping out better practice. The Equality Authority followed up the progress made in this area by making a formal submission to the Gender Recognition Advisory Group and meeting with the committee to put forward a range of issues of concern to the Authority in achieving equal rights for trans people. An important debate had at last begun in society with Government committing itself to action on gender recognition. The Equality Authority added its endorsement to the national debate that was emerging for the first time.

The Equality Authority welcomed the announcement by the Minister for Social Protection, Joan Burton TD, that she intended to provide legal recognition for the true gender of transgender people and to extend the protections of the equality legislation to them. The Minister had made this announcement at the 4th European Transgender

Council, hosted by TENI and Transgender Europe in September 2012 at Dublin City University. We also publicly welcomed the announcement that Minister Burton would ask the Joint Oireachtas Committee on Jobs, Social Protection and Education to examine the issue of gender recognition. CEO of the Equality Authority, Renée Dempsey, said: “The referral of the issue to the Oireachtas Committee provides an opportunity to address concerns that have been expressed about the report of the Gender Recognition Advisory Group, which was published in July 2011”.

Concerns were expressed at a number of recommendations in the report of the Gender Recognition Advisory Group when it was published. One of these was the proposal to make divorce compulsory for married transgender people before recognition of their gender would be registered. A second proposal that gave rise to concern related the administrative and legal procedures for the recognition of a person’s gender. Ms Dempsey said: “The proposals in the Gender Recognition Advisory Group report effectively required a person to have either a formal medical diagnosis of a mental health disorder or to have undergone gender reassignment surgery.

“The Equality Authority in its submission to the Gender Recognition Advisory Group stressed the need for the dignity of the person to be fully respected in the legislation. While the proposals would provide the possibility of a person who has not had reassignment surgery being recognised, this is at the cost of requiring instead a diagnosis of a mental health disorder”.

Ms Dempsey also identified the need for the Employment Equality Acts and the Equal Status Acts to be amended. At present, discrimination because a person is transgender must be challenged on the gender ground, the Equality Authority recommended that separate recognition be given to transgender people in a distinct ground. The pursuit of transgender right continues to be a priority both in its policy recommendations and in its casework for the Equality Authority and people who may be experiencing discrimination can contact the Authority on 1890 245545 or through info@equality.ie

Brian Merriman
Head of Communications and Legal Services at the Equality Authority

Brian Merriman (The Equality Authority) at Touching the Surface launch in Waterford
“The current experience and situation of transsexual people is characterised by stigma and exclusion. They experience an invisibility in policy making. Ignorance, fear and denial are a feature of attitudes towards them.”

Niall Crowley, Equality Authority CEO (2004)

“Transsexual people are born into a society which is not structured to cater for their own identity.”

Angela Kerins, Equality Authority Chairperson (2011)

In search of a new home

Deirdre O’Byrne

I now live full-time as Deirdre, and Deirdre is my legal name. So, when flat-hunting in late 2011, I was using that name in all my correspondence. But I twice had the experience of the landlord “forgetting” to bring the keys to the apartment to show it to me when he found out I’m transgender. The first time was on the phone - the landlord heard my voice, and then said that the keys were missing. The second time was when the landlord met me - he observed me from his car, and then eventually got out of the car full of apologies that he hadn’t brought the keys to the apartment. I was beginning to wonder if I’d ever get an apartment.
Recent Irish Case Law Involving Trans Discrimination and Transphobia

Christopher Flood

Recently the courts have heard cases which highlight significant issues faced by transgender persons in modern Irish society. These issues include discrimination in the workplace, violence motivated by transphobia, and denial of requests for emendations to the basic documents necessary for civic engagement and the exercise of fundamental rights. Confusion remains in relation to transgender issues; ignorance and carelessness is evident from case law.

The recent case of DPP v Murtagh[1] demonstrates the violence and harm that can occur as a result of fear and confusion regarding gender. Murtagh, the respondent in this appeal, met a male nurse who was “a transvestite”. The respondent thought that he was a woman, and they engaged in sexual activity. After learning his true gender, the respondent attacked him with a Stanley knife, cutting his neck and causing very serious injuries. Following the assault, the respondent took a taxi and informed the Gardaí of what had occurred.

Murtagh was convicted of three offences: possession of an offensive weapon, obstruction of Gardaí, and assault causing serious harm, contrary to section 4 of the Non-Fatal Offences Against the Person Act 1997. In relation to the first two offences he was sentenced to suspended terms of imprisonment. For the assault causing serious harm, a sentence of five years imprisonment was imposed, consecutive to the suspend ed terms. The last two years of this five-year sentence were suspended, with conditions. The DPP applied for a review of this sentence on the basis that it was unduly lenient – an application ultimately refused by the Court of Criminal Appeal.

Irish gender identity legislation remains unsatisfactorily archaic. In the seminal case of Foy v An t-Ard Chlárthaiteoir, McKechnie J issued a declaration of incompatibility between Irish law and the European Convention of Human Rights (ECHR), finding that refusal to issue Dr Lydia Foy with an emended birth certificate reflecting her female identity breached the protection under Article 8 of the ECHR of the right to respect for private life. The reaction of the Irish legislature to Foy has been far from satisfactory and thus far the law on gender identity remains unreformed.

Significant barriers exist at Irish law in relation to marriage. The words of McKechnie J in Foy summarise the current legal position: “Marriage as understood by the Constitution, by statute and by case law refers to a union by a biological man with a biological woman.” Whilst this restriction is itself discriminatory, it is also particularly problematic for families in Ireland because here the law on marriage is bound entirely to the law on family. The strictures of Irish law on marriage and family have serious consequences for families living in Ireland. Under the Irish Constitution, “Family” is a specific institution, deemed worthy of special protection. This institution is limited to that founded by the approved “Marriage” aforementioned. This exclusionary position is out of line with international human rights law, and notably in conflict with the functionalist approach to the definition of “family” taken by the European Court of Human Rights in cases such as Schalk and Kopf v Austria[3] and X, Y and Z v UK[4].

The Charter of Fundamental Rights of the European Union became operative in 2010 with the introduction of the Treaty on the Functioning of the European Union. The Charter has the full force of EU treaty law and “reaffirms” the rights resulting from the case law of the European Court of Human Rights. In order to afford all families their rights, it is clearly necessary to reform Irish law on marriage and family.

There have been some positive developments at Irish law. The landmark decision in Hannon v First Direct Logistics Limited[5] demonstrates the effectiveness of anti-discrimination legislation for transgender persons in the workplace. On 29 March 2011 the Equality Tribunal delivered its decision in this dispute, finding that Ms Louise Hannon, a male to female transsexual, had suffered discrimination in the workplace based on gender and disability. The discrimination included demands on Hannon to assume a male identity whilst engaging in telephone sales and client meetings, and preclusion from the use of women’s toilets. “Female clothing” was to be worn in the office only and despite meeting with clients under an assumed male identity, Hannon was ultimately required to work from home. She requested a return to the office twice as she found these working conditions very difficult but was informed that there was no room for her there.

In July 2007 Hannon was offered a job with a different company – an opportunity which ultimately fell through. She immediately contacted the director of First Direct and was offered a new contract on less favourable terms to her previous job. She informed the director that she believed her job had effectively been taken from her in April 2007 when she was asked to work from home. On 14 August 2007 First Direct requested that Hannon hand in a letter of resignation.

The Equality Officer determined that Hannon had been discriminated against and awarded her €35,422.71, with interest. It was found that she had established a prima facie case of discriminatory dismissal on the grounds of gender and disability. Drawing upon the English case of P v S & Cornwall County Council[6] it was held that transgender persons are protected from sex discrimination under the ground of gender. Requesting Hannon to switch between her female identity and a male identity whenever it pleased First Direct constituted discrimination on grounds of gender and disability.

It was found that Hannon required a workplace that recognised her right to dress as and be identified as a woman as a form of reasonable accommodation. The Equality
Officer determined that Hannon did not receive any support or reasonable accommodation from First Direct, and her isolation at her home and the refusal by First Direct to use her legal name in email correspondence amounted to discriminatory dismissal on grounds of gender and disability.

Whilst Hannon marks a positive outcome in terms of anti-discrimination, and in future employers will have to enforce such protections, it must be noted that an important factor in the Tribunal’s interpretative reasoning was the disability ground for protection against discrimination. A more expansive interpretation of discrimination on the ground of sex could provide wider protection for transgender persons, as, with the exception of legislation prohibiting incitement to hatred, Irish and European equality law clearly protect against sex discrimination.

Gender identity as a discrete area does not feature significantly in Irish constitutional equality law, to the extent that it is not raised even where it might be relevant; in Foy, MacKechnie J did not refer even to the possibility of gender identity being a ground for protection. The Prohibition of Incitement to Hatred Act 1989 does not prohibit incitement to hatred against individuals on the basis of gender identity. Irish society remains largely ignorant of transgender issues and the issues faced by transgender people and clearly this ignorance can manifest serious consequences for transgender persons.

Clarity and understanding seem to be lacking in the legal sphere; in OE v Refugee Appeals Tribunal, the Minister for Justice Equality and Law Reform and Attorney General Ireland v Human Rights Commission[7] the terms “gender identity” and “sexual orientation” appear to be used interchangeably and in Hannon the Tribunal drew upon the finding of sex discrimination in P v S & Cornwall County Council. Thankfully, as seen in Hannon, discrimination in the workplace on the basis of gender identity and/or sex is being addressed by institutions of justice. However, much remains to be done by society and in law in order to properly respect the dignity and rights of transgender persons. The onus is now on the people and our legislature to remedy this unacceptable state of affairs.

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[2] This declaration was issued in the wake of the decision of the European Court of Human Rights in Goodwin v UK, where the Court held that the UK’s refusal to issue Christine Goodwin with an emended birth certificate reflecting her female identity was in breach of Article 8 ECHR. The UK government responded by enacting the Gender Recognition Act 2004 which provides legal recognition for transgender persons and enables the issuance of new birth certificates reflecting the gender identity of transgender persons.

“Irish society remains largely ignorant of transgender issues and the issues faced by transgender people…”

Christopher Flood

Which toilet is least unsafe

Zowie

I’m unsure every time which public toilet to use - fear of being told I shouldn’t be in the Ladies or confusing the men.
Partnership Working in Northern Ireland

Harriet Long

Over the last number of years partners working together to raise awareness of transgender people living in Northern Irish society have been encouraged by the steps taken by local police, social housing providers and leisure and wellbeing centres to discuss access and inclusion for transgender people and their families.

Working with the Transgender Forum, The Rainbow Project, Oysters, SAIL, Unison, Carafriend and Here NI - all strive to draw attention to the needs and barriers for transgender people when accessing public services. Our experience has been that many agencies have been prompted by staff members and/or anecdotal stories to seek out some expertise and training in order to gain knowledge and understanding of the sensitivities for transgender victims of crime, tenants or customers, and the practical steps their organisation needs to take to remove these barriers.

Several council leisure centres have explored issues around changing rooms, toilets and swimming pool attire for example. The Police Service of Northern Ireland have explored issues around hate crime, being a witness in the criminal justice system, the implications of their stop-and-search policies for transgender people and what custody arrangements should and shouldn’t be, including how to take personal identity details and look at documents sensitively. They have also funded an advocate to assist victims of transphobic hate crime in reporting incidents and providing emotional support and follow up with the investigation.

The Northern Ireland Housing Executive has supported this post with funding to provide assistance to transgender people experiencing homelessness and harassment, and have been challenged about the way houses are allocated according to medical need, without taking into consideration an individual’s gender confirmation treatment. This is something that the Housing Executive are exploring, particularly through research into the experiences of transgender people and what provision is there for them.

Small steps are being taken, gradually and with the great volume of groups, individuals and organisations lending their voice to raise awareness. One leisure centre manager showed incredible insight into the barriers for transgender people accessing health and well being facilities in his centre. He explained that he understood the vulnerabilities for transgender people and the risk to their participation and inclusion in the community as well as the issue of them not getting the benefits of places like gyms, pools and sporting activities. He was prepared to not only modify his centre and train his staff, but also to design his new leisure centre with the needs of transgender individuals and their families in mind. He said “it is particularly those that feel that they can’t come in that we need to think about. Leisure facilities are for everyone, they make everyone feel better and I’ll do my best to let transgender people know that.”

Harriet Long
The Rainbow Project
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Trans* Case Law in Europe, 2008 - 2013: A Brief Overview

Peter Dunne

Since 2008, there have been a number of important legal decisions regarding the rights of trans* individuals in Europe. These cases have arisen both at the pan-European level - the European Court of Human Rights ("the European Court") - and within national jurisdictions. The case law touches upon a wide variety of topics, including violence, health care and marriage, and the results can be seen to provide exciting opportunities but also difficult challenges for the trans* community. The purpose of this article is to give a brief overview of some of the most important decisions and to highlight the legal arguments employed by the courts.

In Schlumpf v Switzerland, the applicant, a sixty seven year old trans* woman, decided to undergo a surgical operation as part of her transition. The applicant’s health insurers refused to pay for the operation because Ms. Schlumpf had not observed a two-year “reconsideration” waiting period, as required by the case law of the Swiss Federal Insurance Court.

A majority of the European Court held that there had been a breach of the applicant’s rights under Article 8 of the Convention (respect for private and family life). The Court considered that the period of two years, particularly at the applicant’s age, was likely to influence Ms. Schlumpf’s decision whether to have the operation, thus impairing her freedom to determine her gender identity. While the Swiss Government had argued that considerations of the general interest required that limits be placed on the reimbursement of medical services, the Court noted that any such general interest had to be balanced against the interests of the individual. Having regard to the applicant’s circumstances and the state’s latitude in the particularly intimate question of gender identity, a majority of the judges were not satisfied that a fair balance had been struck.

In Halat v Turkey, a thirty-nine year old trans* woman was arrested on her way home and taken to the local police station in Beşiktaş. She alleged that, while in
Convention rights under Article 12 had been born with male sex organs. When trying to rape the victim, there could have been no completed rape as the victim was not a woman. In Göta, the Court of Appeals overturned the acquittal of a man charged with attempting to rape a woman. The appeal was not considered in time. In Germany, the Constitutional Court, deciding in the recent case of H v Finland, [4] a dispute which has particular relevance for the current debate around gender identity legislation in Ireland, held that the applicant, a married trans* woman, sought to correct her gender identity in the Finish civil register, without having to divorce her wife or convert their marriage into a civil partnership. The authorities refused her request.

The European Court held that there had been no violation of the applicant’s Convention rights under Article 8, Article 12 (right to marry) or Article 14 (prohibition of discrimination). The judges were satisfied that Finland had struck a fair balance between respect for Ms. H’s private life and the state’s interest in maintaining the traditional institution of marriage. According to the Court, it was not disproportionate to require the applicant to enter a civil partnership, as the latter institution provided almost identical legal protection as marriage and would not prejudice the couple’s child. Neither could Ms. H succeed in her claim of discrimination under Article 14. While it was true that the applicant, unlike non-trans* persons or unmarried trans* persons, would have to explain discrepancies in her personal identification information, the judges concluded that the situation of these latter individuals was not sufficiently similar to the applicant for a comparison to be made.

In addition to the European Court, national jurisdictions in Europe have also recently issued a number of important decisions in relation to the rights of trans* individuals. In Germany, the Constitutional Court, differing from its European counterparts, held that mandatory divorce for gender identity recognition was unconstitutional because it forced individuals to choose between two fundamental rights: personal integrity and marriage. In Sweden, the Stockholm Administrative Court of Appeals struck down that country’s sterilization requirement just months after legislators had failed to repeal the policy in Parliament. Also in Sweden, an appeals court in Göta overturned the acquittal of a man charged with attempting to rape a trans* woman. A district court had previously held that, although the individual was trying to rape the victim, there could have been no completed rape as the victim had been born with male sex organs. However, as it was for the European Court, so too the news has not been all positive in the national jurisdictions. In Malta, an appeals court denied a post-operative trans* woman, Joanne Cassar, the right to marry her male partner. Ms. Cassar has now appealed the decision to the European Court. In Spain, the National Court denied a claim for asylum from a Colombian trans* individual, despite the intervention of the UN High Commissioner for Refugees. The Court rejected the claim because the applicant had only raised the issue of gender identity after deportation proceedings had begun.

Peter Dunne
Human Rights Lawyer,
specializing in issues surrounding sexual orientation and gender identity


“In Germany, the Constitutional Court, differing from its European counterparts, held that mandatory divorce for gender identity recognition was unconstitutional because it forced individuals to choose between two fundamental rights: personal integrity and marriage.”

Peter Dunne
Best intentions

A.S.

Apart from intentional abuse, I do not want to have to endure the generally well-intentioned but totally inappropriate comments and questions when service providers realise I am transgender, such as “You're so brave”, “You wouldn't mind me asking - have you had the op and all?” and “What's it been like?” nor do I want to experience the many ‘officials’ who, when despite me presenting as a woman, insist on calling me by my male name or calling me ‘sir’ if they see an official document that contradicts my female status.

Good-Practice Examples from Northern Ireland

The Trans Forum

The Trans Forum is a forum of statutory and voluntary sector organisations which comes together on a quarterly basis in Belfast City Hall to discuss issues that affect transgender individuals and their families and friends.

The forum is unique in the United Kingdom and provides a formal space for key decision makers to meet directly with individual transgender people and their representative organisations and hear directly how their policies and procedures impact on the lives of transgender people and their families. It provides an opportunity for agencies to work collaboratively with each other and the transgender community to enhance the lives and experience of the trans community. It is a forum where the transgender community can actively influence the policy and practice agenda of the various government departments and agencies.

Currently the following organisations make up the membership of the Trans Forum: Youthnet, Oysters, S.A.I.L., Cara-Friend, Institute for Conflict Research, Department of Education, Department of Health Social Services and Personal Safety, The Office of First and Deputy First Minister, Policing Board for Northern Ireland, the Public Health Agency, Belfast City Council, Equality Commission Northern Ireland, Human Rights Commission Northern Ireland, the Police Service for Northern Ireland, Northern Ireland Housing Executive, the Southern Health and Social Care Trust, the Belfast Health and Social Care Trust, the Gender Identity Service Northern Ireland, NIACRO, the Belfast Butterfly Club and the Rainbow Project.

Together the Forum has been instrumental in highlighting transgender issues in Northern Ireland, including issues on Policing and Hate Crime, Housing and Health.

Focusing on Health issues, the Forum worked to highlight health needs from generic medical services to appropriate screening and staff training in all health areas, which led to the Public Health Agency developing an e-learning package on LGBT awareness for its staff which has recently rolled out to all its staff. The Forum has also raised issues for young transgender people including bullying at school and the development of services for those under 18.

The Forum highlights the Transgender Day of Remembrance in Northern Ireland and has been instrumental in the development of information leaflets, the www.transgenderni.com website and several conferences on good practice in the area of Transgender issues.

The Trans Syndicate

The Trans Syndicate is an alliance of groups representing the transgender community, individual transgender people undergoing gender reassignment treatment, their families and friends. It exists to highlight the distinct and separate needs of trans people, providing advice, information and training on transgender issues to individuals, public sector organisations and employers.

The syndicate consists of Oysters, Oysters Northwest, S.A.I.L. and Translate. Whilst each group has its own aims and objectives and deliver services to different sectors of the trans community in Northern Ireland, they come together in the Trans Syndicate to ensure the provision of comprehensive support services to transgender people, their families and friends. It also advocates to ensure trans people and their families in Northern Ireland receive the best possible specialist and general health care, consistent with best practice worldwide. The Trans Syndicate collaborates and co-operates with trans healthcare specialists, other trans groups, activists and allies on the island of Ireland, in other parts of the United Kingdom, in mainland Europe and further afield.

Oysters Peer Support Group

Oysters Peer Support Group is the main peer support group for transgender people in Northern Ireland. It is based in Belfast, and is a member of the Trans Syndicate, the Trans Forum and the Transgender Group Alliance Ireland.

Oysters recently launched an outreach group - Oysters Northwest - that meets in the Northwest and reaches out to transgender people in Derry and the surrounding area including neighbouring areas of the Republic.

Oysters was central to the creation and launch, in partnership with the Public Health Agency, of the website www.transgenderni.com. Oysters can be contacted through the website.
Belfast Butterfly Group

Established in 1991, the Belfast Butterfly Club provides a safe space for transgender people. By providing education and information, they seek to increase awareness, overcome discrimination and achieve equality.

“We think it’s really important for the trans umbrella to stay broad and include people that have no desire to have treatment or even live full time in one gender. We want everyone to be welcome and everyone to have somewhere safe they can come to and discover who they are.

“We are an organisation that is open to all - we are for anyone regardless of how they identify. You can sit and relax for a while; the club gives you a safe place where you don’t have to worry. We’d like to find ways to be more visible and have a presence so that people can find us.”

For further information see: http://www.belfastbutterflyclub.co.uk

Human Rights and the Law

Eleanor Leane & Leanora Frawley

‘All human beings are born free and equal in dignity and rights. All human rights are universal, interdependent, indivisible and interrelated. Sexual orientation and gender identity are integral to every person’s dignity and humanity and must not be the basis for discrimination or abuse.’

Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, November 2006

We rely on the Irish State to protect the rights of its entire people including trans people. Yet, twenty years after Lydia Foy first applied for a birth certificate reflecting her true gender, Ireland is the only state in the European Union where there is no procedure for legal recognition of trans persons. The current Minister for Social Protection has promised that the draft Heads of Bill will be brought to the Joint Oireachtas committee in first half of 2013. Compulsory divorce for those married or in civil partnerships, diagnosis of a psychological disorder or requirement of gender reassignment surgery are envisaged. So, even after long overdue legislation is passed, the privacy, family life and human dignity of all trans people will still not be respected by the State.

What remedies does a trans person have if their rights are infringed? The Foy case is a good example of how public interest litigation works to help vulnerable people vindicate their rights. It was the first ever declaration of incompatibility with the European Convention on Human Rights (ECHR) by the Irish High Court.

Given the sometimes protracted, difficult and costly nature of High Court proceedings there are other much more accessible redress mechanisms for people who feel that they have been discriminated against because they are trans.

Ireland has reasonably robust equality legislation that protects certain groups (with trans people being recognised under the ‘gender’ category) from being discriminated against in the workplace and when they seek to use services. Employment Equality Acts 1998-2011 and the Equal Status Acts 2000-2011 outlaw discrimination in employment, vocational training, advertising, collective agreements and the provision of goods and services. The Equality Tribunal investigates or mediates claims of unlawful discrimination under equality legislation.

Cases that we have taken to the Tribunal include a case against the Mater Hospital where our client had been mocked by staff in the Outpatients Department, refusing to address her by her correct gender. The case successfully settled and the Mater Hospital

Shopping

Kerri, Derry

Back in early 2007 I went to Dunnes Stores in my local shopping centre to look about getting some summer tops. As I was about to enter the changing room I was grabbed by a firm hand on my shoulder and asked to leave - not by a member of staff but by a male security guard.

I politely asked why and was told it was because I was a man. I said no, I wasn’t. I was a woman - to which he replied “No, you are a man”. I then said “Well, if you must know I am a transexual woman and I have every right to be here”. He then asked me to leave again but I stood my ground. After a five minute stand-off he escorted me out. I then spoke to the store manager who informed me that the security guard had every right. Disgusted, a friend of mine rang the Equality Commission on my behalf who informed her that there was nothing they could do legally. The next year the law changed which has made it easier for Trans people in the North.
now trains all registration staff in transgender awareness. Other current cases include a trans woman being ridiculed by a hospital consultant and a trans woman being told that she must close down her bank account and re-open another following her change of forename by deed poll.

However, notwithstanding the victimisation of trans persons and the occurrence of crimes predicated on the basis of gender identity, Ireland has no hate crime legislation in place to deal with such incidences with the exception of the Prohibition of Incitement to Hatred Act 1989 under which very few prosecutions have been brought of any substance. In Ireland, where trans persons are assaulted, threatened or subjected to acts of hatred, an accused might be prosecuted under traditional acts such as the Non-Fatal Offences Against the Person Act, 1997. There is no specific act criminalising behaviour perpetrated on the basis of transphobic motivations.

In Northern Ireland, England, Wales and Scotland legislation provides that the bias motivation of the offender shall be taken into account by the courts as an aggravating circumstance when sentencing. In Northern Ireland, the Criminal Justice (No. 2) (Northern Ireland) Act 2004 provides protection for trans persons. In England and Wales, the Criminal Justice Act 2003 (as amended by Section 65 of the Legal Aid, Sentencing and Punishment of Offender Act 2012) legislates to cover gender or transphobic related crime. In Scotland the Offences (Aggravation by Prejudice) (Scotland) Act 2009 echoes the terms of the aforementioned legislation. Under the Act where it is proven that an offence was motivated by malice or ill will towards a victim on the basis of their gender identity the court is required to take that motivation into consideration when determining the sentence to be imposed. Ireland would do well to enact legislation and policy in similar terms as a first step to combating crimes against trans persons and in recognition of the fundamental rights of trans persons to live without fear of violence, hatred or prejudice.

Eleanor Leane, Solicitor at KOD Lyons
Leanora Frawley B.L.

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Dr Lydia Foy and President Higgins at 6th Annual Irish Human Rights Commission Lecture, 10 December 2012 (by Derek Speirs)
Transphobia in the Media

TENI has led two campaigns to highlight transphobia in the media that have resulted in adverts being permanently removed from terrestrial channels and outlets. That neither ad can be shown again is most welcome, however the true success of the campaigns was that they raised awareness about why the ads were problematic and succeeded in galvanising a movement to support trans human rights.

Paddy Power’s Spot the Stallions from the Mares

In Spring 2012 Bookmaker Paddy Power launched a campaign for Cheltenham Festival. The premise was that trans women were attending Ladies’ Day; women would be scrutinised and the ‘stallions’ would be distinguished from the ‘mares’.

TENI launched a campaign in Ireland to encouraging people to complain, and the advertising standards authorities in both the UK and Ireland upheld the complaint on the grounds of transphobia.

#MeteorShame

When Irish telecommunications company Meteor ran an ad promoting transgender stereotypes and encouraging a cheap laugh at the expense of trans people, TENI launched a Twitter campaign to encourage people to speak their mind about the advertisement and put pressure on Meteor to respond. There were 1,330 tweets using the hashtag #MeteorShame. For several hours on the afternoon of 16 October 2012, #MeteorShame was trending in Ireland, meaning that it was one of the most talked about topics on Twitter that day.

In December 2012 the Advertising Standards Authority for Ireland upheld the complaint and the ad was withdrawn.
Making the papers

Kyra Brady, Waterford

A person brought a copy of the Irish Mail on Sunday for me to see. It was horrible and disgusting: about three quarters of a page filled with a big headline saying SEX SWAP SHOCKER. It went on to say that a burly head of security at Waterford United Football Club had gone and had a sex change and returned as a blonde bombshell.

I was shattered and humiliated. I had given no interview to anyone. I wasn’t bothering anyone. How could someone write this type of transphobic sensationalist gutter press article?

I felt so low, so isolated and so vulnerable. I felt so low that I wanted to die. I can after all these years see that headline.

Equality in the Workplace

Fergus Ryan

There are certainly times - rare sunny days and, more frequently, grey, rainy mornings - when we’d all rather not be at work. Yet, few of us would deny that, while providing an important stream of income, work is also integral to the wellbeing and dignity of the individual and can contribute greatly to a person’s sense of purpose and belonging.

It is deeply troubling, therefore, to witness the extent to which trans people experience workplace discrimination and harassment. International research reveals disproportionately high levels of unemployment and underemployment amongst trans people, often triggered by gender transition. Many trans people have reported losing their jobs, being demoted, or having to change jobs due to gender transition. Such precarity around employment is all the more pronounced given the costs associated with gender reassignment and access to health insurance, both of which require a regular income source.

In work, trans people experience high levels of harassment, abuse and discrimination. Notably, the Engendered Penalties study (2007) highlighted that work was the top sphere of life in which people undergoing gender reassignment experienced
discrimination and harassment. In the same study, 42% of those who had not transitioned reported that they had not done so due to concerns around employment.

How has Irish law responded to this phenomenon? Notably the Constitution implicitly protects the right to earn a livelihood without unfair discrimination on grounds of sex (Murtagh Properties v Cleary (1973)). The Employment Equality Act 1998, moreover, makes it unlawful to discriminate in employment on nine named grounds, including gender. The Unfair Dismissals Act 1977 allows a person to sue where dismissed from work for reasons that are not objectively reasonable or fair.

While gender identity is not explicitly addressed in either Act, it is clear that a person who is treated differently in employment on account of gender reassignment is protected by EU law. The European Court of Justice in P v S and Cornwall County Council (1996) ruled that workplace discrimination against people who are transitioning or have transitioned gender is deemed to be unlawful under EU laws targeting gender discrimination. The Court noted that gender discrimination arose not only where people are treated differently because they were of one sex rather than the other, but also where people suffer discrimination “…arising […] from the gender reassignment of the person concerned.” The court thus concluded that:

“Where a person is dismissed on the ground that he or she intends to undergo, or has undergone, gender reassignment, he or she is treated unfavourably by comparison with persons of the sex to which he or she was deemed to belong before undergoing gender reassignment. To tolerate such discrimination would be tantamount, as regards such a person, to a failure to respect the dignity and freedom to which he or she is entitled, and which the Court has a duty to safeguard.”

The Court has extended this ruling to discrimination in the context of pension entitlements. It is also unlawful, moreover, to discriminate when supplying goods or services against those who are undergoing or have undergone gender reassignment.

Because European Union Law prevails over Irish law, the gender ground in the 1998 Act must be read as applying to people who are planning to undergo or have undergone gender reassignment. It is arguable also that dismissal on the grounds of gender reassignment would be treated as ‘unfair’ for the purpose of the 1977 Act. What this means is that a person who is transitioning or has transitioned cannot suffer adverse consequences at work because of this fact. In principle, this should also mean that anti-harassment measures will apply to people who are transitioning or who have transitioned. Nonetheless, a number of deficiencies remain.

First, the protection currently afforded by EU law applies only to those who have undergone or are contemplating gender reassignment. This excludes a category of transgender people who do not wish to transition, but who nonetheless experience discrimination on the basis of their gender expression or perceived ‘transgression’ of gender norms. Some commentators have suggested that there is scope in EU law to extend protection to these categories, though as the law currently stands, protection applies only in relation to gender reassignment.

Even in relation to those who are transitioning or have transitioned, there is no clear guidance on what, for this purpose, constitutes ‘gender reassignment’. Does it require, for instance, that a party has undergone surgical or hormonal intervention? All of the litigants in the EU cases were post-operative, though notably the court made no reference to their surgical status. It is possible that the EU courts would take a broad view of what constitutes ‘gender reassignment’, such that it might include those who have not undergone medical intervention. Notably, the Equality Act 2010 in England and Wales affords protection on the ground of gender reassignment in a manner that appears not to require a physiological change of gender attributes. Nonetheless, there is at least some doubt as to whether the scope of legal protection in Irish law extends beyond those who have taken some medical steps to change their physical sex.

Finally, although some protection is offered by EU law, the protection is not explicitly addressed in Irish legislation. Public and civil society bodies have done an excellent job highlighting the implicit protections for people who are transitioning or who have transitioned. Yet, while there are significant advantages in being embraced by the gender ground (which attracts very robust protection), a key difficulty with Irish legislation is that it does not explicitly name even gender reassignment as a protected ground. While the gender ground must be read as including gender reassignment, this is not explicitly evident from a review of the legislation: one needs to look to EU case law to realise the scope of protection. As such, the risk arises that the existing protection for trans people - limited as it is - will be consigned to a footnote in discussions of gender equality.

It is thus vital that equality legislation is amended to embrace comprehensively the full scope of gender identity and gender expression. While there are certainly advantages in affording such protection under the broad umbrella of ‘gender’, it is essential also that protection for all trans people is explicitly offered and explicitly named in Irish equality legislation. This would serve as a powerful signal to employers, fellow employees and providers of goods and services that trans people are entitled to be treated with dignity, collegiality and respect in the workplace and in society generally.

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(While the views expressed are solely those of the author, I am grateful to Professor Robert Wintemute and Dr Alexander Schuster for their advice in relation to aspects of EU law).
In May 2005 – I applied through the CAO to do a Degree in General Nursing. I plucked up my courage, did the aptitude test and received a letter informing me that I had finished in the top 5% in Ireland and inviting me for interview in Cork City.

I was nervous going to interview and wanted to be well prepared. I had studied the attributes required to be a nurse and put together a sizeable document elaborating on my educational qualifications, career experience and life skills. I even studied medical journals so that I could answer basic medical questions that they would put to me. And off I went.

The minute the three people on the interview panel saw me it was obvious that they didn't want me because I was a trans person. They didn't accept my supporting documentation and never asked me a medical question. They didn't want to know.

I don't mind failing if I am given a fair chance, but the minute I went into that interview room people saw me as transgender and that was it. I was broken hearted, as I really wanted to be a nurse and to help people.

Taking the case was extremely stressful, involved reliving the events around the time of transition and facing cross-examination about my experience. I came out of the tribunal and slept for three days afterwards! The stress was horrendous. I was putting myself out there and I knew I was right in what I was doing, but I didn't know what would happen.

The Equality Authority were excellent. They were extremely supportive; very sensitive to the stress I was feeling, and attuned to how it was making me feel to go in there in front of everyone. I couldn't praise them highly enough.

Looking back on it, taking the case gave me my life back. I had put everything on hold for three years and couldn't focus. I was out of work, which made life extremely difficult. In my old job, I had a great relationship with the organisation: I liked them and they liked me, personally and professionally. That was the really sad part. That hurt me the most, that people I liked and trusted let me down.

I think my case did two things. The first thing was that it raised awareness about trans experience in general. I decided to go public with the case, hoping it would encourage others to see their cases through. It was high profile, and the media attention was intense. I wanted to be honest and share my story if it was useful for people to hear, but some of the questions were intrusive, asking about my body and operations. One journalist challenged me about using the female toilets, saying “surely this is wrong, a man using the female toilets!” - he had a way to go in terms of trans awareness. If it happened now, I'd be a bit more guarded.

The second thing was that it raised awareness with employers who might be taking on a trans person. I wonder if employers are more wary now of employing trans people - concerned about how they and their organisation will cope. I feel upset about that. That was never the intention - to make life more difficult. It was to support people and encourage them to speak up if there is discrimination within the workplace.

So, it's been a two-edged sword, but I think in the longer term we'll get over that. The multinationals are leading the way here in terms of zero tolerance for discrimination. We have a job of work to do in educating and supporting people to create healthy workplaces.

And for trans people, all you can do is go out there and apply. You might be pleasantly surprised by people.

It was hard-going, but at the end of it all, I would do it again. I would have no hesitation. I probably didn't realise the significance of the case at the time. I suppose I was too close to it. In the days that followed I got calls from Florida, Kuala Lumpur, California, Malmo - I didn't realise the impact that the case was having. That was the humbling thing - to see the positive reaction to the decision. That was the delightful thing about it.

Louise Hannon

“…taking the case gave me my life back…”
“At a time when legislation on transgender persons is still awaited, notwithstanding Government commitments following its decision not to pursue its appeal in the Foy case, the decision in Hannon illustrates the potential utility of equality legislation for vindicating the rights of transgender persons.”

David Fennelly


Smooth transition

Mick Casey

I’m a transgender person (F to M) and I’m living as Mick Casey for about four years now. So far my experience has being good: all my family & same friends accepted me and allowed me to be myself, also had no problems from the public. When I go for interviews and work, it is okay once I explain. I have being very lucky I haven’t experienced any verbal or physical abuse so far.

Expanding the Gender Ground

In a 2002 report entitled Review of discriminatory grounds covered by the Employment Equality Act, 1998, the Equality Authority argued that the gender ground should be expanded to include gender identity and gender expression and to specifically protect the rights of transgender people. The report contains a paragraph outlining the European legal case P v S & Cornwall County Council, and continues:

“In the Act the gender ground is defined in section 6(2)(a) as “that one is a woman and the other is a man”. For the purposes of clarity and in order to codify in Irish Domestic Legislation rights under European law, it is recommended that the definition of gender be explicitly extended to include gender expression, gender identity and transgender issues.”

Chapter Four: Criminalising hatred?

We all should be able to live openly and safely in Ireland. The ongoing experience of transphobia - fear or hatred of transgender people - erodes many people’s quality of life with devastating ease. Transphobia comes in many shapes and sizes. It can be deeply ingrained in everyday life: within the family home; in school; in work. Routine things - using a public toilet, getting a haircut, going through airport security - can be traumatic experiences. Walking down a street can feel more like running a gauntlet of judgement and abuse.

In its most extreme forms, transphobia becomes violent - verbally, physically, sexually.

As a society, we need to understand transphobia fully, from its deep roots to its most subtle presence. We need to look to our laws and how they reflect our commitment to protecting the vulnerable.

Leaving Cert Results

Transguy, aged 19

Results night, myself and most of my year went out to the local night club to celebrate. The end of the night we split ways and I walked home. About halfway home this guy yells at me asking for a light, to which I responded I have none and continued walking. He followed me, and dove-tackled me into a side road. He had me pinned down. He started to look me over at which point I figured out he spotted that I wasn’t born male. He spat on me and called me names while beating me. He then picked me up and pulled me to a more secluded spot, where he proceeded to rape me. He told me that this was for my own good and that his penis inside me would cure me of any ungodly thoughts and that in the next few days I would no longer have the desire to be a tranny. When he was finished he beat me a couple more times before leaving me there unable to move for what felt like hours. This happened just over 1.5 years ago.

I went to the doctor the next day and asked for an STD screening and something for the pain. He only asked to see where it hurt and not why. He concluded that a few of my ribs had been broken and that I should stop binding until they healed up. When he continued with his exam he never asked about the other grazes or bruises that were elsewhere on my body, even when the entire exam was complete he never mentioned anything about me possibly being raped when it was clear that I was.
Hate Speech

Fergus Ryan

The abuse – both verbal and physical – that trans people encounter in their daily lives is well documented. Research studies - both Irish and international - consistently demonstrate the exceptionally high levels of unsolicited violence, as well as verbal harassment regularly encountered by transgender people.10

Irish law provides various civil and criminal remedies for violence, harassment and threatening behaviour, but none specifically address the particular experience of trans people.

In more recent times, verbal abuse and ridicule of trans people has spilled into social media and the press, as well as media advertising. The material involved ranges from that which is rude, insensitive and in poor taste to depictions of trans people that are profoundly degrading and humiliating.

It is certainly fair to say that legal responses to such material need to be cautious and carefully balanced. In particular, both the Irish Constitution and the European Convention on Human Rights confer a right to free expression. One aspect of that right is the entitlement to say what might “offend, shock or disturb the State or any sector of the population…” (per the European Court of Human Rights in Handyside v. UK (1976)). This right applies, notably, not just to meritorious comment but also to that which might justifiably be regarded as irresponsible, crass or tasteless. As Lord Hoffmann has noted “…a freedom which is restricted to what judges think to be responsible or in the public interest is no freedom. Freedom means the right to publish things which government and judges, however well motivated, think should not be published. It means the right to say things which ‘right thinking people’ regard as dangerous or irresponsible.” (R. v. Central Independent Television PLC (1994))

Nonetheless, free expression is not absolute. Under the Irish Constitution, for instance, free speech is subject to “public order and morality”. The Constitution also guarantees the right to one’s good name and privacy, and speaks, in the Preamble, of the need to assure the “dignity and freedom of the individual”. (Notably, the right to free expression does not permit wholesale media intrusions into the private lives of trans people.) Article 20 of the UN Convention on Civil and Political Rights requires that “[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” The European Court of Human Rights has also highlighted that legal measures that are proportionate and contain sufficient safeguards for free speech can be taken against speech that incites to hatred against racial and religious groups (Surek v. Turkey (No. 1) (1999)). While free speech is protected, therefore, it is readily recognised that certain types of expression can be restricted where likely to stir up hatred and hostility that in turn may lead to violence and unrest.

It is notable that we have, in Ireland, a Prohibition of Incitement to Hatred Act, passed in 1989. This Act is rarely invoked but is nonetheless symbolically important. It addresses publications, broadcasts and public statements that are threatening, abusive or insulting and either intended to or likely to stir up hatred against a group of people based on specified characteristics. The Act specifically addresses material directed at a group based on their race, colour, nationality, religion, ethnic or national origins, membership of the travelling community or sexual orientation.

The Act does not, however, address either gender or gender identity, leaving transgender people outside the scope of its protection. A strong case certainly can be made that gender identity should also be covered. Including gender identity as a category would not, of course, eradicate all transphobic abuse. It would nonetheless send out a powerful signal that – while commentators are entitled to have and express their views on trans issues - stirring up hatred against and encouraging hostility towards trans people is beyond the pale. Such a signal would be particularly valuable given the high incidence of abuse encountered by trans people and would send a message generally that members of the trans community are not ‘fair game’.

Even if amended, however, the 1989 Act could only address the most egregious examples of hate speech. In particular, it is not enough that what has been said is rude or insensitive or that the challenged words cause offence or upset. The words must be threatening, abusive or insulting and be intended or likely to stir up hatred, a high standard that is difficult to meet. In fact there have been few prosecutions under the Act since its enactment, which may in part be explained by a concern not to unduly inhibit free speech. Notably, prosecutions may only be commenced by or with the consent of the Director of Public Prosecutions.

As such, legislative reform on its own - while symbolically important - will likely not be sufficient to address most forms of transphobic comment. Indeed, in some cases at least, invoking incitement to hatred legislation may be counterproductive, as those against whom it is invoked may paint themselves as the victims of a ‘PC culture gone mad’, as martyrs to the cause of free speech. In most cases, therefore, the best line of defence will continue to be for trans advocates and allies to counter hate speech through rational, measured counterargument. Nonetheless, an amendment to the 1989 Act to address transphobic hate speech would send a powerful signal that trans people are not a fair target for naked bile and abuse that dehumanises them and negates their experience, setting them up as targets for violence and harassment.

A final thought. Though enshrined by law, free speech does not guarantee...
that a person can say what they wish and expect to encounter no response or social consequences. The logical corollary of being entitled to make your point is that others are entitled - equally forcefully – to counter your argument. Such counterarguments are most effective - in my view - when they are delivered in a calm, reasoned and measured manner. That said, a commentator who robustly denigrates and humiliates trans people in print or in cyberspace cannot reasonably expect that those who disagree will not express their views in an equally strident manner. Yet many who protest their right to freely express offensive viewpoints buckle and cry foul when they get a taste of their own medicine. Several commentators wrongly suppose that free expression shields them from social censure as well as legal penalty. Certainly there is a right to offend but this does not confer immunity from equally robust counterargument. Those who denigrate and humiliate trans people have no right to be shielded from the ire of those who oppose their views.

Dr Fergus Ryan
Lecturer in Law, Dublin Institute of Technology

[1] See for instance the research referenced in Cat McIlroy (2009) Transphobia in Ireland, Dublin: TENI

Including gender identity as a category would not, of course, eradicate all transphobic abuse. It would nonetheless send out a powerful signal [...] that members of the trans community are not ‘fair game’.

Dr Fergus Ryan

Morning routine
Kyra Brady, Waterford

[In 2005] I came out of my home, my car had been scraped all around. Across the full bonnet of the car was deeply etched the word MAN. It was so deeply etched that it looked like that this was done with a knife.

I was dismayed, but I used basic psychology: if I covered it up, whoever did it would get their sick kicks out of it and maybe do worse in future. So even though it was very humiliating and uncomfortable, I drove around for 6 months with that on my car.

Shopping at Lidl
A.S.

I was in Lidl browsing some kitchen utensils when a man nearby picked up a long handled garden pruner and came over to me. He said “you could use this to get the job done”. Initially I was completely unaware of his intention until he added “a girl like you, you know what I mean” and laughed.
Mapping Hate Crime in Ireland
Broden Giambrone

Trans people face high levels of violence and discrimination because they are trans or because they are perceived to be gender variant. In 2012, 265 trans people were reported murdered in 29 countries. This is according to the Trans Murder Monitoring project, an initiative of Transgender Europe that systematically monitors, collects and analyses reports of homicides of trans people worldwide. Most reported cases were from Central and South America, which have accounted for 80% of the globally reported homicides of trans people since January 2008. However, these murders occur across the globe, most frequently to trans women of colour and trans sex workers. These figures only capture homicides where the victim is recorded as transgender and many homicides likely go unrecorded by the project.

These are not just horrific statistics; these are people's lives. Each one of these individuals has their life cut brutally short because of hate, fear and ignorance. Just last year, in my home country of Canada, January Marie Lapuz was stabbed at her home in British Columbia. In Chicago, Paige Clay was found in an alley having suffered a gunshot wound to the head. In Normandy France, a Peruvian woman by the name of Cassandra was burned to death and in Mexico, Agnes Torres Sulca was tortured before she was killed, her body found in a ravine.

In Ireland, there is currently no way to record transphobic violence on the PULSE system, the computer system used by the Gardaí to log incidences and crimes. This means there is no reliable record of the violence experienced by the trans community. However, that does not mean our community does not experience hate crimes and violence. Many trans people experience every day transphobia that is often normalised and rarely reported. For instance being shouted at on the street, having your wig ripped off at a club or being inappropriately groped in a pub. The Trans Mental Health and Well-being survey, conducted by TENI in partnership with UK trans groups and Sheffield Hallam University, asked trans people about their experiences and 21% of respondents reported having experienced physical violence, 44% reported experiencing physical intimidation and threats, 15% reported sexual assault and 7% reported being raped all as a direct result of being trans.

TENI has embarked on an exciting new project called STAD - Stop Transphobia and Discrimination. Through this project, individuals will report transphobic crimes and incidents directly to TENI in an anonymous and safe environment. We will be asking people to report their experiences of transphobia - small and large - to help us have a clearer understanding of the current situation in Ireland. We will also support individuals to report crimes to the Gardaí or pursue legal redress if desired. The result of this project is that we will have robust evidence that we will use to advocate for penalty enhancing legislation and increased trans awareness and service provision by the Gardaí. This project will be crucial in raising awareness of the marginalisation of trans people in Irish society and will help put an end to transphobia.

For further details see www.teni.ie

Broden Giambrone,
Director of TENI
Birthday celebration

Kerri, Derry, Northern Ireland

I was in a local bar celebrating my birthday with my friend Martha. We decided to have some lunch and ordered, just as we did three lads a little younger than her came in. My friend recognised them as being from her estate and said hello, they replied with a similar greeting. Soon after Martha went to the toilet and my torture began. One of the lads asked me One of the lads asked me, “What do you have between your legs?” I replied, “The same as Martha”. They laughed this off and said, “No you don’t, you faggot”. Then another of them asked me, “Would you like to suck my cock faggot?” Then another of them asked me “would you like to suck my cock faggot?” I didn’t say anything and tried to ignore their jibes. Martha came back and asked why I was shaking. I said to ask the waitress, Martha did that and the waitress told her what happened. Ironically Martha got the apologies from the staff and management which didn’t make me feel any better. I wanted to go home as we went outside we met the three lads who were smoking and they said nothing but gave Martha and I a look that left me cold and scared of further taunts.

Initially I didn’t want to report the incident but Martha convinced me to. After getting to the Police station I was still shaking but asked if I could report a hate crime. They said no problem and after 10 minutes I was asked to make a statement. In the interview room I was accompanied by female officer, she talked to me and calmed me down. She was very helpful and respectful, after I made my statement she reported as a homophobic hate crime as I told her I identify as a lesbian.

At present, hate crimes are not tracked in the Republic of Ireland.

Should We Criminalise Hatred?

Katie Dawson

“He who does not prevent a crime when he can, encourages it.”

Seneca

Let’s begin with a simple truth: we can tell a great deal about a society from its laws. The laws of our State can reflect not only our societal views but offer a statement of our values.

The only substantive legislation currently in place to address hate crimes in Ireland is the Prohibition of Incitement to Hatred Act 1989, and there have only been five successful prosecutions under the 1989 Act. There are no other legislative provisions criminalising bias motivated violence nor any provisions which require Judges to consider the prejudicial motivation of a defendant as an aggravating factor when sentencing. In November 2012, the EU agency for Fundamental Rights cited Ireland for failing to track offences linked to race, religion or gender in violation of European conventions. At present, neither the Gardaí nor the Courts keep any systematic record of crimes motivated by prejudice. We cannot say how many hate crimes are committed in Ireland each year or how such crimes might be recorded because at present they are not formally recorded as hate crimes, either at investigation stage or by the courts.

The argument against legislative provisions addressing ‘hate crimes’ can be, perhaps crudely, summarised as follows:

1) We should not criminalise people’s thoughts or motivations;
2) Such provisions do not act as a deterrent.

Hate crimes are not crimes of negligence or inadvertence; the perpetrator often holds very specific prejudicial views and believes their actions entirely justifiable. It is their specific intention to target the victim. Consequently, it’s difficult to achieve even marginal deterrence by means of enhancing penalties for offences motivated by prejudice.

The counter argument is that enhanced penalties provisions (particularly mandatory minimum sentences) do not act as a deterrent to crimes in general. However as a state, and a society, we criminalise certain behaviours because we recognise the damage such behaviours cause us as a society. Crimes of murder and rape are exclusively dealt with by the Central Criminal Court because we recognise the particularly serious nature of such crimes. Our laws reflect the values we hold as a society. Why then shouldn’t our laws offer specific protections to particular
identifiable and vulnerable groups in society by explicitly recognising the societal damage caused by crimes motivated by prejudice?

How one might comprehensively legislate to address hate crimes is beyond the scope of this short article; however, one of the most straightforward methods used in other jurisdictions is through enhanced penalty provisions. For example, in respect of assault charges under the Non-Fatal Offences against the Person Act 1997, an enhanced penalty provision would allow for an increased penalty where an offence is wholly, or partly, motivated by prejudice on the basis of victim’s actual, or perceived, Race, Colour, Ethnic Origin, Nationality, Religion, Gender, Gender Identity, Sexual orientation, or disability.

It should be stressed that, because of the wide judicial discretion the Irish Judiciary enjoy, such enhanced penalty provisions would only allow for an increased maximum sentence. The court would have to consider if the accused’s motivation was an aggravating factor, but the Judge would still have a wide discretion as to what sentence to impose. From a public policy standpoint such a provision clearly distinguish crimes motivated by prejudice as more serious offences. Consequently, this would impact directly on the way crimes are investigated, prosecuted and recorded as it would require Gardaí, lawyers and Judges to give specific consideration to the motivations of the accused and circumstances in which particular offences took place.

It should be noted that many lawyers would argue that such provisions would be ineffectual in practise because prosecutors would not be able to demonstrate the accused’s thoughts, motivations and intent beyond reasonable doubt. Other jurisdictions, for example the State of California, address this by way of prescribing an evidential burden founded upon a ‘group selection test’; namely: “Whether the criminal act committed, was in whole or in part, because of one or more of the following actual or perceived characteristics of the victim”.

Such a test gives a Judge wide discretion as it can apply to crimes only partially motivated by prejudice; and/or crimes where the victim may not have actually been a member of a specified group, so long as it can be shown that the accused perceived them thus and this was, at least partially, the motivation for committing the offence. It does not require proof that the accused’s mental/emotional state motivated them to commit the act, merely that they selected the victim on the basis of their perceived membership of a specified group.

Enhanced penalty provisions for crimes motivated by prejudice set out a strong public policy statement about the core values of our society and the protections we seek to afford specified and vulnerable groups within our society. Such provisions instruct both the Gardaí and our Courts to examine the motivation behind certain crimes. Such provisions also clearly state, to both potential victims and those who might commit such crimes, that individuals who commit crimes motivated by prejudice should, and will be, considered more culpable in the eyes of the law because we, as a society, recognise the damage such behaviour causes to us as a society and to the rights and values upon which are society is founded.

Katie Dawson, Barrister

“Hate crimes are not crimes of negligence or inadvertence; the perpetrator often holds very specific prejudicial views and believes their actions entirely justifiable. It is their specific intention to target the victim.”

Katie Dawson

Criminalising Hatred?
Personal safety
Alexsia Henderson, Northern Ireland

I suffered terribly for being transgender, in the early stages of transition (in Portadown) I was constantly being name-called and I mean almost every single day. I was also assaulted and on another occasion held at knife point. I never went to the police initially. I thought to myself that I could handle things myself, as well as being afraid to approach the police for assistance.

Over time things became worse: my home was broken into several times in the early hours of the morning. My front door would be kicked through often while my son and I slept in our beds. I received death threats and our home was graffitied with Trans and homophobic slurs. I was attacked and sexually assaulted and near raped in my own home actually by someone close to me. Eventually I guess you could say I had a breakdown. I felt very much alone - vulnerable and defeated. The only thing that kept me going and stopped me from taking my own life was my son.

Eventually things changed: people started to help and I had started dating and became strong enough to stand up and say this isn’t happening to us anymore. I reported problems to the police and the housing executive. Help from the police was mostly positive; there were instances where they failed me. Firstly, when the police didn’t turn up to a 999 call because they had become so used to calling to my address. Secondly, with a police officer to whom I complained that I was constantly been called Sir; the officer said “Well, why do you think that is?”

The housing executive along with a MLA were very helpful. Thanks to them and my girlfriend, we moved to Derry where we now live in peace.

On the bus to Waterford
Vanessa

I was about 18 months into my transition and travelling into Waterford City from Tramore by bus. I was on my way to facilitate a LGBT event with Katherine Zappone and Anna Louise Gilligan as guest speakers. A group of about eight youths with fishing rods entered the bus and on seeing me, started laughing and passing comments. They asked me very personal questions about my genitalia. I was very scared. They started throwing bottles at me and hit me with their fishing rods. One of the ring leaders asked the most questions and was eating a roll at the time. Apart from the insults and the blows, his final comment hurt me the most: “Stop looking at me while I am eating because you are making me vomit”.

Those words are the worst I have ever experienced in all my years.
Strengthening Relationships

Garda Darren Coventry-Howlett

The relationship between the transgender community and An Garda Síochána is still in its infancy but this does not stop An Garda Síochána from fully acknowledging and recognising that the transgender community in Ireland have bravely fought to have their voice heard and their rights recognised within Irish society. An Garda Síochána strives to strengthen its support for the transgender community through its ELO/LGBT Liaison officers.

Garda Philip Temple of Bridewell Garda Station is one of the finest examples of An Garda Síochána's ELO/LGBT Liaison Officers applying the principles of Community Policing and has been instrumental in developing closer links with both the LGB and Transgender community through the Outhouse drop-in support centre for the LGBT community. I would like to present his story as one which reflects the strengthening relationship between An Garda Síochána and the transgender community in Ireland.

About 2 1/2 years ago, as part of his Community Policing duties, he was on foot patrol when he called into Outhouse. He had intended to introduce himself to those present as the local Community Garda. He had initially sensed a reluctance of those present to engage with him and had, sometime later, learned that this had been due to the perception of past negative interactions with An Garda Síochána. It is this same apprehension and fear held by some within the LGBT community that created a reluctance to go to a local Garda station for fear of not being taken seriously.

Garda Temple continued to drop into Outhouse on a regular basis and began to develop friendships with many within the centre. After a time, he began to drop in on certain days informally to answer any queries made. His ‘low-key’ approach and his insistence on confidentiality and privacy for those with queries began to instil trust amongst the users of the centre.

Garda Temple was asked to develop his visits into a more regular event and so, he produced a poster and leaflet outlining the running of an informal Garda advice clinic. He also gave his personal commitment to attend definite times and dates. He believes that this led to developing and deepening trust and he personally states that this trust, not easily earned, is the core element to establishing a relationship with both the LGB and Transgender communities.

The services provided include:

- Questions around Garda services
- Garda history
- General queries
- Reporting of crime within the Bridewell district
- Reporting of crimes that occurred outside of the district

Garda Temple ensured that those who placed the reports, particularly from outside the Garda district, would have a Garda contact point from the investigating district. This ensured that the person was empowered with the knowledge to enquire about the progress of the investigation directly.

The most elusive group he had encountered was the transgender group that met at Outhouse. He had quickly decided that he would remedy this by introducing himself when a meeting took place.

On entering, he was met by Sara, the group facilitator for the Dublin Peer Support Group that meets at Outhouse. He spent about an hour introducing himself and his Garda colleague, Garda Liam Reynolds, at this initial meeting and was sure that he met some scepticism among some in attendance.

At this first meeting, one of the group members asked if he could put a question to Garda Temple. The question was “Are you gay?” quickly followed by the question, “Are you trans?”

It was at this point that Garda Reynolds erupted into laughter and said that it must be the clothes Garda Temple was wearing, much to the amusement of all present. Garda Temple told the group that he was a married, heterosexual man with a young child. He believed that the group were in amazement that someone who was neither transgender nor gay could have a genuine interest in the welfare of the transgender community, who wanted to be of help and attempt to act as a bridge between the transgender community and An Garda Síochána.

He takes his role of confidant very seriously, careful never to disclose details or the identity of those seeking help - even amongst colleagues and supervisors - unless he has been given permission to do so. He believes that this responsibility is paramount and to jeopardise this trust is something he is never prepared to do.

Over time, Garda Temple learned from his contact with the transgender community that the importance concerning the main issue is not that of sexual orientation but rather that of gender identity. He had been told the stories and learned of the many difficult experiences that members of the transgender community have had.

He has learned, through listening to shared experiences, of the difficulties faced by those trapped within a physical form which is different to their gender. This led him to the conclusion that life is hard enough with the difficulties each
person faces without the added difficulty of needing to justify to others who you are.

Garda Temple continues to work with the transgender community and hopes to further develop this role and he has noted, with personal satisfaction, the relationship between the transgender community and himself strengthening the moment he was no longer known as the local ELO/LGBT liaison officer or Garda Temple but when simply being greeted as “Hi Phil!”

Garda Darren Coventry-Howlett  
Garda Racial, Intercultural and Diversity Office  
Oifig an Gharda Síochána um Ilchultúachas agus désúlacht

“A pint with friends”
Robyn

In 2005 I was sitting with two acquaintances when I noticed these two guys making gestures - either at me or the people I was sitting with. At first I just ignored them, but they kept it up. I approached them and asked if I had offended them in some way. They ignored me, so I went back to my seat. I had just sat down when suddenly I was soaking: one of these guys had thrown a full pint of beer all over me. Before I could recover I was pulled off my stool - banging my head as I fell. I was dragged into the middle of the floor where they proceeded to jump up and down on my face.

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Grieving for a parent
Vanessa

After two awful incidents, I started reporting everything to the Gardaí. The first thing I reported was when I got a series of calls suggesting my transition had caused the death of my mother. I was in tears in the Garda station, however the Bean Garda was fantastic. I don’t put up with the abuse anymore. I don’t take the shit, why should I?

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Chapter Five: Health

A sense of wellbeing is something we all strive for. Our physical, emotional and mental health all contribute to our quality of life and sense of enjoyment. Ireland is making progress on appropriate healthcare for trans people, but we have a way to go. Many healthcare practitioners have no experience in provision for trans people, with the result that trans people or families often travel to other counties to find appropriate support. Indeed, many people who are medically transitioning still need to leave the country for treatment.

We are working to educate and raise awareness throughout the health industry, but health is more than an absence of illness. Our wellbeing comes from an ability to participate without barriers: from enjoying a swim in a public pool to wearing an appropriate uniform to school.

A Perspective on Trans Care

Dr Lisa Brinkmann

As a clinical psychologist and psychotherapist I work with adolescents and adults with any kind of emotional or psychological problems or concerns. Through my special training and later work at the Institute for Sex Research and Forensic Psychiatry at the University Hospital Hamburg in Germany I am further very experienced in working with clients with any kind of sex or gender related problems and concerns, including transgender issues.

I returned to Ireland in late 2007 and have been working in private practice in Clonakilty, West Cork since. Transgender clients or clients who have questions/insecurities/doubts about their gender can consult me for a once off (or irregular) appointment(s) or engage into a more frequent counselling or psychotherapy process. I accompany clients throughout different stages of transition, can write letters of approval for hormone and surgical treatment, offer family and couples sessions if wanted and also work with parents of transgender children and offer them support and advice.

Transgender people in Ireland face a lot more problems than I experienced in my work with transgender people in Germany. Due to the societal taboo and misconceptions about transgender issues (or any other issues in the area of sexuality and gender for that matter), many transgender people in Ireland don’t actually “know” that they are transgender. They don’t know that it is a recognised and defined condition, that there are different health care professionals that they can approach, that there are support groups and systems in place they can avail of.

Instead, many feel ashamed of their feelings, question their sanity, label themselves (or have been labelled) as perverted, live a double life and often suffer from other psychological problems (depression, addictions, self-harming behaviour, etc.) as a result.

Not every transgender client I work with wants to fully transition. Most of them are at the early stage of recognising and admitting (first to themselves, then to others) that they are transgender. Each client has their individual story and is on his or her individual journey. Counselling and Psychotherapy help to navigate through the obstacles and difficulties that each journey comes along with. In most cases, other people are part of this journey too, voluntarily and involuntarily, and need to be taken “on board” as well.

Because there isn’t much public awareness around transgender issues, transgender people (and their family and friends) often don’t know where to turn to. Many of my clients travel long distances to see me because there is nobody else with similar expertise closer to their home.

I hope (and I am willing to play my part in it) that in time, more health care professionals will become aware of transgender specific issues, will have access to specific training and information and form a professional network that is willing to cooperate, communicate and maybe even develop professional guidelines regarding their transgender patients and clients.

Dr Lisa Brinkmann (Dipl. Psych., Ph.D.)
Clinical Psychologist, Clonakilty, Co. Cork
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Going to the doctor

Anonymous

I am a 60 year old trans woman at the start of transition. I moved house and was told I would have to leave the medical practice I attended all of my life. They used the excuse that I had moved out of their practice area and they had no option. I have since learnt that is not true and that I could have remained on their list with agreement.

I am convinced the only reason I was asked to leave was that I had started to present in my acquired gender, as I had previously lived even further away from the practice and had not been asked to leave.

I reported the issue to the Equality Authority who are assisting me to follow a case of discrimination against the partners in the practice and one GP in particular.
Looking Forward:
The Future of Trans Health in Ireland

Broden Giambrone

*In an Irish citizen. I live and work here. I’m also trans. Why doesn’t my health matter?*

Every week TENI receives phone calls from trans people and their families looking for signposting to support services or information on how to navigate the healthcare system. Some individuals are looking for mental health services that will help them explore their identity or support them to come out to their friends and families. For others, it is about pursuing a medical transition, taking hormones or undergoing surgeries, to alter their bodies to better match their gender identity. Others are simply looking for general health services that will be knowledgeable and understanding of their trans experience. Unfortunately, there are few services or individuals that can fill this need. Every year the volume of calls has increased and there is a growing, pressing need for better access to trans sensitive and holistic health services.

At present, trans individuals face significant barriers in accessing healthcare due to inconsistent provision of services, undeveloped treatment pathways and lack of knowledge and training by service providers.

There is very little data and information about the health determinants, health status, risk profiles and health-seeking behaviours of the trans population in Ireland. Therefore we rely on a small number of health studies conducted within the LGBT community, which we sift through for data regarding trans participants. For instance, the HSE LGBT Health report (2009) documented barriers facing the trans community in accessing healthcare. These included the absence of a designated gender service to coordinate delivery of care, limited provision of psychological support services, limited availability of essential health services – surgeons, post-operative care, endocrinologists, psychiatrists and therapists and the prohibitive cost of gender reassignment treatment such as laser hair removal/electrolysis. Mayock et al. (2009) found that there was considerable stress associated with the limited medical and support services available to trans people and documented various barriers that impacted trans people’s sense of health and well-being (including a lack of information on available services and procedural and financial pressures). Despite the limited scope and small sample sizes, these studies provide important evidence that trans people face significant inequities in access to health and social services.

In one trans-specific study, Collins and Sheehan (2004) highlighted the difficulties in accessing health services and concluded that trans people’s experience was characterized by stigma and exclusion, policy was non-existent and service provision failed to specifically acknowledge and address trans needs. They also found that for many trans people, access to treatment paths and gender reassignment was key to their quality of life.

The lack of a clear, consistent health policy is key in understanding the current difficulty with the system. We have little general trans awareness among general practitioners and no national standards for trans care. The result is a series of ad hoc arrangements between individual medical practitioners, mainstream health services and individuals seeking support, care and treatment. Treatment arrangements are made on a case-by-case basis without being underpinned by policy or protocols; this means arrangements are often subject to the willingness, sensitivity and knowledge of the health personnel involved. Further exclusionary factors stem from resources and geography: some healthcare providers operate only in the private healthcare system, and the lack of trans awareness in some regions places an onus on the individual to travel elsewhere - in Ireland or beyond - for appropriate care.

In 2011, the HSE Transgender Health Working Group was established in response to the findings from the HSE’s mapping document LGBT Health: Towards Meeting the Health Care Needs of Lesbian, Gay, Bisexual and Transgender People which documented the barriers that trans people faced when accessing healthcare.

In 2013, TENI is working in partnership with the HSE to develop health initiatives and progress the HSE treatment pathway for trans people. This will include delivery of targeted awareness and sensitivity training to health service clinicians/service providers, specifically in the mental health fields, and ongoing community-based support for trans people. This will also culminate in the publication of a best practice guide for meeting the healthcare needs of trans people in Ireland.

As part of the development of health care the HSE Transgender Health Working Group has been working to progress specific health care services for trans people. In order to gain a better understanding of experience and knowledge of trans issues in the health care sector the Working Group developed a survey, conducted in June 2012. This survey was distributed amongst health and social care professionals working in the HSE or a HSE funded service throughout Ireland.

The participation and response level was good, with 793 respondents taking part. The objective of this survey was to briefly ascertain the level of awareness amongst health and social care professionals in terms of the health needs of trans people and what level of service is provided. The survey found that 41% of respondents had a ‘poor level of knowledge’ or ‘knew nothing’ about trans health issues and that 90% reported that they had received no specific training in providing services to trans people. However, 74% responded positively that they
would be interested in receiving training on trans health issues.

This survey generated good responses levels and drew participation from individuals working in the health services across all 4 HSE regions and from the broadest range of professional areas. The results identified three key needs:

- Provide trans awareness training for HSE staff
- Develop resources for professionals to support them on providing services to trans people
- Build the capacity of priority services to respond to the health care needs of trans people, i.e. primary care, mental health and Child and Adolescent Mental Health services.

Like all members of society, trans people’s health needs deserve to be treated with understanding and compassion. The healthcare needs in the trans community are diverse and it is imperative that care is delivered in an open and holistic manner. The successful development of services for the trans population in Ireland will largely depend on the partnership between policy makers, service providers, professional bodies representing doctors and counsellors and the trans community. TENI will continue to work in partnership with the HSE to encourage the development of good practice policy and service provision that improves the access to health services for all trans people.

Broden Giambrone
Director, TENI


TransAction and TranSE

Vanessa Lacey

Transgender South-East (TranSE) was formed in November 2008 with the help of the amazing Cecily Maher, then Development Worker for Waterford LGBT organisation sOUTh. This year we are shocked that we are coming up to our 5th anniversary: five years that have been so busy, but have been so successful in providing support to the trans community across the South-East.

There is one major aspect of our work has been paramount in our emergence as not just a trans organisation, but very much a partner organisation in Waterford community. In September 2010, we were approached regarding some potential funding from Waterford Area Partnership. We developed the idea of TransAction: a day devoted to trans health and wellbeing, open to all people. We applied and were successful, and in February 2011 TransAction became a reality. We were so delighted to see this event attended by nearly 80 people.

The year after we organised TransAction 2 and we focussed on education and the consequences of not providing an inclusive educational space for trans children. Once again, this event was an amazing success. Both these events had gained an enormous amount of PR and all the local papers and radio networks all rowed in behind us. We were becoming very much part of Waterford life. We were breaking down barriers by raising awareness and normalising our situations.

TransAction 2013 is by far our most adventurous crusade. We are attempting to get our health care service providers to enter into dialogue and create a better health care system for trans people and their families throughout Ireland. We are delighted and privileged to have Jamison Green - the chairperson elect of the World Professional Association for Transgender Health arriving from San Francisco. We are thrilled to announce that Bernard and Terry Reed from the UK’s Gender Identity Research and Education Society will be speaking alongside Dr Tomás Ahern (Endocrinologist) from St Columcille’s Hospital in Dublin. Very exciting times ahead for us in the South-East - thanks to Waterford Area Partnership and our wonderful volunteers.

We can see the results of our hard labours: our members can get on with their lives - I wish I could say free from transphobia, but at least at a reduced level. I have no doubt that we will eradicate this curse in time. Congrats to all our members, you are inspirational people.

Vanessa Lacey
TENI's Health and Education Officer, Founder of TranSE and Waterford’s transgender support group, and chairperson of sOUTh
What a long strange trip it’s been…

Dr James J. Kelly

People with gender variance - whether or not they are dysphoric, whether or not they intend to make steps toward transition, or whether or not they will choose to let anyone ever know about their gender incongruence - have options in Ireland that they did not have, or have access to, in the past. While it is not a perfect system, it is a vastly improved system, and is one that is still evolving. While the acknowledgements and accolades are appreciated, this was underway long before my millennium meetings with Drs O’Shea and Lucy - which formulated and formalised the treatment pathway in use today - were held. And because people with this condition have created informational and advocacy networks regionally, nationally, and internationally, alternative options to publicly funded treatments are continually described, evaluated and made accessible.

Ireland is not unique in our difficulty to find a universal consensus on diagnosis, on how treatment should be, how it is accessed, or indeed who should be ultimately responsible for it. As the World Professional Association for Transgender Health (WPATH, who publish Standards of Care, recently in its 7th edition), and the publishers of the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (APA, due for publication May 2013) do not agree semantically or categorically on the latest diagnostic description, I expect there to be significant debate here, and variance in participation, willingness and consensus, as there appears to have been for several years.

In the 1980s, Consultant Psychiatrist Frank O’Donahue was providing treatment to people with gender incongruence because he recognised that this was a group of people who were being denied services. While the research literature at that time was relatively rare, it was not non-existent, and other places had recognised a need to standardise, where possible, diagnosis and treatment options. When I first came into contact with Dr O’Donahue in 1997, he shared some of the history and difficulties he had experienced as a professional attempting to establish a healthcare protocol for this population. He reiterated some of the negative experiential history that many of his patients - and subsequently mine - had described. Years later, the pivotal Access to Health Services for Transsexual People (Collins, Sheehan, Nexus Research, 2004) was commissioned by the Equality Authority in Ireland, and highlighted this as an on going issue.

Dr O’Donahue, who was planning his imminent retirement, began referring patients with Gender Identity Disorder to my newly opened clinic. He warned me that there were going to be some difficulties; for my patients in accessing recognised treatments, and for me, as a professional, navigating in what he, a recognised Psychiatric Consultant, described as not the most progressive of waters. He had found it difficult for endocrinologists, even senior ones, to be willing to accept his referrals to prescribe and supervise the complexities of hormone treatment. He was of course correct, and soon I found it impossible to have my referrals accepted, or cases even discussed. This situation improved with time and research. It was fortuitous that the psychiatrist Dr James Lucey, who eventually took over Dr O’Donahue’s practice, and Consultant Endocrinologist Dr Donal O’Shea who I met a year or so later, shared my concern that there was a lack of a consistent treatment pathway for a condition that is internationally recognised and described in both of the current diagnostic manuals and literature. And it appeared that we were rapidly catching up with the prevalence statistics for diagnoses of Gender Identity Disorder in Western Europe, with numbers at least doubling yearly. We began meeting around 2001/2, and by 2006 published (with his registrars and students) a description of the treatment protocol we had developed for Ireland. A Cork-based GP with a counselling background, Dr Margaret O’Regan, had begun to provide services for transsexual patients in the late 1990s, but died tragically in a boating accident in Thailand while on holidays. It was her intention to progress this protocol development as well.

It was from these multidisciplinary team meetings that the present model under HSE, which includes accessing treatment abroad and funding for the major surgical components of treatment, were developed. Transgender Equality Network Ireland (TENI) emerged as a national advocacy organisation which contributes significantly to the evolution of awareness, legal alignment, and the evolving development of treatment services in Ireland, as well as demonstrating to gender variant people that accessing publicly-funded treatment - to which they are entitled - is an option. Members of TENI have generously shared their experiences - good and bad - of both the public services and private ones here and abroad, so that people who are embarking on their own journeys can do so perhaps armed with more information than they had.

As this process continues, some exciting things are on the horizon. My own practice now offers a more comprehensive service, with the recognition of the importance of Speech and Language services and its evidence-based impact on overall mental health and well-being, as well as Counselling and Psychotherapy services for children and adolescents as a foundation. More psychologists and psychiatrists are recognising their responsibility in treatment provision. There are support services for families; there is education and training in community-schools, law enforcement and in business and public sectors that are becoming more and more available. Families are beginning to create grass-root support groups that help them to understand and support their loved ones who are exploring their gender identification. Professionals are providing information and inter-peer support, and some training curricula has been updated in counselling and psychotherapy.
programmes, such as PCI College, whose progressive training programmes now include aspects of gender variance and sexuality.

The arguments and disagreements will continue here, as they are amongst the various committees and workgroups in the professional/academic communities, and amongst treatment providers as well as gender variant people themselves elsewhere. This in itself should be seen as significant progress. It was not that long ago when there was no discussion, no acknowledgement in some circles, of the condition’s existence - not to mention an institutionalised refusal to provide treatment. I am honoured to have been part of this evolving protocol, and look forward to its further development, to include comprehensive paediatric care for gender variant children and adolescents, and for family members of gender variant people. I am grateful to my predecessors who, against the popular grain provided services to a neglected minority, and even more to my courageous clientele, whose willingness to tell their stories has created an impetus for improvement.

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“We are presently forming an association of healthcare professionals who are providing services in Ireland, with a focus on the unique issues gender variant people in Ireland face.”

James J. Kelly, Ph.D.
In treatment

Robyn

While in a residential treatment centre, I made numerous attempts to get some support with my gender identity issues. I was told that I needed to go out and get laid. My work in treatment was a waste of time because the main reason for my drug use was gender identity disorder. When I was stoned I didn’t care what I was, and so I put a lot of time and energy into getting stoned. Once I overdosed seven times in one week - such was my dissatisfaction with life and my enforced identity.

Transgender Group Alliance Ireland

Recently amalgamated with the Syndicate in the North of Ireland, the Transgender Group Alliance Ireland (TGAI) has a brief history. It originated from a TENI initiative in October 2010. Due to isolation being a factor in the trans community, we thought - surely the facilitators of trans groups must also be experiencing this isolation. They were very much on their own. Before, during and after their fortnightly or monthly group meetings, they also took numerous support calls and had to deal with them by themselves. So the idea spawned: bring all the facilitators and co-facilitators together. See what their support needs were. Help the helpers.

In October 2010, facilitators from Dublin, Cork, Limerick, Waterford and Galway groups met one Saturday morning in the TENI offices in Dublin. From that meeting was born the Trans Group Alliance (TGA).

We agreed to meet every 3 months on a rotating basis in different cities and towns. However, we later found that by hosting this 3 month meeting in different locations, it was not as well attended as when it was in Dublin, and so we agreed to hold it in Dublin city. This was a very hard decision at the time, however for the survival of the group, we felt it had to happen.

In 2012 the Alliance applied for funding from The Community Foundation for Ireland. We were successful, and held a weekend of personal development training in Mullingar. One of our objectives was to create boundaries for our facilitators, as they can be very exposed and are prone to burn out, due to the wonderful and unselfish work that they do. This weekend also brought the group members together, to form bonds with the other facilitators, which in turn made the TGA stronger.

Last summer, in a remarkable series of events, the landscape began to change. TENI's (then) National Development Worker Vanessa Lacey was invited to Derry to deliver an awareness talk. As a result she met people who went on to be founding members of the TGAI. Shortly after this event, another invite came from Belfast, this time from the Belfast Trans Forum in City Hall. A series of very busy meetings and many phone calls resulted in an agreement in the TENI offices just before Christmas 2012. On 7 December 2012 the TGAI - Trans Group Alliance Ireland - was formed. North and South, all the main voluntary and community groups whose primary focus is supporting gender-questioning and trans people, their families and friends united.

At the moment the groups that are involved in the TGAI are: Oysters and Oysters Northwest (NI Trans Peer Support), SAIL (NI Family & Friends Peer Support), Youthnet (online UK Youth Support), Translate (NI Youth), TranSE (Waterford Peer Support), TPSG (Dublin Peer Support), Cork Trans Group (Cork Peer Support), GOSSIP (Galway Peer Support), Limerick (Limerick Peer Support), TransParentCI (Family Peer Support) and Individuality (BeLonG To’s Trans Youth Support). We will host meetings between Dublin and Belfast on a rolling basis.

We feel that this year the TGAI will forge stronger bonds and enable us to facilitate a positive change of attitude throughout the whole island of Ireland, and make it a safer place for trans people and their families.

TGAI's Mission Statement is;

“TGAI aims to represent and support voluntary and community groups who provide services and support to trans people who are currently exploring their gender identity and /or engaged in formal treatment programmes. TGA also aims to provide support for their families and friends. We seek to promote and enhance knowledge and training on gender identity issues and advocate for improved integrated services on the island of Ireland”

TGAI is the largest transgender representative organisation on the island of Ireland.
“The Trans Group Alliance Ireland has been invaluable to us in Cork as a means of connecting with the facilitators of the other groups around Ireland. As facilitators of a support group for an extremely vulnerable group of people, we often find ourselves dealing with issues and situations that can be taxing, both mentally and emotionally. The TGAI provides an avenue for facilitators to come together to support each other and prevent those who work to provide support to others from burning out.”

Ben Power, Facilitator of the Cork Peer Support Group

Building relationships and working together

Ann Corcoran

Samaritans is the leading provider of emotional support in Ireland. We are a volunteer-led organisation, and our volunteers help people who are struggling to cope, including those who may be at risk of suicide. We also try and promote a better understanding in society of suicide, suicidal behaviours and the value of expressing feelings which may otherwise lead to suicide or impaired emotional health.

Our volunteers are trained to give confidential emotional support at any time of the day or night. All 12 of our branches in the Republic of Ireland and our 8 branches in Northern Ireland work hard to improve well being and reduce the incidence of suicide. We work to reduce the risk of suicide by responding to phone calls, emails, letters and SMS texts. People are also able to drop by a branch for a face-to-face meeting, and we work to build relationships in the local community, in hospitals, schools and even prisons.

It is important that we are as proactive as possible in reaching out to high-risk groups and communities. We are always looking at ways to work in partnership with other organisations, agencies and experts to ensure that we are able to offer our service to as many people as possible and to reduce the risk of suicide. But we recognise that there are many innovative and specialist services already at work in Ireland, so we created our Connect Signposting Project to help provide a more joined-up approach to help support anyone feeling vulnerable, especially those who may not be aware of the help available to them.

The project has two elements: first, building relationships and working together by exchanging information so that all agencies are aware of all the other available services; and to this end, we have met with representatives from TENI and LGBT organisations to forge links. Secondly, we are making our helpline service available, where appropriate, to other organisations.

Building relationships and working together with new partners, inside and outside of the suicide-prevention sector, is important to help us respond to the practical needs of callers. To help us we invite key speakers from partner agencies. TENI’s Vanessa Lacey will shortly offering workshops to our volunteers about the challenges facing the transgender community and how working together we can offer a more enhanced support to a person in distress.

The second aspect of the Connect Signposting Project, which is being piloted, uses a direct divert system for organisations involved in the project. Where appropriate, they can forward their helpline to us when their own helpline isn’t
available. This ensures that when they aren’t available, a caller can be automatically directed to us and receive emotional support at any time day or night.

We encourage everyone to talk about what they are going through sooner and before it feels too much to handle. Samaritans are there 24/7 to support any one of us, whatever we are going through.

Ann Corcoran
Operations And Relationship Manager, Samaritans

“We work to reduce the risk of suicide by responding to phone calls, emails, letters and SMS texts.”

Samaritans

“TENI’s Vanessa Lacey will shortly offering workshops to our volunteers about the challenges facing the transgender community and how working together we can offer a more enhanced support to a person in distress.”

Ann Corcoran

Health and Wellbeing Research

One of the great gaps in terms of discussing trans people in Ireland is lack of data about numbers, needs and pathways.

Research is one of the ways we can document the experiences of trans people. High quality data is vital to ensuring that trans communities have a voice in policy development and service delivery.

The Trans Mental Health and Well-being Survey was conducted in Ireland and the UK between June and August 2012. The results of the research will be used for policy development, improving services and advocating for trans rights and healthcare.

Online surveys were completed by people over the age of 18 whose gender identity or expression was different from the sex they were assigned at birth. In Ireland, 162 people responded to the first part of the survey, with 106 of these going on to complete the survey.

The project was a partnership between researchers at Sheffield Hallam University, trans community members, the Scottish Transgender Alliance, Trans Resource and Empowerment Centre and TransBareAll.

The preliminary results from the Trans Mental Health and Well-being survey found high levels of suicide ideation and attempted suicide within transgender communities in Ireland. The data revealed that 78% of trans people have thought about ending their lives and 40% have attempted suicide. This research will be used to advocate for increased community support services and inclusion of trans people in suicide prevention strategies.

“The data revealed that 78% of trans people have thought about ending their lives and 40% have attempted suicide.”

Trans Mental Health and Well-being Survey
Chapter Six: Intersex Experience

Speaking for the silent

A special space is reserved in this publication for intersex experience. TENI uses ‘transgender’ in a very broad sense. We advocate for the human rights of anyone who does not identify with the sex or gender that was assigned to them at birth. We advocate for everyone’s right to privacy, dignity and equality: for example, whether they have the experience of being ‘born in the wrong body’, identify with neither male nor female gender, are gender-variant or intersex-diagnosed.

In Ireland, silent masses live with intersex conditions. About one live birth in every 200 has some kind of intersex condition. We rarely talk about it. Decisions are often made in secret between surgeons and parents, fuelled by the desire to ‘normalise’ the child’s body - a body which is perfect and healthy, but not considered normal. Such interventions breach the individual’s right to bodily integrity and often lead to significant, life-long problems.

In Ireland - as in many other countries - people with intersex conditions are being denied their basic civil and human rights. Our birth certificates are not adequate for their needs. Where there is ambiguity at birth (or indeed, where ambiguity becomes an ‘issue’ later in life, ), the time-sensitive birth certificate, once ticked ‘male’ or ‘female’, has no opportunity for correction. Ireland’s proposed gender recognition path overtly excludes the intersex-affected who require corrected birth certificates, relegating them to a limbo of non-recognition. And we haven’t even begun to examine and discuss the medical decisions made in Ireland about non-necessary surgeries for our infants - decisions that ignore international human rights agreements and turn a deaf ear to specialist medical opinion.

Ireland has no group or spokespeople dedicated solely to intersex rights. TENI advocates for intersex rights, but there is no personal voice behind our work. Quite simply, there is a vacuum.

In preparing this publication, we turned outwards, and asked other countries to share their experience with Ireland.

With deep gratitude to Holly Greenberry of IntersexUK, who encouraged voices from South Africa, America and the UK to help raise awareness for the silent in Ireland.

The Special Rapporteur calls upon all States to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalizing surgery, involuntary sterilization, unethical experimentation, medical display, “reparative therapies” or “conversion therapies”, when enforced or administered without the free and informed consent of the person concerned. He also calls upon them to outlaw forced or coerced sterilization in all circumstances and provide special protection to individuals belonging to marginalized groups.

[...] Children who are born with atypical sex characteristics are often subject to irreversible sex assignment, involuntary sterilization, involuntary genital normalizing surgery, performed without their informed consent, or that of their parents, ‘in an attempt to fix their sex’, leaving them with permanent, irreversible infertility and causing severe mental suffering. [...] These procedures are rarely medically necessary, can cause scarring, loss of sexual sensation, pain, incontinence and lifelong depression and have also been criticized as being unscientific, potentially harmful and contributing to stigma.

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,

Juan E. Méndez
United Nations, Human Rights Council Twenty-second session. 1 February 2013
Remedying Inequality: A UK Perspective

Holly Greenberry

Disorders of Sexual Development (DSDs) are also referred to as Intersex conditions as will be the case throughout this article.

Intersex conditions occur prenatally, and the child goes on to develop in some way atypically to usual male or female development. There are many causes for intersex conditions to arise, including certain medications prescribed prenatally to a mother. Conditions occur usually due to either a karyotype / genetic, hormonal difference in a child, teen or adult which in turn presents an anatomical difference with their sexual characteristics / anatomy, chromosomal pattern and or reproductive organs when compared to the typical binary male or female.

Intersex conditions may be noted at birth, puberty or later in life.

The best available statistics recognise approximately 1 in 200 live births as being affected by an intersex condition; ‘more notable’ conditions are represented by a statistic of approximately 1 in 2,000 people, representing a significant proportion of the UK’s population. Despite these figures, intersex conditions are not openly spoken about, often ‘hidden’ and usually silenced.

Introduction

The UK is often seen internationally as a leader in quality health care and an advocate of inclusive civil and human rights for its citizens. Yet at present, insufficient appropriate support blights the lives of thousands of people born with intersex conditions in the UK: children, teens and adults whose human rights and whose quality of life are detrimentally affected because of the UK’s current medical, legal and civil situations.

The situation in the UK is becoming more acknowledged, and contemporary care is becoming more apparent in small areas. Despite some progress, a collective national change in approaches to ‘treatment’ and a need for civil equality is overwhelmingly overdue. I will fundamentally focus here on two of our most pressing issues.

Surgeries and Treatments without Consent

‘Normalising’ sex anatomy surgeries and treatments are regularly performed to create a typical aesthetic binary appearance of male or female genitalia. They are often non-consented, poorly advised - and irreversible. In the past, there was a belief that such procedures would ease the child’s (and family’s) problems and enhance the quality of life.

The UK has made female circumcision illegal on the grounds of inhuman treatment, however this does not take into consideration of operations performed on intersex-affected babies with healthy bodies that display atypical genital difference. One cannot assess a sex as ‘black and white’ or gender as absolute at such a young age: genetics and biology prove that anatomical sex development can and often does occur on a continuum between ‘male’ and ‘female’. It is not possible to use the level of development of an infant’s perceived sex anatomy as an absolute and defining benchmark to ‘seal’ the child’s future gender.

This is not about assigning blame. It is of course unimaginable to believe that medical practitioners would intentionally perform damaging surgeries. The problem lies in the significant lack of medical funding and education in understanding the nature of intersex conditions and subsequent needs. The commonality of intersex conditions and even the terminology is not taught or understood by the vast majority of doctors and medical professionals, as has been tested numerous times.

Similarly, parents would not intentionally harm their newborn children. In the past, parents gave consent for unnecessary (in that, they are non life-saving) surgeries and aesthetically ‘normalising’ treatments, believing it represented the best choice for the child. Often, parents were given inadequate specialist and peer support. They lacked knowledge, felt desperate, and believed they were making the best decision.

Often, these ‘good’ decisions were hidden: anecdotally, there are numerous cases where people with intersex conditions were lied to about their condition by both medical practitioners as well as their families.

There are still numerous hospitals and certain doctors who still consider these surgeries appropriate in assisting the child’s or teenager’s wellbeing, despite thousands of cases proving the contrary. In vast numbers of cases, anecdotal evidence proves such treatment to have been incorrect or the person to have been misdiagnosed by non-specialists and inappropriately treated. In many cases such non-consensual treatment has had a devastating effect. High numbers of people with intersex conditions are now discussing this and speaking out. Non-consensual treatment has caused severe physical, psychological and emotional harm. It has had - and continues to cause - detrimental consequences, including permanent infertility in certain cases, loss of gonadal function, genital sensitivity and natural hormonal balance. Some children have had their genitals removed due to incorrect surgery. This represents a fundamental loss of one’s right to bodily integrity, awareness and identity.
The UK Birth Certificate

One of the rationales for unnecessary surgeries is administrative need: a UK birth certificate must be completed within six weeks of birth. Performing genital surgeries on a baby assists the ticking of the sex box of male or female.

Yet gender has already been proven to not be dictated solely by one’s anatomical sex. An intersex-affected individual may identify as male, female or intersex, which may differ from their sex as defined on their birth certificate. The current UK system of sex identity will therefore not be correct in all cases. For many, legal problems occur where the black and white binary definition as recorded on their birth certificate is incorrect. (Intersex-affected people are overtly excluded from the Gender Recognition process available to transgender people). They may face significant legal and civil rights issues: in many cases this will include no right to marriage, civil partnership, adoption or surrogacy.

For children whose gender or sex difference becomes apparent during their school-life, their legal identity fixed by their birth certificate may affect their right of gender expression within their defined gender: from uniforms to sports to school bathrooms to everyday ‘fitting in’. This is proven anecdotally and repeatedly as often having harrowing consequences for children. Such difficulties often cause a drop in the child’s education performance and their social freedom and happiness.

The birth certificate was intended to record the sex of a child at birth (male or female) as well as their, and their families’ details. Contemporary medical and a growing social awareness understandably and clearly highlights why this is not always a possibility. Society uses the birth certificate as a foundational identity document through a person’s life. The result is that people whose sex was wrongly designated at birth are legally unrecognised and live a life of civil inequality.

IntersexUK Advocates for:

The bodies of infants, children and teens to be left in a healthy natural state, and for non-personally consented sex anatomy surgery and irreversible medical treatments on the bodies of healthy people with intersex conditions to be stopped.

Legislation to enable a correction of sex on the birth certificate, and in the case of ambiguous sex, an ‘openness’ of sex on a birth certificate until that person can determine their gender and sex identity.

Improving education for UK medical and nursing students and staff; as well as improved education on intersex and gender-related matters for support workers, enabling them to better support children, families and individuals.

Aiding the support that families and young people require: it is vital that children and teens as well as families have opportunities to experience both contemporary specialists and the support of affected peers / support groups alike. Improving public awareness, understanding and acceptance of intersex conditions. Inclusive rights for intersex-affected individuals, so that they may access all civil and human rights freedoms such as marriage, civil partnership, adoption, surrogacy, the right to fair and appropriate legal and custodial treatment, the right to partake in sports at all levels, the thus the right to be recognised fairly and equally within society.

IntersexUK supports the work of other national and international Intersex and human rights NGOs, and is equally supported in our works and outreach. IntersexUK aims to continue and increase the push for equalities via proactive engagement and education with responsible media, educational establishments, NGOs and UK government and UK legislators alike.

The clear need for change is overwhelming. All our evidence shows one key underlying need: that truly beneficial support of an intersex-affected person comes from understanding and supporting the person’s natural - often healthy - bodily state and allowing that person to define their own gender and make their own bodily decisions as they mature and ensure that the person experiences the same social equalities and freedom that non-affected people experience.

Numerous other countries around the world are starting to recognise the urgent need for intersex equality - Australia, Chile, Germany and the USA to name but a few. Both Ireland and the UK are signatories to the Yogyakarta Principles - the international agreement on human rights that assert a child should not undergo genital surgery for the sole purpose of genital aesthetic appearance. It is now time that Ireland as well as the UK government acknowledge their breach of Article 8 of The European Human Rights Act, and increases awareness and proactive engagement with lobbying groups, patient groups and associated contemporary medical specialists. We must work quickly to remedy the inequalities and breaches in civil and human rights which continue to affect so many people with intersex conditions.

Holly Greenberry
Co-Founder and Director, IntersexUK
IntersexUK thanks TENI and ILGA for enabling the broader education of intersex issues and inequalities to be raised through the inclusion of a specialist intersex section in this paper. We also thank our international co-workers for their input and support within this publication and their own work to support intersex children, teens and adults. Through education, unification and time we will achieve civil and human rights for all affected human beings - be they male, female or intersex.

See the end of this section for a full list of contemporary academic & supportive patient services for UK patients. For further information:

www.aiclegal.org
www.aiissguk.org
www.aisdsd.org
www.dsdfamilies.org
www.accordalliance.org
www.intersexuk.org

“All our evidence shows one key underlying need: that truly beneficial support of an intersex-affected person comes from understanding and supporting the person’s natural - often healthy - bodily state and allowing that person to define their own gender and make their own bodily decisions as they mature…”

IntersexUK

New U.S. State Department Policy on Changing Sex Markers an Example of Best Practices

Anne Tamar-Mattis

In January 2011, the U.S. State Department announced changes to its policies on changing sex markers on passports for people born with intersex conditions or differences of sex development (DSD). These changes were developed as a result of close consultation between the State Department and transgender and intersex advocacy groups, ensuring that the policy was humane, respectful and in line with medical science. The State Department policy is a model for other countries interested in creating a fair and scientifically sound process for changing sex markers on identity documentation.

Most intersex people never need to change their identity documents, and live in the sex they were assigned at birth. In such cases, the passport will reflect the sex noted on the birth certificate, and there is no need for further inquiry. Sometimes, however, doctors or birth attendants initially assign the wrong sex where there is an intersex condition, and current international standards of medical care recommend correcting the sex designation in such cases if the patient wishes the change.[4]

The US government has recognized that the legal approach should be consistent with the standard medical protocol. The new policy, drafted with the input from Advocates for Informed Choice and other organizations, eliminates discriminatory or inaccurate language from the previous policy, making it clear that people with intersex conditions who need to correct the sex markers on their passports can receive identification listing their correct gender.

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There are now two ways for people with intersex conditions to obtain a new or renewal passport listing their correct gender under the new policy. They can submit a letter from any licensed doctor who has treated them, stating that they have an intersex condition and that the sex marker should be changed. Or, if they already have a birth certificate with the correct gender, they can submit that document instead of a letter from a doctor. Physical details or information about treatment history is not required. Passport officials are also instructed to be respectful to applicants with intersex conditions or DSD, and not to ask unnecessary questions.

Birth certificates in the U.S. are issued under state, not federal law, and there is still a hodgepodge of practices and unanswered legal questions around the country about changing sex markers on birth certificates. However, this clear and straight-
forward passport process has made life much simpler for intersex people who need to change their identity documents. A passport can be used in most situations where a birth certificate would otherwise be required, such as for employment or for obtaining a marriage license or other identity documents. It is our hope that state governments and other national governments will look to this policy as a model for future efforts.

Anne Tamar-Mattis
Executive Director, Advocates for Informed Choice (AIC)
www.aiclegal.org


For More Information
The entire policy, in plain language with a sample doctor’s letter, is available at http://www.state.gov/documents/organization/143160.pdf.

There is a guide to the new policy, and to identification document changes in general, available at http://transgenderlegal.org/headline_show.php?id=292 and http://transequality.org/Resources/passports_2011.pdf. These resources were compiled with the transgender community in mind, but some people with intersex conditions/DSD may find them helpful.

“The State Department policy is a model for other countries interested in creating a fair and scientifically sound process for changing sex markers on identity documentation.”

Anne Tamar-Mattis

Social, legal and medical challenges facing intersex individuals in South Africa

Nthabiseng Mokoena

South Africa is still one of the few countries in the world that has formal laws that recognise and protect intersex people. According to the promotion of Access to Information Act (2000), every South African has a right to access their medical records, and health care providers also have an obligation to keep medical records. The Alteration of Sex Description and Sex Status Act (2003) allows intersex persons to apply for the alteration of their sex description on their birth register if they wish to do so. The Promotion of Equality and Prevention of Unfair Discrimination Act (2000) includes intersex in its definition of sex. Although there is “formal” equality in the constitution this does not necessarily mean there is practical equality for intersex persons. There is still a huge gap between legal protection for intersex persons and legal implementation/practice of the laws for them.

Intersex South Africans still face discrimination, prejudice and hate crimes regardless of what the Equality clause in the constitution states. In many communities intersex is seen as a taboo and a subject that is not talked about. In October 2009, after South African athlete Caster Semenya was alleged to be intersex by the media (hermaphrodite was the word that was used), then prominent politician Julius Malema publicly opposed the statements by saying that “hermaphrodites” do not exist because there is no word in Sepedi (one of the official languages in South Africa) to describe intersex; he also said that the concept of intersex was an “imperialist” plot being forced onto South Africans.

We do not know beyond a shadow of a doubt if Caster is intersex or not, since she has never come out in public to confirm or refute the allegations. The statements by Julius Malema reflect the problems faced by intersex people in the country: many communities do not know that intersex people exist, and intersex persons often face hate, discrimination and prejudice from their communities, schools and social circles. This leads to a situation where many intersex individuals exhibit anti-social behaviour because of the fear of being discriminated against by their own communities. Even a simple trip to the doctor is a hurdle as the nurses in most public clinics do not even know what intersex is or know how to handle an intersex patient.

Unfortunately the medical situation of intersex people in the country is the same as in most countries around the world. Doctors still hold an immense amount of authority in “deciding” the sex of the child. Parents are often forced into a situation where they have to consent to genital surgery on the child because of pressure from doctors. Cases where the child has been left to grow up to decide
whether they want surgery or not are still rare, if not completely unheard of. As in most countries, the South African medical sector is still obsessed with altering “intersex genitals” in order to restore the order of the binary. Because of the lack of experience in handling adult intersex patients by most doctors, intersex patients are often treated as experiments in the pursuit by the doctors to gain experience; a healthy patient-doctor relationship is often not even considered in such cases. The psychological impact of surgery and the entire medical process on the intersex patient is never considered and there is no psychological support for the individual pre or post-surgery.

Nthabiseng Mokoena
Advocacy Coordinator at Transgender and Intersex Africa

“As in most countries, the South African medical sector is still obsessed with altering “intersex genitals” in order to restore the order of the binary.”

Nthabiseng Mokoena

Afterword

Tanya Ni Mhuirthile

From the Irish perspective, we have no statistics regarding the number of intersex people in Ireland. Anecdotally, the Registrar General has noted that his office has never been asked to amend a birth certificate because a person has been born intersex.

The only case where intersex was considered by the Irish Court is an ex tempore judgment of the High Court in S v An Bord Uachtála unreported High Court December 4th 2009 Sheehan J. The case involved a judicial review of a decision by the Adoption Board to refuse to amend the entry in the register for foreign adoptions to record the sex of an intersex baby adopted by parents living in Ireland from female to male due to the difficulties the family had accessing school for their son. The Judge granted the petition sought, which may establish some level of precedent in Ireland for recognition of preferred gender of intersex people.

The other formal statement on recognition of intersex is to be found in the report of the Gender Recognition Advisory Group (GRAG). The GRAG acknowledged that many submissions made to the Group and international experts urged the inclusion of intersex in any proposed legislation. However, they concluded that given (1) the lack of information on intersex available in Ireland, (2) the lack of expertise thereon available to the Group and (3) the difficulty drafting intersex inclusive legislation in the absence of clear definitions of the ‘variety of conditions encompassed in the “intersex” term’, the Group felt ‘unable to recommend the inclusion in the scheme of people with intersex conditions living in a changed gender.’

Such a reluctance to actively engage with intersex-affected people is disappointing at best, and utterly dismissive of the rights of intersex people to have their preferred gender identity recognised. To deliberately exclude intersex individuals from any proposed scheme for gender recognition in Ireland is to knowingly enshrine a discrimination into Irish law and thus will fundamentally undermine any claim of such a scheme to be rights compliant.

Dr Tanya Ni Mhuirthile
TENI Board Member;
Senior Lecturer in the Law Faculty at Griffith College Dublin
Contemporary Academics & Supportive Patient Services for UK patients

The Middlesex Clinic, Elizabeth Garret Hospital, University College Hospital London:
Miss Sarah Creighton (Consultant Gynaecologist)
Professor Gerard Conway (Adult Endocrinologist)
Dr Lih-Mei Liao (Clinical Psychologist)
http://www.uclh.nhs.uk/OurServices/ServiceA-Z/WH/GYNAE/DSD/Pages/Home.aspx

Leeds General Infirmary and St. James’s University Hospital Leeds:
Mr Adam Balen (Consultant Gynaecologist)
Dr Julie Alderson (Clinical Psychologist)
http://www.leedsth.nhs.uk/no_cache/consultants/consultants/?tx_lthservices_pi8%5Bconsultant%5D=40

Further Contemporary Research in Print and on Film

Clinical Guidebook and Parental Guidebook
http://www.accordalliance.org/dsd-guidelines.html

Alice Dreger (Professor of Clinical Medical Humanities and Bioethics at Northwestern University’s Feinberg School of Medicine):
http://alicedreger.com/articles.html

‘Fixing Sex’ by Katrina Karkazis (an internationally-regarded book on the debate and treatment of Intersex people):
http://www.katrinakarkazis.com/writing.html

‘Lessons from the Intersexed’ by Suzanne J. Kessler, PhD.

‘Bodies in Doubt: An American History of Intersex’ by Elizabeth Reis:
http://jhupbooks.press.jhu.edu/ecom/MasterServlet/GetItemDetailsHandler?iN=9781421405834&qty=1&source=2&viewMode=3&loggedIN=false&JavaScript=y

‘Me My Sex and I’
BBC 1 Educational Documentary
http://www.bbc.co.uk/programmes/p00v0pty

The Interface Project (TIP)
TIP is a new project initially conceived by Eden Atwood and Holly Greenberry. Within weeks the project was then handed over to be further and fully developed by Eden Atwood; and also by Jim Bruce from Advocates For Informed Choice (AIC). The Interface project is supported by AIC (Anne Tamar Mattis), the project now runs as an ‘Independent project’ under the direction and administration of the fantastic Eden Atwood and Jim Bruce (Intersex activists).
http://www.interfaceproject.org/
Chapter Seven: Children and families

There are families across Ireland dealing with gender identity issues. Whether a parent or a child begins the conversation, it is a matter for the entire family. Their approach and openness is important for the family’s wellbeing.

This section offers some perspectives about parents, children and young people who are trans, and how families, other parents, schools and support services have responded.

Sadie’s Dream for the World

On 21 January 2013, US President Barack Obama gave his second inaugural address. It was landmark for overtly including gay and lesbian citizens for the first time:

“Our journey is not complete until our gay brothers and sisters are treated like anyone else under the law - for if we are truly created equal, then surely the love we commit to one another must be equal as well.”

President Obama

In Arizona, an eleven year old child felt left out. She wrote this essay in response:

Sadie’s “Dream for the World”

“The world would be a better place if everyone had the right to be themselves, including people who have a creative gender identity and expression. Transgender people are not allowed the freedom to do things everyone else does, like go to the doctor, go to school, get a job, and even make friends.

Transgender kids like me are not allowed to go to most schools because the teachers think we are different from everyone else. The schools get afraid of how they will talk with the other kids’ parents, and transgender kids are kept secret or told not to come there anymore. Kids are told not to be friends with transgender kids, which makes us very lonely and sad.

When they grow up, transgender adults have a hard time getting a job because the boss thinks the customers will be scared away. Doctors are afraid of treating transgender patients because they don’t know how to take care of them, and some doctors don’t really want to help them. Transgender patients like me travel to other states to see a good doctor.

It would be a better world if everyone knew that transgender people have the same hopes and dreams as everyone else. We like to make friends and want to go to school. Transgender people want to get good jobs and go to doctors like they are exactly the same. It really isn’t that hard to like transgender people because we are like everyone else.”

Sadie Croft, aged 11
Equal Partners: Trans Youth & BeLonG To

John Duffy

BeLonG To opened its doors in 2003, and from the start, we have always engaged with trans youth. At first, very few came along, with some initially identifying as LGB and making tentative steps to understand who they are, with the support of staff. In 2007, IndividualiTy was set up to support trans youth specifically. People regularly came from across Ireland, their reasons for coming was simple: to be with other young people who could truly understand their situation. To be themselves for a few hours without fear of being judged or rejected. To get support.

IndividualiTy has seen numbers accessing it rising substantially year after year. 2012 saw attendance increase just shy of 50% compared to 2011. With this, there has been a big jump in people accessing specific support around identity. This has included everything from deed polls and referral requests, getting their identity (unfortunately) diagnosed and subsequent access to healthcare, to the social element of information on schools for parents and teachers alike and coming out.

This has made me wonder, will this increasing trend of people accessing support continue? More importantly, what has been the reasons for higher access and how can these be built upon to ensure that other trans youth can live more confidently?

I think that it is important to firstly note the positive impact the trans community had on Irish society as a whole. Many individuals have been open about who they are and have told their story to a wide audience. Others have sought out to have their rights recognised and upheld. The social and political reaction to these events has left an important imprint for trans youth to follow when they take their journey to accepting their identity and to aid them seek what was once denied to others.

This has also led young people in IndividualiTy and their peers to look at the world around them and recognise that they too face injustices, discrimination and a lack of understanding. Ireland has yet to introduce gender recognition legislation, and the Gender Recognition Advisory Group (GRAG) created to develop a pathway for Ireland’s trans community to official recognition has been developed. They have recommended that this should only be available to people over 18, for those who have been diagnosed with Gender Identity Disorder, living for two years in their gender, limit it to people who are transsexual, etc.

These restrictions have created concern and frustration for many trans people, their friends and family. Younger people may effectively have their identity ignored if they do not identify as male or female, as well as the issue of age limiting when they can be recognised. In reply to these concerns, GRAG said that people may be able to begin the process at 16 have their gender recognised at 18. This may suit some, but for children living their life in their gender from a much younger age, it leaves them in a particularly impossible situation for years, in much the same way the forced divorce recommendation affects many married trans people and their spouses.

Trans youth have been seeking out ways to address their concerns. Through engaging with organisations such as TENI, TEA, BeLonG To and GCN, they have been given a platform for advocacy, activism and awareness raising that was simply not present a few years ago.

As with LGB young people, trans youth face many hurdles. Ideas persist of being too young to know who they are, that it’s ‘just a phase’ or that they are simply not listened to or taken seriously.

Speaking at a protest outside the Dáil, one young person, Danny, fought these arguments stating “I know exactly who I am!” Others took their voices to the print media contributing to TENI’s book Touching the Surface: Trans Voices in Ireland and the 2012 GCN youth edition. Andy, the magazine’s first trans editor, is out and proud but recognises that “it can take a great deal of courage to be ourselves” and in doing so, trans people and their allies can be agents of positive social change. By working as equal partners in BeLonG To, creating short films, documenting how they feel about gender recognition or transphobic bullying, engaging in policy development and consultations, as well as putting pen to paper to inform their politicians what is expected of them, trans youth are making a difference.

One such example is in the area of education. In the past, many schools did not adequately explore or address (if at all) LGB identity, or homophobic bullying, and this dearth was perhaps even more profound in relation to trans young people.

Across the country today, many secondary and a number of primary schools now include LGBT topics, discussions and classes as part of their routine. BeLonG To and other NGOs have been working with the Department of Education to ensure that this is not ad hoc and has lead to the development of the inclusion of a gender and sexuality section of the SPHE curriculum and the launch of an action plan to tackle homophobic and transphobic bullying. In addition, BeLonG To’s national Stand Up campaign has become an annual fixture in the school calendar. None of this would have been possible without the help of trans youth who have educated me and other staff about their lives and their needs for real and tangible change now.

These initiatives mean that schools and community organisations are leapfrogging ahead with regard to best practice when it comes to the inclusion of trans youth. January 2013 was marked by one school embracing the identity of one member of IndividualiTy. Linking in with him to see what he wanted, they have developed policies and procedures that are respectful of his wishes, giving him equal access to...
education to his peers.
However, this is one school out of thousands and one student out of tens of thousands. Much remains to be done for trans youth in other schools, in the health system and communities, homes and in the minds of civil society, before their hopes and dreams of being supported to be themselves are realised.

John Duffy
Senior Youth Worker, BeLonGTo Youth Services

“None of this would have been possible without the help of trans youth who have educated me and other staff about their lives and their needs for real and tangible change now.”

John Duffy

Getting the bus home
Darrin, Cork.

I was sitting at the top of the bus going home one day to a pretty rough part of the city. It was so full, people were still standing nearly at the final stop. A boy about 14 or 15 left his seat to come down and ask me loudly for all to hear if I was a guy or girl. I said guy (but I wasn’t on testosterone at the time so I presented as pretty ambiguous). Then his words rang loudly throughout the bus: “Why do you have titties then?”

I was never so embarrassed in my life as nearly every single person on that bus stared at me waiting for my reply. All I could do was look away. I never got the bus home before 6pm again whilst living in the family home in that area, to limit the chances of another secondary school child putting me in that position again.

Working with People who Identify as Transgender
Suzanne Walsh

“True gender lies not in the appearance of the body but in the workings of the mind” - Feinberg (1998)

I began my involvement with the transgender community in 2008 when I engaged in the groundwork for a piece of research exploring the transgender person’s experience of counselling and psychotherapy. This article is a personal reflection highlighting the main themes and issues I have encountered, not only through my initial work as a researcher but also through my ongoing involvement as a mental health practitioner within the transgender community as a counsellor/psychotherapist, trainer and group facilitator.

Ettner (1999) commented that few topics arouse such controversy as transgenderism and noted that it was a complex and highly sensationalised area of behaviour that was becoming more visible mainly due to the level of media coverage. In the past decade transgender issues have been highlighted in the media more than ever before through for example, documentaries on transgender people and their lives. In Ireland the landscape for transgender people is changing and is beginning to move forward.

Change within any particular part of society is dependant on and influenced
by an array of precipitating factors, for example globalisation, social policy, political activism, access to worldwide information, improved education, visibility of diversity in all of its forms, changing legislation, equality awareness and the emergence of changing gender roles. These changes pose new challenges for society. Therefore, society is challenged to consider gender identity as it becomes a more ambiguous construct, and as what typifies gender identity becomes less defined. Modifications, transformations or diversification of traditional sex, gender, gender roles, gender identity, sexuality and gender variance are becoming a more visible part of our everyday worlds.

Many transgender people struggle in everyday life because they do not conform to the gender norms of male and female as traditionally known and accepted. Ongoing awareness and acceptance of other forms of diversity, for example the visibility and ongoing improvement in equality issues for lesbian, gay and bisexual people have helped to broaden the diversity spectrum, but the journey is still ongoing.

It seems that the difficulties that adversely impact on transgender people are not specifically related to them identifying as transgender but are rooted in how they are perceived or understood by others.

It appears that the extent to which trans-people can live their lives openly or will try to hide their transgender identity depends on a multiplicity of factors, for example whether they feel safe expressing their “true selves” and the understanding or even the tolerance of their community and culture.

The embodied experience of transgender people involves a process of exploration and negotiation of a multitude of areas. The process appears to begin with accessing medical and psychological services, finding their true gender identity and coming to terms with it, coming out, passing as their true gender, finding their true sexual orientation, negotiation in relationships and the challenges therein particularly in relation to issues with partners, parents, siblings, children, friends colleagues and with new relationships (Girshick 2008 and Stryker 2008). In addition, they may also wish to physically transition to their true gender or decide to live in their own gender variant way. It appears that for many transgender people the goal is not to conform or transition to stereotypical gender roles but to become one’s “true self”.

The journey to become one’s “true self” can pose many psychological, physical, emotional, social and economic challenges for transgender people and therein is highlighted the need for a range of appropriate and adequate support services for transgender people, particularly psychological support services with mental health professionals, for example psychiatrists, psychologists, psychotherapists and counsellors with the relevant knowledge, skills and abilities to work with transgender people.

Transitioning can be a long and arduous process. It can involve a process of diagnosis, medical treatment such as lifelong hormonal treatment and a series of surgeries and psychological treatment, for example counselling or psychotherapy, psychological and social adjustment to one’s true gender and a process of forging out a new identity and new life pathway. It can also include changing name, changing career or losing their former career, changing personal documentation, for example, passports, academic or training qualification certification etc. It may also involve changes in lifestyle and economic status as forging a new identity can mean leaving or losing family and friends and previous employment. It may also involve a move to another location to start a new life or to avoid the shame and ridicule that transgender people often encounter.

In my experience it is not the medical treatment pathways or the transitioning process that is most challenging or stressful for the transgender person, rather it is the fracturing that can occur in the emotional bonds with family members, close friends and work colleagues. Negotiating the terrain of interpersonal relationships within all facets of their lives can be very challenging for the transgender person and they may experience feelings of rejection, confusion, anger, loss and isolation as their former support structure may begin to crumble at a time when they most need to be supported by people who love and care for them. For some transgender people at times their only support may be a professional mental health services practitioner who listens to them and understands. Through my research in the area I have found that transgender people also access mental health services for support with the following:

- Working through past experiences.
- Internalised transphobia.
- Interpersonal issues.
- Developing ownership of self-identity.
- Support through periods of adjustment both internal (self adjustment) and within society.
- In times of trauma.
- Experiences of loss.
- Experiences of suicidal ideation or attempted suicide.

Access to counselling services can be difficult for financial reasons but also because of the lack of professionals with the awareness, knowledge, understanding or specific training to work with transgender people. Geographic location of services and the travel costs incurred are beyond the reach of many transgender people mainly because of their diminished economic circumstances.

Reflecting on the multifaceted aspects of being transgender there is little doubt that being transgender and living as a transgender man or woman poses many challenges. There is a need for a co-ordinated range of support services both within
rural and urban areas for transgender people. Positive mental health is important if individuals are to live their lives and take their place in society. The provision of an adequate range of appropriate services is imperative.

I have noted through my involvement with the transgender community some positive changes. Transgender people are becoming more visible, they are beginning to have their voices heard. There have been many positive initiatives to increase public awareness of transgenderism and accurate information and visibility of transgender people will begin to dispel the myths and fears that exist within the wider community.

In Ireland we are also now hearing the voices of the young transgender people. The recent TransparenCI Conference held in Mullingar in February 2013 for young transgender people, their parents, and the siblings and children of transgender people was a heart warming and spirit lifting event. The level of support of parents for their transgender children and for each other was palpable. The support the transgender young people offered to each other was inspiring and was on a par with the support offered to them by their siblings.

The overriding theme that emerged from working with the young transgender people and siblings and children of transgender people was one of acceptance, understanding, love and support. However, themes of isolation, loss and grief, confusion, anger and ongoing daily struggles when engaging with the wider society also emerged. When someone in a family identifies as transgender, it changes the family’s world on many different levels. Each family member must engage in their own journey towards understanding and face the challenge of change. As described by one child when a family member identified as transgender: “it was like a meteor that crashed into my world and changed everything”.

When working with young people we must also be mindful of their age and stage of understanding and as mental health professionals meet them at an appropriate level. It is clear that a range of support services needs to be put in place not only for the transgender person but for all family members, parents, partners, siblings and children. Awareness, knowledge and understanding about transgender people in Ireland is beginning to grow and it is important for the transgender community, the wider community and the professional community to work together to nurture and care for each other as we move towards a more positive future for transgender people and their families.

Suzanne Walsh
Counsellor, Psychotherapist and Lecturer


“In my experience it is not the medical treatment pathways or the transitioning process that is most challenging or stressful for the transgender person, rather it is the fracturing that can occur in the emotional bonds with family members, close friends and work colleagues.”

Suzanne Walsh

Ireland’s group for parents and family of trans people

Vanessa Lacey

This remarkable organisation derived from a mixture of factors. First and foremost, trans people have families: there are many isolated and frustrated parents and family members out there. They are trying to support their children, siblings, parents, uncles, aunts etc., and they have no support themselves. They face battles with service providers to provide necessary healthcare to their loved ones. They face obstacles at every turn.

One Tuesday morning in October 2011, I was interviewed - as TENI’s National Development Worker - for ‘The John Murray Show. During our conversation I talked about families with children who were trans, who were learning about gender identity issues for the first time.

When I finished the interview, my phone began to ring. I took one call after another from other parents going through the same thing - our interview had clearly touched on something that people were crying out to talk about. The predominant feeling from the parents was one of relief to hear that there were others that were going through similar experiences.

The parents had their first meeting in Carlow in November 2011, in which 14 parents attended from across the country. In early 2012, they formalised themselves into a group: Trans Parents Connect Ireland (TransParenCI). They completed mission statements, objectives, attended training, and spoke on radio. In fact, they set this country alight with information and feelings that Irish society had never being exposed to in its history.

TransParenCI had just begun to fight back, they had just begun to say enough
is enough. They developed a logo and opened a Facebook page and then they applied for funding to have a weekend of workshops focussing on addressing some of the needs. Community Foundation of Ireland came up trumps and provided the necessary funds to run this weekend. On Friday 1 Feb 2013, over 40 family members and mental health professionals attended the very first weekend retreat for trans family members on the island of Ireland. Joining us was the North of Ireland family group SAIL.

There are exciting times ahead for TransParentCI and 2013 will see this group really come to the fore. We hope to see some of the obstacles blow away, some of them burn down and the rest disintegrate. We aim to break down those barriers that cause conflict in our families and in our hearts.

Vanessa Lacey
TENI’s Health and Education Officer, founder of TranSE and Waterford’s transgender support group, and chairperson of sOUTH

Parenting alone
Alexis Henderson, Northern Ireland

I was a transgender single parent living in Portadown in Northern Ireland. My son Chiron and I under went many difficulties, mostly from the child social services.

The social services would often call to our home for no reason and they also called to my son’s school, constantly trying to find fault in my parenting abilities.

It came to a point where my son - at 14 years old - personally turned round to a social worker and told them that they were making his life miserable that he was unable to play or do anything without them trying to make out that I was a bad parent. He told them to leave me and himself alone.

Eventually I received a letter from the social services stating that they had stopped their inquiries and were happy and thought that we was a very stable home and that we had a happy mother/son relationship. If it wasn’t for the fact of my son’s age and his ability to stand up and tell them to leave us alone it was obvious that the social services were pushing to try take Chiron into care.

Short Fiction: Fair Game
Vicki Mullen

The sounds of small kids playing and the hushed tones of their parents’ conversation greeted Sally as she entered the small school yard to collect her daughter and immediately the familiar butterflies began to flutter about inside her tummy. Mums had gathered in small groups of two or three with some other Dads interspersed here and there. Sally usually preferred to time her entrance to the exact moment the school bell rang, thus minimising her presence in the yard. Today though, she had come a little early to see Patricia.

Her friends insisted she was very brave to do what she had done but Sally didn’t think so. For her, changing her life had been nothing more than an act of survival; no braver than agreeing to take a Chemo course to fight a cancer. No, she had never felt brave; except maybe whenever she had to come here, where other parents clearly felt she didn’t belong. Here was where she felt always felt afraid.

In her old life, she had been the master of her surroundings and had lived with a complete assurance that she could deal with virtually anything that came her way. Following her transition though, her position in society had altered radically and her innate self-confidence had been shaken. Gone was the well respected businessman to be replaced by...what? She could not tell what they actually thought of her anymore. She felt outcast from society, a lonely unwelcome stranger stranded outside in the cold, peering in through a window on a family that she was no longer a part of.

She looked around for a few moments before locating Patricia. The butterflies were really making their presence felt now. Sally dreaded having to disappoint Charlotte if Patricia said no. She knew that her children still loved her and her transition had not changed that. Yet their love and loyalty had only heightened Sally’s sense of failure as their Dad. She felt she should have been able to find some way of surviving her life in the wrong body.

After the separation, Sally had first occupied a small apartment they owned. Her life as Sally only began two months earlier when she moved into her new house. Problems never arose having friends over to play at their Mum’s house but few parents were willing to allow their children visit Sally’s. No one she knew was aware of ever having encountered a real life ‘Transsexual’ before her and apparently there was an unwritten rule that children should not be exposed to that “sort of thing”.

Given the chance, Sally would have loved to explain that there are many trans children who face that “sort of thing” alone every day. She knew this because she had once been one of those children. Sally could still vividly remember the
miraculous day she discovered she was not alone in the World; that there were other people like her who were also stranded in the wrong life; that it was even possible to change her physical gender. She had been eleven years of age.

Last month her son John asked if his friend could come over and so Sally had phoned the friend’s Mum. Her response was very gentle but firm. “No,” she explained, “Sally you must understand that our decision has nothing to do with the fact that you are a Transsexual. We simply would never let our son visit a house where any “man” lives alone.”

“I think you might have missed the whole point of my transition,” Sally had replied, concealing her anger at the insults she had to endure. Yet she was conscious of the mountain she must climb if ordinary people were to ever abandon their preconceived notions of what a trans person was and accept her as just another parent again.

That had been the first of many refusals since but her two sons were aged thirteen and eleven and old enough to comprehend what was going on. At the age of only six, Charlotte was not. She and her two best friends, Penny and Kate, were inseparable and all she really wanted was to show them her new, very pink ‘princess themed’ bedroom with its cabin bed complete with nifty play area beneath and all her new toys. Thankfully, Penny’s parents had been fantastic when asked. There had been no mention of her “situation” and the invite was treated as any other. Sally would never forget their kindness. Kate’s mum Patricia though had asked for time to think about it. No matter how Sally had tried to minimize her expectations, Charlotte was convinced that Kate would be allowed visit too.

“Hi Patricia, how are you?” Sally asked as she reached her. Her butterflies had by now metamorphosed into stomach churning army ants. Nevertheless, she maintained sufficient control such that none of her inner turmoil was reflected outwardly.

“Oh hi, Sally,” Patricia replied and some friendly small talk ensued. Sally had always known Patricia to be a decent, kind and friendly person who normally wouldn’t dream of acting in a bigoted fashion to anyone. But Sally knew that most ordinary people just did not see this as an issue where the question of bigotry might arise. Instead, they believed they were simply protecting their children; ‘much like those white parents in America’s ‘Deep South’ might have believed when they shielded their children from ‘Coloureds’ in the 1960’s’, Sally thought.

“Did you get a chance to think about Kate’s visit next week?” Sally enquired as gently as she could.

“Yes, we did but I’m afraid we don’t think that it would be appropriate.”

“Oh… Why not?” Sally asked sounding a little surprised while hiding her devastation. She could only think of her beautiful, brave Charlotte and Sally prayed that Penny’s parents would not change their minds when they heard that Kate would not be going.

“Well, you’re a Transsexual!” Kindly exasperation spread over her face as Patricia paused for this obvious fact to sink in. “You understand!” Sally understood alright. Patricia would never have spoken that way to someone who might be racially different. Trans people though were fair game.

Vicki Mullen
TENI Board Member, avid golfer and dedicated parent

Simple things

Raz, aged 19

Simple things people appear to take for granted, such as the right pronouns, entering a public/gendered toilet, going to the barbers or hairdresser. Small things like that, they build up.

Simply walking down the street, kids and early teens stare at me, and even say to someone they are with “Is that a boy or a girl?” Each time that happens to me, I feel discouraged.

It’s similar when it comes to pronouns. Great when someone guesses the right pronoun because they simply didn’t know what one to use. Unfortunately, when the wrong one is used, I’m just left feeling awkward and uncomfortable. I’m referenced to as an “it” by some people.

Going to use bathrooms in public is one everyday thing that I’m most unhappy about. If I’m out shopping for things I need, when the need for the toilet kicks in, it’s awkward every single time. Some people stare, right up to the point that I feel that I’m going to be put out for simply using a toilet.

Going home

Kyra Brady, Waterford

I put my key in the door of my Mum’s house and it wouldn’t fit. My Mum had got the locks changed. My sister came out and told me that my entire family were disowning me - that’s what my Mum said to tell me - and that I couldn’t live there anymore.

I was not only disowned by my family but also instantly homeless. I had only 12 Euros left in my purse as I had spent my life savings on my transition. However I was very lucky as I was taken in by an elderly couple thank god as I was scared of being homeless and being so alone having no family to turn to nobody at all.
Blended families

Stacey

I got on quite well with my partner’s ex and everyone knew the kids and I worshipped each other. Many people commented on how good I was with them and for them. Last year an Irish family court ordered an individual psychological assessment on my girlfriend’s children because the judge dealing with her divorce said, “I am very, very worried about the effect a trans man is having on the children” (I’m a trans woman).

This was a big factor is my relationship ending and my becoming homeless. If not for other trans people I would have ended up sleeping in my car. A HSE child protection officer told me of her outrage at my treatment, saying: “paedophiles aren’t treated as bad”.

Needless to say, the assessments backed this up and found my being trans was in no way negative for the kids.

School Bulling

-A

While I am not a trans person myself, I have witnessed accounts of abuse towards my dearest friend.

The reason I wanted to say something here is because it was verbal abuse imposed on him, not by his peers, but by the principal and teachers in the secondary school we attended.

It’s not from a lack of compassion, it’s from a dark place of total unacceptance. To have people in power demonstrate this kind of oppressive authority is detrimental to mental wellbeing. It tells the students that this line of thinking is acceptable, when it very much is not.

I feel so angry when I think about it, I wish I could have stood up and thrown the school rule back at them – ‘do unto others as you would do unto yourself’, and point out that they, in their words and actions, were dismissive, hurtful, oppressive, narrow-minded and malevolent.

I hope that educators can be as open as the students they are teaching, and learn from their students as readily as they would teach them.

The Fruits of Our Learning - Not of Our Labour

Joe Mac Suibhne

When I was in school some thirty and more years ago I was under the distinct impression that the principal knew it all, that he had climbed the mountain of education and had reached the summit. The principal’s office was a place to be revered because I believed that it was a source of vast knowledge. I now realise that, paradoxically, the more we make our way through life the greater the understanding of how little we know. I am not now, as a principal, at the summit waving my flag down at struggling climbers but am accompanying my fellow climbers in our search for knowledge and wisdom.

Challenges face us all on a daily basis, some greater than others and when we are at a starting point with a dearth of information the challenge can be even greater. However, like every climb, once the challenge is faced and overcome one feels a great sense of achievement for being able to steer a course through unchartered waters. In a school context the school community is a great source of knowledge and we can all learn from each other by virtue of our individual and communal experiences.

The issue of transgenderism was one that we were invited to visit and learn about in our school in recent years. In this situation the principal’s office was far from being a source of vast knowledge. This principal felt ill-equipped and ill-informed but heartened to be surrounded by a most supportive staff, parents and most importantly our students, both transgender and non-transgender.

Secondly there was great support available from transgender organisations - not least TENI, who arranged a guest speaker, their Educational Officer, to speak to some members of staff.

There is no textbook answer or best practice guidelines on dealing with transgender issues in schools but we can be eternally grateful to our transgender student(s) for their source of knowledge and their willingness to engage with the school in a mature, open and courteous manner. Our report card might indicate that we may have struggled in the beginning but we persevered, researched, talked and, most importantly, listened. We listened to and learned valuable lessons from the best teachers we could have had; our transgender student(s). We were supported and enlightened by some of the most supportive parents and grandparents that one could imagine.

It was encouraging to know that the word “transgender” had an Irish translation (“Trasinse”). This would be important to us as our school is an All-Irish school and maybe in a sense it validated the issue for us. Coupled with this was
the fact that, as Irish speakers, we understand the importance of identity. We can
now seek support from “Líonra na hÉireann um Chomhionannas Trasinscne”
(TENI) and know that support will be available to all of our school community.

I applaud our staff for their acceptance of transgender issues notwithstanding
our lack of knowledge. I observed a gradual, incremental transformation from
being prepared to change pronouns to using name changes without question. I
observed a transition from an understandable fear of a possible act of defiance, a
reluctance to legislate for what potentially may have been a fad or averseness to
setting a precedent for using what may have been described as a “nickname” to full
acceptance and accommodation.

One anecdote that I would like to share relates to a day when I had launched a
“full scale investigation” into a relatively minor incident (a tuck shop theft!) which
was alleged to have taken place in the school at break time. The suspect was a boy
so I took the infrequent step of setting up an identity parade and requested that
all boys from a particular year group assemble in a certain area in the school. It
was so revealing when I saw a transgender student right there in the middle of the
group of boys and I wondered if he had had difficulty answering the call via the
intercom system to assemble with all the boys. Did he struggle in any way? It was
then that I realised that he looked very much at home, as were all the other boys
(except for the thief!). The real revelation was that I not so much struggled but
wondered albeit momentarily. That day my subconscious struggle ended.

We have been enriched by our transgender student(s) who have brought us
to an awareness of another viewpoint, another way to look at life, a súil eile! We
are acutely aware that one size does not fit all and that differences should not be
feared but should be embraced. The mountain ascent is not so simply defined
after all. The answers may not always be at the summit but may very well be at the
foot. Physically and logistically there is quite a distance between the summit and
the foot of the mountain but a meeting of minds can transgress this distance. The
meeting of minds must be done in a mutually respectful manner with all climbers
being cognisant of the needs and rights of others. Then can we reach the summit
of acceptance and understanding which are the fruits of our learning and not of
our labour.

Joe Mac Suibhne
Príomhoide/Principal,
Coláiste Chilliain, Cluain Dolcain, Dublin 22

Afterword

This book offers many perspectives. It is a snapshot of some of the discussions
going on in Ireland.

Life will go on. Gender Recognition will be introduced, whether or not it is
inclusive or marriage-friendly. TENI will continue to work with our decision-
makers, the HSE and An Garda to improve understanding and conditions.

Work to uphold and defend human rights is not static: language changes,
knowledge increases, society’s norms and expectations expand. The experiences
and conversations in this book map where we are at the moment. My hope is that
in years to come, our approach to human rights remains active and engaged: may
we re-read this with fresh eyes, to review what remains valid and explore what
might change.

And may we have the courage to work to change.

Dr Orlaith O’Sullivan
Glossary

Gender Identity refers to a person's deeply-felt identification as male, female, or some other gender. This may or may not correspond to the sex they were assigned at birth.

Gender Expression refers to the external manifestation of a person's gender identity. Gender can be expressed through mannerisms, grooming, physical characteristics, social interactions and speech patterns.

Transgender refers to individuals whose gender identity and/or gender expression differs from the sex assigned to them at birth. This can include diverse gender identities such as: transsexual, transgender, crossdresser, androgynous, genderqueer or gender variant.

Transsexual refers to a person whose gender identity is ‘opposite’ to the sex assigned to them at birth. The term connotes a binary view of gender, moving from one distinct gender identity to the other. For example, female-to-male (FTM) or male-to-female (MTF) trans person.

Trans or trans* is commonly used as a shorthand for transgender.

Intersex refers to a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn’t fit the typical definitions of female or male. The official medical terminology is ‘disorder of sex development’ (DSD) and it implies not a disease process but an atypical developmental process.

Cisgender refers to a non-trans person (i.e. a person whose gender identity and gender expression is aligned with the sex assigned at birth).

Transphobia is the fear, dislike or hatred of people who are trans or are perceived to challenge conventional gender categories or ‘norms’ of male or female. Transphobia can result in individual and institutional discrimination, prejudice and violence against trans or gender variant people.

'Boy no matter What' by James