

THE SECOND CLASS OF THE THIRD SEX:

Transgender Discrimination in the Workplace

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Because of recent personal experiences, I have become very passionate about the blatant discrimination against transgendered people in the workplace. So I sought out news coverage on this type of discrimination. Overwhelmingly, the material I tracked down described instances of discrimination on the basis of gender identity, particularly in the form of employment termination. According to my sources, people in power do not want transgendered people working for them. In this essay, I will use my various sources to describe how a transgendered person's chances in the workplace are constructed in the media, what effect this has on the transgender community, and a few other results of transgender discrimination. I will also touch on legal measures that have been taken to prevent transgender discrimination. The people portrayed in this essay are in various degrees of the adjective "transgender," ranging from those who blur gender lines in forms of dress to post-operation transsexuals.

Five of the articles I have selected report on recent cases of transgender discrimination. In one case, I actually found the same story reported in two very different ways. Just a week ago, an article appeared in the *Tampa Tribune* titled "Wife Files for Divorce from Ex-Largo Manager Stanton" (4/10/2008). The article relates the details of Donna Stanton's divorce from her husband Steve, and only mentions in passing that Steve now prefers to be called Susan. While Donna is clearly the subject of this article, the real story (in my opinion) lies in the fact that Susan Stanton's divorce is accompanied by her removal from her job as a Largo, Florida city manager she held for 14 years. When Susan Stanton expressed her intentions to have a sex-change operation last year, she was fired from her job, and is now being divorced by Donna ("Wife Files" 2008).

The details of Donna Stanton's divorce seem trivial in comparison to the injustice inflicted upon her husband, and were her husband not transgender, this story would never have been of public interest. Still it illustrates a minute point of my thesis: the way in which transgendered people are often subject to intense scrutiny of their personal lives.

The second article on this story was written a year earlier, right after Steve Stanton's gender identity was revealed to the public, and his wife is not mentioned. Immediately after Steve's intentions to transition into Susan were made public, the Largo city commissioners began taking steps to suspend and then fire him. He was fired in March of 2007 despite about 70 people who spoke to the company in favor of Stanton (Stacy 2007). Ironically named Largo City Commissioner Gay Gentry is quoted as saying, "You have to believe us, you have to trust us, it is not about transgenderism" (Stacy 2007). Instead, the city commissioners who fired him provided some obscure excuse that Stanton had been "hard" on employees under him and that the board had "lost confidence in him" (Stacy 2007). Yet the board offered no excuse as to why this came at the same time as Stanton's gender identity was revealed. They also do not explain why Stanton was fired only one year after achieving good company reviews and a large raise (Stacy 2007). Unfortunately, I have found no reports of Stanton taking legal action.

Another story featured on *BBC News* tells of a pre-operative transsexual woman who was working as a truck driver for a firm called Exel ("New Transgender" 2008). Vikki-Marie Gaynor began working at Exel in 2006, and in 2007 she made clear her intentions to have a sex change operation. She also began wearing makeup and jewelry

to work. After these events, Ms. Gaynor's shifts began to be cancelled regularly and she was frequently harassed by coworkers. Finally Gaynor quit the firm and sued Exel for sex discrimination. After a yearlong legal process, Gaynor won her case ("Transsexual driver" 2008).

The last article I gathered tells a similar story. Izza Lopez, a transsexual woman who plans to have sex reassignment surgery as soon as she can afford it, was offered a job at River Oaks Imaging and Diagnostic Group in Houston, Texas (Leonard 2008). But after the company's background check revealed that she was biologically male, the job offer was withdrawn. When Lopez sued the company, River Oaks argued that she had "some sort of duty to disclose her genetic sex during the application process" (Leonard 2008). According to River Oaks, Lopez was not being discriminated against for being transgendered, but rather because she had "misrepresented herself during the interview process" (Leonard 2008). These arguments did not hold up in US District Court, however, where Judge Nancy F. Atlas deemed Lopez had the right to pursue a sex discrimination lawsuit.

Each of these reports extends the very clear message that transgendered persons are not often tolerated in the workplace. In this way (among others) transgendered people are portrayed in the media as second class citizens, spurned and disregarded by the majority who conform to traditional gender norms. According to these media reports, trans people are discriminated against in the career world the same way that women, African Americans, homosexuals, and countless other minorities have been before them. Denying trans people jobs in this way effectively denies them the opportunity to achieve even meager economic class standing.

In its most extreme form, this can have devastating results on the lives on transgendered people. In the article “Prison Pipeline for Transgender Youth,” Franklin (2008) argues that because transgendered people are denied opportunities for legal employment, they sometimes turn to illegal acts such as prostitution for monetary survival. This often leads to their arrest and the horrifying situation of being placed in prison according to their biological sex rather than their gender identity. Dreadful stories of rape and harassment abound (Franklin 2008).

Yet these reports also display an element of sympathy from the court room. Several of these victimized trans people were ordered compensation by courts. So it appears that the law is sometimes on the side of transgendered people. Still, there is little on the law books that deal with trans discrimination. For years courts have argued that the 1964 Civil Rights Act does not extend its protections to transgendered people. However, “in recent years quite a few federal courts...have found workplace protections for transsexuals by building on a 1989 Supreme Court ruling that discrimination based on an individual’s failure to appear or act in a manner consistent with society’s expectations is covered by the 1964 [Civil Rights] Act” (Leonard 2008).

In the British Isles, the Gender Recognition Bill 2008 was recently passed (“New Transgender Laws” 2008). This bill will provide legal recognition of a change of gender for all transsexuals who have undergone sex reassignment surgery. Therefore, people will be simply women or men, not transsexuals. Also, according to *Advocate.com* (“Kansas City” 2008), the city council of Kansas City, Missouri voted to place “expressions of gender identity” in their antidiscrimination laws. Several city officials are quoted saying supportive comments toward the transgender community. However,

these laws only function within the Kansas City limits (“Kansas City” 2008). As is obvious, these protective laws are only effective in specific areas. Laws preventing trans discrimination have yet to become widespread in any area.

An article circulated by *KXVV-TV News Channel 25* reports there is a bill on its way through Congress right now that “bans job bias against gays, lesbians, and bisexuals, but not transsexuals” (“Kennedy jumps” 2008). If this bill were to pass it would affect the entire United States. However, the National Gay and Lesbian Task Force has reacted with outrage, opposing the exclusion of transgendered people and thus the entire bill. Massachusetts Senator Edward Kennedy says, “approval for the legislation could pave the way for passing protections for transsexual people next year” (“Kennedy jumps” 2008). One can only hope. On a sadly humorous note, the article ends saying, “President Bush is expected to issue a veto if the bill clears the Senate” (“Kennedy jumps” 2008).

According to this information, a trans person’s life conditions in the U.S. and Europe are improving every day, and I do not dispute this. However, I feel that the situation is not as bright as the media portrays it. The media that I have access to have failed to report on the several instances where trans people have been discriminated against and lost in the courtroom. If more of these stories were circulated, where the raw anguish and injustice of the trans community were laid bare before the entire nation, the public outcry would far overwhelm the noise created by current trans activists. Imagine what that group could do.

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