

The following text may be cited at Proceedings 5, International Conference on Transgender Law and Employment Policy (p. A-1&2, 1996)

A JOINT STATEMENT BY
THE INTERNATIONAL CONFERENCE ON
TRANSGENDER LAW AND EMPLOYMENT POLICY
(ICTLEP) AND

THE NATIONAL CENTER FOR LESBIAN RIGHTS (NCLR)

Issued November 14, 1996

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Gender Identity Disorder (GID) is listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM), published by the American Psychiatric Association (APA).

Transgender is an inclusive term describing all persons (including transsexuals) within this community. Transsexuals seek to live full time in the corrected gender role, usually with hormone therapy, name change and gender identification correction on documents and the option of surgical interventions.

The existence of GID as a psychiatric diagnosis raises complicated and important issues. Unfortunately, much of the discussion around these issues has become polarized. In the past two years, both ICTLEP and NCLR (along with other LBGT -- lesbiagatr -- groups) have been criticized by some transsexual activists who believe that we are advocating an immediate and wholesale elimination of GID, without regard for the potential impact on access to hormones and surgeries, reimbursement and other issues. Given the importance of the issues at stake, we want to correct this misconception and to provide those who are interested with a joint statement on GID.

As the attached NCLR Information Sheet [not attached herein but available from Shannon Minter at NCLR, 415/392_6257, Minter@nclrights.org] discusses in more depth, the diagnosis of GID in children explicitly targets lesbian, gay, and bisexual as well as transgendered youth. GID is used to identify so-called "pre-homosexual" and "pre-transsexual" children and young people for the purpose of preventing them from growing up to be gay or transgendered. The treatment for GID in children and youth is typically behavior modification or other therapies designed to eliminate cross-

gender behavior and identification. In addition to the damage inflicted on individual youth, right wing groups have appropriated the concept that lesbigr-questioning youth suffer from GID. The right wingers use GID in order to oppose protections and resources for lesbigr-questioning students in public schools by arguing that lesbigr-questioning youth need "treatment" rather than civil rights.

We recognize that GID has different implications for transsexual adults, for whom a diagnosis of GID is usually necessary to get hormones and surgeries or to get reimbursed for transition-related care. We also recognize that GID has been used to gain anti-discrimination protections for transgenders in some jurisdictions, under the aegis of laws prohibiting discrimination against people with psychiatric disabilities. Because we understand these realities, WE DO NOT ADVOCATE an immediate, blanket elimination of GID in a vacuum, without an alternative means of ensuring continued access to and reimbursement for hormones and surgeries.

We strongly believe that transsexualism should become a medical rather than a psychiatric status. The existing system of access to and reimbursement for transition-related health care is grossly inadequate, because it vests psychiatrists with far too much power over access to hormones and all corrective surgeries, because that power is far too often abused, and because the vast majority of transsexuals are excluded from any hope of reimbursement for transition-related care. We believe that shifting transsexualism from a psychiatric to a medical status will help to alleviate these problems. We also recognize that achieving this goal will be a difficult task. In the meantime, we believe that it is not only appropriate but essential for transgendered people to demand more accountability from the psychiatric professionals who wield so much power over our lives. We also believe that transgendered people need and deserve explicit civil rights protections. For a number of reasons, we do not believe that the disability rights model is either the only or the most effective way to win civil rights protections for transgendered people.

First, GID is explicitly excluded from the Americans with Disabilities Act and from the Federal Rehabilitation Act. GID is also excluded, either explicitly or through judicial interpretation, from most state disability laws.

Second, legal protections based on GID as a psychiatric disability have some serious drawbacks, not the least of which is the perpetuation of the stereotype that transgendered people are inherently disturbed or unstable. Accepting the notion that we are mentally ill in order to gain some limited protections on the basis of disability will not protect transgendered parents who are denied custody or the right to adopt on the basis that they have a mental impairment which renders them unsuitable parents. Nor will it

necessarily provide transgendered people with comprehensive protection against job discrimination. Even under the ADA, the extent to which employers must accommodate people with mental illnesses is highly contested and unclear.

Third, the disability model invests mental health professionals with tremendous authority to define appropriate treatment in any given case. In the context of prisons, for example, this drawback has already had devastating consequences. While some transsexual inmates have won legal cases holding that transsexuals have a right to treatment based on a diagnosis of GID, courts have consistently deferred to the professional judgment of prison doctors and held that psychotherapy, tranquilizers, and even "hormone replacement therapy" (i.e., testosterone therapy for male-to-female transsexual prisoners) are sufficient to satisfy this legal right.

Finally, the strongest argument against exclusive reliance on a disability model is the growing number of jurisdictions that prohibit discrimination against transgendered people without reference to GID. These include Minnesota, San Francisco (CA), Santa Cruz (CA), Seattle (WA), Cedar Rapids (IO), Minneapolis (MN), and St. Paul (MN). At the international level, the European Court of Justice recently held that employment discrimination against transsexual people violates the fundamental human right to be free of discrimination based on sex. We believe that these victories are the beginning of a new era in transgendered civil rights, and solid evidence that we have the potential to move beyond the disability model to a more comprehensive civil rights agenda.

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