

Transgender Rights in Canada: Legal, Medical and Labour Union Activities

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1 Introduction

In recent years, Canada has been at the forefront of global efforts to advance human rights for lesbian, gay and bisexual (LGB) persons. In 2005, Canada became the first country in the Western hemisphere, and fourth in the world, to legalize marriage equality nation-wide. Significant anti-discrimination provisions exist in numerous pieces of legislation that protect LGB-identified persons. There is also a growing movement to improve inclusion for lesbians, gays and bisexuals in a variety of public spheres, including in schools through the development of gay-straight alliances, and athletics through such things as partnerships between the national LGBT human rights association (Egale) and the Canadian Olympic Committee (Egale 2011).

Inclusive protections for transgender persons however, have lagged behind those for the LGB community. Even now, there are no explicit protections for transgender persons in the Canadian *Human Rights Act* or the *Canadian Charter of Rights and Freedoms*. Considerable evidence suggests that this is a group of people in need of human rights interventions; only recently have the legal, medical, psychological, and workplace issues that are particular to the transgender community moved closer to the political and social spotlight (Hines 2013; Egale 2011; Nameste 2011).

Transgender is a term used to describe people who do not conform to a narrow conception of gender identity or gender expression based on their birth assigned sex (OHRC 2014). It encompasses people who challenge “norms” about appropriate

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dress, cosmetics, and behaviour. Gender identity, in particular, refers to a person's sense of their own gender along the male–female spectrum. Gender expression, in contrast, refers to the way in which a person publicly presents their gender in terms of such things as hairstyle and voice. As a result, transgender refers to people who have transitioned from their assigned birth sex (trans woman—male-to-female; trans man—female to male), often with surgical and hormonal interventions, as well as those who maintain their biological sex, but express themselves in gender non-conforming and variant ways (OHRC 2014). Historically, transgender people have experienced very high levels of overt discrimination ranging from taunts and name-calling, to rape and murder (Paisley et al. 2006; Bender-Baird 2011; Zabus and David 2014; Hines 2013; Connell 2010; Budge et al. 2010). In many instances, this group has been denied equal access to housing and employment opportunities. In one large sample of Canadian students, trans-identified youth reported the highest levels of verbal and physical harassment, of any group (Egale 2011). A 2011 survey of 433 trans-identified adults in Ontario, found only 37 % of respondents were employed full-time, and 15 % part-time, and 20 % indicated they were unemployed. The median income for the group was \$15,000. Thirty-two percent thought their gender had influenced hiring decisions, and 18 % indicated they were certain they had been turned down for a job because of their gender (Trans Pulse 2011). Consequently, transgender people are thought to be one of the most economically marginalized populations in the country.

In this paper we assess the current legal situation for transgender individuals. We find that most Canadian provinces have anti-discrimination protections in place for this group, but progress continues to lag at the federal level. Even though broad legal protections for sexual and gender minorities are well established in Canada, what this actually means for transgender people is harder to ascertain. On the one hand, it is clear that denying a transgender person equal access to housing or employment would contravene the human rights code of most jurisdictions, and if proved, penalties would ensue. At the same time, it is not clear what steps organizations must take to ensure there is no discrimination once a transgender person is hired, or when an employee initiates a gender transitioning process.

In Canada, each province is responsible for managing its own healthcare system within a framework of universal coverage, and gaps exist between what is covered in one province but not in another. As a result, we also assess the degree to which the various provincial healthcare systems cover, or do not cover, the medical and psychological needs of transgender people, especially in relation to the costs incurred in gender transitioning (assessment availability, transportation costs to specialized centers, and hormone/surgical interventions). We find there is considerable variation and gaps in the level of coverage across jurisdictions, including some provinces that offer exceptionally limited coverage, or no coverage at all. This creates openings for employers to pick up the slack through work-based supplementary healthcare insurance schemes, and for labour unions to negotiate such coverage in collective agreement language. Accordingly, we also consider the actions unions have taken in terms of policy recognition and collective bargaining on issues related to transgender people. Here, we find several unions have taken

good initial first steps, but that much more could be done by organized labour to represent this group.

2 Methodology

To determine the extent of legal coverage for transgendered people we reviewed the contents of the Federal and Provincial Human Rights Codes on-line, as well as reviewing relevant newspaper articles on gender identity and expression clauses within human rights legislation.

Determining the extent of medical coverage across the provinces proved to be more difficult. As a result, several search methods were used. First, a search was undertaken of each provincial healthcare website to determine what medical procedures are covered, and what costs are left to individuals, such as transportation to an approved facility for assessment and surgical procedures. This was followed-up by a review of the web site of transgender activist groups where we found summaries of the extent and type of medical services available in each jurisdiction. This information was supplemented in several cases when information seemed unclear or contradictory, by telephone or email contact with provincial health officials.

One of the earliest and more assertive supporters of lesbian and gay rights in Canada was labour unions (Hunt and Eaton 2007). It is therefore reasonable to imagine that unions have also taken steps to protect and accommodate a broader range of sexual minorities, including transgender people. To determine the extent to which labour unions have engaged with transgender issues, we undertook a multi-pronged investigation. First, we examined the non-discrimination policy of the seven largest unions in the country which as a group represent about 75 % of unionized workers, to see if gender identity or gender expression was specifically mentioned in the constitution. We also sought more details about what, if any, additional initiatives these unions had taken such as educational programs and publications or brochures designed to inform members about transgender rights, as well as to see if these unions were encouraging their locals to include transgender rights as specific bargaining demands. Next, we undertook a key word search of "Negotech," a Federal government on-line data bank of collective agreements in Canada, searching for the inclusion of gender identity and/or gender expression in collective agreement language. Our next step was to uncover the inclusion of transgender health coverage in the collective agreements in a selected group of unions. We also reviewed a number of collective agreements representing Federal government workers, many of which are currently in the bargaining stages. In a number of cases, the information obtained from collective agreements was supplemented by conversations with union officials to clarify actual coverage in a supplementary medical plan if this was not clear.

3 Findings

In this section, we outline our findings relative to the legal situation for transgender persons in Canada. This is followed by a summary of the availability of sex reassignment surgery under the various provincial healthcare plans. We enlarge this analysis to include more specific information about what actual coverage means in terms of access to services and out of pocket expenses since most provinces do not have the medical facilities available for reassignment surgery. We then examine how comprehensively selected labour unions have incorporated transgender issues into policy and collective bargaining strategies.

3.1 Legal Coverage

Table 1 summarizes the recognition of gender identity and gender expression in the Federal and Provincial Human Rights Codes in Canada. There are currently no explicit protections for transgender persons in the Canadian *Human Rights Act* or the Canadian *Charter of Rights and Freedoms*. Some efforts have been made to rectify this gap in legal protections. Bill C-279, a private-members bill originating from the opposition New Democratic Party, would amend the *Human Rights Act* and *Criminal Code* to include gender identity as a protected ground of discrimination. However, despite passing the House of Commons in March 2013, the bill has

Table 1 Recognition of gender identity and gender expression in federal, provincial, and territorial human rights codes

Jurisdiction	Gender identity	Gender expression	Notes
Canada	X	X	
Alberta	✓	✓	
British Columbia	X	X	Covered under “sex”
Manitoba	✓	X	
New Brunswick	X	X	Covered under “sex”
Newfoundland and Labrador	✓	✓	
Nova Scotia	✓	✓	
Ontario	✓	✓	
Prince Edward Island	✓	✓	
Quebec	X	X	Covered under “sex”
Saskatchewan	✓	X	
Northwest Territories	✓	X	
Nunavut	X	X	
Yukon	X	X	Covered under “sex”

faced significant resistance and delays in the Senate. Additionally, a separate initiative to include gender identity in the *Criminal Code* through an anti-cyberbullying bill also failed. It appears that such initiatives were low priority for the then governing Conservative Party, with many members of parliament questioning the merits of the legislation, despite support for the bill from the Canadian Human Rights Commission (which administers and receives complaints connected to the *Human Rights Act*). In March 2015, Conservative Senators passed an amendment that would limit the applicability of the bill in certain sex-segregated spaces, such as public washrooms or shelters. Conservative Senators argued the amendment was necessary to protect women, and other vulnerable groups from potential predators, such as biological males who could use the law to gain access to women's washrooms (King 2015). Transgender advocacy groups, as well as opposition Senators, argued these amendments would greatly limit the efficacy of the law by allowing transgender discrimination in a variety of public spaces (McGregeor 2015). The Senate and House of Commons were required to vote on the proposed amendments before the Bill could become law, however this failed to occur ahead of the fall 2015 election, ultimately killing the legislation. A more progressive Liberal government was elected in October 2015, and it has indicated more readiness to advance the transgender file.

Greater success has been achieved at the provincial and territorial levels of government. As outlined by Table 1, seven out of ten provinces and one out of three territories now include gender identity within their human rights legislation. In 2002, the Northwest Territories became the first jurisdiction in Canada to include gender identity as a prohibited ground of discrimination within its Human Rights Code. Since then, Ontario, Manitoba, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Saskatchewan, and most recently, Alberta, have added gender identity to their provincial human rights codes. Five provinces also include gender expression as a protected ground.

For many of these provinces, the stated rationale behind enumerating gender identity protections was to help clarify and raise awareness about the protections available to transgender persons. In Newfoundland and Labrador, for example, a policy brief accompanying the legislative change explained that it would help raise awareness of the unique challenges and forms of discrimination facing transgender persons within the province (Government of Newfoundland and Labrador, News Release 2013). In Manitoba, the government has argued including gender identity within human rights legislation will provide the Manitoba Human Rights Commission additional tools to combat transgender discrimination (Canadian Civil Liberties Association 2012). Alberta has gone beyond the inclusion of gender identity and gender expression within its *Human Rights Act*. The province now mandates that gay-straight alliances, which often serve as important safe-spaces for transgender students, must be allowed in any school where they are requested. In the provinces that lack explicit protections on the basis of gender identity or expression, provincial human rights commissions have indicated they will accept cases involving gender identity under the ground of "sex."

3.2 Medical Coverage

One of our goals was to examine whether the increased number of Canadian jurisdictions including explicit gender identity protections has led to any meaningful and tangible outcomes for the day-to-day lives of transgender Canadians. As mentioned earlier, we chose to examine the availability of sex reassignment surgery in Canada (SRS). For many transgender persons, SRS is a medically necessary component of living as their preferred gender. In their latest guidelines, the World Professional Association for Transgender Health (WPATH) explains that for many transgender persons “. . .relief from gender dysphoria cannot be achieved without modification of their primary and/or secondary sex characteristics to establish greater congruence with their gender identity” (WPATH 2012, p. 54). SRS can also help patients feel more “at ease” in their day-to-day lives, while WPATH finds that SRS has numerous positive postoperative outcomes, such as improved subjective well-being and sexual function (ibid., p. 55).

However, despite the medical importance of SRS, the procedures have often been restricted across Canada. In 2009, Alberta and Manitoba offered no public coverage of SRS, while Ontario de-listed the procedures between 1988 and 2009. Nova Scotia also briefly threatened to stop funding SRS in 2013. Many other provinces determined whether they would provide public coverage of SRS on a limited case-by-case basis. In 2014, we find that SRS coverage has expanded, as eight out of ten provinces now have official programs for SRS coverage, up from only five in 2009. Only New Brunswick and Prince Edward Island do not provide any SRS coverage. We have excluded the three territories from this analysis, given the limited data, and that most decisions on SRS appear to be made on a case-by-case basis (personal correspondence with authors).

Despite the larger number of provinces now having official SRS programs, Table 2 offers a rather misleading picture, as the provinces vary significantly in the ease in which clients seeking SRS can actually acquire publicly funded treatment. Indeed, the provincially mandated requirements necessary to gain SRS, and the costs borne by the patients vary significantly by jurisdiction. In Table 3, we

Table 2 Availability of sex reassignment surgery in Canadian Provinces

Jurisdiction	2009	2014
Alberta	✗	✓
British Columbia	✓	✓
Manitoba	✗	✓
New Brunswick	✗	✗
Newfoundland and Labrador	✗	✓
Nova Scotia	✓ ^a	✓
Prince Edward Island	✗	✗
Ontario	✓	✓
Saskatchewan	✓	✓
Quebec	✓	✓

^a Nova Scotia briefly attempted to de-list SRS in 2013

Table 3 What does coverage mean? Access to services and initial diagnosis

Province	Ranking
Quebec	5
British Columbia	4
Alberta	3
Manitoba	3
Nova Scotia	3
Ontario	2
Newfoundland and Labrador	1
Saskatchewan	1
New Brunswick	0
Prince Edward Island	0
<i>Ranking scale</i>	
5—Decentralized assessment requirements, most procedures performed within province	
4—Partially-centralized assessment requirements, aided by high degree of publicly available information and shorter wait times	
3—Decentralized assessment requirements, mitigated by few physicians specializing in transgender health within province	
2—Centralized assessment requirements with long wait times	
1—Requires out of province travel for assessment prior to government approval	
0—No coverage	

begin unpacking the requirements necessary to be approved for SRS procedures. Provinces are ranked from least restrictive to most restrictive.

Of the provinces that do provide SRS coverage, Saskatchewan, as well as Newfoundland and Labrador receive the lowest rankings, as both provinces require patients to travel to Toronto to attend the Centre for Addictions and Mental Health (CAMH), a specialized gender identity clinic, before surgery can be approved. This is a significant obstacle to coverage, as the clinic is known to have wait-times as long as 1-year before a patient can be seen. Ontario is ranked at two, since it requires all presumptive SRS patients to be seen at CAMH before the government will consider funding, which given the long wait times, creates a significant bottleneck in the system. Moreover, for many patients outside of the Toronto area, significant travel will be necessary to attend the clinic. Next up are Alberta, Manitoba, and Nova Scotia, all of which offer a decentralized initial assessment. In practice, these provinces require two physicians knowledgeable about transgender health working within the patient’s province of residence to jointly recommend SRS directly to the government. This eliminates potentially long wait times at specialized government-approved clinics. However, the more decentralized system may be less useful in reality if there are only a few physicians within each of these provinces available to treat transgender clients. For example, a provincial report compiled for Canadian Professional Association for Transgender Health (CPATH) notes only three psychiatrists routinely see transgender patients in Alberta (CPATH 2012).

While admittedly a subjective distinction, British Columbia is ranked as having better initial access to services than Manitoba, Nova Scotia and Alberta, despite maintaining a partially centralized assessment system. In part, this stems from greater flexibility than Ontario's centralized system, as some procedures only require one government-approved assessor to sign off on surgery (BC Ministry of Health). In addition, patients are not required to attend a specialized clinic, as is the practice in Ontario. Lastly, unlike the provinces awarded a three, information about SRS procedures is widely available, and there is an extensive transgender healthcare program run through Vancouver Coastal Health. Quebec is ranked as having the least restrictive requirements, as patients are only required to provide a letter from two physicians within the province, and according to CPATH there are a good number of physicians working with the transgender community in the province (CPATH 2012).

In Table 4, we outline the out of pocket expenses that patients seeking SRS are expected to cover. As in Table 3, New Brunswick and Prince Edward Island are ranked at zero as they do not provide any official coverage for SRS. Newfoundland and Labrador, as well as Saskatchewan require patients to travel to Toronto for assessment at CAMH, which leads to significant upfront costs for patients. In British Columbia, while the initial assessments can occur within province, the BC Medical Services Plan (MSP) will not cover transport or accommodation for surgeries performed out of province (many of which take place in Quebec). Alberta

Table 4 What does coverage mean? Out of pocket expenses for patients

Province	Ranking
Quebec	5
Nova Scotia	4
Alberta	3
Ontario	3
Manitoba	3
British Columbia	2
Newfoundland and Labrador	1
Saskatchewan	1
New Brunswick	0
Prince Edward Island	0
<i>Ranking scale</i>	
5—Within province initial assessment, most procedures performed within province	
4—Within province initial assessment, province covers airfare and some accommodation costs for out of province procedures	
3—Within province initial assessment, province covers only airfare/transport costs for out of province procedures	
2—Within province initial assessment, patients must pay travel costs for procedures out of province procedures	
1—Patients are required to travel out of province for initial assessment, many procedures occur out of province	
0—No coverage	

and Ontario, by contrast, do provide some travel costs for out-of-province surgeries, while Nova Scotia provides limited accommodation assistance in addition to airfare. Lastly, by virtue of many procedures occurring within province, Quebec ranks as the least expensive for patients seeking SRS within the country. These findings, though limited in scope and using at times subjective rankings, do clearly highlight that SRS coverage varies significantly across the country.

3.3 *Labour Union Engagement*

Our third area of investigation was to consider how the labour movement has responded to transgender issues by way of non-discrimination policies and incorporation of transgender issues into their representational strategies. The only other study we know of that has looked at this issue was undertaken by Eaton (2004). Our work builds on his findings, and suggests that unions are only now moving towards implementing more progressive policies towards transgender persons in collective bargaining. As Hunt and Eaton (2007) explain, the inclusion of non-discrimination grounds within collective agreements is important "...because they provide workers with a local grievance mechanism, making redress quicker than through human rights appeals; [and] they also provide an affirming statement to broader union membership" (Hunt and Eaton 2007, p. 138). As will be shown below, many collective agreements lag behind recently changed provincial human rights codes, and while most agreements include sexual orientation as a protected ground, a far smaller number include gender identity or gender expression. On a more positive note, in some cases unions have moved to include gender identity in their collective agreements in absence of provincial or territorial requirements to do so, such as in British Columbia and the Yukon. While tentative, this suggests that some Union locals are increasingly aligning their bargaining goals with jurisdictions that do explicitly prohibit gender identity discrimination (as well as implementing union policies from national headquarters).

Indeed, in recent years several major Canadian unions have started to develop specific policies at the headquarters level, to combat discrimination on the basis of gender identity and expression. As outlined by Table 5, nearly all of the larger Canadian unions now include specific policies and guidelines for improving inclusion for transgender workers. For example, UNIFOR, the largest private sector union in the country, recently published a set of guidelines for how best to address and support workers in transition (UNIFOR, *Workers in Transition: A Practical Guide for Union Representatives*). The guidelines also call for the inclusion of gender identity in anti-discrimination clauses, and for medical coverage, and leave, for patients seeking SRS. The large public sector union, PSAC, also includes the addition of gender identity in anti-discrimination clauses as a specific bargaining demand.

Yet, the translation of union policies supportive of transgender rights into specific language within collective agreements is still a work in progress at the

Table 5 Transgender human rights: union engagement

	CLC	UNIFOR	PSAC	CUPE	CUPW	USW	TU
Gender Identity in Human Rights Policy	✓	✓	✓	✓	✓	✓	
Transgender policy paper or resolution adopted	✓	✓	✓	✓	✓	✓	
At least one collective agreement with non-discrimination covering gender identity	✓	✓	✓	✓	✓		✓
Inclusion of gender identity/expression in anti-discrimination provisions as bargaining demand	✓	✓	✓	✓	✓	✓	
Inclusion of SRS paid leave as bargaining demand	✓	✓		✓	✓		
Supplementary health plan coverage for SRS procedures not covered by province, and other transition-related expenses	✓	✓		✓			
Transgender awareness and education initiatives	✓	✓	✓	✓	✓	✓	✓

Abbreviations: *CLC* Canadian Labour Congress; *UNIFOR* Union for Canada; replacing Canadian Auto Workers Union AND Communication, Energy and Paperworkers Union of Canada; *PSAC* Public Service Alliance of Canada; *CUPE* Canadian Union of Public Employees; *CUPW* Canadian Union of Postal Workers; *USW* United Steel Workers; *TU* International Brotherhood of Teamsters

Table 6 Current collective agreement containing “gender identity” or “gender expression” in Canada

Search term	No. of agreements
Gender identity	133
Gender identity and/or expression	43
Expanded anti-discrimination clauses	26

local level. A keyword search using the term “gender identity” in the Negotech database, which contains most collective agreements in Canada, revealed a growing number of collective agreements with references to gender identity. After accounting for agreements that had expired, a total of 133 current agreements have references to gender identity at least once within the agreement. In two current agreements, gender identity was not listed in anti-discrimination clauses, however references to this ground were found in specific transgender human rights policies. Forty-three agreements also contained references to gender expression. By contrast, a keyword search of “sexual orientation” in the same database returns over 2000 agreements (Table 6).

Table 7 delves into the collective agreements in greater detail by sector. The largest single group of collective agreements containing gender identity is for public sector employees, many represented by PSAC. Examples of the types of collective agreements represented in this category include government employees, housing authorities, as well as public transit workers. The second largest sample

Table 7 Collective agreements containing “gender identity” by sector

Sector	No. of agreements
Government/Public sector	65
Education/Universities	40
Private sector	26
Other	2
Total	133

Table 8 Gender identity in collective agreements by jurisdiction

Jurisdiction	No. of agreements
Ontario	53
Northwest Territories	18
Nunavut	15
British Columbia	11
Newfoundland and Labrador	9
Yukon	8
Quebec	5
Alberta	3
New Brunswick	3
Saskatchewan	3
Nova Scotia	2
Manitoba	1
Prince Edward Island	0

group emerged from the education sector, and involved agreements covering both academic and non-academic staff at many Canadian universities. Interestingly, universities appear to have frequently included gender identity in their collective agreements even when not required to by provincial rules (e.g., in Alberta prior to 2015, Saskatchewan prior to 2014 as well as New Brunswick). Private sector agreements were the third largest grouping, and included large agreements recently concluded for workers at GM and Chrysler Canada.

Table 8 provides a breakdown of collective agreements by jurisdiction. Ontario has the largest number of collective agreements containing gender identity or gender expression. This is an unsurprising finding given that it has the largest population in Canada, and was among the first provinces in Canada to include gender identity in its human rights code. Since the law was passed in 2012, a large number of agreements have come up for renewal, and now include gender identity and expression as a protected ground. More interesting, however, is the large number of agreements in Yukon and Nunavut containing explicit protections on the grounds of gender identity, despite the term not being included within their territorial human rights codes. This suggests that unions in these two territories have increasingly followed standards set by national headquarters and other jurisdictions that do explicitly prohibit gender identity discrimination. The large number of agreements from the Northwest Territory is indicative of the jurisdiction’s early

adoption of explicit gender identity protections in its territorial human rights legislation. Indeed, the Northwest Territories was the first in the country to include these provisions in 2002, and many agreements have come up for renewal since the law has been changed.

By comparison, many of the other jurisdictions have changed their laws only recently, including Alberta in 2015 and Saskatchewan in 2014, which suggest that many agreements will lag behind a growing national standard until such agreements come up for renewal. The case of Manitoba is interesting, as there is only one current collective agreement containing gender identity in the Negotech database. Given that the province passed gender identity protection shortly after Ontario, this highlights either a slow uptake of this provision into collective agreements, or that very few agreements have come up for renewal since the legislative change in 2012. The only sub-national jurisdiction without any agreements including references to gender identity or expression is Prince Edward Island. Currently, many of the Federal government collective agreements are up for renewal, and we were able to determine that the inclusion of gender identity anti-discrimination protections as a bargaining demand is present in at least 4 of 27 agreements being negotiated.

While our key word search of the Negotech database indicated a growing adoption of protections for gender identity and/or gender expression in collective agreements, far less progress has been made in references to paid SRS leave, or supplementary medical coverage. Only one agreement, from the University of Western Ontario, included specific language on sex reassignment surgery as a collective benefit. As a result, we decided to undertake an intensive content analysis of the health care plans negotiated by the largest universities in the Toronto area since the specific information about medical coverage for transgender persons would be unlikely to show up in the collective agreements. We selected universities for further study because of the frequency in their collective agreements of coverage for transgender protections (relative to other collective agreements under review), and because the researchers could reasonably gain access to the details of these collective benefits.

In Table 9, we list collective agreements from Toronto area universities. The universities were ranked according to the inclusivity of their gender identity anti-discrimination language, as well as the provision of SRS leave. York University ranks as having the most inclusive language, and also includes paid leave for teaching assistants undergoing SRS. In addition, and unique among collective agreements surveyed, this agreement has a transgender fund which provides recipients of SRS up to a maximum of \$15,000 in financial assistance. The collective agreement representing teaching assistants at the University of Toronto also provides paid leave for SRS, although it does not provide any supplementary medical coverage. At present, collective agreements at Ryerson University do not provide for paid SRS leave or supplementary medical coverage. More broadly, our research indicates that no health plans provide additional supplementary coverage for SRS procedures within collective agreements. Given the significant gaps in provincial coverage, this can leave many lacking sufficient coverage to afford treatment.

Table 9 Transgender health coverage in collective agreements: Toronto area universities

Collective agreement	Gender identity inclusion scale	Paid SRS leave	Additional medical coverage beyond provincial coverage	Separate union funds/support
York University (Cupe 3903—Teaching Assistants)	4	Yes	No	Yes
York University (Faculty Association)	4	No	No	No
University of Toronto (Cupe 3903—Teaching Assistants)	4	Yes	No	No
University of Toronto (Faculty Association—Professors)	2	No	No	No
Ryerson University (Teaching Assistants—CUPE 3904)	2	No	No	No
Ryerson University (Faculty Association)	2	No	No	No

Inclusion scale ranking

4—References gender identity/gender expression, sex, sexual orientation, and other affirmative clauses (such as transition status)

3—References gender identity/gender expression, sex, sexual orientation

2—References sex and sexual orientation only

1—References sex only

0—No anti-discrimination references

4 Conclusion

Over the last 20 years, Canada has developed one of the best records on gay, lesbian and bisexual rights in the world (Rayside 2008). It was an early adopter of inclusive human rights legislation and one of the first countries to enshrine same-sex marriage in law. However, our research indicates that Canada's record on extending rights to transgender citizens has been slower and is far from complete. Although most provinces and territories now have human rights protections for transgender persons, coverage for medical and psychological services vary widely across the country, highlighting a lack of national standards. For patients seeking SRS, even if surgeries are publicly funded, gaining the necessary government approvals often require onerous travel requirements, significant out of pocket expenses, and long wait-times. Moreover, in many instances, the final decision about what procedures to cover and what not is made on a case-by-case basis.

Clearly, there is considerable room for labour unions to improve the lot of transgender individuals. Our examination uncovers some movement toward the inclusion of transgender as a separate category in collective bargaining

non-discrimination language, even if not legally required to by federal, provincial or territorial laws. However, many agreements continue to lag behind provincial or territorial rules requiring explicit protection on the grounds of gender identity. Moreover, in only a very small number of cases are there specific provisions for the types of benefits that are unique to transgender persons such as paid leaves and topping-up of the costs associated with sex reassignment. Our investigation reveals little evidence that unions are negotiating additional medical or psychological assistance beyond what is already available from the state.

This was a first look at the issues faced by transgender persons in Canada. It paves the way for more in depth assessment. It would, for example, be instructive to undertake a survey of what non-unionized organizations are doing in this regard, especially since the passage of non-discrimination legislation is quite recent. A content analysis of a larger sample of collective agreements, including the medical plans that have been negotiated, would also have the potential to yield valuable insights. Lastly, some of the initiatives undertaken by the York University collective agreement highlight what could be done by unions.

This study was limited to the Canadian situation. It would be of interest to compare these findings to other settings, especially countries with comparable records for lesbians and gays. This would allow speculation about whether a good record on gay and lesbian issues is likely to act as a predictor for a progressive response to the transgender community as well. Looking at the institutional response of labour unions to transgender issues is useful since labour positions itself as fighting for the equality and protections of all workers, and it is important to test this rhetoric. Comparing organized labour's response across several national jurisdictions would add an interesting comparative approach to the work we have completed in Canada.

This research was conceived as a first level investigation into transgender rights in Canada. We focused on the legal advances, medical coverage, and labour union interventions that have been achieved so far. One thing we uncovered is that the issue is a relatively new one for unions, and in a number of cases has been identified for action. As a result, progress in the area may be quite dramatic over the next few years as more and more collective agreements come forward for renewal.

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