The headlines are full of trans rights stories these days. From the federal government's introduction of Bill C-16 to finally add gender identity and gender expression to the Federal Human Rights Code, to Ontario's upcoming reform to add the sex designation "X" to public registries, trans rights are on the move. But where exactly are they going? While the right to non-discrimination seems to be increasingly recognized, there is a newer right on the horizon: the right to gender self-determination. It is a more positive right—one that gives the power over gender to individuals themselves. It means that gender-variant people, like non-gender-variant people, have an autonomous right over their gender that others are obliged to respect and protect.

So, is this good news? Is it more inclusive? Are we leaving anyone behind? Let's consider how far trans rights have come in the recent past, to contemplate the as yet unknown future.

Trans movements, nationally and globally, have worked tirelessly to ensure the law's protection includes gender variance. In 2002 the Northwest Territories were the first government in the Canada to explicitly prohibit discrimination against trans people by including gender identity in their Human Rights Code. A decade later, in 2012, Manitoba added gender identity to their human rights

legislation. In that same year, Ontario and Nova Scotia added both gender identity and gender expression to their human rights laws. Prince Edward Island as well as Newfoundland and Labrador followed suit in 2013. In 2014 Saskatchewan made provisions for gender identity, and in 2015 Alberta joined the club, adding both gender identity and expression to their Human Rights Code.

The other five provinces and territories—British Columbia, Québec, New Brunswick, Nunavut Territory, and the Yukon—have implicit protection, having interpreted their Human Rights Codes as including gender variance under existing prohibited grounds. The idea is that discrimination against trans individuals constitutes discrimination on the basis of "sex." While this has provided some protection against discrimination, trans advocates argue that it does not capture the unique nature of the discrimination that trans individuals face.

The federal government was late to the game. Neither gender identity nor gender expression were included in the Canadian Human Rights Act. Bill C-16, introduced by the Trudeau government, will finally address this exclusion. The Bill will amend the Canadian Human Rights Act and Criminal Code, adding gender identity and expression to the list of prohibited grounds for discrimination in the Human Rights Act, and to the "identifiable group" clauses of the Criminal code, making it federally illegal to discriminate in the provision of housing, employment, and social services on the basis of gender variance, and making crimes motivated by a hatred of gender variance subject to harsher sentences, respectively.

Provincial trans legislation is moving forward more quickly than Bill C-16 and a body of law supporting a right for gender self-determination seems to be forming. Québec already adopted a regulation regarding government-issued identification that allows individuals to change their sex designation, and Ontario is about to add an “X” option to their registry.

On a global scale, gender self-determination as an independent human right would have been considered farfetched even a few years ago. But in 2012, Argentina passed a Gender Identity Law that recognized one’s right to determine one’s gender, and imposed a duty on the state to recognize and protect that choice, as well as provide access to medical and other resources. This sort of legislation in now sweeping through the European Union, with new gender self-recognition laws in Denmark (2014) and Malta (2015), and similar laws to be introduced in the near future in the UK, Portugal, Norway, and other countries. This emerging human right is popping up even at the international level, with the UN Human Rights Council’s decision from June 2016 to appoint an independent expert on protection against violence and discrimination based on sexual orientation and gender identity.

In this move towards the ultimate trans right—a right for gender self-determination—there is still one question no one can (or should) answer: Who is trans? What is considered gender variance?

The people who experience and practice gender variance are highly diverse, and getting more diverse by the day. Gender identities and practices are shifting rapidly as new identities emerge, from transsexual through transgender, two spirits, and third gender, to bigender, agender, multigender, gendersexual, pangender, and trigender (and the list goes on). As the young gender-independent warriors keep teaching us, once you start unraveling gender there is no limit to where you can go with your creativity and imagination.

Moreover, as feminist and critical race theorists have long argued, our gendered experience cannot be detached from other spheres that shape our social world, such as racism, ableism, sexism, classism, and ageism, just to name a few. The rights you need recognized and protected as a poor trans feminine person of colour are very different than the ones you need recognized and protected as an upper-middle-class white trans masculine person. Layers upon layers of discrimination make some individuals less visible and more vulnerable. But, the law is a one-size-fits-all kind of system. Paradoxically, in the name of equality, laws and policies are designed without taking into account the multiplicity of experiences, the different shades of exclusion painted by all those overlapping

and intersecting spheres of life. In this context, gender self-determination might be just another honey trap—one that puts so much focus on the individual that it makes it hard to look at the complex web of social and legal forces that shape and sustain the exclusion of trans people.

In March 2015, the British Columbia Human Rights Tribunal opened its decision in the case of Angela Dawson vs. the Vancouver Police Board with the following statement: “Gender. It may be the most significant factor in a person’s identity. It is intensely personal.” The tribunal gave us a glimpse into what a right to gender self-determination might look like: a right that starts and ends with the individual, that accounts for only one factor of one’s identity and neglects to account for the ways in which one’s gendered experience is shaped by the open-ended list of social constructs that influence how one is perceived and treated by others and by the law. In an absurd turn, gender—the concept that feminists argued is inherently public—is now becoming intensely private in the name of trans rights.

Where should trans rights be headed? Perhaps gender-variant people’s engagement with shaping the law will open a range of future possibilities. Maybe the move towards protecting and promoting the right to gender variance will require us to rethink some of the very categories that have informed legal protections. Once-stable categories like sex and gender, long considered “unchangeable,”’ “natural,” and “constant,” are currently unraveling over fibre optic cables across the globe, literally at the speed of light.

Maybe if we considered gender not as something that we have or we want, not as a product that we can consume, but as a force that distributes access to life chances, then we could start thinking about how to make sure that gender variant practices and experiences—specifically for those who face intersectional exclusion—are fully recognized and protected.

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