

Get Used to More Davids Becoming Dianes

Only Human

By Kathleen Peratis

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You have to hand it to Rep. Barney Frank, the man knows how to empathize. In the first-ever congressional hearing on workplace discrimination against transgender people, held by the House in late June in an Education and Labor subcommittee, Frank said he understands what it means to be trapped in the wrong body — because that is what happens when his legislation gets bogged down over in the Senate.

The lesbian, gay, bisexual and transgender — or LGBT, for short — press called the congressional hearing on gender identity discrimination “historic” and “groundbreaking.” The mainstream media pretty much ignored it, but the issue is worth keeping an eye on.

Same-sex marriage is on its way to becoming ho-hum, but here comes the next blade of the family-values windmill, ready to whap us. Trans people are rising up.

Even LGBT professionals were surprised that the hearing was called. Last fall the House passed a bill providing job protection for gay people (sexual orientation) only after language that would have also protected trans people (gender identity) was deleted. Most of the LGBT community opposed the bill until trans protection was restored.

Frank himself was in the doghouse with the movement for having supported it in its non-inclusive form. (Frank’s efforts in bringing about the June hearing might well have had an element of teshuvah.)

But let’s back up a bit.

Question: Who are trans people?

Answer: People whose “gender identity and anatomical sex conflict,” a good — though unduly limited — working definition offered by hearing-witness Rep. Tammy Baldwin, the other (besides Frank) openly gay congressperson. (A more nuanced definition would refer to the range of transgressions of societal expectations regarding “gender appropriate” behavior.)

Trans people may or may not seek to change their anatomy. According to some, hormones and surgery are decisions that may have more to do with class — and ability to pay for the treatments — than with gender identity. And some trans people find the male/female dichotomy too limiting and choose not to identify with any gender at all, presenting themselves in a deliberately ambiguous manner.

Question: What is the difference between trans people and gay people?

Answer: Trans people may or may not be gay; one’s gender identity is quite independent of one’s sexual orientation. Gender identification is

about how one sees one's self; sexual orientation refers to the gender of one's object of desire.

Another difference: Gay people pretty much continue to be gay. But, say, a male to female trans person who "fully" transitions — meaning hormones, surgery, new identity papers including even a corrected birth certificate (both extremely hard to get and extremely hard to live without) — may regard herself as no longer "trans" at all, but simply female.

Trans people — and gay people, too, for that matter — have no explicit protection against discrimination under federal law, though there are (poorly enforced) protections under some state and local laws and pursuant to some voluntarily-adopted workplace rules. Trans people everywhere have harrowing stories to tell; they worry about their safety just crossing the street.

The discrimination against them in employment is appalling. For example, one of the witnesses at the congressional hearing, Diane Schroer, was offered a job at the Library of Congress as a senior terrorism research analyst. The job would have required a great deal of interaction with Congress on highly classified matters, something for which Schroer was impressively qualified.

She applied while she was still "David," and after accepting the library's offer, informed the hiring officer that she was transitioning and would be reporting for work as Diane. She also showed the officer a photo of herself as Diane.

The hiring officer freaked out and withdrew the offer, saying later in deposition testimony that Schroer looked like a man in a dress. The offer was withdrawn, the officer said, because "no congressperson would ever be able to take Schroer seriously." (It is a bit of irony that trans women seem to be far more likely to wear a dress than are anatomically born women.)

Despite slam-dunk evidence of discrimination, in this case the government has refused to back down, relying instead on the legal argument that no federal law protects trans people from such discrimination. But the judge in the Schroer case, James Robertson of the federal district court in Washington, D.C., opined in a preliminary opinion in 2006: "Discrimination against transsexuals because they are transsexuals is 'literally' discrimination 'because of sex.'" The case goes to trial on August 8.

Two things: First, Schroer has gotten the penultimate laugh. The congresspeople on the subcommittee took her very seriously. In fact, they were rapt during her testimony.

Second, to me, she does kind of look like a man in a dress. And, be honest, that makes most of us very uncomfortable.

But, again, Barney Frank had the best line of the day: "You are going to get used to them."

Of course we will, and that will make all the difference. In an excellent New York Times piece last month on the Supreme Court, Linda Greenhouse said the court's watershed 2003 gay rights decision, *Lawrence v. Texas*, "was paved, I have no doubt, by the justices' experience of knowing gay men and women in their personal and professional life." So it should be with trans people.

But we are a long way from that. Although there may be as many as 3 million trans people in the United States, according to the National Center For Transgender Equality, a Washington-based advocacy organization, we don't see them at work or in the media or in public life — there are only three "out" trans office holders in the entire United States, and no sitting judges at any level.

If you came in late on other civil rights struggles, you are just in time for this one. It may seem implausible now, but rest assured, we will get used to it. For the sake of some 3 million of our neighbors and family members, the sooner the better.

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