Organizational Dynamics (2017) 46, 1—8

Available online at www.sciencedirect.com

ScienceDirect

journal homepage: www.elsevier.com/locate/orgdyn

# Gender non-conformity and the modern workplace:
## New frontiers in understanding and promoting gender identity expression at work

Katina Sawyer, Christian Thoroughgood

> "There is nothing more beautiful than seeing a person being themselves."
>
> —Steve Maraboli, Ph.D.

As the opening quote suggests, when employees can authentically express themselves at work, they tend to be happier and healthier. In today's modern workplace, HR managers are having to increasingly address the many complex issues surrounding *gender* identity and expression. With the public gender transitions of celebrities like Caitlin Jenner (reality television star and former Olympian), the greater media visibility of transgender individuals such as LaVerne Cox (actress, best known for her role in the television series, *Orange is the New Black*), and the increased support for television programming that features transgender characters (e.g., Amazon's *Transparent)*, transgender issues have become a focal point of discussion in the national discourse.

As the public becomes more aware of and sensitive to the many struggles that transgender individuals often face in society, employers must strategically adapt to this growing focus on promoting transgender equality. Moreover, given the rise in transgender individuals "coming out" in the public sphere, transgender employees may be more likely to disclose their gender identities at work. Thus, organizations must be prepared to address the needs of their transgender workforce by becoming educated on matters of gender expression at work (e.g., gender transitions, bathroom usage, proper use of pronouns) and by creating initiatives that promote transgender awareness and inclusivity. Additionally, because experiences of workplace discrimination have been demonstrated to decrease job satisfaction, employee engagement, and productivity, they have consequences for the bottom line. Further, legal costs associated with discrimination cases can be financially costly to organizations. As such, supporting transgender employees is not only a moral imperative for organizations, but it may also yield positive economic effects.

In this article, we outline what organizations need to know about transgender inclusivity from a legal perspective, both at the federal and state level, while also discussing the ways in which organizations can create their own best practices for promoting workplace equality for transgender employees. We also highlight some of the key challenges that transgender employees often face in their daily work lives, including stigma and negative interpersonal interactions, and offer some guidance regarding interventions that might reverse the damaging effects of these experiences. Importantly, we stress that, while employers should pay attention to federal and state law regarding gender expression in the workplace, they should not wait for these laws to be passed in order to begin supporting their transgender employees. Rather, organizations would be better served by being proactive in this regard, despite whether the law requires them to do so or not. In so doing, organizations can drive legislation that fosters transgender inclusivity, instead of merely reacting to it. We outline below the ways in which employers might go above and beyond current legal requirements to foster transgender equality.

## DEFINING KEY TERMS

Before proceeding, we define several important terms. The term "gender expression" encompasses any of the ways in

http://dx.doi.org/10.1016/j.orgdyn.2017.01.001

which employees, whether transgender or not, express themselves with regard to gendered behaviors or clothing. For example, a female employee who does not wear dresses or skirts expresses gender differently than what may be expected of her at work, even if she does not consider herself to be transgender. Thus, she might be viewed as being slightly unconventional with regard to her gender expression. Individuals who do not conform to gender expectations (i.e., stereotypical expectations for male and female gender displays regarding clothing, manner of speaking, etc.) therefore may deem themselves "gender non-conforming". Transgender individuals express their gender in alignment with expectations for those of the opposite sex from which they were born. For example, a transgender individual who was born with male genitalia, but who identifies as female, would tend to express their gender consistent with expectations of female gender expression (i.e., wearing dresses and makeup). As such, transgender individuals are usually perceived as being counter-normative in terms of gender given that they express gender differently than the majority of the larger population. Additionally, those who are "genderqueer" express their gender identity in a more fluid manner—not as "male" or "female" but rather as a free-flowing state of personal expression that may contain components from both or neither of these categories.

Because gender norms are so ingrained in society, individuals who break from them are often stigmatized. Within the psychology literature, stigma theory provides a framework for understanding the experiences of those who have been negatively stereotyped in society. Based on Goffman's (1963) seminal work, "*Stigma: Notes on the Management of Spoiled Identity*", stigma theory posits that stigmas reflect socially undesirable, or deviant, characteristics that discredit and devalue a person's social identity within a specific social context. These stigmatizing "marks" devalue stigmatized individuals in the eyes of others by reducing them from a whole person to a "tainted" one. In turn, such marks become associated with negative stereotypes and assessments, which tend to be widely adopted and pervasive within social systems and which provide basis for marginalizing those who possess the stigma. Stigma theory further posits that stigmas vary along a series of dimensions, such as their concealability (i.e., the extent to which the stigma can be hidden or not), perceived controllability (i.e., the extent to which the stigma is generally perceived to be a personal choice), and disruptiveness (i.e., the extent to which the stigma interferes with social interactions). For transgender individuals, these characteristics of their stigma may together contribute to the strong social backlash they may often experience in social settings, as well as the negative psychological consequences of these experiences.

Importantly, societal gender norms, the source of stigma for transgender individuals, do not have much to do with our biology. For example, different societies display gender in different ways, and our expressions of gender have changed over time despite our biological characteristics remaining constant. This evidence suggests norms for gender expression are socially constructed in societies. Yet, as described above, those who choose to defy these socially constructed norms are often stigmatized, despite the fact that such norms are culturally defined and "unnatural" in the sense that they do not represent biological imperatives. Thus, we will be using terms such as gender non-conforming, transgender, and genderqueer to refer to the spectrum of people who do not align with societal expectations for gender expression. While there are many other labels that individuals may use to describe their gender identity, it is beyond the scope of this article to define all of these categories. It is worth noting that sexual orientation and gender identity are separate identity categories. Sexual orientation denotes a preference for the sex or gender of a romantic partner, while gender expression denotes a personal preference for displaying gender via clothing and behaviors (i.e., wearing skirts vs. pants, having a higher pitched voice versus a lower pitched voice). While sexual orientation and gender expression are often conflated, they are actually separate continua. This article therefore does not address the various challenges often faced by lesbian, gay, or bisexual employees in the workplace.

## LEGAL ISSUES SURROUNDING GENDER EXPRESSION AT WORK

While transgender employees often face consistent stigma at work and in society, legally there are some protections that exist for this population compared to sexual orientation minorities. For example, given discrimination based on gender expression is deemed a form of gender discrimination, individuals who have negative work experiences due to their gender identity are covered under guidelines outlined by the Equal Employment Opportunity Commission (EEOC) in the U. S. Indeed, in Hopkins v. Pricewaterhouse, it was ruled that a senior woman who was not granted a promotion, partially because of perceptions of her attire being "too masculine", was entitled to a settlement based on gender discrimination. While not intended to cover transgender individuals, this case set a precedent that has transcended minor deviations from expected gender expression and now protects employees who display gender in ways that align with expectations of the "opposite" sex. Thus, employees' gender expression choices do not have to align with normative gendered expectations that are associated with their biological sex.

Yet, it is important to note that, globally, federal law regarding gender expression varies widely. Many countries have specific transgender anti-discrimination protections that exist at the federal level, such as the United Kingdom, Spain, and Australia. However, in countries like the United States, in which no specific protections for transgender employees exist, transgender employees continue to suffer high rates of violence and discrimination given it is often difficult to prove that discrimination resulted specifically from gendered expectations related to one's biological sex. Even more alarming, in some countries, such as Iran, Nigeria, and Pakistan, individuals can be sentenced to death for being transgender. Thus, when operating in a global environment, it is important to be mindful of how protections may vary and what this might mean for transgender employees in the workplace.

In the U.S., state laws have recently been passed which aim to actively strip transgender employees of equal protections, using religious freedoms acts as a rationale for revoking or prohibiting equal protections under the law. For example, North Carolina recently passed legislation that