

Talking Cents

April 2021

Talking Cents is an ecumenical group charged by the Auckland Diocesan Council to promote an alternative to current economic and political thought, and to encourage debate within the church. Ministry Units are encouraged to distribute these articles. This article is contributed by Reverend Ann Batten, Anglican Priest and former Member of Parliament.

Economic Impacts on the Transgender Community

The 2020 Election brought in 12 LGBT Members of Parliament, giving Aotearoa New Zealand the most LGBT legislators anywhere in the world. But there has only ever been one transgender person, Georgina Beyer, who was elected here in 1999.

In 2021, and in spite of recent moves towards acceptance, transgender community members struggle to cope financially, and suffer a high incidence of mental health issues. (As is the accepted norm, transgender is sometimes shortened to trans in this article.)

The documentary, “Gender Revolution: A Journey with Katie Couric”, screened on the *National Geographic* Channel on 13 December, 2020 throughout America. It reported that 50 percent of people who identify as trans have either attempted suicide or died by suicide. Suicide rates are little better in Aotearoa.

Suicide of trans people in Aotearoa

The “Youth’12” secondary school survey¹ showed that 20 percent of trans students, compared with 4 percent of their heterosexual peers, had attempted suicide in the previous year, and had the highest rates of suicidality of any demographic population identified in this study. The study showed that this elevated risk of suicide was caused by discrimination and social exclusion.

This is only at the start of their lives as they progress to become transgender adults. Again in the adult cohort, the rate of suicide is higher than for the heterosexual community.

Discrimination

A national survey of 1,178 people in Aotearoa/New Zealand was published in the *International Journal of Transgender*

Health. It found that over half (51 percent) of trans people had been discriminated against for being transgender.

Twenty-three percent of trans people had been verbally harassed in public (for example, on public transport and in retail stores and restaurants) for being trans. More than one-third (39 percent) had been victimised through cyberbullying.

Moves within faith communities

The churches have often given a negative lead regarding gender discrimination. This has flowed on to what society considers to be ‘normal’. It is therefore pertinent to look at recent moves in some faith communities to address this intolerance. Within Christianity, there are a variety of views on the issues of gender identity and transgender people. Christian denominations vary in their attitudes, ranging from condemning transgender people as sinful, to remaining divided on the issue, to seeing it as morally acceptable. Even within a denomination, individuals and groups may hold different views which may differ from their church’s views on trans identities.

Abrahamic religions (Judaism, Christianity and Islam) are based on scriptures which describe God creating people as “male and female”. These scriptures are often cited in debates on this subject. Nevertheless, some Christian denominations, including the Church of England, Church of Sweden, Episcopal Church, Evangelical Lutheran Church in America, Presbyterian Church (USA), and United Church of Christ have permitted ordained trans clergy to serve in congregations and have welcomed trans members.²

There is no official position regarding transgender individuals in the *Catechism of the Catholic Church*. The Vatican’s Extraordinary Synod, convened in October 2014, debated several issues related to LGBTQ inclusion but did not address questions regarding trans church members. However, the experience of trans Catholics varies depending on their communities. (Tia Pesando, a trans woman, (i.e. male to female) recently made news

¹ Terryann Clark et al. ‘The Health and Well-Being of Transgender High School Students: Results From the New Zealand Adolescent Health Survey’(Youth’12). *Journal of Adolescent Health*. 55(1) 2014.

² ‘Christianity and Transgender people’, *Wikipedia*, Accessed 2021.

when she was accepted to a Carmelite Sisters' novitiate in Canada.)³

Global interfaith declaration

Religion is exempt from the NZ Human Rights Act 1993. It is heartening therefore that on 16th December 2020, many senior Anglican clergy in New Zealand signed on to a global interfaith declaration. The Anglican signatories in Aotearoa New Zealand and Polynesia included the four Archbishops: notably Archbishop Don Tamihere, Archbishop Fereimi Cama of Polynesia, Archbishop Philip Richardson, and Archbishop Emeritus John Paterson.

Declaring the Sanctity of Life and Dignity of All begins: "We come together as senior religious leaders, academic and lay leaders from around the world to affirm the sanctity and dignity of all". The declaration expresses regret that some religious teachings have caused deep pain and offence and asks for forgiveness for those whose lives in the LGBT+ community have been damaged. It calls on all nations to put an end to criminalisation on the grounds of sexual orientation or gender identity, for violence against LGBT+ people to be condemned and for justice to be done on their behalf.

Gender identity and discrimination in the secular community

In Aotearoa, it is held that 'a person's gender identity and expression is a part of who they are, not a lifestyle choice'.⁴ It follows that trans people should be protected from discrimination in employment.⁵ Discrimination in employment is, of course, a major factor in economic well-being.

The NZ Human Rights Commission Inquiry into Discrimination experienced by Transgender People

The inquiry, He Purongo mō te Uuitanga mō Aukatitanga e Pāngia ana e ngā Tāngata Whakawhitiira, was carried out in 2006 and reported on in 2008. The inquiry report found that the incidence of discrimination faced by trans people is high. Four out of five submissions described examples of discrimination that ranged from harassment at work to vicious assault and sexual abuse. For some trans people, discrimination has become so common they have come to expect it. It found that trans people require support to advocate for their place and to overturn stereotypes that lead to public and institutional discrimination.

Employment protections for trans people in Aotearoa

It is easy to see the economic impact on trans people when one is aware of the level of discrimination in the workplace and elsewhere. For example, in 2016, a trans woman who worked as a hairdresser, was 'constructively

dismissed' after she told her employer that she decided to transition to a woman.⁶ She made a complaint to the Employment Relations Authority and was awarded \$11,000.

Housing

In 2020, trans woman Kristine Ablinger wanted to transition whilst living in her flat. The owner was worried that she might need to care for Kristine while she undergoing her transition, and gave her three hours' notice to move out. The Human Rights Commission said the house owner acted within the law.⁷

Remedies

Under the Human Rights Act 1993, the prohibition of discrimination on the grounds of sex is considered to include gender identity. Under the Act, trans people may be protected from unlawful discrimination, however, the Act is imperfect in this regard. The Act says that "a transgender person is not being deceptive or dishonest if they don't disclose their gender identity. They don't have to, and they may not want to share personal information, because of fear that they will be discriminated against".

An employer cannot, solely because a person is transgender:

- refuse to hire them because "they won't fit in";
- move them away from frontline work;
- dismiss them; or
- pressure them to resign by changing their working conditions.

Any of the above situations may provide grounds for a complaint of discrimination on the basis of sex under the Human Rights Act 1993 or, in the case of an employee, a personal grievance under the Employment Relations Act 2000 (including for a new employee on a trial period of up to 90 days).

But for such a tiny marginalised community, justice is hard to fight for. It requires courage to stand up to the dominant mores of society. It is the responsibility of society at large to address these concerns. There is an urgent need for information and resources for trans children, young people and their parents, families and schools.⁸ While there is growing awareness and positive publicity about trans people, their community wants strengthened legal protections making discrimination against trans people unlawful. It is their right as human beings. When education, employment and housing issues are better addressed, it follows that there will be a more positive economic impact.

³ USA Human Rights Campaign 2020-2021, thehrfoundation.org

⁴ University of Auckland Statement on Gender Identity.

⁵ Agender New Zealand. www.agender.org.nz

⁶ *Hemmingson v Swan t/a Barker's Groom Room* [2016] NZERA, Auckland. Constructive dismissal-Transgender employee's decision to transition.

⁷ Radio New Zealand National, November 16, 2020.

⁸ The Report (2008) from the NZ Human Rights Commission Inquiry into Discrimination experienced by Transgender People of 2006.