



February 14, 2011

Honourable Raynell Andreychuk, Senator  
The Senate of Canada  
Ottawa, Ontario, Canada  
K1A 0A4

Via Email: [andrer@sen.parl.gc.ca](mailto:andrer@sen.parl.gc.ca)

Dear Senator Andreychuk,

**Re: Bill C-389**

We are writing on behalf of the Canadian Professional Association for Transgender Health (CPATH) in support of Bill C-389, An Act to Amend the Canadian Human Rights Act and the Criminal Code (Gender Identity and Gender Expression). In the following paragraphs we will provide a brief introduction to our organization, and describe the impetus for passage of this vital bill.

**CPATH**

CPATH is the largest national professional organization for transgender health in the world. As an interdisciplinary organization, we are devoted to the health care of individuals with gender variant identities (“trans people”) and draw on the wide range of expertise of our members from disciplines including medicine, psychology, law, social work, sociology, and other related fields.

Gender variance and gender non-conforming behaviour in children and adults do not constitute a psychological disorder. Trans people, including, but not limited to, two-spirited, transsexual, transitioned, cross-dressing, transgender, and gender-queer individuals, come from every cultural, religious and ethno/racial background, live in all regions of the country (both rural and urban), and are grandparents, parents, children and siblings, farmers and software developers, members of the clergy and social workers, lawyers and sex workers, retirees and veterans, pipefitters and politicians.

Consequently, both the Canadian and American Psychological Associations (“CPA” and “APA” respectively) have stated their opposition to discrimination on the basis of a self-defined gender identity or gender expression.

In October 2010, CPA released a policy statement affirming that “all adolescent and adult persons have the right to define their own gender identity regardless of chromosomal sex, genitalia, assigned birth sex, or initial gender role. Moreover, all adolescent and adult persons have the right to free expression of their self-defined gender identity. Furthermore, CPA “opposes stereotyping, prejudice, and discrimination on the basis of chromosomal sex, genitalia, assigned birth sex, or initial gender role, or on the basis of a self-defined gender identity or the expression thereof in exercising all basic human rights”. In August 2008, APA issued a policy

statement in support of “the passage of laws and policies protecting the rights, legal benefits, and privileges of people of all gender identities and expressions”.

### **Bill C-389**

The two main objectives of the Bill C-389 are to provide:

- 1) explicit federal human rights protection on the grounds of gender identity and gender expression; and
- 2) the availability of greater moral and penal sanction for crimes committed against an individual because of the individual’s gender identity or gender expression.

Contrary to the allegations of some of the Bill’s detractors, the terms gender identity and gender expression are well defined in the medical, psychological, and social science literature, and they have been interpreted by Canadian courts and tribunals with ease and clarity. **It is also important to recognize that the provisions of Bill C-389 will not create new or special rights for transgender individuals, and in particular, it will not change the law with respect to washroom use.** Rather, its enactment will explicitly confirm the law’s protection of the safety and human dignity of everyone in Canada regardless of gender identity or gender expression. It will also ensure that gender variant people’s right to participate in, and contribute to, Canadian society and economic life are not hampered by ignorance, prejudice, hatred and violence.

### **WHY THE BILL IS NECESSARY – DISCRIMINATION, HARASSMENT & VIOLENCE BECAUSE OF GENDER IDENTITY & GENDER EXPRESSION**

Three notable studies have recently released data/reports that help to quantify and qualify the nature and extent of discrimination, harassment and violence based on gender identity and gender expression: The National Transgender Discrimination Survey (NTDS) conducted by the U.S. National Centre for Transgender Equality, the Egale Canada Human Rights Trust National Climate Survey on Homophobia in Canadian Schools, and the TransPULSE project (a study of the Social Determinants of Health of trans people in Ontario). The data document shocking rates of discrimination and harassment in employment and housing, as well as tremendously high incidence of harassment and violence based on gender identity and gender expression in schools and in the community.

The following NTDS data was presented at our conference in Montreal on May 1<sup>st</sup>, 2010: A total of 47% of NTDS survey respondents reported that, because they were transgendered, they experienced at least one of the following negative job outcomes: were underemployed (44%), did not get a job they applied for (44%), were denied a promotion (23%), were moved from client contact (20%), or were fired (26%). Additionally, 97% reported negative job experiences, including: harassment (50%), breach of confidentiality (48%), deliberate improper pronoun use (45%), inappropriate questions (41%), forced gender presentation (32%), denial of appropriate bathroom access (22%), physical assault (7%) and sexual assault (6%). These numbers are even more disturbing given the survey respondents’ high rates of education (40% with some college, 27% with college degrees, and 20% with graduate degrees). Additionally, a high percentage of

respondents reported having been assaulted or harassed in public places. In school, trans students reported being subjected to harassment, physical assault, or sexual assault not only by other students but, shockingly, by teachers as well. Finally, the negative impacts of discrimination, harassment and violence were reflected in abysmally low levels of income and housing stability.

The National Climate Survey found that nine out of ten transgender students, six out of ten lesbian, gay or bisexual (LGB) students. Three out of ten heterosexual students were verbally harassed because of their expression of gender (making it clear that gender identity and gender expression protections would assist cisgender (i.e. non-trans) people as well). Almost two in five transgender students and one in five LGB students reported being physically harassed due to their expression of gender. 95% of transgender students felt unsafe at school, compared to one-fifth of straight students, causing almost half of transgender students to skip school because they felt unsafe, compared to less than a tenth of non-LGBTQ students.

Recently released TransPULSE data shows that, because of their gender identity or gender expression, 20% of trans Ontarians have been the targets of physical or sexual assaults and another 34% have experienced verbal harassment or threats. Of those that ever experienced verbal harassment or threats one third have seriously considered suicide, and 8% have attempted suicide. Of those that have experienced physical or sexual assault because of their gender identity or gender expression, **47%** have seriously considered suicide and **29%**, almost a third, have attempted to end their own lives.

These tragic and mind-numbing realities make it clear that current non-explicit legislative protections are woefully inadequate to address the barrage of discrimination, harassment and violence that gender variant individuals in Canada are subjected to. The inability to point to an explicit legislative statement, denouncing this kind of discrimination and harassment or condemning violence based on gender identity or gender expression, contributes to the sense of exclusion, invalidity, fear, and hopelessness that many gender variant individuals struggle against on a daily basis.

## **SOCIETAL READINESS FOR THE BILL**

Though awareness of issues around gender identity and gender expression may be less than pervasive in our society, these issues have been addressed by leaders in the corporate world. In the United States, the Human Rights Campaign Foundation report entitled *The State of the Workplace for Lesbian, Gay Bisexual and Transgender Americans 2007-2008*, reported that 176 (35%) of the Fortune 500 businesses had non-discrimination protections based on gender identity. In 2000, only 3 of the Fortune 500 had these protections. These provisions have had even greater traction at the upper echelon of the Fortune rankings, where 61 percent of the top 100 companies protect their employee's gender identity/expression. In 2004, the Law Society of Upper Canada introduced a model policy for law firms and other organizations to ensure an inclusive work environment for lesbian, gay, bisexual, transgender and queer (LGBTQ) employees. In 2010, the United Church of Canada, the country's second largest Christian church, expressed its support for Bill C-389, and the Canadian Bar Association passed a resolution calling on all levels of government to make amendments necessary to protect

individuals from discrimination on the basis of gender identity and gender expression. TD Canada Trust, IBM Canada, and KPMG LLP Canada are just a few examples of the growing number of large Canadian private sector companies to develop explicit trans inclusive human resource policies, including non-discrimination provisions and transition guidelines. These policies remain the exception but they must be the rule.

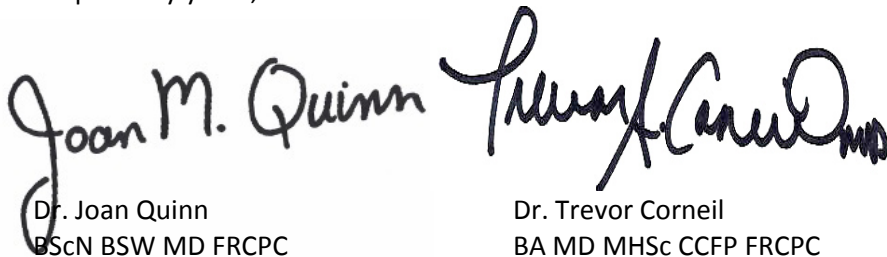
If these corporate, legal, and religious organizations have recognized the need for explicit protections for gender identity and gender expression, it is high time for our Government to amend the Canadian Human Rights Act (which is, in essence, the non-discrimination policy for our country) and follow suit.

**Second reading of Bill C-389 in the Senate is listed at No. 7 of the Commons Public Bills on the Order Paper for Tuesday, February 15, 2011.**

As we are sure you will agree, there is a critical and pressing need to enact the provisions of Bill C-389. We urge you to attend the debate, vote in favour of the bill, and generate support for this bill amongst your colleagues in the Senate. We thank you for your consideration and your courageous support of this historic Bill.

If you have any questions or comments, please do not hesitate to contact us.

Respectfully yours,

Handwritten signatures of Joan M. Quinn and Dr. Trevor Corneil. The signature of Joan M. Quinn is on the left, and the signature of Dr. Trevor Corneil is on the right.

Dr. Joan Quinn  
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Dr. Trevor Corneil  
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**President**

**Past President**