

Understanding Gender Identity: A Primer on the Gender Spectrum

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Transgender. Transsexual. Cisgender. Queer. We hear these terms more frequently, yet not all of us are clear on what they mean. In addition, the vocabulary continues to shift and there isn't universal agreement on the precise meaning of terms or which ones are most appropriate. This article is intended as a primer to help you navigate this terrain if it is unfamiliar.

Why is this relevant?

As lawyers, the essence of our job is to represent and advocate for our clients' interests and needs. To do this effectively, we need to understand the different types of people who engage with the legal system in which we work. We don't have extensive data on the percentage of Canadians who identify as **LGBT2SQ** (lesbian, gay, bisexual, transgender, Two-Spirit, queer and questioning)¹. One study estimates it's 13% of the population², however data from the U.S. shows that as society becomes more accepting of LGBT2SQ people, the number who self-identify rises. We can assume the same is true in Canada. The bottom line is, if you don't already have individuals from the LGBT2SQ community as clients, you will.

"Sometimes there's a misconception that since we now have marriage equality, along with section 15 *Charter* rights and human rights laws, we've solved this issue and we're done. While we've made huge strides, there's still lots of work to be done", explains Joel Lebois, Chair of the MBA's Sexual Orientation and Gender Identity Community Section (SOGIC). He adds, "As lawyers, we have an obligation to stay current and keep informed about the fact that there are members of the community who approach legal services from a specific lens. They may face few barriers to the services they require, or they may be experiencing direct or institutional human rights violations on a daily basis. Whether it's in the context of incarceration, accessing health care services or public bathrooms, or related to birth certificates and ID documents, the issues are manifold."

Sex and gender aren't the same thing

In the past these terms have often been used interchangeably, however we now recognize the need to differentiate as society acknowledges that an individual's genetically assigned sex doesn't always correspond with their gender identity.

Sex refers to the biological differences between males and females, such as genitalia, reproductive organs and other physical characteristics determined by genes. The [World Health Organization](#) (WHO) defines sex as "the biological characteristics that define humans as female or male. While these sets of biological characteristics are not mutually exclusive, as there are individuals who possess both, they tend to differentiate humans as males and females." Some individuals are **intersex**, which means they have anatomy or sexual characteristics that can't be categorized as exclusively male or female.

¹ This will soon change. Statistics Canada plans to include new and modified questions on sex at birth and gender to provide respondents an opportunity to list their gender in a non-binary fashion on the 2019 Census.

² According to "LGBT Realities", a 2017 Canadian study by Fondation Jasmin Roy, accessed at <https://www.newswire.ca/news-releases/according-to-lgbt-realities-the-first-pancanadian-survey-on-lgbt-communities-conducted-by-crop-for-the-benefit-of-the-fondation-jasmin-roy-13-of-the-canadian-population-belongs-to-the-lgbt-community-639432223.html> on April 22, 2019.

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Gender is a social construct and includes the individual's concept of themselves. The WHO defines gender as “the socially constructed characteristics of women and men, such as norms, roles and relationships of and between groups of women and men. It varies from society to society and can be changed.”



Gender is a spectrum

Many of us grew up thinking of gender in binary terms; you were either male or female. We now understand this is not always the case. If you're **cisgender**, your sex at birth matches the gender you identify with. For example, if you were born with female sex traits and you have always identified as female, you are cisgender. Looking at gender as a spectrum requires a shift in perspective. Individuals whose gender identities don't align with their sex at birth identify themselves in a number of different ways. One of the umbrella terms used is **non-binary**, which refers to a gender identity that is neither entirely male nor entirely female. Some people identify as **agender**, meaning they see themselves as gender neutral and don't identify with a gender.

Certain cultures have long recognized and even celebrated those who don't identify as either strictly male or female. In Indigenous culture, prior to contact with Europeans, Two-Spirited people were considered gifted because they carried both the male and female spirit. They were honoured and revered and were often the visionaries and healers. Today the term **Two-Spirit** includes people who identify as gay, lesbian, bisexual and transgender.

What is the difference between transgender and transsexual?

According to the Rainbow Resource Centre, **transgender** is an umbrella term that represents many individuals whose gender identity differs from their birth sex and or their expression does not conform to society's standards of how men and women look and or act.

Transsexual is an older term and refers to a person who experiences discomfort with the disparity between their physical body and their sense of self. Some people seek treatment through hormones and or surgical procedures to bring their body in closer alignment to their gender identity. Most people who identify as transsexual want to be perceived as the gender that corresponds with their gender identity regardless of what physical changes they have made.

According to Lebois, “The trend is that younger generations are rejecting the dichotomization of gender. It is now more common to encounter individuals openly identifying as transgender, but also agender or non-binary, and they're not necessarily transitioning from one traditional gender to another. Trans individuals may indicate their preferred pronouns, and may choose to use the neutral pronoun of they/them.”

Gender is different than sexual orientation

Sexual orientation is solely about who you are attracted to. A transgender individual's sexual orientation (attraction) varies and is not dependent on gender identity. Transgender people may identify as straight, gay, lesbian, bisexual, etc.

Genderqueer or **Queer** is an umbrella term to describe someone who doesn't identify with conventional gender identities or sexual orientations, and the roles, expression and or expectations that come along with them.

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Tips for working with transgender clients

- If you don't know what pronoun to use, it's acceptable to ask as long as you're respectful.
- Consider addressing your clients in writing by their first initial and surname to avoid gendered honorifics of Mr., Mrs., Ms. etc.
- Transgender should be used as an adjective, not a noun, for example, "John is a transgender man"³, rather than "John is a transgender".
- If you encounter transgender individuals in your work, you need to educate yourself. The [Rainbow Resource Centre](#) is a great general resource. If you have a more specific question, you can contact the Law Society's Equity Officer or the SOGIC Section of the MBA for assistance.
- People who are transgender experience an additional level of stress arising from navigating a society that can be unaccepting. Research shows that LGBT2SQ people have higher rates of mental health challenges than the general population due to their heightened and prolonged exposure to societal and institutional prejudice and discrimination.⁴ Recognize that your clients bring this experience with them when they walk into your office.

Language is complex, localized and ever-evolving to reflect changing social mores. The terms used in this article aren't meant to represent the final word as some people will prefer different terminology. What is constant is the need to be tolerant and accepting of individuals who are different from us, even in ways we may not understand.

³ This means John lives as a man today but was thought to be female when he was born.

⁴ Accessed at <http://www.heretohelp.bc.ca/visions/lgbt-vol6/lgbt-people-and-mental-health> on April 23, 2019.