



Public Service Alliance of Canada  
Alliance de la Fonction publique du Canada

**Submission to the Senate Committee on Legal  
and Constitutional Affairs**

**on**

***Bill C-16, An Act to Amend the Canadian Human  
Rights Act and the Criminal Code***

**by the**

**Public Service Alliance of Canada**

**April, 2017**

## **Introduction**

The Public Service Alliance of Canada (PSAC) is the largest federal public sector union, representing more than 180,000 people from coast to coast to coast. While the majority of PSAC members work for the federal government and its agencies, PSAC also represents workers in the private sector, in territorial governments and in the broader public sector, including universities.

PSAC has been advocating for several years that the federal government formally prohibit discrimination against transgender and transsexual (trans) persons.

*Please note that the quotations in this document from PSAC members are not identified in order to protect their privacy.*

## **Discrimination based on gender identity must end**

Bill C-16 amends the *Canadian Human Rights Act* and the *Criminal Code* by adding protections against discrimination based on gender identity or expression.

When the House of Commons quickly and overwhelmingly adopted this bill on October 18, 2016, PSAC members were heartened that, finally, the trans community would receive official recognition that discrimination and violence based on gender identity or expression are no longer tolerated in Canada.

We urge this Committee to support the bill and report it back without amendment as soon as possible.

*I am here to tell you we are as human as the rest of you. I am here to tell you that I am as equal as everyone else around me. Just because I do not fit into some people's preconceived notions of the binary nature of gender does not mean I deserve to die, be beaten, maimed, spit on, or maltreated.*

PSAC member

## **Trans people are among the most marginalized in our society**

Trans people are among the most marginalized persons in our society, and too many encounter obstacles and barriers in finding housing, employment and services. They also face extreme violence, prejudice and hate, which have sadly resulted in high rates of suicide.

For example, in an extensive, nationwide survey commissioned by the Egale Canada Human Rights Trust and released in 2011, 74 per cent of trans youth

reported experiencing verbal harassment in school and 37 per cent reported experiencing physical violence.<sup>1</sup>

Other studies indicate that transgender persons have to deal with particularly high levels of discrimination, harassment and violence in society and at work. A survey that was done in Ontario establishes that 18% were turned down for a job, and 13% were fired or constructively dismissed because of their trans identity<sup>2</sup>.

## **PSAC strongly supports the rights of our transgender members**

PSAC has been a strong supporter of the rights of our gay and lesbian, bisexual and trans members. We negotiated same-sex benefits in our collective agreements several years before the *Canadian Human Rights Act* was amended.

We have also challenged the discriminatory practices of federal employers before labour boards and the Canadian Human Rights Commission. For example, PSAC member Dale Akerstrom, whose spouse was being denied Public Service Health Care and Dental Plan benefits, filed a complaint with the Canadian Human Rights Tribunal in February 1993, discrimination on the grounds of sexual orientation.

After the Supreme Court of Canada ruled in 1995 that Section 15 of the Canadian Charter of Rights and Freedoms provided equality rights to gays and lesbians (the Egan and Nesbit case), Treasury Board was forced to concede that its policy was discriminatory and the Human Rights Tribunal hearing the Akerstrom complaint issued a comprehensive order for the employer to end the discrimination.

As a result, gay and lesbian couples are able to receive health benefits, pension entitlements, life-insurance coverage, and many of the other benefits that our society had attributed exclusively to married, heterosexual spouses.

More recently, PSAC has been on the cutting-edge in achieving rights for our trans members. We have bargained language in our collective agreements on issues such as discrimination on the basis of gender identity or gender expression, access to safe washrooms and change rooms, and the right to be referred to by one's chosen gender.

The addition of "gender identity" to anti-discrimination clauses has also been negotiated in collective agreements with at least three museums and related arts

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<sup>1</sup> [Every Class in Every School](#), the first national climate survey on homophobia, biphobia and transphobia in Canadian schools, Egale Canada Human Rights Trust, May 2011.

<sup>2</sup> G. Bauer, et al., We've got work to do: Workplace discrimination and employment challenges for trans people in Ontario, Trans Pulse E-Bulletin, May 30, 2011.2. Online:

[www.transpulseproject.ca](http://www.transpulseproject.ca)

groups, in nine airport-related bargaining units, in eight of 16 bargaining units in the Yukon and 21 of 29 bargaining units in the Northwest Territories. It helps that the Northwest Territories was the first jurisdiction in Canada to amend their human rights legislation to prohibit discrimination based on gender identity and gender expression.

We have already negotiated the inclusion of “gender identity” in the anti-discrimination clause of one collective agreement with the federal government that covers members in the Technical Services (TC) bargaining unit. During the current round of bargaining, PSAC and Treasury Board have tentatively agreed to similar language for the largest federal government bargaining unit, the Program Administration (PA) group.

### **Bill C-16 will strengthen existing human rights protection**

PSAC believes that amending the *Canadian Human Rights Act* to prohibit discrimination based on gender identity and amending the *Criminal Code* would represent a huge step forward in the defense of trans peoples’ right to work in an environment where they are respected and protected against prejudice and hate.

Adding “gender identity or expression” in sections 2 and 3 of the *Canadian Human Rights Act* would make it explicitly unlawful for federally regulated employers to discriminate or harass on the basis of gender identity. This will strengthen existing human rights protections for trans people. And most importantly, it will help educate the public in general, and employers in particular on their legal responsibilities and obligations.

*“What I want to see is a world where those that come out as transgendered will not be humiliated.”*

PSAC member

This bill would also undoubtedly give Canada’s trans people better protection from hate crimes and it would greatly help ensure their dignity and equality in the community.

Those who assert that this bill would open the bathroom doors to male sexual predators in women’s washrooms are simply reinforcing discriminatory stereotypes and prejudices against the trans community. Yet, this phenomenon is not occurring in any jurisdiction that protects trans people through similar legislation. They are also conveniently ignoring the fact that the Criminal Code already prohibits voyeurism and sexual assault, for example.

These arguments are actually evidence as to why it is important to adopt Bill C-16: to dispel myths and prejudices, and to proclaim that we indeed respect the human rights of all persons.

## Conclusion

Given the extreme vulnerability to human rights abuse faced by trans people in Canada, Bill C-16 will help to prevent discrimination and ensure that those who commit hate crimes are held to account. By amending the *Canadian Human Rights Act* and *Criminal Code* to include gender identity or expression, the Bill will be an important step in ensuring that trans people have access to the justice and equality for which Canada is internationally-renowned and in ensuring Canada meets its international human rights obligations.

*"I have been harassed at work for being transgender and I have been passed over for job opportunities. I have received negative performance evaluations and I have been verbally abused by management. The right of transgender people to not only exist in our society, but to thrive, is one of the final frontiers of basic human rights. Let us lead instead of follow; build instead of destroy; protect instead of ignore. Transgender and gender identity rights are human rights."*

PSAC member

Bill C-16 is just the latest bill to propose to include gender identity in the *Canadian Human Rights Act* and the *Criminal Code*. The last attempt was a virtually identical private Member's bill, C-279. It almost became law in the previous Parliament.

We ask the Committee to expedite its hearings and to bring the Bill in its present form to the Senate for a final vote as soon as possible. Trans people have waited long enough.