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**GENDER, CULTURE
& NARRATIVE**

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RE GEORGIO: AN INTIMATE ACCOUNT OF TRANSGENDER INTERACTIONS WITH LAW AND SOCIETY

KATHERINE FALLAH*

In its everyday operation, the law presumes to narrate trans stories and shape trans lives. This article shines a light on law's claims to authority over transgender identities and transgender bodies, and offers an alternate, intimate account of one transgender person's interactions with law and society. The stories recounted here offer glimpses into the life of Georgio. Written from the perspective of someone who has had the privilege of bearing witness to his journey, this article assembles incomplete fragments of the joys and frustrations of Georgio's gender transition and invites deeper reflection on legal assumptions about the lives of transgender people. It represents an attempt to breathe humanity into law's cold scripts of gender identity.

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** This article was written in close collaboration with Georgio, at his urging. I am grateful to him for sharing his experiences with me and for encouraging me to share this small part of his story with you. In writing this piece, I have been conscious of the limitations of my experiences of the world as a cisgender woman and I have no desire (nor do I presume to be able) to speak for Georgio. Instead, this is our story, discussed at length with Georgio and ultimately written from my perspective. Thanks to Alecia Simmonds, Jane Wangmann, Terry Carney, Delphine Dogot, and Ivana Isailovic for their comments on this article.

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I BORDER CROSSINGS¹

Airports are sites of anxiety for you at the best of times, what with their full-body scanners and 'pat-downs' and constant ID checks.² We antipodean travellers tend to be fairly resilient when it comes to the long-haul flights that send others into a spin, but you had already been ground down by the exhaustion and sweat and frustration of 24 hours of air travel, and I knew you simply didn't have the reserves of patience that you required for this particular exchange.

We were in transit through Singapore, rushing for our connecting flight, and we didn't have much time to clear customs and re-check our bags. I passed through immigration with easy efficiency, but when I turned back I saw you were stuck at the border, your face dark and your body tense. So I waited, unable to go to your assistance and watching a scene in mute, as you exchanged terse words with a man in uniform, the clock ticking closer and closer towards a missed connection.

Later, once you had made your way out of that administrative no-man's land, you would tell me what went down. The immigration official had looked at the landing card, then up at you, then over to me. Back and forth shot his eyes. 'I got

¹ Aren Z Aizura, 'Of Borders and Homes: The Imaginary Community of (Trans)sexual Citizenship' (2006) 7(2) *Inter-Asia Cultural Studies* 289.

² Dawn Ennis, 'Goodbye, "Anomaly" — TSA's New Word for Trans Bodies is "Alarm"', *The Advocate*, 23 December 2015 <<http://www.advocate.com/transgender/2015/12/23/goodbye-anomaly-tsas-new-word-trans-bodies-alarm>>.

smart to him,' you'd recount. But to me, your response had been measured (timid, even), and he would have had little idea of how deeply his brusque questioning had burrowed under your skin.

—*Is this your friend's landing card?*

—*It's mine.*

—*Boy or girl?*

—*Excuse me?*

—*Female or male?*

—*What does the passport say?*

—*Female.*

—*Does the passport show the same name as my landing card? Does it have my photo on it?*

—*Yes.*

—*Well there's your answer, then.*

This encounter with bureaucracy, routine and mundane for the immigration official who held your travel documents in his hand, was a jarring reminder to you that your gender does not go unnoticed: it leaves you open to questioning; it is cause for incredulity and exclusion. It was one of those daily micro-aggressions that leave you on edge and deflated, aware of your Otherness and your vulnerability and your precarious position at the margins.³ It was a reminder that no matter how well you manage to 'pass',⁴ you must constantly navigate your way through a society that is all too eager to deny you the 'normal life' that you crave.⁵

³ On the effects of gender-related 'micro-aggressions', see, eg, Kevin L Nadal, Avy Skolnik and Yinglee Wong, 'Interpersonal and Systemic Microaggressions Toward Transgender People: Implications for Counseling' (2012) 6(1) *Journal of LGBT Issues in Counselling* 55.

⁴ See Kenji Yoshino, 'Covering' (2002) 111 *Yale Law Journal* 769; cf Mattilda (Matt Bernstein Sycamore) (ed), *Nobody Passes: Rejecting the Rules of Gender and Conformity* (Seal Press, 2006), which seeks to eliminate the pressure on gender nonconforming people to 'pass' or be seen as cisgender; that is, as a man or woman whose gender identity aligns to the (binary) sex that they were assigned at birth.

⁵ Dean Spade, *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law* (Duke University Press, revised and expanded edition, 2015).

Your passport was wrong, of course. Because you do not identify with the female gender that you were assigned at birth; you are a man.⁶ Your official document was being scrutinised at the intersection of several jurisdictions: you were a permanent resident of Australia, undergoing a gender transition according to the laws of New South Wales, bearing a New Zealand passport, on your way from the United Kingdom to Malaysia, seeking admission to Singaporean territory. No official document was going to explain that you shopped for all your clothes in the menswear section, that you presented as a man but were sometimes mistaken for a butch lesbian, that you winced when waitstaff addressed the two of us as ‘ladies’, that you had just endured the agony of a long flight with your chest squashed into a compression binder that constricted you all the way down to your guts, that you longed for the day when you could finally inject vials of liquid testosterone into your ass cheeks, or that you were fixated on your body, constantly bugging me with questions like whether your six-pack looked like ‘girl abs’ or ‘boy abs’. But this guy was a stranger, your gender identity wasn’t really any of his business, and you had a plane to catch. So you deferred to the document.

II ‘THAT GIRL’S GOT A MEAN STEP ON HER, AYE?’

Put a football in your hand and you’re in your element. When you were a little kid you would revel in thrashing the boys on the field, and you were picked for mixed representative teams every time the selectors came knocking. It wasn’t until the age of thirteen — around the time of that painful onset of (female) puberty — that your experience of sport became gendered, and you were siphoned off to women’s and girls’ teams.⁷ Outside the school yard, you were by far the youngest person ever to play with adults in a highly-competitive first

⁶ Many people reject such a binary view of gender. For a collection of diverse understandings of gender, see Kate Bornstein and S Bear Bergman (eds), *Gender Outlaws: The Next Generation* (Seal Press, 2010). For counterarguments to a non-binary view, see Sita Balani, *Is it Time to Say Goodbye to the Non-binary in Gender?* (14 November 2016) Transformation <<https://www.opendemocracy.net/transformation/sita-balani/is-it-time-to-say-goodbye-to-non-binary-in-gender>>.

⁷ The gendering of sport in society invites critique. Messner, for instance, challenges the ‘socially constructed meanings surrounding physiological differences between the sexes, the present “male” structure of organized sports, and the media framing of the female athlete’: Michael A Messner, ‘Sport and Male Domination: The Female Athlete as Contested Ideological Terrain’ (1988) 5 *Sociology of Sport Journal* 197, 197.

grade women's league; at school, you had a popular following as the star player; and you were in a development squad being groomed for a spot on the Black Ferns, the women's equivalent of the world famous All Blacks rugby union team.

You reached the pinnacle when, at sixteen, you were selected for New Zealand's national women's side. But you couldn't cope with the hyper-visibility that came with being on such a high-profile team. Playing at that level meant you were in the spotlight, but your masculine identity was invisible to everyone but you. If you had been a man you would have been on track to play for the All Blacks, with all the glory and pay that that entailed. But as a woman, you were stuck dressing like a girl in the team 'Number 1s', trying to avoid having to shower naked in front of your teammates, on the path to a poorly paid spot on the Black Ferns, where rugby was consigned to being a side gig. You threw in the towel and buried yourself in the bottle instead.

By the time I met you, you were playing social footy on mixed gender teams. It was always a thrill to watch you run the ball. I used to sit on the sidelines and listen to strangers gush over you. Your opponents would speak of you with trepidation and admiration, but even the compliments would come with the sharp edge of misgendering. 'Shit, guys, look out for that chick with the hat. She's fucken dangerous.' 'Oi Josh! Stay on that girl! Don't let her up the middle!' 'Faark. That girl's got a mean step on her, aye?' Mixed footy was becoming more of a hassle than it was worth, and you weren't ready to step into the cultural and legal minefield of moving to men's teams.⁸ You looked on in horror as world champion runner, Caster Semenya, had her genitals measured and her hormone levels recorded, as opinion pieces were written about her sex, as she was berated and subjected to the most invasive scrutiny.⁹ As you moved further into your transition, and as you began to inject that testosterone, you started skipping

⁸ On Australian efforts to deal with the effects of gender discrimination on participation in sport, see Australian Human Rights Commission, *Resilient Individuals: Sexual Orientation and Gender Identity and Intersex Rights* (National Consultation Report, 2015) 21–22.

⁹ Cheryl Cooky and Sharil Dworkin, 'Policing the Boundaries of Sex: A Critical Examination of Gender Verification and the Caster Semenya Controversy' (2013) 50(2) *Journal of Sex Research* 103; Johnm Sloop, "'This is Not Natural": Caster Semenya's Gender Threats' (2012) 29(2) *Critical Studies in Media Communication* 81; Jeré Longman, 'Understanding the Controversy over Caster Semenya', *New York Times* (New York), 18 August 2016 <<http://www.nytimes.com/2016/08/20/sports/caster-semenya-800-meters.html>>.

games, until you stopped playing altogether. I still mourn the loss of Georgio the Footballer. But when I ask you about it, you're affectless.

When you dropped out of the New Zealand squad, you weren't to know that women's rugby would enjoy an elevated status in the years to come, that you could have played professionally (though for far less pay and recognition than the men).¹⁰ As we watched your old teammates claiming their gold and silver medals for women's rugby 7s at the Rio Olympics, I kept expecting you to show some signs of regret, envy, or loss. 'Doesn't a small part of you wish you were up there with them? I mean, it's an Olympic gold medal!' You just laughed. 'Hell no,' you said. 'I would never want to be up on that podium as a girl.'¹¹

III 'COOK THE MAN SOME F*CKEN EGGS'¹²

In the week after we first met, I placed an order for two books: *Once Were Warriors*, and Butler's *Gender Trouble*.¹³ My bibliographical instincts turned out to be unsettlingly prescient. Not that you were some sort of wife-beater, but lying dormant beneath your charming façade was a terrifying rage, and when it was unleashed, you were barely recognisable. Sometimes when you were asked to describe your upbringing in New Zealand, you would respond jokingly, 'You've seen *Once Were Warriors*?' and the fact is that you were exposed to some horrific

¹⁰ The gender pay gap for footballers persists in Australia too, with the Australian women's soccer team drawing attention to the issue through industrial action against Football Federation Australia: 'Matildas Go On Strike as Pay Dispute Between FFA and PFA Escalates', *The Guardian (Australia)*, 8 September 2015 <<https://www.theguardian.com/football/2015/sep/08/matildas-go-on-strike-as-pay-dispute-between-ffa-and-pfa-escalates>>. See, further, Nick Evershed, 'How Much are Australia's Male and Female Sports Teams Paid?' *The Guardian (Australia)*, 15 September 2015 <<https://www.theguardian.com/news/datablog/2015/sep/15/how-much-are-australias-male-and-female-sports-teams-paid>>.

¹¹ It reminded me of something devastating that I read about Chelsea Manning's experience of being arrested and put on trial for the release of classified information to Wikileaks. She is quoted as saying, '[I] wouldn't mind going to prison for the rest of my life, or being executed so much, if it wasn't for the possibility of having pictures of me ... plastered all over the world press ... as [a] boy': Evan Hansen, 'Manning-Lamo Chat Logs Revealed', *Wired*, 13 July 2011, cited in Madeline Porta, 'Not Guilty By Reason of Gender Transgression: The Ethics of Gender Identity Disorder as Criminal Defense and the Case of Pfc. Chelsea Manning' (2013) 16 *City University of New York Law Review* 319, 320.

¹² This quote is an iconic line from the feature film adaptation of Alan Duff, *Once Were Warriors* (Vintage, 1995). The original text, at 28, is as follows: 'I ain't cookin' fried eggs with no boiled feed. Damned if I am. What I serve up is what you get. You're not satisfied then take a walk, Jim. This ain't a fuckin restaurant and I ain't no one's slave. Not even his.'

¹³ Duff, *ibid*; Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (Routledge, first published 1990, 2011 ed).

role-modeling of masculinity. But what I didn't realise at the time (what *you* didn't realise) was how your inner Jake the Muss was so inextricably linked to your gender trouble.

You used to laugh about an old hook-up who had taken it badly when you'd broken things off with her: she'd lost her cool, thrown a bag of your stuff at you and yelled, 'You need to learn to respect women!' She'd thought she was hitting you hard but actually she was playing right into your hands. A guy friend who was fixing his car nearby heard her and sniggered with you. Here was another chance for you to perform masculinity by being one of the boys,¹⁴ ridiculing those women who were braying for your respect. Bitches be cray, right?

You were convinced that asserting your masculinity depended on adhering to normative gender roles and casting yourself as separate from women — and what better way to do it than to demean them, to expect that they conform to outmoded gender stereotypes, to objectify and then dispose of them when you were done? You loved women, as you liked to tell me all the time, so I was surprised that you looked at me with unabashed incredulity when I first mentioned that I was a feminist. ('You're a *feminist*? Oh Jesus, not another one. You seemed like such a cool chick.') You were hostile to feminism in part because it excluded you,¹⁵ and in part because patriarchy suited you.¹⁶ You loved women insofar as they were objects for your enjoyment, and you were used to relying on

¹⁴ See also Kristen Schilt, 'Just One of the Guys? How Transmen Make Gender Visible at Work' (2006) 20(4) *Gender and Society* 465.

¹⁵ For examples of outright hostility towards transgender identity within radical feminist lesbian circles, see in particular the work of Sheila Jeffreys: *Gender Hurts: A Feminist Analysis of the Politics of Transgenderism* (Routledge, 2014); 'The Transgendering [sic] of Children: Gender Eugenics' (2012) 35 *Women's Studies International Forum* 384; 'Judicial Child Abuse: The Family Court of Australia, Gender Identity Disorder, and the "Alex" Case' (2006) 29 *Women's Studies International Forum* 1. More generally, see: Michelle Goldberg, 'What is a Woman? The Dispute between Radical Feminism and Transgenderism', *The New Yorker*, 4 August 2014 <<http://www.newyorker.com/magazine/2014/08/04/woman-2>>; Lori Chambers, 'Unprincipled Exclusions: Feminist Theory, Transgender Jurisprudence, and Kimberly Nixon' (2007) 19(2) *Canadian Journal of Women and the Law* 305. For some of the tensions between feminism and the trans community, see Cressida J Heyes, 'Feminist Solidarity after Queer Theory: The Case of Transgender' (2003) 28(4) *Signs: Journal of Women in Culture and Society* 1093, 1113: 'either feminists elide, with Feinberg, the ethical questions that are raised by self-fashioning in the context of gender relations, or, with Hausman and Raymond, we condemn any trans move as merely another iteration of oppressive norms.'

¹⁶ 'Trans Men Open Up About their Experiences with Male Privilege', *Huffington Post* (online), 20 August 2016 <http://www.huffingtonpost.com.au/entry/trans-men-male-privilege_us_57b75597e4b00d9c3a179528>.

them for unpaid domestic and emotional labour without having them ask you for much in return. I wasn't buying it. 'Cook your own damn eggs,' I'd bark at you when you tried it on with me.

It was a vicious cycle. Your insecurity in your masculinity became a source of your rage, and your performance of a particularly aggressive brand of masculinity gave you licence to express your rage in terribly destructive ways. It took some time for you to unlearn the lessons you had been taught about what it meant to be a man: you started to broaden your social circles, started to expose yourself to different models of male belonging, started to turn your mind to more inclusive streams of feminism, until one day you were secure enough in your own masculinity to become a feminist, too.¹⁷ The clouds finally parted when you confronted your gender identity head-on: you were a man, and it was up to you to decide what sort of a man you wanted to be.

IV DYSPHORIA (SAD-FACE EMOJI)

Later, you would say that you supposed you'd always felt like a boy, but that you had never realised that being accepted as a man was actually a possibility for you. But the internet is an incredible resource, and once you started to hear trans stories, once you started to follow trans men on YouTube and Instagram, once you saw their normatively-masculine bodies and marveled at their deep voices and facial hair, once you saw that it was possible to transform your body and to 'pass' as male, you were overcome with a deep sense of urgency and single-minded focus. You needed to transition. We went online and ordered binders in an effort to spare your torso the pain of those constrictive double-layers of too-small sports bras that you were wearing every day. ('I'm gonna cut these off one day, haha!' was what you used to say about your breasts if anyone ever mentioned them. It didn't take long for me to realise you weren't actually joking, and before long you couldn't laugh at them or even tolerate anyone calling them boobs. 'The invaders,' you'd snarl.) First came the realisation that medical and

¹⁷ See Miriam J Abelson, 'Trans Men Engaging, Reforming, and Resisting Feminisms' (2006) 3(1) *Transgender Studies Quarterly* 15; Emi Koyama, 'The Transfeminist Manifesto' in Rory Dicker and Alison Piepmeier (eds), *Catching A Wave: Reclaiming Feminism for the Twenty-First Century* (Northeastern University Press, 2003) 244, 245.

social transition was a possibility; then came the realisation that, for you, it was a necessity.

All of these realisations coincided with your newfound sobriety. For the first time in your adult life, you were off the booze and confronting the decades' worth of emotions that came hurtling towards you as, day after day, you curled up in foetal position at the foot of the bed and sobbed like a broken child. Without old mate alcohol to field your pain and then black out your inconvenient memories for you, you were left reeling and unable to sustain the monumental effort that it had taken for you to hide from yourself and from the world. You raged, and then you went through periods of disconcerting quiet. You retreated from the world and became intensely dependent on me, the one person in whom you had confided. We talked a lot about courage and cowardice, and you were terrified about what lay before you, but you knew that you couldn't go on as you were. And so you booked your appointments and bled money as you placed yourself in the hands of the experts who would assess and categorise and treat you.

For now you had entered the realm of pathologisation. You were told you have 'gender dysphoria', satisfying the criteria set out in the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* ('DSM-5').¹⁸ I suppose we can be thankful that you weren't diagnosed under the older DSM-IV-TR, which would have seen you labelled as someone suffering from 'gender identity disorder'.¹⁹ In 2013, the American Psychiatric Association made the concession that your gender nonconformity is 'not in itself a mental disorder'; instead, it's a 'condition' marked by 'clinically significant distress'.²⁰ And so it was that a core

¹⁸ American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders: DSM-5* (American Psychiatric Publishing, 2013), [302.85] (F64.1).

¹⁹ American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders: DSM-IV-TR* (American Psychiatric Publishing, 2000), 582ff.

²⁰ 'The critical element of gender dysphoria is the presence of clinically significant distress associated with the condition': American Psychiatric Association, *Gender Dysphoria Fact Sheet* (American Psychiatric Publishing, 2013), 1 <<http://www.dsm5.org/documents/gender%20dysphoria%20fact%20sheet.pdf>>. Note that the pathologisation of gender nonconformity has parallels with the pathologisation (and, later, de-pathologisation) of homosexuality: American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders: DSM-II* (American Psychiatric Publishing, 1952); Victoria Clarke et al, *Lesbian, Gay, Bisexual, Trans and Queer Psychology: An Introduction* (Cambridge University Press,

aspect of your identity was labelled a 'condition', and the prospect of 'treatment' or 'rectification' or 'cure' lay before you. What an insult. But also, what a relief.

A relief because you know that label, that diagnosis, is the legally and medically constructed key that unlocks a set of interlinked doors.²¹ You need it for your testosterone injections, you need it if you want the state to recognise you as a man, and you need it for the 'top surgery' that will rid you of your 'invaders'.²² And sometimes you have relished the availability of a medical vocabulary for explaining yourself to others.²³ I have observed your thrill at hearing about possible biological bases for your gender identity.²⁴ And wasn't it this pathologisation that provided a bridge across which at least one loved one could travel to meet you halfway? ('I've been reading about your condition,' she said. 'The good news is that there is a cure.')

2010) 12–13; Michael Kirby, 'The 1973 Deletion of Homosexuality as a Psychiatric Disorder: 30 Years On' (2003) 37 *Australian and New Zealand Journal of Psychiatry* 674.

²¹ See, eg, Dean Spade, 'Resisting Medicine, Re/modeling Gender' (2003) 18 *Berkeley Women's Law Journal* 15, 15–17.

²² This ought not to be the case. The World Professional Association for Transgender Health ('WPATH') advocated for the DSM shift from 'gender identity disorder' to 'gender dysphoria' as a step towards depathologisation of gender identity, and has argued that since 'not everyone who experiences discontinuity between his/her sex and gender will experience distress about identity,' there ought to be a 'new medical (non-mental-illness) diagnosis and categorization ... created for those gender-variant people who require sex affirmation treatment, which is a separate matter from managing identity confusion': Jamison Green et al, 'Recommendations from the WPATH Consensus Process for Revision of the DSM Diagnosis of Gender Identity Disorders: Implications for Human Rights' (2011) 13 *International Journal of Transgenderism* 1, 4 (references omitted). WPATH has called for the 'worldwide de-pathologisation of gender variance,' noting that 'the expression of gender characteristics, including identities, that are not stereotypically associated with one's assigned sex at birth is a common and culturally-diverse human phenomenon [that] should not be judged as inherently pathological or negative': WPATH, *De-Psychopathologisation Statement*, Press Release, 26 May 2010 <https://amo_hub_content.s3.amazonaws.com/Association140/files/de-psychopathologisation%205-26-10%20on%20letterhead.pdf>. WPATH's position is echoed by the Australian and New Zealand Professional Association for Transgender Health ('ANZPATH'): *Statement on Legal Recognition of Gender Identity*, available at <<http://www.anzpath.org/about/statements>>. See also WPATH *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People* (7th Version, 2011) 4, which encourages healthcare providers to use the language of 'gender nonconformity' rather than the more pathologising language of 'gender dysphoria'.

²³ Spade expresses concern about deference to 'medical evaluation of gender identity in legal work towards trans[*] equality': Spade, above n 21. For Spade, this is a personal as well as professional concern: 'As a transgender person, and a lawyer working for trans equality, I must continually negotiate how to use medical evidence responsibly. ... I must proceed with extreme caution when approaching the interwoven governance mechanisms of legal and medical realms that continue to determine the fates of gender transgressive people': *ibid*, 18.

²⁴ Joan Roughgarden, *Evolution's Rainbow: Diversity, Gender, and Sexuality in Nature and People* (University of California Press, 2013).

But your diagnosis doesn't capture who you are and dysphoria isn't even your dominant emotion. You weren't 'dysphoric' on that sunny winter's day when you slid into your binder for the first time and strutted the streets with your new flat chest; your smile was about to crack your face clean off.²⁵ You have had your moments of devastation and frustration but your gender identity also brings you joy and excitement; your transition has been a time of awakening and possibility. Your 'distress' has derived less from your body than from the prejudices and assumptions of those people who have sought to reduce you to your gender nonconformity.²⁶ (As you consulted with your clinicians and dutifully filed your medical reports, I was working my way through the Family Court of Australia's decisions on adolescent access to gender-affirming healthcare,²⁷ and I would flinch every time a judgment opened with a diagnosis, as though that told us a trans person's story in a nutshell.²⁸)

²⁵ For other stories of celebration of transgender bodies, see SJ Langer, 'Our Body Project: From Mourning to Creating the Transgender Body' (2014) 15(2) *International Journal of Transgenderism* 66.

²⁶ In the case of one child seeking access to hormone treatment, his consulting psychiatrist identified a set of 'social risks' which, according to the psychiatrist, were 'associated with the treatment', but which were quite patently matters that had little to do with the medical fact of the child's hormone levels or pathology, and everything to do with social prejudices around gender nonconformity: *Re Marco* [2016] FamCA 187 (30 March 2016) [42] (Watts J citing, the evidence of 'Dr S'). Those risks were 'rejection by members of the extended family, friends and casual acquaintances; discrimination at school, in public and in the workplace; harassment and abuse, including physical attack and rape, as he may be perceived as a target and an object of hatred by some transphobic people': *Re Marco* [2016] FamCA 187 (30 March 2016) [42] (Watts J, citing the evidence of 'Dr S').

²⁷ See generally Felicity Bell, 'Children with Gender Dysphoria and the Jurisdiction of the Family Court' (2015) 38(2) *University of New South Wales Law Journal* 426. There is increasing resistance to the court's role as gatekeeper to child and adolescent access to gender-affirming healthcare, with medical practitioners, members of the judiciary, and children's rights advocates arguing that the process is unnecessary and traumatic for children and their carers: Mary Huft, 'Statistically Speaking: The High Rate of Suicidality among Transgender Youth and Access Barriers to Medical Treatment in a Society of Gender Dichotomy' (2008) 28(1) *Children's Legal Rights Journal* 53; Amanda Kennedy, 'Because We Say So: The Unfortunate Denial of Rights to Transgender Minors Regarding Transitions' (2008) 19 *Hastings Women's Law Journal* 281; Josie Taylor, 'Chief Justice Vows Change to "Traumatic" Court Process for Transgender Children', *ABC News Online (Australia)*, 5 July 2016 <<http://www.abc.net.au/news/2016-07-05/court-process-for-transgender-children-set-to-be-overhauled/7546884>>.

²⁸ Usually, the opening paragraphs are blunt ('Logan has been diagnosed as having Gender Dysphoria.'): *Re Logan* [2016] FamCA 87 (19 February 2016) [1] (Watts J). Sometimes, they are longer but tell us even less about a person ('Rosie is an almost 17-year-old girl who has been diagnosed with Gender Identity Disorder'; never mind that 'Rosie' goes by a masculine name and is a boy): *Re Rosie (Special Medical Procedure)* [2011] FamCA 63 (28 January 2011) [1] (Dessau J). In the latter case, despite Her Honour's misgendering of the child in question, Dessau J granted the application to allow the child to access medical treatment to conform with his identity as male, and offered no justification for referring to the child by a female name and female pronouns throughout the decision. Instead, Her Honour simply remarked, 'While Rosie currently identifies

And although the law demanded that you consult with a range of medical specialists before you could access gender-confirming treatment, we found the list of professionals willing or able to work with you as a trans patient was short, and the waitlists were infuriatingly long.²⁹ We were fortunate to find some wonderful practitioners whose support has been like a salve to calm our anxieties and allay our fears, but we have also discovered that prejudices in medical circles abound;³⁰ my relationship with one of my own doctors never recovered after she laid her cards on the table for me. ‘You can never tell Cass this,’ she said, ‘but it’s mutilation, pure and simple.’

V ‘HAS SHE HAD THE SURGERY YET?’

Another day, another frustrating administrative exchange with a government official. I called the Registry of Births, Deaths and Marriages to check on what was required for official recognition of your male name and your male gender.³¹ I was answered with a question: ‘Has she had the surgery yet?’ It was plain that the bureaucrat on the telephone had no idea of what she meant by ‘the surgery’.³² It was also clear that she, like many other officials, held expectations of a fixed, linear progression of gender transition,³³ and didn’t account for the

as male, for the purpose of these Reasons for Judgment I shall refer to her by her female name and use the female pronoun’: *Re Rosie (Special Medical Procedure)* [2011] FamCA 63 (28 January 2011), [2] (Dessau J).

²⁹ ANZPATH maintains a list of service providers who work with trans and gender-nonconforming people in Australia and New Zealand: <<http://www.anzpath.org/about/service-providers>>.

³⁰ This experience is confirmed by one study which found that ‘healthcare providers who work with [the transgender and gender nonconforming] population are more likely to experience prejudice or administrative aggression from within the mental health system’: Randi Ettner, Tonya White and George R Brown, ‘Family and Systems Aggression Toward Therapists’ (2010) 12(3) *International Journal of Transgenderism* 139, 139.

³¹ *Births, Deaths and Marriages Registration Act 1995* (NSW) pts 5, 5A.

³² There are, of course, many ways in which a trans man can undergo medical transition (such as hormone therapy, a double mastectomy, and nipple reconstruction, and, far more rarely, ‘lower surgery’ such as hysterectomy and phalloplasty). But many trans men and gender nonconforming people are perfectly happy to keep their bodies as they are, and those who do seek to undergo medical transition make their own choices about the extent to which they wish to alter their bodies with surgery or hormones. For some, retention of a uterus is unthinkable; for others, sterilisation is an entirely unnecessary and invasive procedure, or a violation of basic reproductive rights.

³³ Jamison Green, ‘“If I Follow the Rules, Will You Make Me a Man?”: Patterns in Transsexual Validation’ (2012) 31(1) *University of La Verne Law Review* 23. Dean Spade recounts, ‘To [one] counsellor, my failure to conform to the transsexuality he was expecting required my immediate expulsion from that world of meaning at any cost’: Spade, above n 21, 22.

multitude of ways in which different trans men and women and gender nonconforming people express their gender.³⁴ She certainly didn't allow for the possibility that you wouldn't undergo surgical transition.³⁵ But you were still waiting for your expensive double mastectomy, and so you could only apply for a change of name; official change of sex would have to wait.

This was one of the many ways in which the state has intervened to construct your gender, mapping your transition and moulding your body. Your gender has been culturally and legally imagined, and even your physical form is subjected to law's interventions.³⁶ We tried our best to jump through all the administrative hoops without getting distracted by the important questions (why, for instance, does the state need to document your gender at all?³⁷). You fought your way

³⁴ For Burgin, for instance, 'top surgery' (mastectomy) was the focus. He writes, 'Before surgery, I was walking around with a sharp stone in my shoe, and there was no way I could ignore it. Now? I walk unencumbered': Ezekiel Reis Burgin, 'The Stone in My Shoe' in Zander Keig and Mitch Kellaway (eds), *Manning Up: Transsexual Men on Finding Brotherhood, Family and Themselves* (2014, Transgress Press) 35, 38. For Duane, on the other hand, 'Genital transformation was the last step for me into the world of men': A Scott Duane, 'Men Like Me' in Zander Keig and Mitch Kellaway (eds), *Manning Up: Transsexual Men on Finding Brotherhood, Family and Themselves* (2014, Transgress Press) 127, 131.

³⁵ Indeed, the legislative framework for change of sex in New South Wales does not allow it. In New South Wales, if a person seeks to alter the Register of Births, Deaths and Marriages in order to record a change of sex, they need to have 'undergone a sex affirmation procedure': *Births, Deaths and Marriages Registration Act 1995* (NSW) s 32B(1)(b) (in the case of adults) and s 32B(2)(b) (in the case of children). The NSW Act defines a 'sex affirmation procedure' in narrow, invasive terms: the only recognised procedures are surgical procedures 'involving the alteration of a person's reproductive organs': *Births, Deaths and Marriages Registration Act 1995* (NSW) s 32A. The Act does not define 'reproductive organs', which means that it is not clear whether or not NSW law requires 'lower surgery' or sterilisation in the case of trans men. The state of Western Australia has taken a far more restrictive approach, requiring applicants to undergo a 'reassignment procedure' before applying to a Gender Reassignment Board for a recognition certificate: *Gender Reassignment Act 2000* (WA) s 14(1). The Western Australian Gender Reassignment Board's requirement that trans men submit to surgery involving complete removal of the reproductive organs was subject to a successful challenge before the High Court of Australia: *AB v State of Western Australia and Another* (2011) 244 CLR 390. For a consideration of the bioethics and medical ethics involved in such requirements, see Anne E Silver, 'An Offer You Can't Refuse: Coercing Consent to Surgery through the Medicalization of Gender Identity' (2014) 26(2) *Columbia Journal of Gender and Law* 488.

³⁶ For Wittig, the legal system 'reinterprets physical features (in themselves as neutral as any others but marked by the social system) through the network of relationships in which they are perceived': Monique Wittig, 'One is Not Born a Woman' in *The Straight Mind and Other Essays* (Beacon Press, 1992) 9, 12.

³⁷ For an excellent critique of the state's insistence upon documenting gender and an exploration of some of the ways in which official gender classification impacts upon the lives of trans and gender nonconforming people, see Dean Spade, 'Documenting Gender' (2008) 59 *Hastings Law Journal* 731.

through a labyrinth of forms, across all those competing jurisdictions, desperate to be done with the lot of it.³⁸

Even the change of name took forever, and when the paperwork arrived you were recovering from your top surgery. Fuzzy on painkillers, you opened the letterbox to discover you needed to collect some registered mail. Finally, this was it. No longer would you have to observe a bouncer's rising snigger when he looked at the girly name on your ID. The next morning, we raced down to the post office. You opened the envelope slowly, ready to savour the moment. Out came the certificate, and our hearts sank as we stared at it in silence.

Given name(s): Georgio

Sex: Female

And so it has been with every administrative encounter: each hard-earned victory matched by some careless act of erasure. Finally, you are 'Georgio', but anyone who reads your Change of Name certificate will be reminded that the state doesn't yet recognise you as a man. You hate that document.

The next day you experienced rare post-surgical complications and nearly died. As I rushed you outside to the ambulance, carrying you out of the building and supporting your dead weight as you collapsed in the street, I had the presence of mind to slip the certificate into my bag. But we hadn't negotiated the administrative labyrinth quickly enough: your name hadn't been updated on the Medicare system, and the Change of Name certificate was a worthless scrap of paper inside the hospital walls. As you drifted in and out of consciousness in hospital, you heard the staff referring to you as 'her', calling you by your old

³⁸ The *Australian Government Guidelines on the Recognition of Sex and Gender* (November 2015) were issued in response to the recommendations of the Australian Human Rights Commission in its report, *Sex Files: The Legal Recognition of Sex in Documents and Government Records* (Concluding Paper of the Sex and Gender Diversity Project, 2009). The guidelines are part of an effort to simplify the process of documenting gender and are intended for roll-out in all Australian Government departments and agencies. For some Federal agencies, such as Medicare, the process is notably straightforward. However, the guidelines do not assist foreign citizens resident in Australia who must navigate the requirements of competing jurisdictions, and they have not yet been implemented across all Federal and State government agencies, leaving trans applicants to negotiate their way through a messy patchwork of forms and bureaucratic processes.

name, and in your panic, you worried about dying as a girl.³⁹ Before they wheeled you into emergency surgery, and when you were in recovery, every time they came to take your vitals, every time they came to administer your painkillers, it was the same thing: 'First, just state your full name and date of birth.' And you would glare at me as you forced out the words through gritted teeth: 'Cassandra Luisa Grace Palamo.'

VI COMING OUT, GUNS A-BLAZING

A buzz of your phone ushered in a WhatsApp message from someone very important to you. As shots were ringing out in Orlando, as gay and trans people were being slaughtered at Pulse Nightclub,⁴⁰ as you stood there, living, breathing, emotion charging through your body, she had written to inform you that you had died, too: 'I'm mourning the death of my daughter.'

Later, you would tell me that back when you used to believe in the Jehovah's Witness teachings of your childhood, any time something terrible happened, your mind would pounce on the thought that it signaled the End of Days. And, wracked with guilt, you would wonder, 'did I make that thing happen?' And so it was that on the night of your Coming Out, that night of the mass killings in an LGBT nightclub on the other side of the world, a deep and pervasive guilt lurked behind you like a menacing, pouting Trump on the set of a presidential debate. The opportunity to confuse correlation and coincidence was just a little too tempting on this of all days. Was this some sort of Divine punishment?⁴¹ But it

³⁹ For other stories of misgendering by medical professionals and recommendations for improvement within the profession, see D Brienne Hagen and M Paz Galupo, 'Trans* Individuals' Experiences of Gendered Language with Health Care Providers' (2014) 15(1) *International Journal of Transgenderism* 16.

⁴⁰ Delia Melody, 'What This Trans Woman Wants You To Remember In The Wake Of The Orlando Shooting,' *The Huffington Post* (online), 12 June 2016 <http://www.huffingtonpost.com/entry/what-one-trans-woman-wants-you-to-remember-in-the-wake_us_575e10dae4b052f656efdf5c>.

⁴¹ Plenty of religious conservatives had no compunction in construing the attacks as divinely exacted revenge. On the night of the shooting, Texas Governor Dan Patrick, a forceful opponent of transgender rights in Texan schools, tweeted that 'a man reaps what he sows', a biblical quote from Galatians, 6:7: Mia De Graaf, "'Man Reaps What He Sows": Texas Lieutenant Governor Sparks Outrage with Anti-LGBT Tweet Just Hours after Orlando Gay Club Massacre', *The Daily Mail* (online), 13 June 2016 <<http://www.dailymail.co.uk/news/article-3637672/A-man-reaps-sows-Texas-governor-sparks-outrage-anti-LGBT-tweet-just-hours-Orlando-gay-club-massacre.html>>.

was more than just guilt that kept you from enjoying the outpouring of support that you received that night. Because it was on that night that the fear really began to set in.

Your elation at coming out (that opportunity for authenticity and acceptance) was tempered by the sharp realisation that with visibility comes exposure.⁴² Orlando was a blood-soaked reminder that people who don't know you would hate you enough to kill you,⁴³ that you would be invoked in political campaigns, that you would be told that you were waging war on society (on marriage, on bathrooms),⁴⁴ that you were engaged in 'ideological colonisation'.⁴⁵ As you were buoyed by the support that poured in through channels both public and private, it was the words of the haters that clawed away at your self-confidence.

Chelsea Manning went missing for a couple of days: there were reports that she had attempted suicide in custody, she had failed to make it to a phone for her scheduled meeting with her lawyers, and the military prison authorities would not confirm her whereabouts or even whether she was safe. Manning's mistreatment in military prison had been well-documented: refused permission to grow her hair, denied access to gender-confirming healthcare, held in a male facility at great risk to her personal safety, she had become the very visible face of institutionalised oppression of the gender-nonconforming. In six years of solitary confinement in five separate locations, she had repeatedly sought help but her calls had been 'ignored, delayed, mocked, given trinkets and lip service

⁴² Jamison Green, 'Look! No, Don't! The Visibility Dilemma for Transsexual Men' in Kate More and Stephen Whittle (eds), *Reclaiming Genders: Transsexual Grammars at the Fin de Siècle* (Bloomsbury, 1999) 117.

⁴³ Jodi Jacobson, 'Inciting Hatred and Violence: Unfortunately, This Is Who We Are As a Nation', *Rewire News*, 12 June 2016 <<https://rewire.news/article/2016/06/12/inciting-hatred-violence-unfortunately-nation/>>.

⁴⁴ See, eg: Richard E Epstein, 'Transgender Wars', *Defining Ideas* (Hoover Institution), 16 May 2016 <<http://www.hoover.org/research/transgender-wars>>; Kristen Schilt and Laurel Westbrook, 'Bathroom Battlegrounds and Penis Panics' (2015) 14(3) *Contexts* 26. Scholars have pondered upon why it is that 'the presence of a transsexual in a public restroom causes such alarm for society in general, and for courts in particular': Terry S Kogan, 'Transsexuals in Public Restrooms: Law, Cultural Geography and *Etsitty v Utah Transit Authority*' (2008) 18 *Temple Political and Civil Rights Law Review* 673, 674.

⁴⁵ John Newsome, 'Pope Warns of "Ideological Colonization" in Transgender Teachings', *CNN.Com* (online), 4 October 2016 <<http://edition.cnn.com/2016/10/02/world/pope-transgender-comments/>>. (The irony of this accusation appears to have escaped His Holiness.)

by the prison, the military, and [the Obama] administration.⁴⁶ If this was what could happen to such a high profile trans detainee — an activist, an author, a public figure — what could happen to an unknown? We were overwhelmed with relief and sadness when we discovered her lawyers had received confirmation that she was alive, but that she had indeed been driven to self-harm; in a final show of strength, she announced that she was going on a hunger strike until she received the gender-confirming healthcare that she needed and the respect that she deserved.⁴⁷

Both of us became susceptible to bouts of crippling anxiety. The more I read and listened to trans stories — so many of them stories of strength and resilience — the more acutely aware I became of the violence and degradation that is heaped upon people who are targeted due to their gender nonconformity. Stories of trans people at the mercy of hostile authorities hit me the hardest.⁴⁸ I remember waking one night in a cold sweat, rousing you from your sleep and making you promise that you would never be arrested and detained for anything.⁴⁹ The absurdity of it! As though a person can promise to never be wrongfully accused of something; as though a person can promise not to be victimised by police.⁵⁰

⁴⁶ Statement of Chelsea Manning in announcing hunger strike: 'Chelsea Manning Begins Hunger Strike Protest', *Free Chelsea Manning* website (9 September 2016) <<https://www.chelseamanning.org/featured/chelsea-manning-begins-hunger-strike-protest>>.

⁴⁷ Ed Pilkington, 'Chelsea Manning Starts Hunger Strike, Saying She is Bullied in Prison', *The Guardian* (online), 10 September 2016 <<https://www.theguardian.com/us-news/2016/sep/09/chelsea-manning-hunger-strike-bullying-wikileaks>>. Manning's hunger strike was a success; five days after her announcement, the army agreed to allow her to undergo gender-confirming surgery: 'Chelsea Manning Ends Hunger Strike after Winning Gender Surgery Battle', *The Guardian* (online), 14 September 2016 <<https://www.theguardian.com/us-news/2016/sep/14/chelsea-manning-ends-hunger-strike-after-winning-battle-for-gender-transition-surgery>>. She has since been granted clemency and is awaiting release from prison.

⁴⁸ For a collection of personal accounts, staggering in their volume, see Eric A Stanley and Nat Smith (eds), *Captive Genders: Trans Embodiment and the Prison Industrial Complex* (AK Press, 2nd ed, 2015).

⁴⁹ See NSW Department of Justice, '7.23 Management of Transgender and Intersex Inmates', *Corrective Services NSW Operations Procedures Manual* (V2.0 December 2015); cf Jeremy Story Carter and Damien Carrick, "'Absolutely Terrifying": Transgender People and the Prison System', *The Law Report, ABC Radio National*, 4 April 2016 <<http://www.abc.net.au/radionational/programs/lawreport/transgender-people-and-the-prison-system/7284154>>; Jake Blight, 'Transgender Inmates', *Issues and Trends in Criminal Justice* (Australian Institute of Criminology, September 2000).

⁵⁰ See *NSW Police Force Strategy on Sexuality, Gender Diversity and Intersex 2016-2020* (June 2016)

<http://www.police.nsw.gov.au/_data/assets/pdf_file/0007/421495/Sexuality,_Gender_Diversity_and_Intersex_Policy_2016-2020_July_Intranet.pdf>; but cf Toby Miles-Johnson, "'They Don't

But the thought of you being humiliated and abused was too much to bear, and, generous soul that you are, you offered me that impossible promise, and with it the gift of sleep.

VII BELOW THE BELT

People's reactions to your transition surprised us in a lot of ways. For the most part, the surprises were pleasant — people we might have assumed would be uncomfortable with the idea were instead incredibly supportive. Of the very vanilla friends who treated your transition with the greatest tact and generosity, several spoke with genuine enthusiasm about sensitivity training in the workplace, and many related stories of friends, acquaintances, and colleagues having transitioned. Others professed an eagerness to learn about different experiences of gender nonconformity, having recently been exposed to beautiful literature like *The Argonauts*,⁵¹ or television drama such as *Transparent*. You were beginning to appreciate the socially transformative power of 'trans visibility'.⁵²

But sometimes there is a fine line between support and 'fascination'.⁵³ You lost some of your enthusiasm for your transition when you realised that to many people you had become an object of curiosity. In hospital, when you were convalescing from your second, emergency surgery, a doctor entered your room with a team of around fifteen people in scrubs and abruptly asked you to take off your shirt. His unidentified posse gasped in approval as you reluctantly revealed your chest. 'There's a lot of you watching,' you quipped. 'Got any music?' (Only one of them got the joke.)⁵⁴ The worst of it was fielding question after question

Identify With Us': Perceptions of Police by Australian Transgender People' (2015) 16(3) *International Journal of Transgenderism* 169.

⁵¹ Maggie Nelson, *The Argonauts* (Graywolf, 2016).

⁵² Viviane K Namaste, *Invisible Lives: The Erasure of Transsexual and Transgendered People* (University of Chicago Press, 2000).

⁵³ Spade remarks upon the pressure to review 'zillions of articles and student papers from around the country ... in order to do damage control as increasing numbers of students and professors get "fascinated" by the topic of trans people and our legal problems': Dean Spade, 'Be Professional!' (2010) 33 *Harvard Journal of Law and Gender* 71, 77.

⁵⁴ Christoph Hanssmann, Darius Morrison and Ellery Russian, 'Talking, Gawking, or Getting It Done: Provider Trainings to Increase Cultural and Clinical Competence for Transgender and Gender-Nonconforming Patients and Clients' (2008) 5(1) *Sexuality Research and Social Policy* 5.

about your genitals, from friends and strangers alike. We would vent over dinner. ‘Why do they think they can ask you questions like that?’ ‘Haven’t people heard of the damn internet?’ At first, you would try to give them an answer (‘I haven’t even had a chance to think about it,’ you’d say), but then you learned to shut it down like Whoopi Goldberg.⁵⁵

Those invasive questions were fairly benign compared to some of the phallogocentric vitriol that was leveled at you by people in your close circles. Men who were supposed to be your friends, men who had purported to be among the biggest supporters of your transition, invoked your gender while, as you slept, they carried out acts of sexual violence against your girlfriend. ‘We’ve been talking about it,’ they announced, ‘and we reckon you just miss cock.’ But what surprised us further was how easily men would reach for the transphobic sledge when they were losing an argument. One guy even used your gender as cover when he was losing a trivial rugby argument about David Pocock. As he skulked out of the room, knowing he’d been defeated, he threw down his nonsequitous trump card: ‘It’s good to have a cock. Any cock.’ You’ve come to realise that the low blow will always be available to those who are prepared to stoop down to take a swing.

Of course, it doesn’t help that some of the lowest blows are swinging from people in high places. And I’m not just talking about the Slavoj Žižeks and the Germaine Greers.⁵⁶ I am talking about the legislators who seek to make a trip to a public bathroom even more stressful than it already is for people like you;⁵⁷ I’m talking about the politicians and journalists who rail against the Safe Schools program;⁵⁸

⁵⁵ See Dawn Ennis, ‘Whoopi Goldberg: “Don’t Ask Trans People About Their Junk”’, *LGBTQ Nation* (9 September 2016) <<http://www.lgbtqnation.com/2016/09/whoopi-goldberg-dont-ask-trans-people-junk/>>.

⁵⁶ See, eg: Che Gossett, ‘Žižek’s Trans/gender Trouble’, *Los Angeles Review of Books*, 13 September 2016 <<https://lareviewofbooks.org/article/zizeks-transgender-trouble>>; Nick Duffy, ‘Germaine Greer on Trans Women: I Could Call Myself a Cocker Spaniel’ *PinkNews* (online), 19 December 2015 <<http://www.pinknews.co.uk/2015/12/19/germaine-greer-on-trans-women-i-could-call-myself-a-cocker-spaniel/>>.

⁵⁷ See, eg: *An Act to Provide for Single-Sex Multiple Occupancy Bathroom and Changing Facilities in Schools and Public Agencies and to Create Statewide Consistency in Regulation of Employment and Public Accommodations*, General Assembly of North Carolina, House Bill 2, Session Law 2016–3 (2016) (US) (‘HB 2’); *Carcaño et al v McCrory*, Brief of Plaintiffs-Appellants, No.1: 16-cv-00236-TDS-JEP (4th Cir, 2016).

⁵⁸ See, eg: Natasha Bitá, ‘Safe Schools Coalition: Sexual Politics in the Classroom’, *The Australian* (13 February 2016); Shalailah Medhora, ‘Turnbull Orders Review of Safe Schools LGBTI Program

I'm talking about the powerful people who think your body and your identity are battlegrounds upon which to wage their own nasty wars.

VIII 'TRANNY CLUB'

If there's one thing you wanted, it was to assure yourself that you weren't one of them. You didn't want to get there in time for awkward small talk, you didn't want to be seen; you wanted to stand at the back and survey the room. You wanted to know what they looked like in person, these trans guys.⁵⁹ You wanted to know what they sounded like, whether they had girlfriends and jobs, and, most importantly, you wanted to know if they could pass as 'normal' guys.⁶⁰ 'You wouldn't even know he was trans,' was a sentence that would pour out of you like an exhalation — a lifetime's worth of relief and hope contained in seven little words.

This was 'Tranny Club'. Well, actually, it was the 'FtM Support Group'⁶¹ at the Gender Centre in Sydney's progressive inner-west. But you weren't ready to call yourself trans, you weren't ready to claim that you needed support, and you certainly weren't ready to acknowledge that you were part of a 'group'.⁶² You weren't a 'tranny' like these guys,⁶³ you weren't interested in being some sort of

after Pressure from Cory Bernardi', *The Guardian (Australia)*, 23 February 2016 <<https://www.theguardian.com/australia-news/2016/feb/23/turnbull-orders-review-safe-schools-lgbti-program-after-pressure-from-cory-bernardi>>.

⁵⁹ Cf Adam F Yerke and Valory Mitchell, 'Am I Man Enough Yet? A Comparison of the Body Transition, Self-Labeling, and Sexual Orientation of Two Cohorts of Female-to-Male Transsexuals' (2011) 13(2) *International Journal of Transgenderism* 64.

⁶⁰ Meredith G F Worthen, 'Hetero-cis-normativity and the Gendering of Transphobia' (2016) 17(1) *International Journal of Transgenderism* 31.

⁶¹ FtM is a common abbreviation for 'Female to Male' gender transition.

⁶² This experience is by no means universal. Others, like Burgin, write of a close connectedness and deep sense of belonging with the trans community in the early days of their transition. He writes, 'After I came out, but before surgery or hormones, my sense of community was tied quite firmly to this transgender identity of mine. I restarted trans* organizations on campus, educated peers and professors in class, excitedly went to see other trans* academics and worked with local trans* activists. My friend groups, too, were overwhelmingly trans-masculine. ... But these days I've started to realize that I have been welcomed more readily into cisgender society since I had surgery and started hormones. I no longer need to seek out other trans* and genderqueer men in order to be considered "normal" — at least if I don't mention my trans status': Burgin, above n 34, 42.

⁶³ Lance Bass, 'Why We Shouldn't Use the Word "Tranny"', *Huffington Post blog*, 24 December 2011 <http://www.huffingtonpost.com.au/entry/why-we-shouldnt-use-the-word-tranny_b_1168078>. We have both been affected by casual violence of radio hosts, television presenters, and public figures expressing transphobic sentiments. See, for instance, the

rah-rah trans activist, you weren't interested in being 'proud' of your gender fluidity. Unlike these groupies, you were an individual. Your gender identity was 'genuine,' it was 'authentic,'⁶⁴ and not faddish and performative.⁶⁵ These were the assumptions you carried with you and these were the ways in which you built a psychological wall between yourself and the other people in the room. So you gave the group a pejorative name, and you made a joke of it, which was your way of dangling your foot in the water, unsure of what lies beneath, leaving yourself ready to flee the instant something launches at you with open jaws and bloodthirsty eyes.

That's what internalised transphobia looks like.

You've never considered yourself to be a political person. 'I don't know anything about politics,' you would tell me. 'I just want to live my life in peace.'⁶⁶ Once, well before you commenced your transition, you had entered a public women's bathroom with a butch friend, and a woman in a panic had challenged your mate. 'What the fuck are you doing in here?' the stranger had howled. 'You're a man!' So your friend had lifted their shirt and flashed a set of tits at the girl. The two of you had a bit of an argument afterwards: your friend had wanted to know why you didn't say anything. You'd protested that you didn't want to make a scene.

comments of syndicated radio hosts on the 'Lex and Terry Show' in the US. One of the presenters saw fit to report the news like this: 'There's a teen that shot a tranny after finding out that it was a man after they had a little sexual encounter.' His co-host responded, 'I don't blame him. I would have shot his ass too': Aaron McQuade, 'Radio Hosts Lex and Terry Apologize for Trans Murder Comment,' *GLAAD blog*, 7 June 2013 <<http://www.glaad.org/blog/radio-hosts-lex-and-terry-apologize-trans-murder-comment>>.

⁶⁴ Skepticism about the authenticity or veracity of claims to trans identity is reflected in law across several jurisdictions. Switzerland, for instance, has problematically called on trans individuals to establish their credentials as "authentic" or "true transsexuals" by satisfying a two-year waiting period as a precondition to accessing gender-confirming surgery. This legal requirement was successfully challenged before the European Court of Human Rights: *Schlumpf v Switzerland* (European Court of Human Rights, Application No 29002/06, 8 January 2009) (in French); English translation of the term by Joseph Dute, 'ECHR 2009/9, Case of Schlumpf v Switzerland, 8 January 2009, no. 29002/06 (First Section)' (2009) 16 *European Journal of Health Law* 281, 281.

⁶⁵ Cf Stephanie Beryl Gazzola and Melanie Ann Morrison, 'Cultural and Personally Endorsed Stereotypes of Transgender Men and Transgender Women: Notable Correspondence or Disjunction?' (2014) 15(2) *International Journal of Transgenderism* 76.

⁶⁶ Cf: Carol Hanisch, 'The Personal Is Political' (1969) in Barbara A Crow (ed), *Radical Feminism: A Documentary Reader* (New York University Press, 2000) 113; Andrew J Young, 'Personal is Political: Are You Doing Your Work? White Transmen Holding Ourselves Accountable to Audre Lorde's Legacy', *The Feminist Wire*, 20 February 2014 <<http://www.thefeministwire.com/2014/02/are-you-doing-your-work-white-transmen-holding-ourselves-accountable-to-audre-lordes-legacy/>>.

(Now that you present as masculine you go to great lengths to avoid intimidating women who may be concerned about their security in isolated public spaces.⁶⁷ Instead, you expose *yourself* to danger by venturing into men's bathrooms,⁶⁸ even if it means wading through an inch of urine and warding off the stares. 'That was horrific,' you once told me when you emerged from a bathroom full of plastered, aggressive men at the Sydney Football Stadium. 'It was a goddamned theatre of piss.') If you had your time again, you would stick up for your tit-flashing friend.

And so here you are, this person who doesn't care about politics, this person who doesn't like to make a scene. Here you are, flocking to your advocates and your allies, surrounding yourself with the people who lift you up. Here you are, spilling tears as you listen to Loretta Lynch speak about the Obama Administration's preparedness to litigate for trans rights.⁶⁹ Here you are, forging a community with other trans men, appreciating your similarities and your differences, answering each other's questions and slapping each other's shoulders, proper bro-styles. Here you are, confident enough in your masculinity to advocate for the rights of women and for the rights of the genderqueer, too. Here you are, head buried in your phone, chatting away to your FtM support

⁶⁷ Damian Ray, "'I Never Stand Too Close': A Trans Man's Feminism', *Ravishly.Com*, 23 December 2014 <<http://www.ravishly.com/2015/03/16/i-never-stand-too-close-trans-mans-feminism>>. Some trans men have noted that, having experienced gender insecurity as people who present as women but who now present as men, they are uniquely placed to appreciate the safety concerns of women: see, eg, Australian Broadcasting Corporation, 'Transgender', *You Can't Ask That* (3 August 2016).

⁶⁸ Jeff Brady, 'When a Transgender Person Uses a Public Bathroom, Who is at Risk?', *NPR Weekend Edition*, 15 May 2016 <<http://www.npr.org/2016/05/15/477954537/when-a-transgender-person-uses-a-public-bathroom-who-is-at-risk>>. See also Jody L Herman, 'Gendered Restrooms and Minority Stress: The Public Regulation of Gender and its Impact on Transgender People's Lives' (2013) 19(1) *Journal of Public Management and Social Policy* 65.

⁶⁹ United States Department of Justice, *Attorney General Loretta E Lynch Delivers Remarks at Press Conference Announcing Complaint Against the State of North Carolina to Stop Discrimination against Transgender Individuals* (Washington DC, 9 May 2016) <<https://www.justice.gov/opa/speech/attorney-general-loretta-e-lynch-delivers-remarks-press-conference-announcing-complaint>>:

Let me also speak directly to the transgender community itself. Some of you have lived freely for decades. Others of you are still wondering how you can possibly live the lives you were born to lead. But no matter how isolated or scared you may feel today, the Department of Justice and the entire Obama Administration wants you to know that we see you; we stand with you; and we will do everything we can to protect you going forward. Please know that history is on your side. This country was founded on a promise of equal rights for all, and we have always managed to move closer to that promise, little by little, one day at a time. It may not be easy — but we'll get there together.

group, asking me, 'Oi, how do we change the rules so Medicare covers top surgery?' ('Well you can lobby the government, but you know it's too late for you, right?' 'Yeah, I know! But how do we change it for everyone else?'). Here you are, standing by the swimming pool, scars out, chest proud, breeze on your skin. Here you are, imploring people to listen to your story.

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