

## A Lively Conversation on Trans Legal Change

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Samuel Singer & Ido Katri, Guest Editors, Special Issue: [On the Margins of Trans Legal Change](#), 35 **Can. J. of L. and Soc’y** 147 (2020).

If you’re having one of those days where you feel like change may never come; here’s a fabulous volume for you. This special issue of the *Canadian Journal of Law and Society* centres the lives of trans people, grapples with daily experiences of exclusion and discrimination, and claims new shared ground for legal change in ways that requires us to de-centre law. It is exciting work.

The collection of articles addresses all manner of sites of legal contest—from employment law to human rights, to education law, to health law. As a collection it is neither rigidly theorized nor staunchly pragmatic. Instead, the articles, many of them authored collaboratively, acknowledge theoretical foundations and legacies, and seek to build from those foundations while still keeping the real lives of trans people in sharp view. And while the collection is ground-breaking as a venue for a collective conversation about trans legal change, it makes no claims to be definitive or comprehensive. Each article both stands independently as a contribution rooted in a specific set of experiences and legal frames and weaves with the other contributions to form a coherent, but of course incomplete, whole. The collection is a conversational moment: it results from an effort to bring together a growing number of Canadian trans scholars, activists, and allies in dialogue and to let things unfold from there.

The collection features 12 distinct contributions, each worth reading in the spirit in which they are offered. As I read through the collection, I imagined the authors were inviting us to pick up a drink of our choosing—a coffee, tea, icy cold water, scotch—and to ready ourselves to learn something, to agree and to disagree, and to find ourselves perhaps hopeful about the future of trans scholarship and trans law.

The transcription of the keynote presentation, a discussion between Dr. Viviane Namaste at Concordia and Dalia Tourki, former Advocate and Public Education at the Centre for Gender Advocacy in Montreal and now a law student, is a genius opening. The pair offer a thoughtful tribute to long-time activist, sex worker, and public intellectual Jamie-Lee Hamilton. They open-heartedly explore the right to be loved, one of many signals that trans legal change is not going to rest on foundations familiar to many traditionally trained lawyers. The challenges of both relying on an often oppressive and conservative institution (like law) and wanting to de-centre the power of those institutions arises poignantly in the dialogue. (Imagine: changing your identity papers can be liberatory and yet not celebratory.) There are lovely stop-downs in washrooms, and with trans youth, on migrants, and contemplating glass ceilings.

The article by Dan Irving and Nathan Hoo particularly captured the spirit of law’s limits. Irving conducted forty-four semi-structured interviews with trans-identified residents of urban areas who were un/deremployed. One of the striking reflections was how complex it was for participants to articulate the reasons for the difficulties they faced in seeking employment. Many could sense that discrimination was at play, but speaking with confidence about the nature of that discrimination and its ramifications was elusive. This is of course why “law wins”. Because our sense of what constitutes discrimination is confined to our sense of what is valid evidence. And what is considered valid evidence is constructed by a system whose survival turns on the inability to “prove” the facts we of course know.

Since many readers of Jotwell find their homes in universities, Leon Laidlaw's article on trans university students' access to facilities is a must. Laidlaw surveyed fifth-four trans students and explored their use of washrooms, locker rooms, and student housing on campus. Laidlaw helpfully offers a taxonomy of strategies for "inclusion"—binary inclusion (integrating some space for trans students within the already existing gender binaries), alternative accommodations (offering some distinctive space), and degendering (removing the need for binary facilities altogether). None of these approaches is satisfying. Instead, Laidlaw offers a recommendation for each of washrooms, locker rooms, and accommodation that borrows from the three possible approaches.

Let me offer one final teaser: Jake Pyne's contribution on "building a person". Pyne's article draws an analogy between two behaviour modification programs that share an origin: conversion therapy (which originally aimed to eliminate "feminine" behaviours in male-bodied children) and applied behavioural analysis (ABA) (which aimed to eliminate some behaviours in autistic children). The shared history of these "treatments" is a fascinating read, perhaps familiar to others, but new to me. Pulling together "autism and transgender" offers Pyne with a new lens through which to explore the relative rise in ABA and decline in conversion therapy. The analogy helps Pyne to centre the lives of autistic transgendered children. It also allows for more critical approaches to ABA and to centring the person, what Pyne describes as "a discursive shift from *having* a condition to *being* a human." (P. 358).

A discursive shift of this sort could serve as a frame for the collection. What each of the articles have in common is a profound commitment to honouring being human, and centrally, being a trans person. That work entails exploring understanding law pluralistically and seeing its limits, being grounded in the daily experiences of trans lives, recognizing that the conversation remains partial and ongoing, and acknowledging and grappling with what it means to be centred.

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