

March 26, 2015

## Trinity Western University and Some Finer Points of Trans and Intersex Diversity

By: Saul Templeton

In the comments to my first post on Trinity Western University, it was suggested that TWU should be given the benefit of the doubt concerning its policy on admitting trans students (or, more accurately, its lack of any policy on this issue). Perhaps TWU simply has not considered whether and if it would admit trans students, and joint submissions could be made to TWU on why it ought to admit trans students.

I appreciate the sincerity of this offer. However, I must respectfully counter that accepting trans students in principle would solve none of the problems with TWU's [Community Covenant](#). I raised the question of what TWU would do with trans students and applicants in a previous post because there are really two issues here: (1) would TWU accept trans people at all, even if they were married and sexually active with their spouses; and (2) if trans people were accepted at TWU, how could TWU possibly apply the Covenant to trans people in a way that is both logical and in accordance with biblical morality?

Trans people come with as broad a range of gender expression and sexual orientation as exists in the general population. Trans people can be straight, gay, asexual or bisexual just like cisgender (non-trans) people. Many trans people do not identify as either male or female, and may be more comfortable identifying as neither binary identity, or as somewhere in between. There is currently litigation ongoing in Quebec over the ability of trans and intersex individuals' ability to choose their gender markers on government identification. The Plaintiffs' [Amended Notice to the Attorney General](#) in that case reflects some of the range of binary and non-binary identities within both the trans and intersex communities.

For the sake of simplicity, here I will just use the examples of straight trans men and gay trans men to illustrate how absurd it is to try to enforce gender-based prohibitions on sex to the spectrum of gender identity and expression that exists in the real world.

To define my terms: trans men are people who were assigned female at birth but identify as male. A straight trans man would only be interested in sexual interaction with women; a gay trans man would only be interested in sexual interaction with men. The reality is much more complicated of course because many trans people are not attracted solely to one form of gender expression, and trans people may be attracted to other trans people. A straight trans man might be interested in both cisgender and trans women, regardless of how far (or whether) a trans woman pursues medical transition. A gay trans man might be interested in both cisgender men

and trans men, regardless of the physical configuration of either category of male-identified persons.

### **Category 1: Straight Trans Men**

Many straight trans men who can, and are willing to, undergo medical transition will end up looking like muscular pinnacles of masculinity. I assume this is the category of trans men most likely to be accepted by TWU, if they are accepted at all. When these hyper-masculine trans men marry women (cis or trans) they may indeed look to all observers like a heterosexual couple in accordance with the Covenant's prescription of marriage between one man and one woman.

But not all trans men can, or are willing to, undergo medical transition. Some trans men have medical contraindications for taking testosterone, or their bodies may not tolerate its side effects. A trans man can identify as male without wanting to undergo hormone replacement therapy at all. For medical, personal or financial reasons, he may delay or forego hormonal and/or surgical transition entirely. Trans men who do not undergo medical transition, for whatever reason, deserve to have their gender identities respected. It is a legal requirement that these identities be respected, at least in [British Columbia](#), Alberta and in other provinces that have struck down surgical requirements for trans people to change their gender markers (See *C.F. v Alberta (Vital Statistics)*, [2014 ABQB 237](#), and Jennifer Koshan's [ABlawg post](#) on that case). If these trans men are straight (i.e., date and marry women) they may appear to mistaken external observers as lesbians, even though they identify as male and ought to have their straight identity respected when dating women.

How would TWU deal with the latter category of trans men? In the best case scenario, TWU would respect these straight trans men as reserving sexual intimacy for marriage between one man and woman, even if these trans men do not medically transition, and even if external observers mistakenly perceive them as lesbians. Otherwise, TWU would set itself up as the arbiter of which members of its community are trans enough to have their straight sexual orientation respected under the Covenant. This would be a morally unacceptable position for TWU to take, in my view. It would not be supported by [statistics](#) on the extent of medical transition for most trans people, or by all of the trans community.

### **Category 2: Gay Trans Men**

Here things get even more complicated. It is possible, and not incredibly uncommon, for trans men to become [pregnant and give birth](#), even if they have been on testosterone for some time and look phenotypically male. How can the Covenant possibly accommodate this reality, if trans men are allowed to study at TWU? The Covenant specifies, "according to the Bible, sexual intimacy is reserved for marriage between one man and one woman, and within that marriage bond it is God's intention that it be enjoyed as a means for marital intimacy and procreation". Gay male couples can procreate through ordinary sexual intercourse, where one man is trans. So a gay male couple could be in violation of the "one man and one woman" rule, but also have sexual intercourse that is a "means for marital intimacy and procreation". And, as in the example above, a gay trans man might be unable or unwilling to medically transition, so a gay male couple could appear to mistaken observers as heterosexual. Would only the latter kind of gay male couple be acceptable under TWU's Covenant?

There is no biblical prescription that I am aware of for resolving these problems with enforcing the Covenant. That is why I suggested in my [second TWU post](#) that TWU might have to force

students and employees to swear that they do not, and never will, identify as trans. Otherwise, TWU runs into irresolvable conflicts in any attempt to enforce the Covenant against trans people.

### **Intersex Individuals: One of Many Possible Examples**

We could assume for simplicity that TWU would accept married, sexually active trans students only if they had medically transitioned and only if they identified as heterosexual. (Although this would not be a logically or morally defensible position, for the reasons outlined above). If TWU took this position, it might be defensible under the Covenant and would not be logically inconsistent with denying gay and lesbian equality. However, this still does not answer the issue raised in my [second TWU post](#) of what TWU would do about existing and future students who are intersex. As pointed out earlier, it is not an option for intersex students to simply attend another university, since they might discover their intersex status while studying at TWU, and after they are already married. (And query whether such students should be required to seek education elsewhere even if they are aware of their intersex status when applying to TWU, assuming they meet all other criteria for admission and hold beliefs in accordance with the Covenant). There are documented cases of [mistaken homosexual marriage](#) dating back to at least the late-nineteenth century, resulting from intersex difference and that doctors tried, and often failed, to break up. It would be discriminatory to expel, or reject an application from, an intersex person because TWU deems their marriage to be “same sex”. And if TWU decides not to discriminate against intersex people because of their choice of marriage partner, it cannot defensibly continue to discriminate against gay and lesbian married couples.

I did not want to get into medical details in these blog posts, but it seems necessary at this point to provide at least one example of intersex persons who could suffer harm from TWU’s Covenant. And again, if TWU makes exceptions for intersex students, it is absurd to not also make exceptions for gays and lesbians.

There are many ways a person could experience intersex difference, either from a variation in sex chromosomes or from other natural causes of intersex difference in phenotypical development. Some people with XY chromosomes (that we would usually consider to correspond with the male sex) have [androgen insensitivity syndrome](#) (AIS). A person could be mildly, partially or completely insensitive to androgens: this means their cells will be partly or completely unresponsive to masculinizing hormones like testosterone. Such an individual with the typical “male” XY chromosomes may develop testes that produce androgens, but may develop to otherwise appear female.

AIS was the subject of an episode of [House, MD](#) that has been [sharply criticized by members of the Intersex Society of North America](#) (ISNA) for homophobia and for its complete disregard of gender identity as independent from sex chromosomes. House misgenders his patient, calling her male because her chromosomes and genetics supposedly determine her gender. According to the ISNA, individuals with AIS are “[clearly women](#)”; but the ISNA still advocates against the surgical removal of the testes of a person with AIS in infancy. Instead, the ISNA recommends waiting to offer surgery until an individual with AIS can make an informed decision about whether or not to accept surgical intervention. Gender identity must be left for the individual to determine – for those with AIS and indeed for the general population as well.

Whom would TWU permit an individual with XY sex chromosomes and testes, but presenting as phenotypically female, to marry? Why should this be any of TWU's business, and why should we even find it necessary to ask these questions? It is only because TWU defines marriage as between "one man and one woman" that these questions arise – and because the definitions of "man" and "woman" are not watertight compartments. In my view, it would be unacceptable for TWU to place any restriction on the marital options of a person with XY chromosomes and AIS. Intersex people must be permitted to define their own gender identity, and must be permitted to marry people of any sex, binary or otherwise. But if intersex people are given this free rein to determine their own gender and the gender of those they pursue as life partners, it follows that everyone else must be permitted the same freedoms.

Here is another pressing question: if a person discovers their intersex difference while studying at TWU, what kind of psychological harm will be inflicted by TWU's refusal to acknowledge any category of sex or gender outside the biblically prescribed binary? As explained in my previous post, the number of current TWU students and past alums make it almost certain that TWU has, or had and will have, intersex students. This is the case even at the lowest estimates of intersex difference in the general population of one person in 2,000. It is simply the case that there are or were, and certainly will be, intersex individuals at TWU, even if TWU's administration sincerely believes that the bible only prescribes binary sex categories.

Will TWU expel students who appear to be in heterosexual marriages but discover they are intersex? For example, if they are in the [3% of men seeking fertility treatment who turn out to have XXY sex chromosomes](#)? Or will it permit those students to continue their studies and preserve their marriages? I would be surprised if anyone argued that the former option is acceptable by any moral standard. If TWU takes the latter position, that intersex people should be permitted to remain in marriages that may or may not appear heterosexual to outside observers, there is no reason to deny gay, lesbian and trans people the same freedom.

To subscribe to ABlawg by email or RSS feed, please go to <http://ablawg.ca>  
Follow us on Twitter [@ABlawg](#)

