



May 6, 2013

Via email: lebrem@sen.parl.gc.ca; cowanj@sen.parl.gc.ca

The Honourable Senator Marjory LeBreton PC
Senate of Canada
Ottawa, ON K1A 0A4

The Honourable Senator James Cowan PC
Senate of Canada
Ottawa, ON K1A 0A4

Dear Senators LeBreton and Cowan:

Re: Bill C-279, Better Protection for Transgender People

I write on behalf of the Canadian Bar Association (CBA), to urge you to move Bill C-279, An Act to amend the Canadian *Human Rights Act* and the *Criminal Code* (gender identity), to second and third readings in the Senate without delay. The CBA believes there is a compelling need for express legal protection for transgender Canadians in federal legislation. As the House of Commons recognized, Bill C-279 will provide that protection.

The CBA is a national association representing approximately 37,000 jurists, including lawyers, notaries, law teachers and students, across Canada. Our primary objectives are to improve the law and the administration of justice, and promote equality in the law.

In 2010, the CBA's governing Council unanimously resolved to urge the federal, provincial and territorial governments to amend human rights laws and the Criminal Code to expressly protect transgender individuals from hate crimes and discrimination. Manitoba, Ontario, the Northwest Territories and Nova Scotia have amended their legislation to do so.

Transgender Canadians are a minority who suffer profound discrimination, such as job losses, alienation from their communities, ridicule, harassment and inadequate health care services. They also disproportionately fall victim to hate crimes, including homicide. The extent of victimization of transgender individuals by hate crimes across Canada is not known, as the City of Ottawa is the only jurisdiction where it is systematically tabulated. However, emerging data indicate that human rights violations and acts of violence ranging from verbal abuse to physical and sexual assault are perpetrated daily against transgender people.

Opposition to Bill C-279 appears to rest primarily on a misapprehension of existing human rights law and criminal provisions. Assertions that legal protections for transgender persons would allow male sexual predators to invade women's washrooms and change rooms miss the fact that there is no

evidence of any such occurrences in jurisdictions with gender identity protections. Further, the proposed legislation would do nothing to detract from existing criminal prohibitions against voyeurism and sexual assault. Mischaracterizations of the proposed legislation provide further evidence for why it should be passed.

Bill C-279 is a necessary step toward better protection for transgender individuals in Canada by expressly protecting transgender Canadians within existing legislation. Although gender identity is currently read in to existing human rights legislation, there remains a perception of uncertainty in the law, leading to a greater chance of violation as well as unnecessary and costly litigation. Implicit protections provide a poor legal foundation for censure and condemnation of hate-motivated violence, public education and prevention of human rights abuses.

Thank you in advance for your commitment to equality and for taking the protection of transgender Canadians seriously by permitting this matter to be brought for a vote in the Senate. We would welcome an opportunity to present our views to the appropriate Senate Committee at greater length.

Yours truly,

(original signed by Robert C. Brun)

Robert C. Brun, Q.C.

c.c. The Honourable Senator Grant Mitchell
Randal Garrison, M.P.