

Transsexualität in Theologie und Neurowissenschaften

Transsexuality in Theology and Neuroscience



Ergebnisse, Kontroversen, Perspektiven
Findings, Controversies, and Perspectives

Herausgegeben von / Edited by
Gerhard Schreiber

DE GRUYTER

ISBN 978-3-11-044080-5

e-ISBN (PDF) 978-3-11-043439-2

e-ISBN (EPUB) 978-3-11-043306-7

Library of Congress Cataloging-in-Publication Data

A CIP catalog record for this book has been applied for at the Library of Congress.

Bibliografische Information der Deutschen Nationalbibliothek

Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliografie; detaillierte bibliografische Daten sind im Internet über <http://dnb.dnb.de> abrufbar.

© 2016 Walter de Gruyter GmbH, Berlin/Boston

Einbandabbildung: Cornelia Kunert: He/She (2004)

Druck und Bindung: CPI books GmbH, Leck

☼ Gedruckt auf säurefreiem Papier

Printed in Germany

www.degruyter.com

“Nature loves variety. Unfortunately, society hates it.”
Milton Diamond

Inhalt

Vorwort — XIII

Grußworte

Volker Jung — **XXIII**

Elke Ferner — **XXV**

Henry Hohmann — **XXVII**

Dorothea Zwölfer — **XXX**

Ergebnisse – Kontroversen – Perspektiven

1 Neurowissenschaftlich

Mark Solms

The Biological Foundations of Gender: a Delicate Balance — 5

Dick F. Swaab, Laura Castellanos-Cruz & Ai-Min Bao

The Human Brain and Gender: Sexual Differentiation of Our Brains — 23

Milton Diamond

Transsexualism as an Intersex Condition — 43

Seth Watt & Gillian Einstein

Beyond the Binary: The Corporeal Lives of Trans Individuals — 55

Horst-Jörg Haupt

Neurointersexuelle Körperdiskrepanz

Grundsätzliche Überlegungen in Richtung neurophänomenologischer
Zugänge zu Mustern geschlechtlicher Vielfalt — **75**

2 Alltagsphänomenologisch

Erik Schneider & Karoline Haufe

**trans*Kinder und ihre Herausforderungen in familiären und institutionellen
Bezügen — 123**

Karin Kammann

... und danach, was wird?

Geschlechterwandel und Folgen — 157

3 Kulturwissenschaftlich

Afsaneh Najmabadi

What Can We Learn From Transsexuality in Iran? — 175

Doris Decker

Transgender und Religion im Libanon — 195

Céline Grünhagen

Transgender in Thailand

Buddhist Perspectives and the Socio-Political Status of Kathoeyes — 219

Renate Syed

Hijrās. India's Third Gender, or, Why Hijrās Are Not Transgender, but Cisgender — 233

Jean Lessenich

Two-Spirits und *nádleehí* oder das Unbehagen an der westlichen Sicht auf Trans* — 245

4 Medizinisch-therapeutisch

Livia Prüll

Das Unbehagen am transidenten Menschen

Ursprünge, Auswirkungen, Ausblick — 265

Kurt Seikowski

Die Problematik der Psychopathologisierung von Transsexualität — 295

Peggy T. Cohen-Kettenis

Transgender Care: Evidence-Based Care? — 311

Meike Wiedemann & Horst-Jörg Haupt

Neurofeedback und Transition — 325

Ilka Wieberneit

Transsexualität als Herausforderung

Erfahrungen aus der seelsorgerlichen Begleitung transsexueller Menschen
im Kontext geschlechtsangleichender Operationen — 337

5 Rechtlich

Laura Adamietz

**Rechtliche Anerkennung von Transgeschlechtlichkeit und
Anti-Diskriminierung auf nationaler Ebene – Zur Situation in
Deutschland — 357**

Jens T. Theilen

**The Long Road to Recognition: Transgender Rights and Transgender Reality
in Europe — 373**

Aaron H. Devor

Transgender People and Jewish Law — 391

6 Transkategorial

Joan Roughgarden

**The Gender Binary in Nature, Across Human Cultures, and in the
Bible — 413**

Regina Ammicht Quinn

**(Un)Ordnungen und Konversionen:
Trans*, Gender, Religion und Moral — 441**

7 Theologisch

7.1 Dogmatisch

Dirk Evers

**Sind wir unser Gehirn? Menschliche Identität im Spannungsfeld von
Theologie und Wissenschaft — 465**

Mathias Wirth

„Der dich erhält, wie es dir selber gefällt.“

Transidentität als Ernstfall Systematischer Theologie — 483

7.2 Ethisch

Peter Dabrock

Why Heteronormativity Should Not Have the Final Word on Sexual Identity

Ethical Considerations from a Protestant Perspective — 505

Stephan Goertz

Theologien des transsexuellen Leibes. Eine moraltheologische Sichtung — 517

Lukas Ohly

Transsexualität und der virtuelle Körper. Theologisch-metaethische Anmerkungen — 533

7.3 Kirchlich

Volker Jung

Sexuelle Vielfalt als Herausforderung für kirchenleitendes Handeln — 557

Eberhard Schockenhoff

Sexualität und Katholische Kirche – ein Dauerkonflikt? — 565

8 Philosophisch

Yiftach Fehige

The Role of the Imagination in Transsexual Crossing — 577

Cornelia Kunert

Geschlechtsidentität und Bewusstsein

Naturwissenschaftliche Fragen und philosophische Positionen — 597

Emma Pask

Becoming Sexed — 635

9 Transperspektivisch

Jack Walker

Austausch mit dem Universum

Eine spielerisch-essayistische Annäherung an ein ernstes Thema (Trans*, Spiritualität und Soziale Arbeit) — 655

Dorothea Zwölfer

Dankbar gemeinsam die Zukunft bauen

Predigt über Lk 17,11–19 — 667

Abkürzungsverzeichnis/List of Abbreviations — 671

Autor/innenverzeichnis/List of Contributors — 675

Personenregister — 683

Sachregister — 697

Aaron H. Devor

Transgender People and Jewish Law

Abstract: The largest Jewish denominations, Orthodox, Conservative, and Reform, have policies about trans Jews. Orthodox Judaism generally does not accept that a person can change gender/sex. However, for purposes of public order and propriety, Orthodox rabbis will sometimes accommodate trans people's gender expressions in limited ways. The Conservative Rabbinical Assembly has committed itself to the full inclusion of people of all genders in all aspects of Jewish life and Conservative Jews who undergo genital sex changing surgeries are fully accepted as the gender/sex to which they have converted. In 2015, Reform Judaism passed an omnibus endorsement of trans rights and called for full inclusion of trans Jews in all aspects of Reform Jewish life, with full recognition of the expressed genders of all individuals.

At just under 14 million people worldwide, Jewish people make up 0.2% of the world's population. The vast majority of Jews live in Israel (41%) or in the US (41%) with 10% of the world's Jews in the EU, 3% in Canada, and 3% in all of Asia outside of Israel.¹ Despite such small numbers, Jews and people of Jewish heritage have had a disproportionately large influence on the development of Western thought throughout millennia. For example, the 20th century was transformed by the ideas of Sigmund Freud, Karl Marx, and Albert Einstein while 22% of Nobel Prize winners between 1901 and 2013 were Jews.² In the still-new 21st century we have seen human social interaction transformed by the likes of Google and Facebook, both founded by young Jews.

The principles and practices of the Jewish religion have influenced moral and legal codes throughout the world. Judaism and the two largest religions of the world, Christianity (31.4% of world population) and Islam (23.2% of world population)³ are collectively known as the Abrahamic religions in recognition

1 American-Israeli Cooperative Enterprise, "Vital Statistics: Jewish Population of the World," in [<https://www.jewishvirtuallibrary.org/jsource/Judaism/jewpop.html>] (last accessed: 21 April 2016).

2 American-Israeli Cooperative Enterprise, "Jewish Biographies: Nobel Prize Laureates," in [<https://www.jewishvirtuallibrary.org/jsource/Judaism/nobels.html>] (last accessed: 21 April 2016).

3 Pew Research Center, "The Future of World Religions: Population Growth Projections, 2010–2050," (26 March 2015), in [<http://www.pewforum.org/2015/04/02/religious-projections>]

of their common roots in the person of the Biblical Jewish patriarch Abraham. Judaism was founded about 4000 years ago. Christianity was founded as a breakaway sect of Judaism in the 1st century CE and only later came to be constituted as a separate religion. Islam was founded in the 7th century CE by Mo-hammad, who is believed to be descendent from Abraham's son Ishmael. The Ten Commandments and the "Golden Rule"⁴ are both found in the Jewish *Torah* (the first five books of what Christians call the Old Testament). Study and interpretation are central to the ongoing development of Jewish thought in response to new challenges to old ways of thinking. Debates among rabbis over the centuries concerning correct interpretations of the words of the *Torah* have been recorded in the books of the *Mishnah* (compiled around 200 CE), *Gemara* or *Talmud* (compiled 200 – 500 CE), and *Shulhan Arukh* (written in the mid-1500s).

The rabbinical debates recorded in these books form the basis for modern-day *halakhah* (Jewish law). Central to *halakhic* decisions is the basic Jewish belief that ultimately the actions that a person does in this world to preserve and improve all life are of paramount importance. Faith is secondary to right action. Furthermore, right action is always embedded in relationships and responsibilities to others. As well, the determination of right action requires value judgments based on demarcations among categories of various kinds. Among the most central of categories are those of gender. Many obligations stipulated by *halakhah* are specified on the basis of binary gender categorizations of all human beings. When new circumstances arise, such as the realities of transgender lives, questions are put to rabbinical authorities who consider historical precedents and may issue legal rulings known as *responsa* (that is, responses to legal questions).

2010-2050/pf_15-04-02_projectionsoverview_projectedchange640px] (last accessed: 18 May 2016).

⁴ The Ten Commandments (Ex 20:3–13) are: "Thou shall have no other gods beside Me. You shall not make for yourself a sculptured image, or any likeness of what is in heavens above, or on the earth below, or in the waters under the earth. You shall not bow down to them, or serve them [...]. You shall not swear falsely by the name of the LORD your God [...]. Remember the Sabbath day and keep it holy [...]. Honor your father and your mother [...]. You shall not murder. You shall not commit adultery. You shall not steal. You shall not bear false witness against your neighbor. You shall not covet your neighbor's house: you shall not covet your neighbor's wife, or his male or female slave, or his ox or his ass, nor anything that is your neighbor's" (here and in the following quoted from: The Jewish Publication Society of America, *The Torah. The Five Books of Moses*, 2nd edition, Philadelphia: The Jewish Publication Society of America 1967). The Golden Rule (Lev 19:18) is: "Love your neighbor as yourself."

There are three main branches of Judaism practiced today: Orthodox, Conservative, and Reform. Each has had to tackle transgender questions and has done so in ways consistent with its interpretations of Jewish texts and previous rabbinical *responsa*. All look to the *Torah*, *Talmud*, and subsequent rabbinical decisions and practices to provide guidance. Each branch of Judaism attempts to practice compassion and loving kindness while staying consistent with its interpretations of Jewish principles.

While Orthodox Judaism is the strictest of the three largest branches of Judaism, it comprises many different groups with a range of understandings. There is no central authority or organization, and Orthodox thought is continually evolving. What Orthodox groups share is a belief that the *Torah* and *Talmud* represent the divine words of God. Thus, they tend to be very conservative in their interpretations of Jewish law and institute changes very slowly and cautiously. Orthodox Judaism adheres most closely to strict divisions on the basis of gender classifications.

Conservative Judaism, begun in the late nineteenth century, while less strict than Orthodox Judaism, also professes that the *Torah* is the word of God. However, Conservative Judaism recognizes that it was humans who actually wrote down God's word and that the *Torah* and other Jewish texts are historical documents that therefore reflect cultural influences. This branch of Judaism strives actively to integrate the Jewish tradition with the secular world while remaining true to *halakhah*.⁵ The Committee on Jewish Law and Standards (CJLS), administered by the Conservative Movement's organization of rabbis, the Rabbinical Assembly, is the central decision-making body for Conservative Judaism. Although most often only one *responsum* is approved by the CJLS on a given topic, sometimes two or more *responsa* are approved as valid options of interpreting and applying Jewish law to the issue at hand. Individual Conservative congregational rabbis then may choose to follow any of the approved opinions as the official practice of their congregation. Conservative Judaism, while concerned with gender divisions, is more egalitarian in its interpretations and practices than Orthodox Judaism.

Reform Judaism began in early nineteenth-century Germany. It holds that all Jewish law is divinely inspired and humanly written in the cultural context of its day. While Reform Judaism ascribes to the same Jewish fundamental principles

⁵ See Neil Gillman, *Conservative Judaism. The New Century*, West Orange, NJ: Behrman House 1993 and Elliot N. Dorff, *Conservative Judaism. Our Ancestors to Our Descendants*, 2nd revised edition, New York: United Synagogue of Conservative Judaism 1996 [1977], especially Chapter 3.

as do Conservative and Orthodox Judaism—the primacy of right action in community with other human beings, the centrality of study, and an understanding of the world as comprised of distinct categories—it more strongly encourages its adherents to engage in their own study and to determine for themselves which practices to follow. Reform Judaism began with an assumption of equality between men and women as an original and fundamental principle.

In recent years, all three main Jewish denominations have begun to consider how to integrate transgender people into Jewish religious life. In doing so, each has to deal with both updating *halakhah* and accommodating a gendered language.

I Trans genders⁶

Trans and other gender-variant people in Western societies include a wide range of people who feel that the sexes and/or genders to which they were assigned at birth are not consistent with their own identities. Recent estimates of the incidence of transgender people in Western urban locales are between 0.5% and 1% of the population.⁷

In everyday usage, the terms “sex” and “gender” are commonly thought of as having the same meaning. Furthermore, the words “sex” and “sexuality” are frequently used as synonyms. Distinctions between what is signified by “sex” and what is signified by “gender” are key to understanding transgender people. Although a relatively clear understanding can generally be taken from the context in which they are used, when considering trans and gender-variant people, these terms are best treated as having distinct, although related, meanings.

In the simplest version, “sex” refers to the biological characteristics of a person, whereas gender refers to social characteristics. Transgender activist Virginia

⁶ Parts of this section previously appeared in Aaron H. Devor and Kimi Dominic, “Trans* Sexualities,” *Handbook of the Sociology of Sexualities*, ed. by John DeLamater and Rebecca F. Plante, Cham: Springer 2015, 181–199.

⁷ Kerith J. Conron et al., “Transgender health in Massachusetts: Results from a household probability sample of adults,” *American Journal of Public Health*, vol. 102, no. 1, 2012, 118–122; Sari L. Reisner et al., “Using a Two-Step Method to Measure transgender Identity in Latin America/the Caribbean, Portugal, and Spain,” *Archives of Sexual Behavior*, vol. 43, 2014, no. 8, 1503–1514.

Prince is widely attributed with having quipped “Sex is between the legs. Gender is between the ears.”⁸ However, things are rarely that simple.

Sexes and genders may be assigned to people at birth, may be identities that develop and change over time, and may be attributed by others on the basis of observed characteristics. Physical sex can be comprised of many variables, such as chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics, all of which may appear in a myriad of combinations. Furthermore, which characteristics are definitive of the sexes of individuals have been the subject of intense public, legal, legislative, medical and religious debates, with outcomes varying widely. The fact that such debates occur at all highlights that what counts as a person’s sex is ultimately the result of a set of contingent and socially negotiated agreements, rather than the inevitable results of physiological imperatives.

In the Western world today, and throughout human history, sexes are generally assigned at birth on the basis of a quick visual inspection of the genitals of new-born infants. Infants are assigned as female, male, or intersexed.⁹ Intersexed people are assigned as either males or females, generally as soon as possible, and usually based on an assessment of genital appearance, less often as a result of more extensive testing.¹⁰ Any other investigations into what sex to assign to a person are extremely rare.

In addition to their assigned sexes, individuals also have sex identities, that is to say that people recognize themselves as being members of a sex category. For most people, their assigned sex is also the sex with which they identify, whereas among transgender people, this may not be the case. Other people also make assumptions and draw conclusions about the sexes of people they meet, most frequently on the basis of a cursory visual appraisal of the person’s outward appearance and without being privy to detailed physical information.

8 The exact quotation is: “Any kind of carving that you might do on me might change my sex, but it would not change my gender, because my gender, my self-identity, is between my ears, not between my legs.” Virginia Prince, “Sex vs. Gender” [1973], *International Journal of Transgenderism*, vol. 8, 2005, no. 4, 29–32, 30.

9 Intersexed refers to a wide range of conditions wherein physiological indicators of maleness and femaleness are combined in non-standard ways in a single individual. In earlier literature, intersexed people were often referred to as “hermaphrodites” (Alice Domurat Dreger, *Hermaphrodites and the Medical Invention of Sex*, Cambridge, MA and London: Harvard University Press 2000). This is now considered derogatory. Current medical literature will often use the term “DSD,” as an abbreviation for Disorders of Sexual Development. Some activists prefer to use DSD to mean Diversity or Differences of Sexual Development.

10 See Peter A. Lee et al., “Consensus Statement on Management of Intersex Disorders,” *Pediatrics*, vol. 118, 2006, e488-e500.

Genders refer to the constellation of ways that people in various societies are supposed to look, act, think, and feel on the basis of their originally assigned sexes. For most purposes, gender is treated as if it is synonymous with sex. The genders of men and women are commonly presumed to be natural and inevitable because of biological imperatives. Women and men are thought to look, think, feel, and act the way they do because they have physical sexes that cause them to do so.¹¹ A minority opinion is that genders are entirely the result of the forces of socialization,¹² whereas the dominant expert opinion is that genders are a result of a mixture of biological and social influences. Genders, like sexes, may be assigned, may be identities, or may be attributed.

Because normally the words sex and gender are used interchangeably to mean the same thing, when a sex is assigned at birth, the corresponding gender is, in effect, also assigned. Males are assigned as boys, later to become men; females are assigned as girls, later to become women. When people are accepting of their assigned sexes and genders as correctly representing their inner senses of themselves, the term cisgender may be used either as an identity or as an attribution.¹³

When people feel that their originally-assigned sexes or genders are not appropriate to who they feel themselves to be, they may identify as transgender, trans, or a variety of other non-standard identities, some of which do not reinforce a binary notion of there being only two genders. Trans people may transform themselves so as to become completely and permanently recognized as another sex and gender, or they may feel that some more intermediate expression of their gender and sex identities is appropriate.

People who identify as gender non-binary do not wish to be identified as men/males, women/females, or trans, although they may incorporate some aspects of these identities into their gender presentations. Often, they will prefer the use of gender neutral pronouns such as they/them or zie/hir. The gender expression of gender fluid and genderqueer individuals may encompass elements of both standard genders, and although they may be comfortable with some-

11 See Erin Calhoun Davis, "Situating 'fluidity.' (Trans) Gender Identification and the Regulation of Gender Diversity," *GLQ: A Journal of Lesbian and Gay Studies*, vol. 15, no. 1, 2008, 97–130.

12 See Michael J. Carter, "Gender Socialization and Identity Theory," *Social Sciences*, vol. 3, 2014, 242–263.

13 The prefix "cis" comes from the Latin meaning "on this side of" and is used to refer to people whose gender identities are congruent with those to which they were assigned at birth. Variations on the terms cisgender (e.g., cis man, cissexual) have been adopted as parallel terms to transgender-based terms.

times appearing as the standard genders, they want the freedom to move among them, and to create gender expressions unique to themselves. Still others find that their gender identities fall outside of binary conceptions, or outside of gender, altogether. Those who do not identify with any gender may refer to themselves as agendered, neutrois, or eunuchs.

Those people who were assigned as female at birth and who do not fully identify as females/women, or have adopted another gender identity, are usually referred to as being on the transmasculine spectrum, whereas those who were assigned as males at birth and who do not fully identify as males/men, or have adopted another gender identity, are usually referred to as being on the transfeminine spectrum.

Attributions made by observers about the genders and sexes of other people are made in daily life almost exclusively on the basis of how observers read the gender expressions of the people they are observing.¹⁴ People who express a femininity that appears to be natural are attributed with being women and female. People who make naturalistic presentations of masculinity are attributed with being men and male. Most people recognize that gender expressions vary and will not question a person's gender or sex on the basis of an unusual gender expression. Indeed, the presumed correspondences between sexes and genders are so compelling in the minds of most people that once they have made up their minds about a person's gender/sex, few things can cause them to reassess. However, the presumption that genders must match sexes in the usual ways is so strong that any evidence of an originally-assigned sex that does not match a gender presentation can cause the validity of an otherwise-acceptable gender presentation to be doubted.¹⁵ These interactions between sex and gender, identity, expression, and attribution, which are largely invisible in the lives of cisgender people, are of great importance in the lives of trans people.

Some trans people actively wish to be easily identified as such; many prefer to appear cisgender but are nonetheless recognizably trans due to aspects of their physical presence; some trans people are able to live their everyday lives very comfortably in their preferred gender. Some trans people find that it is not necessary to permanently change their bodies in substantial ways in order effectively to communicate their gender identities. Many trans people, however,

¹⁴ See H. Devor, *Gender Blending. Confronting the Limits of Duality*, Bloomington and Indianapolis: Indiana University Press 1989; Suzanne J. Kessler and Wendy McKenna, *Gender: An Ethnomethodological Approach*, Chicago and London: University of Chicago Press 1978.

¹⁵ See H. Devor, "Gender blending females. Women and sometimes men," *American Behavioral Scientist*, vol. 31, 1987, 12–40 as well as *Gender Blending*.

will take steps to transform their secondary or primary sex characteristics so as better to express their gender identities.¹⁶

Some trans people who feel that they are neither of the two normative genders, or that they are some mixture of the two, may present their genders in unusual and fluid ways that disrupt common assumptions about the usual correspondences between sexes and genders. Some people feel a periodic need to step outside of their quotidian genders to inhabit other forms of gender expression for short periods of time. They may make wholehearted attempts to present themselves as the other normative gender, they may make symbolic partial gestures in this direction, or they may make parodic or hyperbolic presentations that that nonetheless serve as valid and satisfying forms of gender identity expression for them.

Non-medical techniques used by trans people to express their gender identities may include changes to deportment, body, facial- and head-hair styles, clothing, cosmetics, jewelry, fashion accessories, body fat, and muscularity. Trans people may also strategically employ voice and speech modifications, padding, concealment devices, sex toys, genital or breast prostheses, genital enhancement or diminishment devices, tattooing, or piercings.

More permanent changes may be brought about by hormone therapy, gender confirmation surgeries,¹⁷ and ancillary masculinizing or feminizing procedures—any of which can occur in various combinations. The effects of sex steroid hormones (depending on one's specific genetic inheritance) can be quite dramatic. In transmasculine-spectrum people the effects may include: lower pitch to the voice, thickening and increased oiliness of skin, growth of facial and body hair, loss of head hair, increased muscularity, masculine body fat distribution, cessation of menses, and growth of the clitoris. In transfeminine-spectrum people the effects may include: increased softness and decreased oiliness of skin, growth of breasts, slowed growth of facial and body hair, slowed loss of head hair, decreased muscularity, feminine body fat distribution, loss of erectile function, decrease in testicular and penile volume, decrease in fertility.

Surgical interventions for transmasculine-spectrum people include: breast reduction, breast removal (mastectomy), recontouring the chest for a masculine look, removal of the internal reproductive organs (hysterectomy, salpingo-oophorectomy), removal of the vulva (vulvectomy) and the vagina (vaginectomy), transformation of the enlarged clitoris into a small penis (metoidioplasty),

16 See Rhonda Factor and Esther Rothblum, "Exploring Gender Identity and Community among Three Groups of Transgender Individuals in the United States: MTFs, FTMs, and Genderqueers," *Health Sociology Review*, vol. 17, 2008, 235–253.

17 Also frequently referred to as sex reassignment surgeries, or gender reassignment surgeries.

construction of a penis (phalloplasty), rerouting of the urethra (urethroplasty), construction of scrotum and testicles (scrotoplasty and testicular implants), erectile implants, liposuction (most commonly of hips and thighs), voice-masculinizing surgeries, facial masculinizing surgeries, chest implants, calf implants.

Surgical interventions for transfeminine-spectrum people include: breast augmentation (mammoplasty); removal of the testicles (castration) and the penis (penectomy); construction of a vulva (vulvoplasty), clitoris (clitoroplasty), and vagina (vaginoplasty); rerouting of the urethra (urethroplasty); voice-feminizing surgeries, brow, chin, or Adam's apple; recontouring (facial feminization surgery and lipofilling); scalp hair implants; hip and buttocks augmentation (implants and lipofilling).

II Trans sexualities

The most common sexualities of heterosexual, homosexual, and bisexual are based on binary conceptualizations of the genders/sexes of the individuals involved. Increasingly, people who do not feel that these options properly encompass how they see themselves have adopted queer as a sexual identity. All sexual patterns of romantic and erotic interests and practices involve both bodies and genders. When only cisgender people are part of the equation, sexual identities and attributions may be relatively uncomplicated: genders and sexes align in the usual fashion, and sexual identities and attributions can be made on the basis of either the sexes or genders of the people involved. However, trans and gender-queer people often have bodies that exhibit non-standard mixtures of sex characteristics and that do not align in the usual ways with the two standard gender categories. The bases for sexual identities and attributions thus become considerably more complicated.¹⁸ Trans people tend to claim their sexual identities more on the basis of their gender identities than on the basis of their physical bodies.¹⁹

¹⁸ See H. Devor, "Sexual Orientation Identities, Attractions, and Practices of Female-to-Male Transsexuals," *Journal of Sex Research*, vol. 30, 1993, 303–315; Amy Dellinger Page and James R. Peacock, "Negotiating Identities in a Heteronormative Context," *Journal of Homosexuality*, vol. 60, 2013, 639–654; Kristen Schilt and Elroi Windsor, "The Sexual Habitus of Transgender Men: Negotiating Sexuality Through Gender," *Journal of Homosexuality*, vol. 61, 2014, 732–748.

¹⁹ See Devor, "Sexual Orientation Identities;" Sandra L. Samons, *When The Opposite Sex Isn't. Sexual Orientation In Male-to-Female Transgender People*, New York and London: Routledge 2009.

Furthermore, when trans people change their gender identities and/or gendered appearances, the categorizations of relationships involving them may correspondingly change as well.²⁰ Trans people may also find that their patterns of sexual attractions change as their gender identities change.²¹ This may cause established sexual relationships to become transformed into other varieties of sexual relationships, into nonsexual relationships, or to end.²²

III Challenges for *halakhah* (Jewish law)

Thus far, when Jewish law has considered transgender people, it has almost exclusively concerned itself with transsexual people. When considering transsexual people, scholars have assumed that transsexual people will proceed from one binary gender to the other by way of social, medical, and legal procedures involving genital surgeries. Other trans, genderqueer, and gender non-binary people have only recently been noted in *halakhic* discussions.

The main *halakhic* questions considered concerning transgender people have been:

1. Is it permitted under *halakhah* to undergo gender/sex changing procedures?
2. If sex changing procedures are completed, is a person *halakhically* recognized as a member of the gender/sex with which they identify?
3. If a person is to be recognized as the gender/sex with which they identify, at what point does that happen?
4. How should Jewish ritual practices be adjusted to accommodate trans people?

All three of the main branches of Judaism derive their answers to these questions from the same original sources in *Torah*, *Talmud*, and *Shulhan Arukh*. Each draws

20 See H. Devor, "Toward a Taxonomy of Gendered Sexuality," *Journal of Psychology and Human Sexuality*, vol. 6, 1994, 23–55; Christine Aramburu Alegría, "Relational and sexual fluidity in females partnered with male-to-female transsexual persons," *Journal of Psychiatric and Mental Health Nursing*, vol. 20, 2013, 142–149.

21 See Devor, "Sexual Orientation Identities;" Eli Coleman, Walter O. Bockting and Louis Gooren, "Homosexual and Bisexual Identity in Sex-Reassigned Female-To-Male Transsexuals," *Archives of Sexual Behavior*, vol. 22, 1993, 37–50; Raine Dozier, "Beards, Breasts, and Bodies. Doing Sex in a Gendered World," *Gender & Society*, vol. 19, 2005, 297–316.

22 See Nicola R. Brown, "I'm in Transition Too'. Sexual Identity Renegotiation in Sexual-Minority Women's Relationships with Transsexual Men," *International Journal of Sexual Health*, vol. 21, 2009, 61–77; Sally Hines, "Intimate transitions: Transgender practices of partnering and parenting," *Sociology*, vol. 40, 2006, 353–371.

on its own tradition of *responsa*, and the more liberal streams also draw from the *responsa* of the more strictly observant traditions.

There are several passages of *Torah* that are usually considered when attempting to answer these questions. Lev 22:24 states: “You shall not offer to the Lord anything [with its testes] bruised or crushed or torn or cut. You shall have no such practices in your own land.” This injunction originally concerned animals used in ancient times for ritual sacrifices. In the case of humans, it is generally understood today to mean a prohibition against any harm to reproductive potential.²³

Another key passage is Dtn 22:5, which states: “A woman must not put on man’s apparel, nor shall a man wear women’s clothing; for whoever does these things is abhorrent to the Lord your God,” which is most strictly interpreted to include a prohibition on any manner of dress, grooming, or adornment typical of a gender other than the one assigned at birth.²⁴ This would seem to preclude all gender expression other than that which is considered to be fully cisgender and heteronormative.

A third key passage from *Torah* is Lev 18:5 which says: “You shall keep My laws and My rules, by the pursuit of which man shall live.” This was interpreted in the *Talmud* (*Yoma* 85b) as meaning: “He shall live by them, but he shall not die because of them.”²⁵ This understanding has come to be known as the overarching Jewish principle of *pikuah nefesh* (saving a life). The rabbis of the past, and of today, teach that the observance of all Jewish laws must be viewed in the context of the primacy of the preservation of life. The preservation of life should always take precedence over any other *halakhic* requirement.²⁶

1. *Is it permitted to undergo gender/sex changing procedures?* As is to be expected, opinions are divided on the question of whether it is *halakhically* permitted to undergo gender/sex changing procedures. All three main branches of Judaism ascribe to the principle of *pikuah nefesh*, and all three would put the saving of a

23 See Zev Farber, “Transgender Orthodox Jews” (6 August 2015), in [<https://morethodoxy.org/2015/08/06/transgender-orthodox-jews>] (last accessed: 3 May 2016); Mayer E. Rabinowitz, “Status Of Transsexuals” (2003), in [http://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/20012004/rabinowitz_transsexuals.pdf] (last accessed: 3 May 2016).

24 See Olivia Wiznitzer, “Transitioning: The Halakhic Ramifications” (3 October 2008), in [<https://www.keshetonline.org/wp-content/uploads/2012/02/Transitioning-The-Halakhic-Ramifications.pdf>] (last accessed: 16 April 2016).

25 See Halakhah.com, “The Soncino Babylonian Talmud. Yoma 62a-88a,” 82, in [<http://www.halakhah.com>] (last accessed: 19 May 2016).

26 See Simon Glustrom, “Saving a Life (Pikuach Nefesh)” (18 September 2003), in [<http://www.myjewishlearning.com/article/saving-a-life-pikuach-nefesh>] (last accessed: 30 April 2016).

life first. However, while some Orthodox rabbis permit gender/sex changing procedures when a person would resort to suicide if unable to proceed,²⁷ most Orthodox rabbis do not condone gender/sex changing under any circumstances and believe that there are other ways to save the life of a trans person than to permit gender/sex changing procedures to be undertaken.²⁸ Conservative Judaism is unequivocal in accepting that sex changing procedures can be lifesaving specifically for transsexual people.²⁹ Reform opinion accepts a full range of gender/sex expressions.³⁰

2. *If gender/sex changing procedures are done, is the person halakhically recognized as a member of the gender/sex with which they identify?* And 3. *If they are to be recognized as the gender/sex with which they identify, at what point does that happen?*

In the first place, it is necessary to have some understanding of the import of gender/sex status in *halakhah*. The more gender egalitarian a community's practice, the less central are questions of gender/sex status. In Orthodox Judaism, the activities of Jewish rituals in home and communal life are strictly separated along gender lines, and gender is expected to heteronormatively match sex. Thus clear gender/sex distinctions are central to Orthodox life.

The level of gender egalitarianism varies among Conservative synagogue communities with the general trend being that Conservative Judaism is increasingly moving to men and women participating equally in most synagogue and home rituals. However, there are Conservative congregations where gender separation is observed in ritual practices.

Reform congregations have always fully afforded equal ritual status to men and women. However, even in the most egalitarian of congregations, there are still commonly separations between genders/sexes in certain practices, either by habit and custom, or for reasons of modesty/privacy (*tzniut*). Furthermore, because Hebrew, the language of Jewish rituals, is a gendered language, those who

27 See Jaweed Kaleem, "Orthodox rabbi addresses transgender issues" (17 February 2016), in [http://www.jewishjournal.com/religion/article/orthodox_rabbi_addresses_transgender_issues] (last accessed: 3 May 2016).

28 See Hillel Gray, "The Transitioning of Jewish Biomedical Law: Rhetorical and Practical Shifts in Halakhic Discourse on Sex-Change Surgery," *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, vol. 29, 2015, 81–107; Wiznitzer, "Transitioning."

29 See Rabinowitz, "Status Of Transsexuals."

30 See Central Conference of American Rabbis, "CCAR Resolution on 'Conversion Therapy'" (6 May 2015), in [<https://ccarnet.org/rabbis-speak/resolutions/2015/ccar-resolution-conversion-therapy>] (last accessed: 11 May 2016).

participate in Jewish ritual life of any denomination may be addressed in gendered language in certain circumstances.

In order to answer these questions, there must be some agreement as to what is the correct way to determine membership in a gender/sex category. There are passages of Talmud, as well as interpretations thereof, that bear on the question of how to determine the gender/sex of an individual when the usual indicators are unclear. In times before knowledge of genetics and hormones, the classical rabbis of the first five centuries C.E. considered individuals whose gender/sex was unclear as falling into two categories, *tumtum* and *andrognos*. A *tumtum* was a person whose genitals are hidden or undeveloped. An *andrognos* was a person with a difference of sex development who exhibits characteristics of both sexes. The ancient rabbis assumed that the gender/sex of a *tumtum* person could be correctly determined through careful examination whereas, in their day, nothing could be done to resolve an intersex condition. Thus, a *tumtum* person could be definitively fit into the gender/sex binary whereas an *andrognos* person could not. In some circumstances, they ruled that an *andrognos* person should sometimes be treated as a male, sometimes as a female, and sometimes as a separate category.³¹ These rabbinical debates indicate that *Talmudic* scholars both recognized that not everyone fit neatly into a binary gender/sex system and demanded that everyone be made to fit nonetheless.

Medieval and early modern rabbis based their decisions on these early materials. In the twentieth and the twenty-first centuries, rabbis use the classical rabbinic distinctions and, to differing degrees, modern science in formulating their rabbinic rulings on this topic. In the Orthodox community, Rabbi Eliezer Waldenberg was a leading Israeli Orthodox rabbi who sat on the Supreme Rabbinical court in Israel and served as an Orthodox rabbinic authority for Jerusalem's *Shaare Zedek* hospital for many years until his death in 2006. His *halakhic* opinions are often called upon when discussing how to determine a person's proper gender/sex status. Rabbi Waldenberg's *responsum* on transsexualism said that people's gender/sex should be determined by their current genital anatomy and that they are subject to all *halakhic* requirements associated with that gender/sex.³² However, Rabbi Waldenberg's opinion on this issue is not a consensus opinion in the Orthodox world. Most Orthodox rabbis rule that it is not

³¹ See Central Conference of American Rabbis, "Marriage After a Sex-Change Operation" (1978), in [<http://www.ccarnet.org/responsa/arr-416-419>] (last accessed: 28 April 2016); Charlotte Elisheva Fonrobert, "Gender Identity In Halakhic Discourse" (1 March 2009), in [<http://jwa.org/encyclopedia/article/gender-identity-in-halakhic-discourse>] (last accessed: 3 May 2016).

³² See Central Conference of American Rabbis, "Marriage After a Sex-Change Operation;" Rabbinowitz, "Status Of Transsexuals."

possible *halakhically* to change one's gender/sex under any circumstances,³³ while some ascribe to the view that one's sex cannot change in relation to God but that transsexual people who have undergone genital surgery should behave in public in accordance with their gender expression.³⁴

In 2003, the Conservative movement's Committee on Jewish Law and Standards endorsed a *responsum* by Rabbi Mayer Rabinowitz that followed Rabbi Waldenberg's ruling in that trans people who have undergone full genital surgery (vaginoplasty, metoidioplasty or phalloplasty) should be *halakhically* recognized in a way consistent with their gender identities.³⁵ In 2016, the Conservative Rabbinical Assembly, which administers the Conservative Committee on Jewish Law and Standards (CJLS), issued a resolution affirming "its commitment to the full welcome, acceptance, and inclusion of people of all gender identities in Jewish life and general society."³⁶ Currently, the CJLS is considering a new *responsum* with a more flexible approach to specific *halakhic* questions than the one issued in 2003 in which hormonal therapy would suffice without surgery to assign a new gender to a person.³⁷

In 2015, the Reform movement adopted a "Resolution on the Rights of Transgender and Gender Non-Conforming People" that did not specifically state a position on when a person would be seen to have changed gender/sex. However in calling for "the full equality, inclusion and acceptance of all gender identities and gender expressions" and affirming "the right of transgender and gender non-conforming individuals to be referred to by their name, gender, and pronoun of preference,"³⁸ it would seem that the Reform movement has resolved to be guided in this matter by the expressed wishes of each transgender individual.

4. *How should Jewish ritual practices be adjusted to accommodate trans people?* Jewish ritual practices are focused on behaviors, some of which may be done alone, some of which are typically done in a home environment, and many of which require a public and communal setting. The ritual practices

33 See Gray, "The Transitioning;" Kaleem, "Orthodox rabbi addresses transgender issues."

34 See Gray, "The Transitioning;" Wiznitzer, "Transitioning: The Halakhic Ramifications."

35 See Rabinowitz, "Status Of Transsexuals."

36 The Rabbinical Assembly, "Resolution Confirming the Rights of Transgender and Gender Non-Conforming People" (2016), in [<http://www.rabbinicalassembly.org/story/resolution-affirming-rights-transgender-and-gender-non-conforming-people>] (last accessed: 28 May 2016).

37 See Leonhard Sharzer, "Transgender Jews and Halakhah" (unpublished draft from 2016).

38 Union for Reform Judaism, "Resolution on the Rights of Transgender and Gender Non-Conforming People" (2015), in [<http://www.urj.org/what-we-believe/resolutions/resolution-rights-transgender-and-gender-non-conforming-people>] (last accessed: 3 May 2016).

that have received the most *halakhic* attention in regard to transsexual people are (a) synagogue practices, (b) marriage and divorce, and (c) conversion rituals including circumcision requirements and ritual immersions. Less consideration has been given to (d) trans and non-binary people who do not undergo genital surgeries.

(a) *Synagogue practices.* All Orthodox and some Conservative synagogues require men and women to be seated separately. Orthodox communities stipulate that only men may lead prayer and that men must observe a number of other ritual obligations that are either optional or forbidden for women. Physical contact between unrelated men and women is generally forbidden among Orthodox Jews in the interests of the principle of *tzniut* (modesty or privacy). Several Orthodox rabbis have concluded that gender expression should take precedence over sex status (which is not recognized as changeable) in determining involvement in communal prayer and public ritual practices, sex-segregated synagogue seating, and physical contact because to do otherwise would give the impression that correct separations between men and women were not being observed.³⁹

Conservative synagogue practice for trans people is stipulated in the 2003 *responsum* mentioned earlier that declares that trans people who have undergone genital surgery should be fully accepted as their affirmed gender/sex.⁴⁰ The 2016 resolution of the Conservative Rabbinical Assembly further affirms “the need of transgender and gender non-conforming people to be known by the identity, name, and pronoun of their choice.”⁴¹ A *responsum* under consideration in 2016 proposes to codify as *halakhah* what is informally practiced in many Conservative synagogues, that trans people who have publicly adopted a gender are generally accommodated according to their declared gender in public communal rituals and practices without regard to surgical status.⁴² Because the vast majority of Conservative synagogues worldwide are egalitarian, these rulings are primarily concerned with the Hebrew names by which they are addressed when being called to the Torah or in wedding and other documents bearing names.

Reform congregations do not have gender-segregated synagogue ritual requirements, although some activities are customarily performed by women or men. Because this is custom and the official policy is to be gender neutral,

³⁹ See Gray, “The Transitioning;” Farber, “Transgender Orthodox Jews;” Wiznitzer, “Transitioning.”

⁴⁰ See Rabinowitz, “Status Of Transsexuals.”

⁴¹ See The Rabbinical Assembly, “Resolution Confirming the Rights of Transgender and Gender Non-Conforming People.”

⁴² See Sharzer, “Transgender Jews and Halakhah.”

these rituals may be performed by anyone who has the skills and desire to do so.⁴³

(b) *Marriage and Divorce*. Only those very few Orthodox Rabbis who accept that people can change their gender/sex accept that trans people may heterosexually marry in their affirmed gender/sex.⁴⁴ A *halakhic* divorce (a *get*) would not be required to end a heterosexual marriage in which one person has transitioned to another gender/sex, because Orthodox Judaism does not recognize same-sex marriages, which the marriage would have become in the eyes of the rabbis after transition.⁴⁵

Conservative Judaism's current officially accepted *responsum* recognizes that genital surgery results in a change of sex status, and it permits such people to have heterosexual or same-sex weddings where they are recognized by civil law.⁴⁶ A *responsum* under consideration in 2016 proposes that weddings be considered heterosexual or same-sex according to the expressed gender identities of the people being married⁴⁷ and that those marriages be permitted and recognized as per civil law in the jurisdictions in question. In addition, the 2016 Rabbinical Assembly resolution calls upon "all levels of government to review their policies and practices so as to insure the full equality of transgender people under the [civil] law."⁴⁸

According to present Conservative *halakhah*, an existing heterosexual marriage would become automatically annulled were one of the partners to have a recognized gender/sex transition, unless it took place in a civil jurisdiction where same-sex marriages were legal, in which case the union would become a same-sex marriage.⁴⁹ Questions of same-sex divorce were not considered in 2003, when that position was approved. The proposed 2016 Conservative *responsum* recommends that couples who wish to end their marriages should do so prior to transition and in accordance with Conservative Jewish practices for

43 See Union for Reform Judaism, "Resolution on the Rights of Transgender and Gender Non-Conforming People" (2015), in [<http://www.urj.org/what-we-believe/resolutions/resolution-rights-transgender-and-gender-non-conforming-people>] (last accessed: 3 May 2016).

44 See Farber, "Transgender Orthodox Jews."

45 See Uriel Heilman, "Orthodox rabbis wrestle with Jewish law and transgender issues" (8 April 2016), in [<http://www.timesofisrael.com/orthodox-rabbis-wrestle-with-jewish-law-and-transgender-issues>] (last accessed: 6 May 2016).

46 See Rabinowitz, "Status Of Transsexuals."

47 See Sharzer, "Transgender Jews and Halakhah."

48 See The Rabbinical Assembly, "Resolution Confirming the Rights of Transgender and Gender Non-Conforming People."

49 See Rabinowitz, "Status Of Transsexuals."

the type of marriage into which they originally entered (heterosexual or same-sex).

Reform Judaism recognizes and accepts that trans people can change their gender/sex and accepts both heterosexual⁵⁰ and same-sex marriages involving trans people as valid.⁵¹

(c) *Conversion*. When a person wishes to become a Jew they must study extensively and pass an oral examination by a panel of three authorized community members (at least one of whom must be a rabbi). During the period of study, they are expected to participate in Jewish life to the extent permitted for gentiles. Conversion rituals involve circumcision for those males not already circumcised or, for those already circumcised, a *hatafat dam brit*, the ritual letting of a drop of blood from the area of circumcision. All people converting to Orthodox and Conservative Judaism are required to immerse in a ritual bath (*mikveh*) or a natural body of water. Reform Judaism also recommends such immersion. Ritual immersion is normally done fully naked, and proper immersion is usually verified by an observer of the same sex as the individual who is converting.

As most Orthodox rabbis consider it a contravention of *halakhah* to alter one's gender/sex, they would not accept a person for conversion who had done so. A few Orthodox rabbis and all Conservative and Reform rabbis do accept that people can change their gender/sex. For those individuals who have undergone genital surgeries from male to female, typical conversion procedures for females are followed.

For people who have undergone genital surgeries from female to male, questions arise concerning circumcision. When a phalloplasty or a metoidioplasty is done, the phallus created appears as if already circumcised. No foreskin is created and so, no circumcision can be performed in such cases. I have been unable to find an explicit Orthodox opinion on this matter. Conservative and Reform Judaism conclude that transsexual men require neither circumcision nor *hatafat dam brit*. However, transsexual men who wish to undergo a ritual *hatafat dam brit* are welcome to do so.⁵²

According to the *Shulhan Arukh*, any person who is uncomfortable being seen entirely naked as they are entering a *mikveh* has the option of wearing a loose-fitting garment that will allow the water of the *mikveh* to come into contact

⁵⁰ See Central Conference of American Rabbis, "Marriage After a Sex-Change Operation."

⁵¹ See Central Conference of American Rabbis, "Same-Sex Marriage as Kiddushin" (2013), in [<https://www.ccarnet.org/responsa/same-sex-marriage-kiddushin>] (last accessed: 5 May 2016).

⁵² See Rabinowitz, "Status Of Transsexuals;" Sharzer, "Transgender Jews and Halakhah;" Central Conference of Reform Rabbis, "Circumcision for Adult Proselytes" (1893), in [<http://ccarnet.org/responsa/arr-216-237>] (last accessed: 19 May 2016).

with all surfaces of one's body.⁵³ This option is available to trans people converting to any branch of Judaism.

(d) *Trans and non-binary people who do not undergo genital surgeries.* Many trans people are able effectively to express their gender identities without undergoing genital surgeries. This may be so for a variety of reasons. They may wish to undergo genital surgeries and be unable to do so because they are awaiting approvals or access to surgeons, because they have health conditions that prevent them from proceeding, because they have family or work circumstances that cause them to delay, or because they are unable to afford the costs. There are also many trans people who prefer not to make use of genital surgeries. They may feel that the physical, emotional, and financial costs are disproportionate to the results; that their gender identity, while binary, does not require the legitimization of genital surgeries; or they may have a non-binary gender identity that is best embodied without changing their genitals. *Halakhic* scholars have begun to consider the integration of such people into Jewish religious life.

Those few Orthodox rabbis who accept that people may change their gender are developing *halakhicly*-based policies about how to accommodate trans and non-binary people who have changed gender without undergoing genital surgeries.⁵⁴ Rabbi Zev Farber is a leader in this regard. He argues that a rabbi should never enquire about a trans or non-binary person's genital status except in matters directly related to genitals (such as marriage or conversion). To do otherwise would be a violation of the modesty (*tzniut*) that all Jews, including rabbis officiating at conversions, must preserve. In all other matters, he argues that a person's gender expression should guide ritual considerations. However, Farber is at a loss about what to do about people whose gender expression is outside of standard binary genders.⁵⁵

The Conservative *responsum* under consideration in 2016 deals extensively with questions related to people whose bodies do not conform to binary gender/sex expectations. Within the context of egalitarian communal ritual practices, it recommends that trans people be treated in accordance with their gender expression.⁵⁶ In some instances, rituals and language formulations may also be modified to be more inclusive of people who are non-binary in their gender expression.⁵⁷

53 See Sharzer, "Transgender Jews and Halakhah."

54 See Kaleem, "Orthodox rabbi addresses transgender issues."

55 See Farber, "Transgender Orthodox Jews."

56 See Sharzer, "Transgender Jews and Halakhah."

57 See Heilman, "Orthodox rabbis wrestle with Jewish law."

Conservative rabbis are required to conform to the secular legal requirements for marriages. If they are in a jurisdiction that allows same-sex marriages, they may perform them. The 2016 draft Conservative *responsum* recommends that Jewish marriages be solemnized in conformance with the gender expressions of the people being married, genital configurations notwithstanding except as it relates to civil law. Thus, the Jewish component may reflect gender expression whereas the civil documentation must conform to civil legal requirements.⁵⁸

The 2016 draft *responsum* also makes recommendations concerning conversion rituals. It posits that trans men who have not had genital surgery do not have a generative organ that requires either circumcision or *hatafat dam brit*, whereas trans women who have not had genital surgeries should be treated in all regards as women except that they do have genitals that require either circumcision or *hatafat dam brit*. Ritual immersion can be done wearing a loose-fitting garment as described above.⁵⁹

Reform Judaism does not have gender-based requirements in public rituals and has made a formal commitment to full acceptance of trans and gender-variant people within all Reform Judaism organizations and ritual practices. Reform rabbis are permitted to perform same-sex marriages where allowed under civil law.⁶⁰ Thus, marriages and divorces can be Jewishly performed as desired by the participants so long as they are also done within the restrictions of civil law. Conversion rituals for Reform Judaism recognize the gender identities of converts. As in Conservative Judaism, Reform Judaism requires circumcision or *hatafat dam brit* for trans women who have male genitalia and allows immersion while wearing a loose-fitting garment.⁶¹

IV Summary

While Jews make up only 0.2% of the peoples of the world, they have been influential in advancing Western thought on many matters. Trans people likewise make up a small proportion of the people of the world, estimated at between

⁵⁸ See Sharzer, “Transgender Jews and Halakhah.”

⁵⁹ See *ibid.*

⁶⁰ See Central Conference of American Rabbis, “Same-Sex Marriage as Kiddushin” (2014), in [<http://www.ccarnet.org/responsa/same-sex-marriage-kiddushin>] (last accessed: 11 May 2016).

⁶¹ See Central Conference of American Rabbis, “Issues in the conversion of Transgender People” (2015), in [<http://www.ccarnet.org/57751>] (last accessed: 6 May 2016); Central Conference of American Rabbis, “Circumcision of a Transgender Female” (2008), in [<https://ccarnet.org/responsa/nyp-no-5769-6>] (last accessed: 28 April 2016).

0.5% and 1%.⁶² Trans people are increasingly becoming a presence in Western societies, including in Jewish religious organizations. The three largest Jewish denominations, Orthodox, Conservative, and Reform, have all taken up the challenge of developing policies in accordance with the teachings of the *Torah* and its subsequent interpretations.

Orthodox Judaism is most concerned with strict divisions between males and females and generally does not accept that, for ritual purposes, a person can change either from one standard gender/sex to the other, or to any intermediate gender/sex position. However, for purposes of saving lives and for public order and propriety, Orthodox rabbis will sometimes accommodate trans people's gender expressions in limited ways.

Some Conservative Jewish communities require many ritual separations of genders/sexes while the vast majority make few official divisions along gender/sex lines. Thus, issues of how to determine a person's "correct" gender/sex status for ritual purposes vary in importance among Conservative rabbis and their congregants. In 2003 the Conservative Movement's Committee on Jewish Law and Standards ruled that people who undergo genital sex changing surgeries are to be fully accepted as the gender/sex to which they have converted.⁶³ In 2016 the Conservative Rabbinical Assembly passed a resolution endorsing "full welcome, acceptance, and inclusion" of Jews of "all gender identities"⁶⁴ and the CJLS is considering adopting a position that would accept expressed genders as determinative of ritual statuses and requirements.⁶⁵

Reform Judaism does not determine ritual requirements by gender. Thus, many of the issues challenging to Orthodox and Conservative Judaism pose no problems for Reform Judaism. In 2015, Reform Judaism passed an omnibus endorsement of trans rights and called for full inclusion of trans Jews in all aspects of Reform Jewish life, with full recognition of the expressed genders of all individuals.⁶⁶ Transgender and other gender-variant people are present in all areas of Jewish life. All branches of Judaism continue to endeavour to improve the ways in which they reconcile respecting the needs of trans and gender non-binary people within the principles of Jewish law.

⁶² See notes 1, 2 and 7 above.

⁶³ See Rabinowitz, "Status Of Transsexuals."

⁶⁴ See The Rabbinical Assembly, "Resolution Confirming the Rights of Transgender and Gender Non-Conforming People."

⁶⁵ See Sharzer, "Transgender Jews and Halakhah."

⁶⁶ See Union for Reform Judaism, "Resolution on the Rights of Transgender."