Tranz Liberation Framework

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Abstract
The Tranz Liberation Framework was developed in response to the discourse in Aotearoa/New Zealand during the Posie Parker visit in March 2023. Although there was overwhelming support for trans folks, it did not translate into improved conditions for the community. The framework takes Nancy Fraser's theory of justice and explains the specific aspects of life that need to change in order for transgender and non-binary people to be equal members of society. It includes three pillars that are required for acceptance of transgender and non-binary people within wider society: protection, access and recognition. The framework can be applied by a range of different groups to fight for a world where transgender and non-binary people have the same opportunities to participate in society as cis people experience, while being able to live as their authentic selves. Please note this article contains the author's personal views in their personal capacity.

Keywords: trans rights; trans joy; trans liberation; Nancy Fraser

Introduction

The visit of British anti-trans activist Posie Parker to Aotearoa/New Zealand in March 2023 triggered a national debate around transgender people's rights and existence.[1] Thousands turned out in Tāmaki Makaurau/Auckland, Te Whanganui-a-Tara/Wellington and Ōtautahi/Christchurch to show their support for the transgender community with signs saying "Trans rights now" and "Trans rights are human rights" (RNZ News, 2023). However, this mobilisation of support for transgender and non-binary people did not translate into material change for the community. The allies' and community's discourse was limited to acceptance of transgender and non-binary people rather than interrogation of how this support could be leveraged to create equitable conditions for all transgender and non-binary people. The lack of strategic application led to the development of this framework: the Tranz Liberation Framework for transgender and non-binary people's needs. It answers the question: What are the trans rights that people were counter-protesting for?

The Tranz Liberation Framework was developed when I was driving to a wellness retreat an hour north of where I live. I was frustrated at the narrative which had oversimplified the needs of transgender and non-binary people to pronouns and participation in elite sport.

The Posie Parker visit had brought out pro-trans crowds, but the dialogue of acceptance did not reflect my experience as a trans person. For my own experience, it did not matter if people accepted me if I did not have access to healthcare or had to jump through multiple hoops for institutions to recognise the gender that I am. Or rather, this is what acceptance is for me, not what one person thought about my existence.

I thought of what I and the young people whom I had supported over the years actually needed and came up with three pillars that would create a society that truly accepted transgender and non-binary people. After developing the high-level concept, I tried to apply this in my job. I was working at Oranga

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[1] For this article the terms transgender and non-binary encompass any person whose gender is different than what was assigned at their birth, including people who are takatāpui.

Tamariki at the time and one of the priority groups was Rainbow people. Commissioned by Oranga Tamariki, the *Making Ourselves Visible* report was released in March 2023 and focused on the needs of transgender and non-binary young people in care (Clunie et al., 2023). Overall, the recommendations were appropriate but missed some key aspects of transgender and non-binary people's experiences. From this, I further developed the framework to support my colleagues to upskill and support them in their thinking when developing policies that will impact transgender and non-binary people. The framework was further developed with Grace Carroll and an earlier version was presented at the Rainbow Studies NOW symposium in late 2023 (Prout & Carroll, 2023). Based on feedback from the symposium, the framework was further developed.

A core idea of the Tranz Liberation Framework is that transgender and non-binary people will not see equitable conditions through acceptance alone or people protesting for 'trans rights'. The framework takes the materialist critiques of identity politics contained in the work of Nancy Fraser's (1995) theory of justice and builds on her concept of developing an alternative to what she describes as "progressive neoliberalism" (Fraser, 2019).

Fraser's (1995) theory of justice asserts that attainment of material needs requires substantive recognition and value of groups' differences, as well as redistribution of power, particularly capital and access to capital. Fraser's 1998 article, which was a rebuttal to Judith Butler's (1997) critique of Fraser's initial 1995 article, takes Bourdieu's ideas on class and applies it to her theory of justice. In this, she ascertains that the oppression of gays and lesbians is not "merely cultural" but class-based, in the sense that their sexuality limits their access to capital. Fraser's argument considers how some laws restrict equal participation in society: laws that legitimise certain ways of being, and laws that show how certain types of people only have access to capital due to limited opportunities and the types of labour that is valued. For example, Fraser argues that women's labour and work is not valued and correctly given financial compensation and that is, in part, why they have less access to capital than men.

In her 1995 article, Fraser uses the example of marriage equality, arguing that only heterosexual marriage has legal recognition by the state. She explains that this results in misrecognition as the state does not formally recognise anything other than a heterosexual relationship. This also leads to maldistribution, because non-heterosexual couples do not see the financial benefits that some states offer to married couples.

Fraser's ideas about justice influence the framework, firstly, in the way it recognises the different needs transgender and non-binary people have compared with their cis peers. More importantly, in her later works, Fraser also recognises the need to move beyond simply diversifying existing social hierarchies that preserve the neoliberal order—what Fraser describes as "progressive neoliberalism" (Fraser, 2019). This must be combined with the acknowledgement of the importance of material access to capital, including improving the economic conditions of transgender and non-binary people in Aotearoa/New Zealand and the need for system-level change to secure this.

The Tranz Liberation Framework's three core pillars of protection, access and recognition make visible and explicit the areas of material need, which should guide transformative action.

Protection

The *protection pillar* concerns protection from discrimination and violence, as well as access to the same opportunities cisgender people have. This pillar is based on the political philosophical concept of positive freedom and negative freedom (Berlin, 1969).

In practical terms, achieving protection would see no transgender or non-binary person facing discrimination on the basis of their gender and while having the same opportunities as their cis peers. Protection is assessed in two categories: the rights of transgender and non-binary communities to be *safe*

from (negative freedom) discrimination and violence due to their gender, as well as being *able to* (positive freedom) have the same access to capital and opportunities as cisgender people. Positive freedom acknowledges Fraser's and other critical theorists' ideas that all people should have the means to do something, such as having equal access to capital and opportunities. This is not just protection under the law, as classical liberal theory ascertains. For transgender and non-binary people in New Zealand, there is protection under the law, but this does not lead to full protection (as outlined below) because transgender and non-binary people still do not enjoy the same material conditions as their cisgender peers. As Fraser (1995) discusses, to see true justice there needs to be a move beyond legal protections and diversifying, to reshaping the current system. Changing laws alone is not going to achieve this.

Achievement of the protection pillar requires specific provisions to protect transgender and non-binary people from discrimination and violence. This includes policies and wider societal change to facilitate equal access to employment, housing, social and health services, and public spaces. In Aotearoa/New Zealand, the Human Rights Act 1993 protects citizens from discrimination on the basis of sex. To date, the Solicitor-General (2006), in their opinion on the Human Rights (Gender Identity) Amendment Bill 2006, has interpreted the Act to mean all genders, including transgender and non-binary people.

However, the New Zealand Law Commission, in a recent review of the Human Rights Act 1993, has acknowledged further protections could benefit the transgender and non-binary community (Te Aka Matua o re Ture | Law Commission, 2024). Despite the current protections under the Human Rights Act 1993, transgender and non-binary people continue to face increased rates of discrimination compared with their cisgender peers. According to *Counting Ourselves*, a survey of the health of transgender and non-binary people, led by Dr. Jaime Veale and the Trans Health Research Lab team at the University of Waikato, almost half of all the respondents reported experiencing discrimination in the preceding 12 months, more than double the rate for the general population (Veale et al., 2019).

Economic opportunities are also limited for transgender and non-binary people compared with their cisgender peers. *Counting Ourselves* found the average income of respondents was $15,001–$20,000. Furthermore, respondents recorded unemployment levels at around twice the rate of the general population (Veale et al., 2019). The survey also reported that transgender and non-binary people face much higher rates of homelessness (19%) than the national average of 2% (Veale et al., 2019).

Access

The *access pillar* considers how transgender and non-binary people have access to resources and services that affirm their gender and are timely, safe and affordable. This pillar is influenced by the social model of disability (Beckett & Lawson, 2020). The *social model of disability* states that it is society, not a person's disability, that impairs them and that their access needs should be meet through accommodations. For transgender and non-binary people, like for disabled people, there are specific needs and supports a person requires, which are different than their cisgender peers', to be able to fully participate in society. Society should provide for these specific needs through appropriate supports and services.

In practical terms, access is about availability of tailored resources and services to enable a person to live as their gender. This includes, but is not limited to, access to: culturally safe gender-affirming healthcare based on informed consent; gender-affirming garments such as binders, gaffs, etc.; and bathrooms and toilets that a person feels comfortable to use, without affecting access to accessible toilets for people with mobility impairments

Accessible gender-affirming healthcare should be based on the cultural safety principles outlined by Ramsden (2002). Ramsden outlines what culturally safe care is. She explores how the 'minority' group should determine what is culturally safe care for them and the power imbalance between the patient and

the medical professional needs to be switched, as the patient is the expert in their care. Gender-affirming healthcare should be accessible, and person-led, with the transgender or non-binary individual deciding what healthcare is right for them.

To achieve this, there needs to be a shift in thinking within the medical community, where a transgender or non-binary person knows what is best for themselves and be trusted to make choices about their gender-affirming healthcare. This includes being able to access hormone treatment through primary care providers. With this, informed consent should be the norm across Aotearoa/New Zealand and anyone choosing to access gender-affirming healthcare should not be required to complete a psychological assessment or adhere to gender norms in order to access it. However, any person wanting to access gender-affirming healthcare should be fully informed about the changes and possible side effects.

In terms of availability, all gender-affirming healthcare should be fully and adequately funded by the state to meet demand. If surgical treatment is not available locally, funding should be available to travel domestically or internationally to access gender-affirming surgical treatment.

Recognition

The *recognition pillar* focuses on the recognition of transgender and non-binary people as themselves across systems and services, and within interpersonal relationships. It expands on Fraser's concept of recognition and explores what recognition would look like for transgender and non-binary people.

This pillar is divided into two components: micro-recognition and macro-recognition. *Micro-recognition* relates to interpersonal relationships and includes someone being gendered correctly through using their correct name and pronouns. This can be in personal or in professional relationships. *Macro-recognition* is at a system level and includes institutions, such as banks, media and government agencies, recognising a person's correct gender and name, and having the infrastructure to do this.

To achieve macro-recognition, institutions should not require a person to legally change their name or gender to be correctly gendered. There should also be a simple and affordable process for a person to legally change their gender and/or name if that is what they want to do.

One way to achieve macro-recognition is through government information technology (IT) systems and how names, pronouns and a person's gender is displayed in these systems, including identity documents. Achievement of macro-recognition requires a shift at a structural level and within individual government agencies. This means having infrastructure to recognise people but also having the policies and guidance in places so there in consistency across government agencies.

At the structural level, this would include an all-of-government standard of interoperability that outlines requirements for storage of identity documents, including when identity documents that do not match the person's gender and name should be removed, and who can view such documents.

There should also be a standardised method, based on Stats NZ (2021) guidance, for recording sex and gender to ensure all genders are recognised in IT systems, and to ensure a consistent approach between government agencies.

The enablement of macro-recognition can be broken down into two areas: infrastructure, and policies and guidance. The *infrastructure* areas include having IT systems that can recognise the person's gender and name. IT systems should also allow people to self-declare their gender and record their pronouns, including allowing people to have a different gender listed on their records at different government agencies. Furthermore, if a person has legally changed their gender and name, there should be consistent, across-government guidance about removing the previous identity documents from the person's record (or if absolutely required, only allowing limited staff to access the previous identity documents). Lastly, when information is shared between agencies, systems should be able to match a person, even if their gender is recorded differently at different agencies.

Policies and guidance include guidance for staff so the name, gender and pronouns on the person's file reflects who they are, as well as not allowing staff to choose or change a person's gender, name or pronouns in the IT system without permission from the person. Appropriate policies would also allow a person to have the name they use and gender appear on official documents, even if that person has not legally changed their gender and name. (It should be acknowledged that in some instances, it is required in legislation that a person's legal name is recorded in the system.) To ensure this happens, it must be easy for people to find out what information the government agency holds about them, and they must be allowed to update this information if it is inaccurate, including in notes on their record. Lastly, agencies should acknowledge if people have listed their gender differently for statistical versus operational purposes, as operational data should not always be used for statistical purposes. For example, while a person may anonymously disclose their gender as transmasculine for the census (statistical), they may list their gender as male at their place of employment (operational) due to fears of discrimination, or may want their National Health Index (NHI) number to be female to ensure they can receive the right cancer screening and other sex-based services.

Who is the framework for?

In recent years, Aotearoa/New Zealand has made some strides in improving the lives of transgender and non-binary people, but there is still more progress to be made. This framework is designed to support any person who is wanting to advance the rights of transgender and non-binary people in Aotearoa/New Zealand. It aims to act as a practical tool to analyse the current landscape for transgender and non-binary people's rights. Each pillar—protection, access and recognition—outlines what is needed in order to improve the lives of transgender and non-binary people in Aotearoa/New Zealand

Despite the support shown during Posie Parker's visit, in some ways, the progress of transgender and non-binary people's rights went backwards. The discourse became about whether transgender and non-binary exist. This framework is a tool that is intended to be used to support a change in this dialogue from transgender and non-binary people's right to exist, to how to achieve what those trans-rights supporters were counter-protesting for. Those who came out to protest can use the framework to shine light on the areas that need improvement and to set demands. For others, the framework can be used to assess the state of transgender rights in Aotearoa/New Zealand and to analyse the potential impacts of proposed policies and legislation.

For example, different groups can use each pillar to assess what interventions are required to ensure transgender and non-binary people can participate in society just like their cis peers can. For protection, policy analysts and activists can use the framework, as part of their analysis and demands-setting, to determine how policy interventions may impact transgender and non-binary people and reduce the inequalities they are more likely to face, such as homelessness and low income. The access pillar can be used to assess whether the state, and wider society, is meeting the specific needs of transgender and non-binary people, in particular around healthcare, such as whether people are able to access gender-affirming healthcare that they require. The recognition pillar can be used to determine whether agencies and businesses have the infrastructure polices and guidance in place to recognise a person's name and gender.

All of this combined allows activists, policy analysts and academics to assess the state of transgender and non-binary rights in Aotearoa/New Zealand and where to place their efforts. Things are getting better, but we have a long way to go.

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