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# COMPLIANCE IS GENDERED:

## Struggling for Gendered Self-Determination in a Hostile Economy (2006)

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Since the emergence of poor-relief programs in sixteenth-century Europe, governments have developed varying strategies of social welfare to quell resistance among those who inhabit the necessary lowest level of the capitalist economy: the pool of unemployed whose presence keeps wages low and profit margins high.<sup>1</sup> Throughout their history, relief systems have been characterized by their insistence on work requirements for recipients, their vilification of recipients of relief, and their ability to paint the necessary failures of the economic systems they prop up as moral failures of the individuals who are most negatively affected by those systems.<sup>2</sup>

Feminist theorists have provided vital insight into how public relief systems have also operated through moralistic understandings of sexuality and family structure to force recipients into compliance with sexist and heterosexist notions of womanhood and motherhood. The creation of coercive policies requiring this compliance have usually been mobilized by appeals to white supremacist notions of white motherhood and racial purity, as well as depictions of black women as oversexualized, lazy, and morally

loose. Feminist theorists have provided a picture of how the day-to-day surveillance of low-income people and the rigid and punitive rule systems used in social services create a highly regulated context for the gender expression, sexuality, and family structure of low-income women who often rely on these systems to get out of economically dependent relationships with men. This fits into a broader analysis of how gendered models of citizenship, and gender and race hierarchies in the economy, operate to dominate the lives of low-income people most forcefully and directly affect the ability of all people to determine and express our gender, sexuality, and reproduction.

Unfortunately, this analysis has not yet been applied to examine how gender regulation of the poor applies to those who face some of the most dire consequences of a coercive binary gendered economy, those who transgress the basic principles of binary gender. Much feminist analysis of binary gender transgression has focused on the pathologizing medical discourses that have defined popular understandings of gender role distress to reinscribe meaning into rigid notions of "male" and "female."<sup>3</sup> However, as

transgender liberation movements proliferate, and feminist analysis of gender transgression becomes more nuanced and sophisticated, it is essential that we bring along the feminist analysis of gender regulation in work and public assistance systems in order to account for the extreme economic consequences that gender-transgressive people face because of our gender identities and expressions.

Similarly, many lesbian, gay, and bi activists and theorists have tended to miss the vital connection between economic and anticapitalist analysis and the regulation of sexual and gender expression and behavior. The most well-publicized and well-funded LGB organizations have notoriously marginalized low-income people and people of color, and framed political agendas that have reflected concern for economic opportunity and family recognition for well-resourced and disproportionately white LGB populations. Feminist, anticapitalist, and antiracist analysis has been notably absent from mainstream discourses about LGBT rights, and low-income people, people of color, and gender-transgressive people have been notoriously underrepresented from leadership and decision-making power in these movements.<sup>4</sup>

This is particularly distressing given the economic realities that people who transgress gender norms face. Economic and educational opportunity remain inaccessible to gender transgressive people because of severe and persistent discrimination, much of which remains legal,<sup>5</sup> but for low-income people caught up in the especially gender-regulating public relief systems and criminal justice systems that dominate the lives of the poor, the gender regulation of the economy is felt even more sharply.

Many trans people start out their lives with the obstacle of abuse or harassment at home, or being kicked out of their homes because of their gender identities or expressions. Some turn to foster care, but often end up homeless when they experience harassment and violence at the hands of staff and other residents in foster care facilities (most of which are sex segregated and place trans youth according to birth sex designation).<sup>6</sup> The adult homeless shelter system, similarly, is inaccessible because

of the fact that most facilities are sex segregated and will either turn down a trans person outright or refuse to house them according to their lived gender identity.<sup>7</sup> Similarly, harassment and violence against trans and gender nonconforming students is rampant in schools, and many drop out before finishing or are kicked out. Many trans people also do not pursue higher education because of fears about having to apply to schools and having their paperwork reveal their old name and birth sex because they have not been able to change these on their documents. Furthermore, trans people face severe discrimination in the job market and are routinely fired for transitioning on the job or when their gender identities or expressions come to their supervisors' attention.<sup>8</sup>

Trans people also have a difficult time accessing the entitlements that exist, though in a reduced and diminished format, to support poor people. Discrimination on the basis of gender identity occurs in welfare offices, on workfare job sites, in Medicaid offices, in Administrative Law Hearings for welfare, Medicaid, and Social Security Disability benefits. These benefit programs have been decimated in the last ten years and are generally operated with a punitive approach that includes frequent illegal termination of benefits and the failure to provide people their entitlements. For most people seeking to access these programs consistently during a time of need, the availability of an attorney or advocate to help navigate the hearings process has been essential to maintaining benefits. Unfortunately, most poverty attorneys and advocacy organizations are still severely lacking in basic information about serving trans clients and may reject cases on the basis of a person's gender identity or create such an unwelcoming environment that a trans client will not return for services. Based on community awareness of this problem, many trans people will not even seek these services, expecting that they will be subjected to humiliating and unhelpful treatment. The resulting lack of access to even the remaining shreds of the welfare system leaves a disproportionate number of trans people in severe poverty and

dependent on criminalized work such as prostitution or the drug economy to survive. This, in turn, results in large numbers of trans people being entangled in the juvenile and adult criminal justice systems where they are subjected to extreme harassment and violence.

Given these conditions, the need for an understanding of the operations of gender regulation on gender-transgressive people in the context of poverty is urgent. . . . I want to begin to suggest how we could reexamine what we know from feminist and LGB analysis of gender, sexual, and reproductive regulation, to see how this applies to the lives of low-income transgender, transsexual, intersex, and other gender-transgressive people. I come to these questions as a poverty lawyer working for these populations, and I want to use feminist, queer, and anticapitalist analysis of the operation of poverty alleviation programs and other methods of controlling and exploiting poor people to contextualize case studies from the day-to-day lives of my clients. I want to begin a conversation about what it means that almost all, of the institutions and programs that exist to control and exploit poor people and people of color in the United States are sex segregated, especially in a context where membership in a sexual category is still determined with regard to access to medical technologies that are prohibitively expensive to all but the most well-resourced gender-transgressive people. . . .

Now is the time to recognize that no project of gender and sexual self-determination will be meaningful if it fails to engage resistance to an inherently violent and hierarchical capitalist economic system that grounds its control over workers and the poor in oppressive understandings of race, sex, gender, ability, and nationality.<sup>9</sup> To address homophobic and transphobic domination in pursuit of a better world, we need to start from an understanding of the experiences of those who face the intersection of multiple oppressions, centralize the analysis that this intersectionality fosters, and think concretely about what strategies a movement dedicated to these principles would engage.

## CAPITALISM, ACCESS TO INCOME, AND THE USE OF SOCIAL WELFARE POLICIES TO REGULATE GENDER AND SEXUALITY AND PROMOTE WHITE SUPREMACY

Access to participation in the U.S. economy has always been conditioned on the ability of each individual to comply with norms of gendered behavior and expression, and the U.S. economy has always been shaped by explicit incentives that coerce people into normative gender and sexual structures, identities, and behaviors. At the same time the U.S. economy has, since its inception, been structured to recognize and maintain access to wealth for white people and to exploit the labor, land, and resources of native people, immigrants, and people of color. Property ownership itself has been a raced and gendered right throughout U.S. history, and an individual's race, gender, and sexuality have operated as forms of property themselves.<sup>10</sup> Similarly, interventions that would appear to seek to remedy the exploitative and damaging outcomes of our economic system have often been structured to control gendered behavior and expression and incentivize misogynist and heterosexist family norms. These interventions have typically been mobilized by white supremacy and the desire to benefit white workers and families to the disadvantage of people of color and immigrants. For example, the first wage and hour laws in the United States were passed under a notion of protectionism for women, the logic being that since women really did not belong in the workplace anyway, if they had to work outside the home, it was the states' role to intervene in their labor contracts to protect them from exploitation.<sup>11</sup> Similarly, since the inception of poor relief in the United States, programs have been structured to support gendered divisions of labor and promote heterosexual family structure and have been mobilized by discourses of racial purity.<sup>12</sup> . . .

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Anyone who has lived through the last ten years of "welfare reform" rhetoric in the United States will

notice that racist and sexist rhetoric and policy in the realm of welfare is still strongly with us. Such rhetoric is still being used to formulate welfare policies that control the gender and sexual behavior and expression of women and firmly tie economic survival and advantage to racial status. The most recent well-publicized massive overhaul of the welfare system, the "welfare reform" of the mid-1990s, was motivated, structured, and sold to the American public through racist and sexist understandings of poverty, work, and family structure. Its results have lived up to its intentions, with poor women of color suffering horribly under the new system.<sup>13</sup> Holloway Sparks writes about how the changes in welfare policy in the mid-1990s were based on a concept of contractual citizenship in which low-income people needed to be obligated to work and meet certain moral standards in order to earn their rights to public benefits.<sup>14</sup> Public benefits recipients were cast in the media as pathological, amoral people caught in a "cycle of dependency." Welfare mothers were depicted as people who couldn't stop having more and more children and committing welfare fraud.<sup>15</sup> The media uproar focused on racist and sexist images of black "welfare queens" and irresponsible teenage mothers. The mobilization of these images was an essential part of the creation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).<sup>16</sup>

The purpose and result of vilifying welfare recipients and focusing on sexual morality and gender role transgression is the creation of coercive policies designed to force poor people to obey rigid gender and family norms. Marriage incentives and requirements that mothers disclose the paternity of their children are only the most explicit examples of how the moral performance on which benefit receipt is conditional is fundamentally a requirement that poor women rigidly obey conservative notions of gender role and family structure. As countless critics have pointed out, these requirements create horrendous obstacles to women struggling with domestic violence who cannot safely disclose paternity or comply with other aspects of the "maintenance and sustenance

of two-parent families" dictated by welfare policy.<sup>17</sup> Additionally, for lesbian mothers the rigidity with which family structure is viewed and regulated by welfare policies and rules makes benefits inaccessible or dependent on remaining closeted.<sup>18</sup>

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The example of the PRWORA passage, as well as more recent activity around reauthorizing PRWORA, which has included increasing discussion of "healthy marriage promotion,"<sup>19</sup> demonstrates that social welfare programs are explicitly designed to promote oppressive and racialized understandings of gender, sexuality, and family structure. The depiction of the lives of poor women that motivated the PRWORA, and behind which both Democrats and Republicans rallied, made it clear that poor women were responsible for their poverty and that the only remedy was to coerce them into marriage and work. These morality-based understandings of poverty play out in the day-to-day operation of social services programs that emphasize surveillance and gender regulation of poor people.

## FAILING TO COMPLY

The climate of vilification of the poor and pathologization of the conditions and consequences of poverty produce and operate through day-to-day punitive and coercive structures within poverty service provision. These programs often focus on notions of "compliance" and "noncompliance" among participants. Feminist theorists have provided helpful analysis in this area, examining the ways that access to homeless and domestic violence shelters is mediated through punitive processes where those looking for assistance are treated as morally and intellectually deficient and subjected to humiliating violations of privacy as an integral part of the disincentification of receiving services.<sup>20</sup> Navigating benefits systems, shelter systems, essential medical services, and entanglement with the criminal justice system that is now a central

aspect of low-income existence in order to survive is increasingly tied to the ability of each person to meet highly gendered and raced behavioral and expression requirements.<sup>21</sup> While feminist analysis has exposed the hidden agendas of poverty policies to shape women's work and family structure and inhibit the ability of women to be economically independent and escape violent relationships, this analysis has not extended to examine the effects of this system on poor people who also transgress the coercive binary gender system that maintains sexism.

The following two stories from my work with low-income gender-transgressive people illustrate the particular ways in which the incorporation of rigid binary gender expectations into social service provision and the criminal justice system operate in the lives of gender-transgressive people.

### JIM'S STORY

Jim is an intersex person.<sup>22</sup> He was raised as a girl, but during adolescence began to identify as male. To his family, he remained female identified, but in the world he identified as male. The stress of living a double life was immense, but he knew it was the only way to maintain a relationship with his family, with whom he was very close. When Jim was nineteen, he was involved in a robbery for which he received a sentence of five years' probation. During the second year of that probation period, Jim was arrested for drug possession and was sentenced to eighteen months of residential drug treatment. Jim was sent to a male residential facility. In a purportedly therapeutic environment, Jim discussed his intersex status with his therapist. His confidentiality was broken, and soon the entire staff and residential population were aware that Jim was intersex. Jim was facing such severe rape threat with no support or protection from staff that he ultimately ran away from the facility. I met Jim after he had turned himself in, wanting to deal with his criminal justice status so that he could safely apply to college and get on with his life. Jim was in a Brooklyn men's jail, again facing severe rape threat because the jail refused to continue his testosterone

treatments, which caused him to menstruate, and when he was strip-searched while menstruating other inmates and staff learned of his status. Jim and I worked together to try to convince the judge in his case that Jim could safely access drug treatment services only in an outpatient setting because of the rape threat he continually faced in residential settings. Even when we had convinced the judge of this, though, we faced the fact that most programs were gender segregated and would not be a safe place for Jim to be known as intersex. When I contacted facilities to find a place for Jim, staff at all levels would ask me questions like "Does he pee sitting or standing?" and "Does he have a penis?" indicating to me that Jim would be treated as a novelty and his intersex status would be a source of gossip. Even the few lesbian and gay drug treatment programs I identified seemed inappropriate because Jim did not identify as gay and was, in fact, quite unfamiliar with gay and lesbian communities and somewhat uncomfortable in queer spaces. Eventually, the judge agreed to let Jim try outpatient treatment, but on a "zero tolerance" policy, where a single relapse would result in jail time. Jim was under enormous stress, engaged in treatment where he was always afraid he might be outed and where his participation in the daily hours of group therapy required hiding his identity. He relapsed and was sentenced to two years in state prison. When I went before the judge to request that Jim be placed in women's prison because of his well-founded fear of sexual assault in men's facilities, the judge's response was "He can't have it both ways." Once again, Jim's intersex status, and his inability to successfully navigate the gender requirements of the extremely violent system in which he was entangled because of involvement in nonviolent poverty-related crimes, was considered part of his criminality and a blameworthy status.

### BIANCA'S STORY

Bianca is a transgender woman. In 1999 she was attending high school in the Bronx. After struggling with an internal understanding of herself as a woman

for several years, Bianca eventually mustered the courage to come out to her peers and teachers at school. She and another transgender student who were close friends decided to come out together, and arrived at school one day dressed to reflect their female gender identities. They were stopped at the front office and not allowed to enter school. Eventually, they were told to leave and not come back. When their parents called the school to follow up and find out what to do next, their calls were never returned. They were given no referrals to other schools, and no official suspension or expulsion documents. Because of their families' poverty and language barriers, they were never able to successfully get documentation or services from the schools. I met Bianca three years later. She had been trying to find an attorney to take the case and had never found one, and when I met her and began investigating the possibility of bringing a lawsuit, I discovered that the statute of limitations had run out, and she no longer had a claim. When I met Bianca, she was homeless and unemployed and was trying to escape from an abusive relationship. She was afraid to go to the police both because of the retaliation of her boyfriend and because she rightly feared that the police would react badly to her because of her transgender status. Her IDs all said her male name and gender, and there would be no way for her to seek police protection without being identified as transgender. As we searched for places for Bianca to live, we ran up against the fact that all the homeless shelters would only place her according to birth gender, so she would be a woman in an all-men's facility, which she rightly feared would be unsafe and uncomfortable. Women's shelters for domestic violence survivors were unwilling to take her because they did not recognize her as a woman. When Bianca went to apply for welfare she was given an assignment to attend a job center to be placed in a workfare program. When she tried to access the job center, she was severely harassed outside, and when she entered she was outed and humiliated by staff when she attempted to use the women's restroom. Ultimately, she felt too unsafe to return, and her benefits were terminated. Bianca's total lack of income also meant that she had no access

to the hormone treatments that she used to maintain a feminine appearance, which was both emotionally necessary for her and kept her safe from some of the harassment and violence she faced when she was identifiable as a trans woman on the street. Bianca felt that her only option for finding income sufficient to pay for the hormones she bought on the street (it would have been more expensive from a doctor, since Medicaid would not cover it even if she could successfully apply for Medicaid) was to engage in illegal sex work. This put her in further danger of police violence, arrest, and private violence. Additionally, because she was accessing injectable hormones through street economies, she was at greater risk of HIV infection and other communicable diseases.

These two cases are typical of my clients in that almost everyone who comes to the Sylvia Rivera Law Project for services is facing serious consequences of failing to fit within a rigid binary gender structure in multiple systems and institutions: welfare, adult or juvenile justice, public education, voluntary or mandated drug treatment, homeless services, and mental and physical health care. Compliance is a central issue that my clients face in these systems. They are unable to comply or "rehabilitate" because to do either means to match stereotypes associated with their birth genders. Some are kicked off welfare because they fail to wear birth-gender appropriate clothing to "job training" programs that require them to.<sup>23</sup> Others are labeled "sex offenders" in juvenile justice simply because of their transgender identities despite the fact that their criminal offenses were not sex-related, and forced to wear sex offender jumpsuits while locked up and attend sex offender therapy groups. If they cannot or will not remedy their gender transgressions, they cannot complete the rehabilitation process required for release. Some clients lose housing at youth or adult shelters because staff argue that their failures to dress according to birth gender means they are not seriously job hunting, a requirement of the program to maintain housing. The ways that these systems, apply rigid gendered expectations to poor people, which are

notably not applied to nonpoor people, are manifold, because these systems operate through detailed surveillance coupled with extensive discretion on the part of individual caseworkers and administrators. I find my clients serving the role of example, particularly in adult and juvenile justice contexts, by being humiliated, harassed, or assaulted because of their gender transgressions in a way that communicates clearly to others entangled in those systems exactly what is expected of them. For many transgender, transsexual, or intersex people, this violence results in long-term severe injuries and in death.<sup>24</sup>

The other vitally important component to the inability of gender-transgressive poor people to access benefits and services is the fact that gender segregation remains a central organizing strategy of systems of social control. Employed people with stable housing are subjected to far fewer gender-segregated facilities on a daily basis than poor or homeless people. While we all must contend with bathrooms or locker rooms that are gender segregated, those of us with homes and jobs may even be able to avoid those a good deal of the time, as opposed to homeless people who must always use public facilities that are likely to be segregated and highly policed. Additionally, all the essential services and coercive control institutions (jails, homeless shelters, group homes, drug treatment facilities, foster care facilities, domestic violence shelters, juvenile justice facilities, housing for the mentally ill) that increasingly dominate the lives of poor people and disproportionately of people of color use gender segregation as a part of the gendered social control they maintain.<sup>25</sup> For the most part, these institutions recognize only birth gender, or rely on identity documents such as birth certificates to determine gender. In every state in the United States that allows people to change their gender markers on their birth certificates, evidence of sex reassignment surgery is required.<sup>26</sup>

As I have written elsewhere,<sup>27</sup> the reliance on medical evidence in all legal contexts in which transgender and other gender-transgressive people struggle for recognition or rights is highly problematic. Whether seeking to prove our marriages valid

so that we can keep our parental rights or access our spouse's estate,<sup>28</sup> or attempting to change our names and gender on our identity documents so that we can apply for educational or employment opportunities,<sup>29</sup> or when attempting to access sex-segregated facilities of various kinds,<sup>30</sup> medical evidence remains the defining factor in determining our rights. This is problematic because access to gender-related medical intervention is usually conditioned on successful performance of rigidly defined and harshly enforced understandings of binary gender,<sup>31</sup> because many gender-transgressive people may not wish to undergo medical intervention, and because medical care of all kinds, but particularly gender-related medical care, remains extremely inaccessible to most low-income gender-transgressive people.<sup>32</sup>

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## ASKING FOR MORE

The most well-funded organizations in the lesbian and gay movement do not provide direct legal services to low-income people, but instead focus their resources on high-profile impact litigation cases and policy efforts. Most of these efforts have traditionally focused on concerns central to the lives of nonpoor lesbian and gay people and have ignored the most pressing issues in the lives of poor people, people of color, and transgender people. The "gay agenda" has been about passing our apartments to each other when we die, not about increasing affordable housing or opposing illegal eviction. It has been about getting our partnerships recognized so our partners can share our private health benefits, not about defending Medicaid rights or demanding universal health care. It has been about getting our young sons into Boy Scouts, not about advocating for the countless/uncounted queer and trans youth struggling against a growing industry of youth incarceration. It has been about working to put more punishment power in the hands of an overtly racist criminal system with passage of hate crimes laws, not about opposing the

mass incarceration of a generation of men of color, or fighting the abuse of queer and trans people in adult and juvenile justice settings.

The debates about gender identity inclusion in the federal Employment Non-Discrimination Act (ENDA)<sup>33</sup> or the exclusion of gender identity protection from New York States Sexual Orientation Non-Discrimination Act (SONDA)<sup>34</sup> are only the most blatant examples of the mainstream lesbian and gay movement's lack of commitment to gender-transgressive populations, but the failure of "LGBT" dollars, services, and resources to reach the lives of low-income people is even more widespread. What it means in the lives of low-income gender-transgressive people is that not only do they lack essential legal protections, they cannot find effective advocacy to access the fair treatment, services, or benefits they are entitled to. Unfortunately, the trend in gender rights litigation toward the recognition of gender identity change only in the context of medicalization maintains this imbalance. The history of gender rights litigation seems to be progressing with increasing recognition of membership in the "new" gender category, but only for those transgender people who have undergone medical intervention. The vast majority of gender-transgressive people who will either not want or not be able to afford such intervention remain unprotected. . . .

On a broader level, though, the distribution of resources (services, policy and legislative advocacy, direct representation) is something that our movements can be more responsible about than they have been. Transgender and gender-transgressive movements are at a moment of building and expansion, and in some senses institutionalization. We are increasingly forming organizations, we are seeking funding, and we are forming a growing national and international conversation seeking an end to the inequality and oppression we have struggled against. It is in this moment that it is most urgent for us to examine where our resources have been going, and what unintentional consequences may result from following the model of the lesbian and gay rights movement. Inevitably, given the context of capitalism in which transliteration activism occurs, and

the economic/educational privilege that usually accompanies the ability to secure paid "movement leader" jobs in nonprofits and to raise money to start and maintain movement organizations, the voices of low-income people and people of color will remain underincluded without a serious commitment to intervention.<sup>35</sup> . . .

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The notion that we should put our movement resources into a struggle for gender identity non-discrimination in employment, but not concern ourselves with the fact that there is no one to represent struggling gender-transgressive people being harassed on workfare jobsites or raped in prisons or falsely arrested for prostitution, indicates a problem in terms of the depth and breadth of liberation we are seeking. LGBT movement activists have the power to determine whether the liberation we pursue will follow a tolerance model, making room for those who can access private employment and housing to not experience discrimination there because of their gender identities (and possibly conditioned on medical intervention), or we can quest for a broader liberation that demands gender self-determination for all people regardless of their positions in capitalist economies. To make the latter real, we need to strategize beyond a notion that if we win rights for the most sympathetic and normal of our lot first, the others will be protected in time. Instead, we should be concerned that the breadth of our vision will determine the victories we obtain. If we want to end oppression on the basis of gender identity and expression for all people, we need to examine how the rigid regulation of binary gender is a core element of participation in our capitalist economy, how the hyperregulation of poor peoples' gender and sexuality has propped up that system, and how this has resulted in disproportionate poverty and incarceration for poor, gender-transgressive people. Starting from that analysis, we can undertake strategies to combat these problems and make sure that our activism does not further entrench this regulation by relying on pathologization and medicalization to articulate gender rights.

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## NOTES

Many people generously provided editorial advice for this chapter. Thanks to Craig Willse, Paisley Currah, Danny McGee, Franklin Romeo, Jenny Robertson, Bridge Joyce, and Richard M. Juang for their help. The asterisks that appear with page numbers in these notes refer to screen page numbers from a database.

1. Frances Fox Piven and Richard Clower, *Regulating the Poor* (New York: Vintage, 1993).
2. Ibid.
3. Janice Raymond, *The Transsexual Empire* (New York: Teachers College Press, 1994); Dwight B. Billings and Thomas Urban, "The Socio-Medical Construction of Transsexualism: An Interpretation and Critique," *Social Problems* 29 (1982): 266, 276. Billings and Urban are engaged in an anticapitalist critique of the gender-regulating process of sex reassignment therapy and the adoption of norm-supporting narratives by patients seeking medical interventions. However, rather than focusing on the problems of a coercive system that demands the performance of rigid gender norms by people seeking body alteration, they vilify transgender people for performing these narratives. The resulting analysis paints trans subjects as clueless gender upholders, who are buying our way out of our gender distress and ruining any radical potential for disrupting gender norms. For more on the strategic uses of medical narratives by trans subjects, and the attribution of oppressive medical understandings of gender to trans people, see Dean Spade, "Mutilating Gender," *makezine* (spring 2002), <http://makezine.org/mutilate.html>.
4. Theorists and activists who produce intersectional and multi-issue queer and trans analysis and activism continually critique these failures. See, for example, Eli Clare, *Exile and Pride* (Cambridge, MA: South End, 1999); Amber Hollibaugh, "Queers without Money," *Village Voice*, June 2001; Cathy Cohen, "Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?" *GLQ* 3 (1997): 437; Craig Willse and Dean Spade, "Confronting the Limits of Gay Hate Crimes Activism: A Radical Critique," *Chicano-Latino Law Review* 21 (2000): 38-49; Sylvia Rivera, "Queens in Exile, the Forgotten Ones," in *Genderqueer: Voices from Beyond the Binary*, ed. Joan Nestle et al. (New York: Alyson, 2002), 67-85; Richard E. Blum, Barbara Ann Perina, and Joseph Nicholas DeFilippis, "Why Welfare Is a Queer Issue," *NYU Review of Law and Social Change* 26 (2001): 207.
5. According to the National Gay and Lesbian Task Force, 76 percent of the U.S. population lives in jurisdictions that are not covered by antidiscrimination laws that include prohibitions on gender identity discrimination. See L. Mottet, "Populations of Jurisdictions with Explicitly Transgender Anti-Discrimination Laws" (Washington, DC: National Gay and Lesbian Task Force, 2003), <http://nglftf.org/downloads/TransIncPops.pdf>. Even those who are covered may find these laws ineffectual when they try to enforce their rights before biased judges. See *Goins v. West Group*, 635 N.W.2d 717 (Minn. 2001) (finding that an employer's refusal to allow a transgender employee access to the women's bathroom was not gender identity discrimination); *Hispanic AIDS Forum v. Bruno*, 792 N.Y.S. 2d 43 (2005). Further, even for those who live in jurisdictions where gender identity discrimination is prohibited, seeking redress may be difficult because of a lack of attorneys willing to take cases with transgender plaintiffs and because of the failure of city governments to enforce these provisions. See *Local Laws of the City of New York* 3, 2002, [http://www.council.nyc.ny.us/pdf\\_files/bills/law02003.pdf](http://www.council.nyc.ny.us/pdf_files/bills/law02003.pdf); Duncan Osborne, "Trans Advocates Allege Foot-Dragging," *Gay City News*, June 17, 2004; Cyd Zeigler Jr., "Trans Protection Compromised?" *New York Blade*, May 28, 2004.
6. *Doe v. Bell*, 2003 WL 355603 at \*1-2 (N.Y. Sup. Ct. 2003) (finding that group home's policy forbidding transgender youth from dressing in skirts and dresses was illegal).
7. L. Mottet and J. Ohle, *Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People* (Washington, DC: National Gay and Lesbian Task Force, 2003). In 2006 transgender advocates succeeded in winning a written policy in the Department of Homeless Service of New York City addressing the rights of transgender people seeking shelter in the city's facilities. The policy explicitly states that transgender people may not be placed in shelters that do not comport with their self-identified gender and may not be forced to wear clothing associated with their birth gender. Years of advocacy were required to put this policy, which is not yet being enforced as of this writing, in place. A handful of cities in North America, including Boston, San Francisco, and Toronto, have policies addressing the discrimination and exclusion transgender people face in shelter systems. For more information on these policies, see [www.srlp.org](http://www.srlp.org).