

# The Implications of NYC's New Transgender "Guidelines"

Just before Christmas, the City of New York issued [new "guidance"](#) for enforcing a 2002 law prohibiting "discrimination on the basis of gender identity or expression." Some conservative websites interpreted the new guidelines to mean that merely addressing a "transgendered" person by a pronoun of the "wrong" gender [could result in](#) a \$250,000 fine for the offender.

Although the law is unlikely to be so enforced, the interpretation is not entirely unfounded. Thus [Snopes says](#):

*"While this claim is technically true in a very narrow sense, it is also very misleading. For instance, an individual who simply mistakenly uses the wrong pronoun when referring to a transgender individual will not be fined under the new law. However, a person who intentionally and repeatedly refuses to use an individual's preferred pronoun would be subject to fines (that could reach as high as \$250,000 for multiple violations) under the the law."*

The assumption made by the new guidelines is that clearly manifesting, to a transgendered person, one's refusal to accept their self-definition is a violation of their civil rights that ought to be severely punished. That assumption is very significant in two ways:

First, it further assumes that a person's sex is not a biological given but is simply what they believe it to be, as manifested by their chosen appearance and behavior. Thanks to Caitlyn (née Bruce) Jenner, that belief is well understood throughout our society, even if not universally shared. From that point of view, one's sex (now sometimes called one's 'gender') is malleable: if one's subjective dispositions

somehow do not comport with one's biological sex, one can and should take the steps necessary to change one's biology to suit one's dispositions.

What's so remarkable about that?

It's remarkable because many of the people holding it also hold that one's "sexual orientation" is—to use Justice Kennedy's word in *Obergefell v Hodges*—"immutable." Such people thus believe that, although one can change one's sex from what one was born with and thus given, one cannot change which sex(es) one is attracted to, because it's a given one has no control over. I have never understood, and still do not understand, how a logical mind can hold the belief that innate biology is mutable in respect but immutable in another, closely related respect. But that, apparently, is what many now believe.

The other significant thing about the NYC guidelines, which surely presage many to come elsewhere, is that it sharpens a conflict within the feminist movement. Traditionally, feminists have held that there are no inherent differences between the sexes other than the strictly biological. There is no immaterial "essence" of "femininity" and "masculinity" that women and men, respectively, should be expected to embody.

But if that's true, then the basic assumption of transgenderism must be false. If the inherent biological difference between the sexes can be changed to suit what people feel themselves to be, then the "gender" that people identify themselves as belonging to cannot simply be a matter of biological differences. The logical incompatibility between traditional feminism and transgender ideology has been noted in many places. Nobody knows what to do about it.

Across the U.S., there's now a rush to create new laws designed to protect and legitimize transgenderism. But in the rush to legalize, perhaps we're ignoring some logical issues

that still need to be honestly and carefully confronted.

*Image: I Am Cait/E!*