



Increasing the number and diversity of women in provincial elections and the legislative assembly

Submitted to the Standing Committee on Procedure, Privileges and Legislative Officers as a follow-up to our presentation on April 20, 2021¹

***Recommendation:* That the legislative assembly either undertake a review or urge the Government of New Brunswick to undertake a review of the use of sex and gender in legislation (e.g. when are these terms erroneously used interchangeably, when is sex used when gender is likely the appropriate term, etc.) and develop a plan to update legislation in response to the findings. The review should also address instances in which legislation erases non-binary sexes and genders (i.e. the *Political Process Financing Act's* formula for the public financing of political parties) or references them in non-affirming ways (i.e. "other").**

Elections New Brunswick's nomination forms require candidates to specify their sex, which is then shared on the Elections New Brunswick website. What government is actually looking for is candidates' gender – and asking for gender is also more inclusive to individuals belonging to gender minorities (e.g. people who are trans, non-binary, Two Spirit, gender fluid, agender, etc.).

For those of us who are cisgender (meaning we identify with the gender that is most commonly associated with the sex we were assigned at birth) being asked our sex is not typically perceived as

invasive. In English, we often think of female and woman as interchangeable terms, same as with male and man; in French, the terms homme and femme are used for both sex and gender even though sex and gender are different things. Sex is a physical/biological designation and asking for that instead of gender has particular implications for individuals who belong to gender minorities.

Any introductory article on how to not be transphobic will explain that it is invasive to ask a trans person about their genitals, if they've had surgery, etc. Beyond the basic invasion of privacy, these questions are part of a pattern in which gender minorities are discussed in reductive ways, often with an objectifying and dehumanizing focus on their bodies. Some people belonging to gender minorities struggle with whether they are "trans enough" or "non-binary enough" if they have not had gender confirming/affirming surgeries. Asking their sex is effectively asking about bodies and can bring all of this up. It could also out someone as trans (e.g. if someone presents as a man and uses he/him pronouns but indicates female as their sex on a form, they are essentially outed as trans). Being outed is not only disempowering, it can put people at risk of violence and discrimination in employment, housing, etc.

¹ Full presentation (NBWC starts at 6:12:00) <https://www1.gnb.ca/legis/webcasts/archive/view-e.asp?event=270&lang=o>

The reason we are not simply suggesting that sex be changed to gender in the *Elections Act* and the *Political Process Financing Act* is that this issue is not unique to these acts. A broader review is required to understand the scope of the issue as well as to explore and mitigate potential unintended impacts of any changes.

Recommendation: That mechanisms to protect candidates' personal addresses be identified and implemented.

Candidates' home addresses are available to the public via their nominating papers and may also be published on the Elections New Brunswick website if they do not have an alternate service address to provide.² Women, members of the LGBTQIA2+ community, and people who are Black, Indigenous, and/or of colour face elevated risk of harassment and violence in their daily lives and that risk only increases as candidates and elected members. Limiting access to their personal addresses is an important privacy and safety measure.

² For the 2021 municipal election, Elections New Brunswick allowed candidates to use their returning office as a service address and have their personal addresses removed from the website, but this had to be requested by candidates and the availability of this option was not communicated en masse.