

## Does the 'T' Stand Alone?

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October 17, 2007

October was supposed to be a triumph for the lesbian, gay, bisexual and transgender (LGBT) community, thanks to the recent passage of a comprehensive hate crimes bill in both houses of Congress and what was expected to be a historic vote on [HR 2015](#), the Employment Non-Discrimination Act, or ENDA, in the House. But instead, a debate over whether rights for transgenders should be included in [ENDA](#) is opening the possibility for a profound shift in the gay movement.

The bill is much more than semantics. In thirty-one states employers can fire an employee simply for being gay, while even more states allow bosses to sack anyone who might be transgender. ENDA is currently on hold over Congressman Barney Frank's move to split the bill in two, with one bill focused mainly on barring employment discrimination based on sexual orientation and a second nondiscrimination bill dealing solely with gender identity--a bill many gay rights activists feel would never pass a vote.

Frank, the only openly gay man serving in Congress, surprised many leading LGBT rights advocates during a September 27 meeting when he announced his whip count showed there were not enough votes to support ENDA if it included gender identity protections, and that in his opinion the best strategy was for those protections to go. Even though the bill exempts small businesses, religious organizations and the uniformed members of the armed forces, few if any of its supporters expect anything less than a veto from President Bush.

But in [a September 28 posting](#) on [Bilerico.com](#), Frank (who was not available for comment for this article) argued passing a less inclusive ENDA that ends up being vetoed is still much more preferable than a more inclusive ENDA that can't muster a majority vote in the House. "People have correctly pointed to the value of getting people used to voting for this," he wrote, "of the moral force of having majorities in either the House or the Senate or both go on record favorably even if the President was going to veto it."

In [the same post](#) Frank stressed that he still supported gender identity protections. But he added that "to take the position that if we are now able to enact legislation that will protect millions of Americans now and in the future from discrimination based on sexual orientation, we should decline to do so because we are not able to include transgender people as well, is to fly in the face of every successful strategy ever used in expanding antidiscrimination laws."

What unfolded over the next forty-eight hours apparently caught Frank and the Democratic leadership shepherding ENDA off guard. The vast majority of LGBT rights groups, both national and local, rejected Frank's argument and raised howls of protest over the jettisoning of transgender protections. On October 1, Frank, along with Speaker Nancy Pelosi, Education and Labor Committee Chair George Miller and openly lesbian Representative Tammy Baldwin, said in a statement they were postponing the scheduled October 2 mark-up of ENDA in committee until the end of October "to allow proponents of the legislation to continue their discussions with Members in the interest of passing the broadest possible bill."

The move created a rare divide between LGBT groups and Frank, considered a hero in the gay rights movement and a master tactician by many Washington insiders when it comes to the parliamentary maneuvers that drive tough bills forward.

Consider [Lambda Legal](#), the LGBT legal rights organization, which got into a war of letters with Frank over the split bills. Lambda argued that removing gender identity language from ENDA would have unexpected consequences for both gay and straight people who have successfully used similar state nondiscrimination laws to protect themselves in gender expression cases--for example, an effeminate heterosexual who is harassed by co-workers for not being "manly enough." Lambda began a letter to Frank with "It is not pleasant to have to disagree with a Congressman who has done so much that we admire and who has been a stalwart leader for our community."

Jon Hoadley, executive director of the [National Stonewall Democrats](#), called Frank "one of our greatest champions in Congress" but argued that "saying this becomes a vote between passing a less effective bill or supporting a bill that some people say would lose is an artificial choice."

Hoadley and others point to Colorado, Iowa, New Mexico and Oregon, a red-blue mix of states that over the past five years have passed nondiscrimination laws that are transgender-inclusive. A dozen states plus Washington, DC, now have some sort of transgender protections, which to Hoadley proves "we can successfully move a fully inclusive bill, and that's something we can do at the federal level as well." The fact that the vast majority of Fortune 500 companies also offer similar protections, Hoadley argues, shows that an inclusive ENDA is business-friendly, as well.

As Frank is quick to point out, the gay community has been waiting too long for any sort of federal protections. Legendary New York Congresswoman Bella Abzug first introduced a nondiscrimination bill that included employment protection based on sexual orientation in 1974. Nearly two decades later, in 1996, it looked like a version of ENDA that did not include gender protections was set to pass Congress as part of a compromise that also saw a vote on the [Defense of Marriage Act](#). The end result was disastrous for gay rights advocates, who got a federal DOMA signed into law but a nail-biter 49-50 defeat of ENDA in the Senate. The defeat did allow ENDA supporters to regroup and add gender protections to the bill in 2004, but those changes were little more than academic until Democrats took back Congress in 2006.

For Barbara McCullough-Jones, executive director of the state-level organization [Equality Arizona](#), Frank's split bill proposal sounded too much like the Clinton-era cycle of compromise and disappointment that led to DOMA and also "Don't Ask, Don't Tell," the ban on gays serving openly in the military.

"My initial reaction was, here we go again," she said, noting that "after all of the effort to change Congress to a fair-minded majority, this was an insult, quite frankly." McCullough-Jones said statewide groups like hers weren't given a chance to lobby their representatives--particularly freshman Democrats--before the decision to split ENDA was announced.

Tammy Baldwin agrees with McCullough-Jones that the original ENDA is the way to go. "I come out on the side of, it's better to proceed with the inclusive bill and take that to the floor than divide it into two bills and proceed with only a sexual orientation bill," she said. But Baldwin was quick to dispel any assumption there is a rift between her and Frank. "The debate is between people of good will trying to see the strongest bill passed," she added.

Like Frank, Baldwin is concerned about "Republican meddling" during consideration of the bill, where nasty floor speeches demeaning transgenders and embarrassing moderate Democrats could cost votes and gin up the right-wing noise machine. But with 170 co-sponsors for a gender-

inclusive ENDA, Baldwin argues "we ought to bring it to the vote and see where we stand. The starting point should be the inclusive bill."

**That starting point isn't enough for Matt Foreman, executive director of the [National Gay and Lesbian Task Force](#), who notes ENDA only covers employment and long ago dropped the 1974 bill's proposed protections in public accommodation, housing, credit and education. He also notes LGBT rights groups compromised when it came to ENDA exemptions for religious organizations, an element many see as important for moderate Democrat and some Republican support, if not acquiescence. And then there's the whole issue of the presidential veto.**

**"We're rushing to pass a bill that throws transgender people off the bus, caves to the Catholic Church and has no chance of becoming law this year," Foreman said. "To whose advantage could this possibly be?"**

More than 200 LGBT rights groups, including The Task Force, Stonewall and Equality Arizona, have [signed on to a statement](#) that pledges to "oppose legislation that leaves part of our community without protections." The one major outlier is the [Human Rights Campaign](#), the well-funded national LGBT advocacy group.

On October 5 HRC president Joe Solmonese issued a message in which he described the last two weeks as the "most heartbreaking and gut-wrenching of my life" thanks to the ENDA debate, but confirmed HRC's October 1 board vote deciding it doesn't support yet will not oppose Frank's split-bill strategy. "Our community can work with the people who want to help us, or we can walk out on them," Solmonese wrote. "In a community facing such fierce opposition from the outside, it is disheartening to see blame and anger hurled at the people on our own side," he added.

That decision cost HRC its sole transgender board member, Donna Rose, who resigned October 3. While Rose lauds HRC for its past work on transgender issues and its lobbying for a gender-inclusive bill, she notes that "in political speak 'do not support' and 'oppose' have very different meanings."

"Unfortunately the people who get left behind are the people who need it most," Rose said, noting that Solmonese spoke at a transgender conference on September 21, where he clearly stated HRC would oppose a noninclusive ENDA and had sent that message "loud and clear to the Hill."

Rose fully admitted there is a "delicate balance between political pragmatism and community building, or for lack of a better word, soul," but she also raised the following question: "Politics is great, but at what cost?"

One of the consequences of the ENDA conflict is a realization that LGBT rights groups have organized themselves differently over the past decade. In the 1980s and early '90s, a handful of national organizations based primarily in New York and Washington lobbied legislators and served as mouthpieces for gay rights issues, most often AIDS-related funding. But with the Republican Congressional takeover in 1994, plus the cultural shift toward more openly gay people living outside big cities, local LGBT political organizations flourished, especially after the spate of marriage amendment campaigns began. The move has started to pay dividends; with help from national organizations, Equality Arizona helped beat back a marriage amendment initiative in its state in 2006.

Robert Haaland, a female-to-male transgender on the national board of the AFL-CIO constituency group [Pride at Work](#), helped lead a vigil at Pelosi's office after hearing news of the split ENDA bill. "When over 150 organizations say no and one group says 'kinda,' at what point does it become

the entire [LGBT] community versus a small part of the community? The depth and breadth has just been overwhelming."

While there has been a near unanimity of support for an inclusive ENDA among gay rights groups, some notable queer pundits have strongly defended Frank's strategy, noting that the transgender issue is simply too foreign for most members of Congress to feel comfortable with. [AmericaBlog's John Aravosis](#) wrote on [Salon](#), "It's only been five months since transgendered people were included in ENDA for the first time," adding that ENDA without gender identity is important because it "would empower our community, demoralize our opposition, and forever place us among the ranks of the great civil rights communities of the past and present... I'll take that half-a-loaf any day."

Aravosis has also brought up long-simmering tensions between the "LGB" and "T" parts of the community equation, a debate that has been firing up gay-themed websites across the Internet. In [an October 3 post](#) on his own site, Aravosis wrote, "I don't think the T was added because there was a groundswell of demand in the gay community that we add T to LGB. I think it happened through pressure, organizational fiat, shame, and osmosis."

Aravosis is not alone. "I'm also not convinced that homosexuality and transsexuality are the same thing, and I really don't think there is such a thing as 'the LGBT community,'" [wrote Rex Wockner](#), a gay columnist, while former *Washington Blade* editor Chris Crain took on Foreman's claims that there is an overwhelming consensus that excluding gender rights should be a legislative deal-breaker. "He knows very well that there is a great debate raging among GLB's about which strategy to adopt." And longtime lesbian activist Robin Tyler wrote to Aravosis to point out that some of her transgender friends who legally married "did not sacrifice their legal rights on the alter of political correctness to give up the State and Federal benefits of marriage. And yet, with regard to ENDA, the lesbian and gay community is expected to do so, leaving millions and millions of us in the majority of States, once again, unprotected."

Wayne Besen, a former HRC spokesman, sees things differently. "There is nothing more that I want than ENDA passed," he said. "I am willing to make a sacrifice--it's an easy one to make.... I have trouble with the argument that equal rights is just for me. It's not. It's for everybody. I think we can do better."