



Birth Beyond the Binary

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[AIMS Journal, 2019, Vol 31, No 2](#)

By AJ Silver



Before we start, we must be clear that this is not trauma top trumps. It isn't who is the most at risk, or who is the most deserving of our time, effort and inclusion. Inclusion isn't pie, there is always enough to go around if we make the choice to be inclusive.

What is non binary?

Non binary is not always the lack of gender. It doesn't necessarily look like assigned female at birth (AFAB) people who are wearing a suit from the men's section. It's more complicated than that. Non binary in general, although not always, is the absence of associating fully with the world's assumptions of your personality, likes and dislikes, abilities, strengths and weaknesses based on your assigned at birth gender. Assigned at birth gender refers to whether your genitals look like they are male or female, or perhaps not one or the other. It is also expected that our genital appearance will match our chromosomes, but this is not the case for many people.

Some non binary people will go by gender queer, demi gender, agender, bigender and more. Some will identify as trans. The most basic explanation of trans is that your assigned at birth gender doesn't fit who you are, who you present as. Other non binary people will identify as femme (feminine), others masc (masculine). The standing theme is that we do not fit into the world's cis-heteronormative expectations.

Non binary can be an AFAB person in dresses with long hair, it can be AMAB (assigned male at birth) people with a beard, suits and eyeliner. There is no one “look” or dress code. They may change their clothing style from day to day, or like me, they have found clothes that feel comfortable and they wear the same clothes day in day out to avoid dysphoria. Non binary people don’t always present as androgynous people, although they might.

What is Dysphoria?

Dysphoria is when a person experiences distress or discomfort with the skin they are in, as this does not reflect their gender identity. This may be a non binary person wishing their chest or breasts were bigger or smaller, or a trans woman wanting to have a more “feminine” frame, walk or voice. These experiences vary dramatically from person to person. Not all trans and non binary people feel dysphoria at all, and many have no desire to change the body they were born in with surgery, hormones or anything else. Others feel that it is imperative to their life that they change their body’s appearance. There is no wrong or right way to be trans or non binary. For many people, being referred to by the wrong pronouns can also be very upsetting and trigger dysphoria.

Something that triggers one person’s dysphoria may not trigger another’s. It’s important to remember that gender euphoria also exists! “Follow the euphoria” can be a valid and safe way to explore gender expression in order to find an expression that fits, or more closely resembles your identity.

Some argue that gender roles in society have a lot of sway in a person’s dysphoria and identification. In other words, boys can wear dresses, and like makeup and unicorns, and girls can be scientists, roll around in the mud and be physically stronger than boys. But by removing or dismantling the world’s perceptions of femininity and masculinity will we remove dysphoria and remove the need for people to “change” or “transition” from one gender to another? Unfortunately not. Being a “tom boy” or a “butch woman” doesn’t mean you want to transition to being a boy or a man, want to have any surgeries or want to use male pronouns. Similarly, being a feminine boy, loving dollies and dressing up as princesses doesn’t mean that all of these “girly girl boys” want to, or will grow up to be trans.

It is interesting to consider what the situation would be if in society we HAD equality. If every opportunity and availability that is afforded to AMAB persons were available and given to AFAB people (and vice versa) would we still have “tomboys” and “girly girls”? Would people still transition? Would non binary still be a “thing”? Maybe – but for the time being, like it or not, we live in a hugely gendered society that constantly insists we are pigeon holed into abilities, likes, dress, jobs, interests and personality traits based purely on our genitals.

Being non binary in the “maternity” system

There are very few studies of any queer people birthing, and there is no research into gender queer or trans peoples’ birthing experiences that pre-dates 2013. The research that there is focuses more on lesbians experiencing pregnancy and the evidence does show that queer people may be at greater risk of

perinatal mental health difficulties¹.

However, there has been no follow up to these findings in the UK. Given that the percentage of lesbian couples registering birth has been rising by around 15-20% (these stats also do not include single parents²) year on year over the last decade, we can make an educated assumption that other queer people are also registering more babies year on year.

The birthing and parenting world is difficult for non binary people in a number of ways. The obvious and most prevalent are the ways the world constantly pushes us into boxes: Male or Female. Mum or Dad. Non binary people may choose to go by a different name, just as some grandparents are Nanny or Grandma, Pops or Granddad. Bubba seems to be fairly popular choice in the non binary world, as it's gender neutral, and super cute! The needs and wants of the non binary community aren't far removed from the wants and needs of the trans community who birth and feed their babies. AIMS has already covered a lot of this in their "He's not the mother" article³, but I will discuss some additional issues below.

Feedback from parents is encouraging health care providers and birth workers to move away from calling new parents "mum and dad." The fear is that it's dehumanising to anyone – straight, cis, trans, non binary people - to lose their identity as soon as they've brought a baby into the world, to stop being who they are and to simply be referred to by their relationship to their child. This is a fantastic example of how inclusive language doesn't just serve trans or non binary people - it can be viewed positively for everyone who births in society. It ensures recognition for the overwhelming majority, so let's take another half step to include even more people.

How can we be more inclusive in the Maternity system?

So, the first and arguably the easiest step is language. Can we be inclusive without language?

Misgendering someone is using the wrong pronouns (using the person's assigned at birth gender's pronouns: calling a trans woman he / him for example), or using their "dead name" (the name they were given at birth, if they have decided to no longer use it, rather than their chosen name, if they have one). The easiest way to explain how this feels, or what it does for the relationships that health care providers and service users are trying to forge, is that it destroys all confidence that the non binary person has in the person providing the care for them. If your health care provider kept getting your name or date of birth wrong, or calling you "Mr So and So" if you identify as a woman, would you feel confident that they understood you, your medical history or that they had prepared for the meeting?

The journal of adolescent health in 2018 published its findings that using a person's chosen name and pronouns may cut the risk of suicide by a massive 65%⁴. Given that the Stonewall research has uncovered that a staggering 89% of trans people have considered suicide, and that 27% have attempted suicide, using their chosen names and pronouns isn't just polite, it could be a matter of life and death.

Removing the word "Woman" is not an option.

Pleas for inclusion are often met with the objection that it is erasing the overwhelming majority of those who birth, the mothers, the women. This thought process needs some examining here.

The example I always fall back on is that ramps on public buildings take nothing away from the able bodied people that want to access them, but it makes it possible for disabled persons to access them. Cis-heteronormativity will not disappear overnight because we include language, tick boxes and space in our hearts and minds to accept that not all who birth are women or mothers.

The wider LGBT+ community accepts and acknowledges that removing any and all references to women is in no one's interest. If we remove language that protects any person that births their baby we risk the principle of bodily autonomy being diluted. If we give equal rights to the non-birthing parent, we could risk giving the right to make decisions about our own bodies to other people such as fathers, known and unknown sperm donors and partners of the women and birthing people, rather than, as it should be, entirely the choice and decision of the pregnant woman or person. This needs further collective work, thought and time to ensure that no one is left out, no one's rights are diluted, and that we are all included in being able to access these basic human rights surrounding birth and pregnancy.

Issues that trans and non binary people experience around maternity care

One of the issues faced by Trans and non binary parents is their legal right to be known as the father (for trans men) and the mother (for trans women). The current law of the Human Fertilisation and Embryology Act 2008⁵ states that whoever gives birth to the baby is legally the mother. However, if the birthing parent is a trans man he may want to be known as the baby's father. If the child is adopted by a lesbian couple, they can amend the birth certificate, and both be listed as parents (parent 1 and parent 2), and gay men can apply for a court order to then adopt their child. This leaves a hole for trans and non binary people who, in a legal document, are unable to be referred to as, or to be recognised for, their true relationship to the child. Even if the person birthing is legally male (have obtained a Gender Recognition Certificate, or GRC), they are currently recorded as being the mother.

There is currently an ongoing legal battle in the UK⁶ for a trans man who birthed his baby to be listed as the father rather than the mother. The case could be a landmark victory for the LGBT+ community and open the doors for gender queer people to be recorded on official documents in accordance to their identities. If it is rejected by the court, the rights of LGBT+ persons, especially when it comes to gender and identity, will be rejected by officials once more. This is yet another blow to our freedom and rights to be who we are born to be.

The baby of a trans man has no legal protection to be breastfed in public. The Equality Act 2010⁷ says that it is discrimination to treat a woman unfavourably because she is breastfeeding. Limiting the protection to just women, means trans men - who are legally men - are excluded from the protection that the Act offers. This therefore risks the baby's right to being given breastmilk, and, of course, risks the person breast or chest feeding that baby to be discriminated against.

Similarly, a trans man is not clearly protected by the Equality Act 2010 for aspects of the Act which only refer to women. A trans man therefore may have no protection, for example, against dismissal or unfair treatment based on pregnancy, nor rights regarding maternity pay, nor maternity leave. This situation has not yet been tested in court.

This goes some way to explain why many gender queer people will default to their assigned at birth gender, or remain closeted (or not “out”) when birthing and parenting as there is often no other option for them. They are better protected as a woman, in a legal sense, despite the psychological distress that this may cause

There is no universal legal proof in the UK, or any document that a non-binary person can acquire to “prove” their gender, or lack thereof. Some countries (such as Canada, Portugal, and certain states in America) are emerging with a “third option” on driving licence, passports and birth certificates and so on, but the UK is lagging behind.

Documents have been issued in these countries as early as 2003 with an “X” or a “U” to indicate the bearer is neither “F” (female) or “M” (male)⁸.

There are small leaps being made across the world for the right for people to be legally neither male nor female, however, we are often forgotten or erased in the battle for these small victories.

Having health care providers and birth workers that acknowledge our gender is an essential link in the chain to improving the outcomes for parents who do not fit into the world’s cis-heteronormative expectations.

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