An Investigation into Understandings of Gender Identity Claims and the Implications of Their Acceptance for Egalitarian Principles

James Dyer

PhD

University of York

Philosophy

August 2024

Abstract

This thesis critically examines the concept of gender identity, particularly focusing on the implications of its acceptance for egalitarian principles. Through a thorough analysis of historical, medical, and philosophical paradigms, it interrogates the coherence and viability of gender identity claims. The research explores two predominant paradigms: the Inherent Gender Identity Paradigm (IGIP), which posits gender identity as an intrinsic facet of the human condition, likely biologically ingrained, with the capacity to develop a gender identity being inherent in humans, and the Social Expectation Gender Identity Paradigm (SEGIP), which views gender identity as a product of societal roles and expectations, holding that in the absence of gendered norms governing different roles and expectations on the sexes, gender identities would be unlikely to develop. The thesis employs Ian Hacking's framework of historical ontology to trace the evolution of transgenderism, from early medical classifications of transvestism to contemporary understandings framed within gender dysphoria and gender incongruence.

Furthermore, the thesis scrutinises the transgender movement, its development, and its interaction with dissidents, emphasising the tensions between identity claims and egalitarianism. The thesis also explores the broader ethical and societal consequences of accepting gender identity claims, particularly in the contexts of competitive sports, criminal justice, and healthcare. By comparing transgender identity with other identity claims, such as transracialism and transableism, the research highlights inconsistencies in societal and philosophical responses to these identities.

Ultimately, the thesis argues that while gender identity claims may align with current societal values, they often challenge the foundational principles of egalitarianism. As such, the thesis is supportive of a reassessment of current approaches to gender identity, emphasising the necessity of an evidence-based, nuanced perspective that acknowledges the complexity of human experience without sacrificing scientific rigour or social justice. It underscores the importance of intellectual honesty, critical thinking, and open dialogue in navigating the complex terrain of gender identity, advocating for a more just and equitable society for all, regardless of sex or gender identity.

Acknowledgements

I would like to express my sincere gratitude to my supervisor, Professor Mary Leng, for her consistent support and guidance; without her willing encouragement, this thesis would have taken significantly more time to come to fruition. I would also like to thank Hannah Carnegy-Arbuthnott for the remarks and ideas she provided in her role as TAP member.

My heartfelt thanks go to my friends, Jamie, Sal, and Paddy, for enduring years of being asked to read and discuss my ideas, and for doing so with so much grace. Twenty plus years of friendship may have meant it was obligatory for you to listen to me, but your reflections, and particularly your humour, have been invaluable to me.

I am profoundly grateful to my family, especially my parents, Martin and Anne-Marie, my sister, Rachael, and my grandparents, Col and Rita, for their ceaseless and unrelenting support in all my endeavours; I can hardly imagine a more amazing family, and am exceptionally grateful that I don't have to. I would also like to extend my sincere thanks to my mother-in-law, Helen, and my sister-in-law, Gemma. Your support has been greatly appreciated, and I am thankful to have you in my life.

Finally, I owe the deepest thanks to my wife, Leah, and my children, Evelyn and Matilda, for allowing me the time necessary to write this thesis. Your love, patience, and understanding have given me the strength and purpose to see this journey through. The joy you bring to my life is what makes every effort worthwhile, and this accomplishment is as much a testament to your support as it is to my work.

Author’s Declaration

I declare that this thesis is a presentation of original work and I am the sole author. This work has not previously been presented for a degree or other qualification at this University or elsewhere. All sources are acknowledged as references.

Table of Contents

Abstract 2
Acknowledgements 3
Author's Declaration 4
Table of Contents 5
Chapter 1 – Introduction 7
Chapter 2 – Making Up Transgender People 19
2.1 - Is It Real? 19
2.2 - Origin and Development of Transgenderism 21
2.3 - Is Gender Dysphoria Real? 27
2.3.1 Is the notion of 'gender incongruence' coherent? 31
2.4 - What Does Gender Dysphoria Feel Like? 39
2.5 - Chapter Conclusion 40
Chapter 3 – Paradigms of Gender Identity 42
3.1 - Accounts of Inherent Gender Identity 44
3.2 - Accounts of Gender Identity Derived from Social Expectations 56
3.3 - A Psychology-Based Account of Gender Identity, Derived from Social Expectations 61
3.4 - Is a Meaningful Account of Gender Identity Which is Compatible With Egalitarian Principles Possible Under Either Paradigm of Gender Identity? 67
3.5 - Chapter Conclusion 70
Chapter 4 - The Transgender Movement and Its Dissidents 71
4.1 - Essentials 72
4.2 - Accidents 75
4.2.1 - Lili Elbe 75
4.2.2 - Christine Jorgensen 76
4.2.3 - Caitlyn Jenner 77
4.2.4 - Laurel Hubbard 78
4.3 - Institutions 79
4.4 - Dissidents 84
4.4.1 - Kenneth Zucker 85
4.4.2 - Rebecca Tuvel 88
4.4.3 - J. K. Rowling 93
4.5 - Accidents, Essentials and Institutions: The Evolution of the Transgender Movement 97

4.6 - Chapter Conclusion 98
Chapter 5 - Privileged Identity Claims 99
Part 1 - Why the Transracial and Transgender Identity Comparison Holds Up 99
5.1 - Identifying Disanalogies 100
5.2 - Tuvel's four arguments 109
5.2.1 - The 'experience' objection 109
5.2.2 - The 'social understanding' objection 112
5.2.3 - The 'racial harm' objection 122
5.2.4 - The 'privilege' objection 124
Part 2 - In Defence of Transableism 133
5.3 - Chapter Conclusion 148
Chapter 6 - Consequences of Accepting Gender Identity Claims 149
6.1 - Competitive Sport 150
6.1.1 - Transgender Athletes; transgender men 153
6.1.2 - Transgender Athletes; transgender women 156
6.2 - Criminal Justice 162
6.2.1 - Transgender Prisoners; transgender men 164
6.2.2 - Transgender Prisoners; transgender women 166
6.3 - Medicine (Cass Review of NHS Practice) 173
6.3.1 - NHS Stakeholders; Gender-Related Service Users 174
6.3.2 - NHS; The Institution 183
6.4 - Chapter Conclusion 187
Chapter 7 - Conclusions 189
Bibliography 193

Chapter 1 – Introduction

Gender identity, as defined by the World Health Organisation (WHO) and the World Professional Association for Transgender Health (WPATH), 'refers to a person's deeply felt, internal and individual experience of gender, which may or may not correspond to the person's physiology or designated sex at birth.' (W.H.O. 2023) Gender, as defined by the W.H.O., 'refers to the characteristics of women, men, girls and boys that are socially constructed, [including] norms, behaviours and roles associated with being a woman, man, girl or boy' (W.H.O., 2023). Transgender people are those individuals who experience incongruence between their natal sex and their gender identity, which frequently results in a persistent sense of unease referred to as gender dysphoria.

Though the World Health Organisation has been able to define gender identity and this definition is, for the most part, readily accepted, what it means to be a boy, man, girl or woman distinct from reference to sex, and how an individual may come to have a sense that they are a boy, man, girl or woman remains unclear. It should be noted that, despite the W.H.O.'s definition of gender, 'boy', 'man', 'girl' and 'woman' are not the only genders an individual may (believe they) sense they are. NHS Brighton and Sussex University Hospitals' Gender and Sexual Diversity Briefing lists six possible genders (including 'man', 'woman' and 'transgender')[1]. According to healthline.com, 'the fastest growing health information site [which] over 150 million people [use] each month' (Healthline, 2022) there are, '68 terms that describe gender identity and expression.' (Healthline, 2022); according to Dr Allarakha, writing for MedicineNet, in addition to man and woman, 'there are 72 other genders.' (Allarakha, 2022)

For the purpose of this thesis, and in the interests of efficiency, only three gender identities will typically be referred to, these being 'man', 'woman' and 'neither (man nor woman)'. 'Boy' and 'girl' will only be used when specifically referring to the gender identities of children; at all other times, it will be left to readers' understanding that 'man' incorporates 'boy', and 'woman' incorporates 'girl'. 'Transgender man/men (sometimes shortened to trans man/men) will refer to those individuals who are natally female but who identify as men, and, similarly, 'transgender woman/women' (sometimes shortened to trans woman/women) will refer to those individuals who are natally male but who identify as women. Natal(ly) male/female will be used, rather than assigned/designated male/female

[1] The NHS' Royal Stoke Hospital displayed a welcome banner in 2024 which displayed flags for 21 sexualities and gender identities; however, as far as I can discover, recognition of this number is not reflected in any NHS documentation.

at birth, given that sex can be, and frequently is, determined before birth, and the foetus is often referred to as a (baby) boy or a girl from this point onwards; it has also been argued that 'assigned/designated male/female at birth' is inappropriate outside of medical cases of genital ambiguity.[2] The term 'natal man/men' will refer to natal males who identify as men, and also gender critical natal males (those for whom the term 'man' denotes 'adult male'); the term 'natal woman/women' will refer to natal females who identify as women, and also gender critical natal females (those for whom the term 'woman' denotes 'adult female'). It is not uncommon for natal men and natal women to be labelled cis men and cis women, respectively; I have elected not to use this language as it is often contested. When the sources used throughout this thesis deviate from the terminology detailed above, their meaning will be made explicit.

When combined with the W.H.O.'s definition of gender, the W.H.O.'s definition of gender identity amounts to, a person's deeply felt, internal and individual sense of whether they have the socially constructed characteristics of men or of women, including the norms, behaviours and roles associated with being a man or a woman (W.H.O., 2023) Given the variability of socially constructed characteristics of men and women across time and geographical regions, often influenced by historic and/or present misogynistic or misandrist attitudes, it is plausible that an individual's gender identity may stem from their deeply felt, internal and individual sense of alignment with or deviation from problematic stereotypes associated with men or women. This is not to say that this is necessarily the full extent of what individuals understand when they consider their gender identity, or the full extent of what they mean when they refer to it. However, if an individual's gender identity is influenced by their perception that men and women are not equally valued and respected, or that certain attitudes and behaviours are more acceptable for one gender over the other, it becomes evident that social acceptance and recognition of their gender identity may contradict the egalitarian principles that modern-day societies, including Britain and the USA, claim to uphold.

Egalitarianism, as it will be understood here, is a philosophy which advocates for a society where all individuals are treated as equals, with the same rights, opportunities, and social status. Egalitarian principles, 'rest on a background idea that all human persons are equal in fundamental worth or moral

[2] 'Assignment" seems to originate in the context of medical literature on individuals with intersex variations … The idea of assigned sex [arose] in discussions of transgender individuals in the 1960s, when American physicians adopted the term "sex reassignment" to describe surgical procedures for transgender patients. … The use of assigning language in this context may have been part of a larger debate in the medical community … about whether transgender identity was a type of intersex variation resulting from biological causes that should be treated with surgery or a psychological malady resulting from early childhood development that should be treated with psychotherapy.' (Clarke 2022, pp. 1835-1836)

status' (Arneson, 2013); they therefore should be granted equal consideration and respect. Two key egalitarian principles that are particularly relevant here are:

- Equality of Opportunity:

> The general idea of equality of opportunity is that [positions] should be open to all applicants, with applicants selected by merit. The merits of the applications for a position should track the degree to which the applicant's [selection] would boost the fulfilment of the morally innocent purposes of the association. (Arneson, 2013)

This principle emphasises the importance of ensuring that everyone has a fair chance to succeed and reach their full potential, regardless of their background or social circumstances. This often involves addressing systemic barriers and inequalities that may limit certain groups' access to education, employment, healthcare, and other essential resources.

- Social Equality: The, 'ideal is that citizens might be unequal in wealth, resources, welfare, and other dimensions of their condition, yet be equal in status in a way that enables all to relate as equals.' (Arneson, 2013) This principle focuses on creating a society where everyone is treated with dignity and respect, regardless of their social background or individual characteristics. This could involve challenging discriminatory attitudes and practices, promoting inclusivity, and fostering a sense of belonging for all members of society.

If gender identity is potentially rooted in the existence of unequal and stereotyped gender roles and norms, then promotion of the idea that gender identity is an important part of people's nature might indeed clash with egalitarian ideals. This conflict arises because such promotion could perpetuate the valuing of individuals based on arbitrary characteristics The distinction between arbitrary and non-arbitrary characteristics is important for understanding the egalitarian standpoint that some social categories are irrelevant to evaluating individuals. A non-arbitrary characteristic is one that is based on properties or capacities that are intrinsically relevant to the specific context of evaluation or treatment; they are linked to a person's merit, capabilities or contributions to (a particular area of) society. For example, in assessing candidates for a philosophy professorship, their knowledge of philosophy, research output, and pedagogical skills are non-arbitrary characteristics. These qualities directly bear on their ability to fulfil the demands of the role. In contrast, an arbitrary characteristic lacks intrinsic relevance to the matter at hand. Judging a philosophy candidate based on their hair

colour or their preferred style of music would be arbitrary, as these traits have no bearing on their philosophical or teaching abilities.

Gender identity presents a significant challenge from an egalitarian perspective precisely because the distinctions it relies upon appear to be largely arbitrary in many crucial social contexts, meaning assessing an individual on their gender identity is problematic. This point is well articulated by Anca Gheaus in her paper, *Feminism Without "gender identity":*

> [Some gender] norms demand different treatment of individuals based on their (perceived) male or female sexual characteristics, and entail that there is a particular way of being a good female human being … Gender norms say, for example, that women should be mostly caring, lacking assertiveness, nurturing, capable and willing to put other people's needs first; some of these norms shape value-loaded expectations, conscious or not, that, for instance, women lack leadership qualities and public ambitions, need more protection than men, put more effort into self-grooming than men etc. The expectations are value-loaded – and hence not mere empirical generalisations – because failure to conform to them attracts criticism. (Gheaus 2023, pp.37 - 38)

From an egalitarian standpoint, gender norms and the distinctions they perpetuate are largely arbitrary when considering an individual's merit, or their fundamental human worth. They do not inherently determine their intellectual capabilities, their moral character, or their ability to contribute to society; nor, as their natal sex might, do they determine their physical capabilities.

Egalitarianism seeks to avoid valuing people based on arbitrary characteristics for several reasons including, but not limited to:

- Equal Fundamental Human Worth: 'Egalitarian justice doctrines rest on the fundamental premise that all persons have the same fundamental worth and dignity, which commands respect.' (Arneson, 2013) Valuing people based on arbitrary traits undermines this fundamental principle and leads to discrimination and injustice.
- Consistent Justice**:** Justice demands that we treat like cases alike. Discriminating against individuals based on arbitrary characteristics violates this principle of consistency. Indeed, egalitarian principles require 'criminal justice rules should be applied even-handedly to all.' (Arneson, 2013) This commitment to impartiality requires that we strive to apply the same standards and expectations to all individuals, regardless of their arbitrary traits.

- Limitation of Potential: When individuals are judged based on arbitrary characteristics, rather than merit, their potential is limited, and society as a whole suffers from the loss of their contributions.
- Perpetuation of Inequality: Valuing arbitrary characteristics perpetuates existing social hierarchies and inequalities, preventing the creation of a truly just and equitable society.

If it is the case that problematic stereotypes and norms cannot be completely divorced from the characteristics of men and women that are socially constructed, then the very concept of gender identity, rather than just individuals' perception of their own gender identity, must oppose egalitarian principles. By recognising and challenging the influence of arbitrary characteristics on our perceptions and social structures, we can work towards a society that values all individuals equally and provides everyone with the opportunity to flourish.

It is difficult to effectively investigate gender identity in people whose natal sex and gender identity are congruent. This is because it is possible that people who fall under this description, namely natal men and natal women, either do not have what they would describe as a sense of being a man/woman, or they confuse their sense that their gender is that of a man/woman with their understanding of what makes their natal sex male/female. Transgender people, in contrast, experience gender incongruence, meaning they necessarily have a sense of their gender being that of a man/woman and are unlikely to confuse this with their understanding of their natal sex. Transgender people experiencing the world this way makes transgenderism[3] the ideal vehicle for examination of the concept of gender identity: If transgender identities hold up as a meaningful concept, then gender identity necessarily holds up as a meaningful concept; if the social and legal recognition of transgender identities can be compatible with egalitarian principles, then gender identity is not an inherently problematic concept.

In order to better understand the state of being transgender, and whether legal and social recognition of transgender identities is compatible with egalitarian principles, I will consider the consequences of two alternative hypotheses about gender identity. According to the first, individuals have (a likely biological capacity to develop) a gender identity as part of the human condition, and have an intrinsic ability to sense whether they are a man, woman, or neither. This paradigm involves a definition of gender which contradicts that proposed by the W.H.O.; under such a paradigm, gender cannot be entirely socially constructed and must be at least partly inherent to the human condition. According

[3] I have elected to use the word *transgenderism* to, 'refer to the phenomenon of transgender people (i.e., [their] existence and [their] experiences …), or the state of being transgender' (Serano 2015) for much the same reasons transgender author and activist Julia Serano uses the term (See 4.4.2).

to the second paradigm, gender is defined much as it is by the W.H.O., and an individual's sense of gender identity develops as a result of societal influences such that in societies that lack highly differentiated gendered norms we would not expect to see the development of gendered identities.

The first model or paradigm entails that gender identity is a matter of brute fact; that the state of being a man/woman has criteria which an individual can sense they meet, regardless of said individual's genetics and anatomy, and regardless of the culture or time period in which that individual resides. The criterion for being a man/woman could possibly be a feeling that all those who are men/women share; a person can sense whether they are a man or a woman because they, quite literally, feel like a man or a woman. In this paradigm what it means for an individual to be a man/woman is simply that the individual possesses the sense that they are such. For the sake of clarity and simplicity, throughout my thesis I will refer to this paradigm as the Inherent Gender Identity Paradigm (IGIP).

The second paradigm entails that what it means to be a man/woman is dictated by societal expectations of men and women, and, consequently, will be directly affected by the social climate in which individuals live. Unlike the first paradigm, it allows that one individual's sense that they are a woman may be completely dissimilar to another individual's sense that they are a woman. In such a case, each individual would sense that they meet the criteria for being a woman however, they would differ on what they believe (some of) those criteria are. It is possible that in some cases, one individual's criteria for being a woman will directly contradict another individual's. I will refer to this paradigm as the Social Expectation Gender Identity Paradigm (SEGIP).

I have elected to consider these two particular paradigms of gender identity because accounts of gender identity in the literature cluster around them, irrespective of whether they are advanced by transgender people or natal men/women. As of yet, no account of gender identity (which I have encountered) is completely left out of this dichotomy; therefore, consideration of these two paradigms of gender identity seems an appropriate means of examining the meaning of transgenderism, and the compatibility of the social and legal recognition of transgender identities with egalitarian principles.

In order to determine which of the two paradigms of gender identity is most viable, the paradigms' coherence with the experiences of transgender people will be explored. The first step in achieving this, which chapter two is dedicated to, is providing an account of how transgender people came to be.

In chapter two, I embark upon an exploration of the historical and conceptual development of transgenderism, aiming to establish a clear understanding of how gender identity has been perceived,

categorised, and treated over time. The chapter sets out to unravel the intricate evolution of transgenderism within medical, societal, and institutional contexts, employing a methodical approach that integrates historical analysis with philosophical critique. The initial section of the chapter delves into the foundational question of whether gender identity claims are meaningful and, if so, whether they are compatible with egalitarian principles. It begins with a thorough investigation into how gender identity has been conceptualised historically and how these conceptualisations have influenced societal and medical understandings.

Utilising Ian Hacking's framework of historical ontology, the chapter traces the development of the category "transgender" over time. This framework, which considers the historical processes that bring into being different kinds of people, is pivotal in understanding how classifications of transgender individuals have emerged and evolved. The chapter examines key historical moments and shifts in medical classification, from early notions of transvestism and sex deviancy to the more recent concepts of gender identity disorder (GID), gender dysphoria, and gender incongruence. This historical tracing highlights the dynamic nature of these classifications and their impact on the lived experiences of transgender individuals. The chapter then critically evaluates the diagnostic criteria and definitions provided by authoritative medical texts such as the Diagnostic and Statistical Manual of Mental Disorders (DSM) and the International Classification of Diseases (ICD). By comparing the definitions and criteria across different editions of these texts, the chapter illustrates the shifts in medical understanding and the implications of these shifts for transgender individuals. This comparison is crucial in demonstrating the progress made in medical and societal recognition of transgender identities, while also pointing out the persistent ambiguities and challenges in these definitions.

In addressing the reality of gender dysphoria, the chapter engages with philosophical debates about its authenticity as a disorder versus a product of specific social circumstances. This critical examination questions whether gender dysphoria and gender incongruence are genuine medical conditions and/or socially constructed ways of expressing distress. By analysing the interventions used to treat gender dysphoria, the chapter assesses the viability of the different aforementioned gender identity paradigms—inherent versus socially constructed—and their coherence. The chapter also emphasises the subjective experiences of individuals with gender dysphoria, focusing on the persistent discomfort and incongruence they feel with their natal sex. This discussion highlights the challenges in fully comprehending these experiences due to the lack of common linguistic and experiential frameworks.

Having demonstrated how transgender identities may be understood and classified, while also identifying ongoing challenges, the chapter lays a robust foundation for the in-depth critical evaluation of the different gender-identity paradigms which will be explored in chapter 3. Chapter 3 critically

investigates the paradigms of gender identity, with a particular focus on their compatibility with egalitarian principles. The chapter aims to dissect the complexities and implications of defining and experiencing gender identity through different lenses, ultimately assessing whether these paradigms can coexist with a commitment to egalitarian values, such as equality, fairness, and justice.

Chapter 3 begins by addressing the fundamental question of what it means to feel like a particular gender, challenging both biological and socially constructed aspects of gender identity. It scrutinises the inherent gender identity paradigm (IGIP), which posits that gender identity is a subconscious or biologically hardwired sense of self. Key figures such as Julia Serano and Sophie Grace Chappell provide accounts that support this paradigm, suggesting that gender identity is an intrinsic part of an individual's brain structure or self-conception. However, the chapter critically evaluates these claims, highlighting significant theoretical and empirical challenges that question the validity and universality of IGIP. This analysis reveals the difficulties in providing a meaningful and plausible explanation of gender identity within this framework, highlighting the pseudoscientific elements in these claims.

The chapter then explores the social expectation gender identity paradigm (SEGIP), which links gender identity to societal roles and expectations. By examining the works of philosophers such as Charlotte Witt and Sally Haslanger, who define womanhood based on social roles and subordination, the chapter illustrates how gender identity might be shaped by external perceptions and societal norms. This section emphasises the inclusion issues inherent in SEGIP, particularly for individuals who do not fit neatly into socially recognised categories of gender. Katherine Jenkins' psychology-based approach attempts to bridge these gaps by proposing that gender identity is formed through internalised social norms, creating a 'map' to navigate gendered experiences. However, the chapter points out significant ambiguities in Jenkins' approach, questioning the rationality and coherence of gender identities formed under such frameworks.

Furthermore, the chapter critically examines whether a meaningful account of gender identity that is compatible with egalitarian principles is possible under either paradigm. It assesses the potential of IGIP to provide a non-sexist explanation of gender identity, acknowledging that if such a concept were both meaningful and plausible, it could theoretically align with egalitarian values. However, it highlights the implausibility of describing an inherent sense of gender identity in a way that is both coherent and non-discriminatory. Similarly, the chapter evaluates SEGIP's compatibility with egalitarian values, emphasising that many social norms or expectations tied to gender identity are inherently sexist. By highlighting examples such as societal expectations around appearance and behaviour, the chapter argues that SEGIP cannot be reconciled with a commitment to dismantling gender-based stereotypes and achieving true gender equality.

Having explored some key ways of understanding gender identity claims through an in-depth analysis of the paradigms in Chapter 3, it becomes evident that these paradigms provide distinct and sometimes mutually exclusive frameworks for understanding gender identity. This nuanced understanding sets the stage for examining the real-world implications and societal responses to these diverse claims. Chapter 4 will build on this foundation by investigating how the transgender movement, which comprises individuals who accept the different, often conflicting paradigms of gender identity, has developed and impacted various sectors of society.

Chapter 4 embarks on a critical examination of the transgender movement, tracing its evolution from a predominantly medical discourse to a significant social force. The chapter begins by addressing the essentials that have contributed to the establishment and acceptance of the transgender movement within society. Drawing on Ian Hacking's framework, which posits that successful movements require “accidents”, essentials, and institutions, this chapter identifies three overlapping essential ingredients that have ensured the firm establishment of the transgender movement. These include the public's fascination with what may be considered deviant sexuality, the societal commitment to individual liberty, and the evolving perception of what constitutes harm to an individual's rights and freedoms. The chapter then delves into specific "accidents" and events that have propelled the transgender movement forward. Key figures such as Lili Elbe, Christine Jorgensen, Caitlyn Jenner, and Laurel Hubbard are examined for their contributions to the public understanding and acceptance of transgender identities. Their stories, which range from pioneering gender reassignment surgeries to high-profile media transitions, have each left a lasting impact on the social and/or medical landscapes regarding transgenderism.

Following this, the chapter explores the role of institutions in the development and consolidation of the transgender movement. It outlines the contributions of early sexologists and medical professionals, such as Magnus Hirschfeld and Harry Benjamin, and the establishment of organisations like the World Professional Association for Transgender Health (WPATH). The analysis highlights how these institutions have shifted from a cautious, evidence-based approach to a more gender-affirming stance, often influenced by advocacy groups such as Mermaids. This shift is contextualised within the broader societal changes that have embraced a far less clinical understanding of gender identity. Chapter 4 also scrutinises the contentious relationship between the transgender movement and its dissidents. It explores how individuals and professionals who question the coherence of gender identity claims or the methods of treatment are often met with significant personal and professional backlash. By examining cases such as psychologist Dr. Kenneth Zucker, philosopher Rebecca Tuvel, and

author J. K. Rowling, the chapter demonstrates the movement's efforts to silence criticism and maintain its narrative, sometimes at the expense of open dialogue and academic freedom.

It is interesting to observe that while the transgender movement has become a powerful force which claims to advocate for rights, freedoms, and inclusivity, not all identity claims are treated with the same acceptance and support. Chapter 5 delves into this complex dynamic by examining the societal and philosophical implications of privileged identity claims, focusing particularly on the contentious issues surrounding transracial and transgender identities, as well as the emerging topic of transableism.

Chapter 5 begins by addressing the significant differences in how society perceives and responds to various identity claims. Through a critical analysis of the arguments presented by scholars such as Tina Botts, Rebecca Tuvel, and Kris Sealey, it highlights the inconsistencies and challenges inherent in accepting certain identity transitions while rejecting others. This section explores the ethical concerns related to "masquerading" and the potential misuse of privilege, emphasising that the ability to transition - whether in terms of race or gender - might itself be an exercise of privilege. A significant portion of the chapter is dedicated to the controversial topic of transracialism. By comparing the debates surrounding transracial and transgender identities, it underscores the double standards often applied in these discussions. The analysis reveals that the opposition to transracial identities frequently mirrors the arguments used against transgender identities, thereby exposing inconsistencies in the logic employed by critics. Through this comparison, the chapter challenges readers to consider the ethical and philosophical implications of supporting one type of identity transition while dismissing another.

The chapter then extends its examination to transableism, an area that involves individuals who desire to transition from a non-disabled to a disabled state. This section scrutinises the ethical and practical concerns related to Body Integrity Dysphoria (BID), sometimes referred to in the literature as Body Integrity Identity Disorder (BIID), presenting arguments for and against the acceptance of transableism. By doing so, it broadens the scope of the discussion to include a wider range of identity claims, questioning the societal norms and biases that influence which identities are validated and which are not.

Throughout the chapter, the examination of identity claims is grounded in a critical assessment of the underlying principles and values that guide societal acceptance and rejection. It evaluates whether the reasons given for accepting transgender identities, such as the psychological distress caused by gender dysphoria, can logically extend to other forms of identity claims like transracialism and

transableism. By engaging with these debates, the chapter seeks to demonstrate the need for a consistent and equitable approach to all identity claims, urging a re-evaluation of what constitutes a valid and meaningful identity transition.

Having thoroughly examined how gender identity claims are understood, their coherence, and the fairness of these understandings in light of other identity claims, I move on to explore the real-world implications of accepting these claims as (largely) uncontroversially meaningful. Chapter 6 delves into the societal consequences of such acceptance, focusing on key areas where gender identity claims significantly impact policy and practice: competitive sports, criminal justice, and the National Health Service (NHS).

Chapter 6 begins by investigating the implications of gender identity claims in the realm of competitive sports. It critically examines the ongoing debate over whether athletes should compete based on their gender identity or their natal sex. By analysing physiological differences and their impact on fair competition, the chapter highlights the challenges and controversies surrounding the inclusion of transgender athletes in gender-segregated sports categories. Historical examples and current policies are scrutinised to provide a detailed understanding of how these decisions affect the integrity of sports and the opportunities available to natally female athletes.

Next, the chapter shifts its focus to the criminal justice system, exploring the significant safety and ethical concerns that arise when inmates are housed based on their gender identity rather than their natal sex. Through detailed case studies and statistical analysis, this section reveals the increased incidents of violence and the complex dynamics of maintaining security and fairness in prisons. The chapter argues that while the intention behind gender identity-based housing policies is to protect transgender individuals, the execution of these policies often results in unintended and severe consequences for all inmates involved.

The third section of the chapter examines the integration of gender identity into medical practice within the NHS. It critiques the shift from a holistic, evidence-based approach to a more medicalised and expedited pathway in gender-related services, as highlighted by the Cass Review. This analysis underscores the surge in referrals and the prescription of puberty blockers and hormone therapy without sufficient long-term data. The chapter raises concerns about patient safety, informed consent, and the overall quality of care, arguing for a return to more cautious and evidence-based medical practices.

The ultimate aim of this thesis in investigating the concept of gender identity and its implications for egalitarian principles is to demonstrate that even if we can understand gender identity in such a way that it aligns with our understanding of biology and human nature, it remains inherently divisive and contradictory to the egalitarian values we profess to uphold. Through a thorough examination of transgenderism, its medical and societal evolution, and its comparison with other identity claims such as transracial and transable identities, this thesis also aims to (go some small way to) show that it is possible that all identities which are not explicitly rooted in biological or objective facts cannot be interpreted in a meaningful way. Furthermore, the thesis argues that uptake of such identities often fosters ideological divides and suppresses rational discourse in a way that is incompatible with egalitarian values. By emphasising the necessity of evidence-based approaches and critical dialogue, the thesis promotes a re-evaluation of how identity claims are understood and accepted, advocating for a more equitable and just society.

Chapter 2 – Making Up Transgender People

2.1 - Is It Real?

To determine whether gender identity claims are meaningful, and, if so, whether they are compatible with egalitarian principles, it is first necessary to establish how individuals (claim to) experience gender identity and how it should be conceptualised. Unlike natal men and women, who may conflate gender identity with biological sex, or who may not consciously experience gender identity at all, transgender individuals consistently claim a gender identity that differs from their natal sex. Indeed, the very existence of transgender people is predicated on the concept of gender identity being meaningful, and there is a significant body of literature devoted to their experiences.

Given the inherent connection between gender identity and transgenderism, the investigation into gender identity will be carried out through an examination of the reported experiences of transgender people, particularly the feelings and behaviours which are motivated by their (claimed) sense of gender identity and its incongruence with their natal sex. Being inextricably linked as they are, gender identity should only be considered a meaningful concept, compatible with egalitarian principles if transgenderism can be demonstrated to be a meaningful state of being, compatible with egalitarian principles.

As seen in the previous chapter, medical institutions have been able to offer definitions which relate to the state of being transgender, and organisations, such as the charity *Stonewall*, claim, 'trans … people have always existed', (Stonewall, 2020) going so far as to give examples of transgender people who lived in mediaeval times. It is unclear, however, what the experience of being transgender entails, and whether it would be fair, or accurate, to ascribe the term *transgender* to people who lived (sometimes hundreds or even thousands of years) prior to the term's existence, particularly when what is meant by *transgender* has changed in living memory. The purpose of this chapter is to track the evolution of transgenderism within its medical history. The primary objectives are to establish contemporary understandings of what it means to be transgender, to delineate differences between current understandings and earlier conceptions, to assess whether transgenderism is a genuine phenomenon, and to explore whether insights gained from medical conceptions of transgenderism can inform the coherence of different paradigms of gender identity.

While the World Health Organisation, which publishes the *International Classification of Diseases* (*ICD*), does not currently regard it as such, historically, what we would now call transgenderism was classified as a mental health and behavioural disorder. Much of this investigation will explore the parallels between the state of being transgender and another (previously) recognised mental health disorder, multiple personality disorder (MPD); it will track the development of transgenderism from a consequence of gender identity disorder (GID) to a consequence of experiencing gender incongruence, which the *ICD* now classifies as a condition relation to sexual health. The investigation will include how the treatment of transgender people, both within and without medical fields, has changed over time.

In his paper, *Making Up People* and his book, *Rewriting the Soul*, Ian Hacking investigates the origin and development of categories of objects, specifically different kinds of people. As much of Hacking's work parallels the investigation I wish to carry out, I will be adopting his framework to trace the development of the category 'transgender' over time. This type of framework is referred to by Hacking (2002) as *historical ontology*:

> Suppose we want to talk in a quite general way about all manner of objects, and what makes it possible for them to come into being. It is convenient to group them together by talking about "What there is", or ontology. And if we are talking about the coming into being of possibilities, what is this if not historical? (Hacking 2002, p.583)

Hacking (2002) states that when Foucault referred to "the historical ontology of ourselves" in his paper, *What is Enlightenment?* he was saying that,

> This could be the name of a study… that was concerned with "truth" through which we constitute ourselves as objects of knowledge

Hacking continues,

> in thinking of constituting ourselves… we are concerned, in the end, with possible ways to be a person. (*ibid.* pp. 583 - 584)

Like Hacking, I am concerned with possible ways to be a person. In particular, I am interested in what it is to be a transgender person, how it came to be that an individual could be classified as that kind of person, and how that kind of person has changed over time.

2.2 - Origin and Development of Transgenderism

Though the term was coined earlier, the first use of *transgender* by the *Diagnostic and Statistical Manual of Mental Disorders* (*DSM*), which is published by the American Psychiatric Association (APA), was in *DSM-V*. This means that though we now recognise transgender as a classification of person, before 2013, when *DSM-V* defined *transgender* as, 'the broad spectrum of individuals who transiently or persistently identify with a gender different from their natal gender,' (American Psychiatric Association 2013, pp. 452-453) being transgender was not, medically speaking, a way to be a person.

Before 2013, the *DSM* makes no reference to either transgender people or gender dysphoria. GID, the precursor to gender dysphoria, first appeared as a diagnosis for adolescents and adults in *DSM-III-R* in 1987, (GID become a diagnosis for children in 1980 in *DSM-III*) and was the way to classify people before the emergence of the terms *gender dysphoria* and *transgender*. *DSM-III* defined adolescents and adults with issues that would now entail they were classified as transgender as *transsexuals*, and before *DSM-III* the only available diagnoses were *transvestite* or *sex deviant*. For context, the tenth edition of the *ICD*, which was published in 2015 and was in use until January 2022, did not use the term *transgender*. It categorised GIDs as a type of Mental and Behavioural Disorder; under GIDs, it lists *transsexualism*, which it defines as:

> A desire to live and be accepted as a member of the opposite sex, usually accompanied by a sense of discomfort with, or inappropriateness of, one's anatomic [(natal)] sex, and a wish to have surgery and hormonal treatment to make one's body as congruent as possible with one's preferred sex. (World Health Organisation, 2019)

The eleventh edition of the *ICD*, published in 2022, also does not use the term *transgender*, nor does it refer to GIDs. Rather, it lists *gender incongruence*, not as Mental and Behavioural Disorder, but as a Condition Related to Sexual Health. It describes gender incongruence of adolescence or adulthood as:

> Characterised by a marked and persistent incongruence between an individual´s experienced gender [(gender identity)] and the assigned [(natal)] sex, which often leads to a desire to 'transition', in order to live and be accepted as a person of the[ir] experienced gender [(gender identity)], through hormonal treatment, surgery or other health care services to make the individual´s body align, as much as desired and to the extent possible, with the[ir] experienced gender [(gender identity]). The diagnosis cannot be assigned prior the onset of puberty. Gender variant behaviour and preferences alone are not a basis for assigning the diagnosis. (World Health Organisation, 2022)

Gender incongruence of childhood is defined as:

> A marked incongruence between an individual's experienced/expressed gender [(gender identity/expressed gender)] and the assigned [(natal)] sex in pre-pubertal children. It includes a strong desire to be a different gender than the assigned [(natal)] sex; a strong dislike on the child's part of his or her sexual anatomy or anticipated secondary sex characteristics and/or a strong desire for the primary and/or anticipated secondary sex characteristics that match the experienced gender [(gender identity)]; and make-believe or fantasy play, toys, games, or activities and playmates that are typical of the experienced gender ([gender identity)] rather than the assigned [(natal)] sex. The incongruence must have persisted for about 2 years. Gender variant behaviour and preferences alone are not a basis for assigning the diagnosis. (World Health Organisation, 2022)

It is now generally understood that a transgender person is any individual who experiences Gender Incongruence, as defined by *ICD-11*.

As Hacking (2006) writes when describing what he calls 'making up people' (p.1), human sciences, including psychology, psychiatry and clinical medicine, create kinds of people that, in a certain sense, did not exist before. Hacking provides the following five-part framework to show how this occurred with multiple personality disorder:

> We have (a) a classification, multiple personality, associated with what at the time was called a 'disorder'. This kind of person is now a moving target. We have (b) the people, those I call 'unhappy', 'unable to cope', or whatever relatively non-judgmental term you might prefer. There are (c) institutions, which include clinics, annual meetings of the International

> Society for the Study of Multiple Personality and Dissociation, afternoon talkshows on television (Oprah Winfrey and Geraldo Rivera made a big thing of multiples, once upon a time), and weekend training programmes for therapists, some of which I attended. There is (d) the knowledge: not justified true belief, once the mantra of analytic philosophers, but knowledge in Popper's sense of conjectural knowledge, and, more specifically, the presumptions that are taught, disseminated and refined within the context of the institutions. Especially the basic facts (not 'so-called facts', or 'facts' in scare-quotes): for example, that multiple personality is caused by early sexual abuse, that 5 per cent of the population suffer from it, and the like. There is expert knowledge, the knowledge of the professionals, and there is popular knowledge, shared by a significant part of the interested population. There was a time, partly thanks to those talkshows and other media, when 'everyone' believed that multiple personality was caused by early sexual abuse. Finally, there are (e) the experts or professionals who generate (d) the knowledge, judge its validity, and use it in their practice. They work within (c) institutions that guarantee their legitimacy, authenticity and status as experts. They study, try to help, or advise on the control of (b) the people who are (a) classified as of a given kind. (Hacking 2006, p.2)

By amending Hacking's presentation, it is possible to demonstrate how this same framework may have possibly worked to create transgender people:

> We have (a) a classification, [transgender identity], associated with what at the time was called a 'disorder'. This kind of person is now a moving target, ['because our investigations interact with them, and change them. And since they are changed, they are not quite the same kind of person as before. The target has moved.' (Hacking 2006, p. 1)] We have (b) the people, those I call 'unhappy' or 'unable to cope', or whatever relatively non-judgmental term you might prefer. There are (c) institutions, which include clinics, annual meetings of the [World Professional Association for Transgender Health], afternoon talk shows on television… and training programmes for therapists…. There is (d) the … conjectural knowledge, and, more specifically, the presumptions that are taught, disseminated and refined within the context of the institutions… There is expert knowledge, the knowledge of the professionals, and there is popular knowledge, shared by a significant part of the interested population... Finally, there are (e) the experts or professionals who generate (d) the knowledge, judge its validity, and use it in their practice. They work within (c) institutions that guarantee their legitimacy,

> authenticity and status as experts. They study, try to help, or advise on the control of (b) the people who are (a) classified as of a given kind. (Hacking 2006, p. 2)

It is possible that eventually a target will move far enough that it will require a different classification. GID was eventually replaced as a diagnosis by gender dysphoria. While gender dysphoria still exists as a clinical diagnosis (in *DSM-V*), it is recognised (by *ICD-11*) that an individual can experience gender incongruence without having a mental and behavioural disorder, such as gender dysphoria. As transgender people are now generally understood to be those individuals who experience gender incongruence, being transgender no longer necessarily entails having a mental health condition.

Stating that before 1987 having GID was not a way to be a person does not equate to stating that before 1987 there were no people who experience, what *DSM-III-R* describes as, 'an incongruence between assigned sex… and gender identity.' (American Psychiatric Association 1987, p.71) The first sex-change operation occurred in the 1930s, and DSM-III defines transsexualism, as 'a persistent sense of discomfort and inappropriateness about one's anatomic [(natal)] sex and a persistent wish to be rid of one's genitals and to live as a member of the other sex. (American Psychiatric Association 1980, pp. 261-262); this demonstrates the implausibility of the notion that adults and adolescents with (what would have been classified as) GID did not exist before 1987.

Stating that before 1987 having GID was not a way to be a person is to state that before this time, 'people did not experience themselves in this way, they did not interact with their friends, their families, their employers, their counsellors, in this way.' (Hacking 2006, p.4) Those adults who, before 1987, described feeling symptoms associated with having GID would likely have been diagnosed as transsexual, and would have been treated as such; consequently, they would (likely) have thought of and experienced themselves in this way, and interacted with others as if they were transsexual. Before 1980, when *transsexualism* entered *DSM-III* as a diagnosis, they would likely have been diagnosed as transvestites or sexual deviants, and thought of themselves in that way.

Each diagnosis differs not just in name but also in symptoms. In *DSM-IV* the diagnostic criteria for *GID* read,

> In adolescents and adults, the disturbance is manifested by symptoms such as a stated desire to be the other sex, frequent passing as the other sex, desire to live or be treated as

> the other sex, or the conviction that he or she has the typical feelings and reactions of the other sex. (American Psychiatric Association 1994, p. 537)

It also states the condition results in,

> [t]he patient's persistent discomfort with his or her sex or sense of inappropriateness in the gender role of that sex. In adolescents and adults, the disturbance is manifested by symptoms such as preoccupation with getting rid of primary and secondary sex characteristics (e.g., request for hormones, surgery, or other procedures to physically alter sexual characteristics to simulate the other sex) or belief that he or she was born the wrong sex. (American Psychiatric Association 1994, pp. 537 - 538)

DSM–V defines gender dysphoria in adolescents and adults as,

> A marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months' duration, as manifested by at least two of the following:
>
> 1. A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics).
> 2. A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics).
> 3. A strong desire for the primary and/or secondary sex characteristics of the other gender.
> 4. A strong desire to be of the other gender (or some alternative gender different from one's assigned gender).
> 5. A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender).
> 6. A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender).
>
> The condition is associated with clinically significant distress or impairment in social, occupational or other important areas of functioning. (American Psychiatric Association 2013, pp. 452-453)

Though there are obvious similarities between the two diagnoses, as would be expected one being the precursor to the other, it is clear that *GID* and *gender dysphoria* relate to two different kinds of people. Frequently passing as the other sex and feeling inappropriateness in the gender role of their current sex, for example, would make up part of the expert knowledge on adolescents and adults with GID but not necessarily the expert knowledge on adolescents and adults who experience gender dysphoria. This would affect the work experts performed in institutions in order to study and help the people who are classified and, ultimately, how the classified people feel about themselves.

Despite the thorough medical descriptions the relevant iterations of the *DSM* provide of GID and gender dysphoria, there is little clarity provided in terms of which paradigm of gender identity is most viable. As *DSM-IV* does when referring to a person with GID, *DSM-V* states that a person with gender dysphoria may have the strong conviction that they have the typical feelings and reactions of the other gender. Neither *DSM*, however, details whether such feelings and reactions exist in reality (i.e. whether the feelings/reactions that an individual with gender dysphoria takes to be typical of the other gender really are so). It is not clear whether the *DSM* is stating that there are indeed feelings and reactions typical of the different genders, and that people suffering from GID/gender dysphoria have the strong conviction that they have these feelings; or that people suffering from GID/gender dysphoria have the strong conviction that they have the feelings and reactions of the other gender, despite there being no feelings and reactions typical of each gender. If what is meant is the former option, then this supports the inherent gender identity paradigm, that gender identity is brute fact and one can just feel like a man or woman. If it is the latter option, this offers support for the social expectation gender identity paradigm, that such convictions are born of significantly different societal expectations of males and females.

The symptoms which relate to the desire to change physicality or hormonal balance cohere equally well within each paradigm as, regardless of why an individual believes their gender does not align with their sex, it is understandable that they may want to appear, to themselves and others, as if their sex aligns with their gender identity.

The *DSM-IV* and the *DSM-V* refer to a desire to be treated as the other sex/the other gender respectively. This could possibly mean that people wish to pass as the other gender and be referred to as such through use of pronouns – one is treated as a woman if one is referred to as she/her etc. However, *DSM-IV* differentiating between frequent passing as the other sex and desire to live or be treated as the other sex suggests that this is not the case. It is likely that *DSM-V* and especially *DSM-*

IV are referring to the different social expectations of men and women. People suffering from GID and gender dysphoria want to be held to the standards and expectations of the other sex, whatever they may be, because that is the sex which aligns with their gender identity. Though different social expectations of males and females are pivotal to the social expectation paradigm of gender identity, recognition that such exist does not lend a great deal of support to it as the most viable paradigm. It is possible to hold that gender identity is brute fact, so a person may feel like a man/woman, and also recognise that many societies treat men and women differently.

Ultimately the *DSM*s, and the expert knowledge they reflect, leave open the possibility of either paradigm of gender identity (or neither) being correct. This is perhaps unusual given the paradigms' significant differences, and that one might expect treatment to differ based on which paradigm is responsible for causing the incongruence between natal sex and gender identity. *ICD-11* is even more vague than *DSM-IV* and *DSM-V*; it notes that individuals who experience gender incongruence, '*often* … desire to transition', (World Health Organisation, 2022, my emphasis) indicating that this is not always the case. Its explanation that gender incongruence is, 'characterised by a marked and persistent incongruence between an individual´s experienced gender [(gender identity)] and their assigned [(natal)] sex' (World Health Organisation, 2022) provides no insight at all into which paradigm of gender identity is more viable.

2.3 - Is Gender Dysphoria Real?

Regardless of the criteria, whether it's *DSM-IV*'s criteria for GID, *DSM-V*'s criteria for gender dysphoria, or *ICD-11*'s criteria for gender incongruence, there are plenty of people who satisfy them. To adapt what Hacking (1998) says of MPD, 'There are plenty of questions about what [gender identity and gender dysphoria are], and how to define [them], but the simple conclusion is that there [are] such … disorder[s].' (p.11) (This would be amended to, 'there is such a [condition].' (p.11) in the case of gender incongruence).

Stating that gender dysphoria is a disorder and that gender incongruence is a condition does not answer the question of whether they are real, however, because when you ask whether something is real,

> You must supply a noun. You have to ask, "Is it a real N? Then you have to indicate how it may fail to be a real N, "a real N as opposed to what?" … Even with a noun and an

> alternative, we may not have a real anything: there is no such thing as the "real" colour of a deep-sea fish. (Hacking 1998, p.11)

Hacking (1998) provides an example of an 'is it real' question that is particularly pertinent to gender dysphoria: 'Is [it] a real disorder as opposed to a product of social circumstances, a culturally permissible way to express distress or unhappiness?' (p.12)

The question is important given the investigation into which paradigm of gender identity is most viable. This is because the social expectation gender identity paradigm may lead some to conclude that gender dysphoria is not a real disorder (and that gender incongruence is not a real condition), instead being a way for people to express the distress or unhappiness that results from living in a society in which their desired way to live clashes with the expectations of their sex.

Hacking (1988) states that such a question includes a presupposition that should be rejected – 'The fact that a certain type of illness appears only in specific historical or geographical contexts does not imply that it is manufactured, artificial or in any other way not real.' (p. 12) Even if the social expectation gender identity paradigm is correct and, consequently, gender dysphoria only occurs in those societies where there is/was a (perceived) significant difference in social expectations of male and females, this doesn't mean that gender dysphoria is not a real disorder.

As Hacking (1988) argues of MPD, we can't look at symptoms to prove that gender dysphoria is real as, 'a mere collection of symptoms may leave us with the sense that the symptoms may have different causes.' (p.12) The point Hacking is making here is supported by the existence of a process the medical profession refers to as differential diagnosis, which the NHS defines as, 'a series of potential diagnoses that could explain the symptoms a patient is experiencing, which can then potentially lead to the correct diagnosis.' (NHS Glossary, 2022) It is clearly the case that a single disorder cannot be held to be real based on the assumption it results in symptoms x, y and z, when, in reality, symptoms x, y and z could be the result of many other, potentially-unknown causes. As we cannot rely on symptoms to prove a condition is real:

> We need to go beyond symptoms, and hence beyond the *DSM,* to settle a reality debate. In all the natural sciences, we feel more confident that something is real when we think we understand its causes. Likewise, we feel more confident when we are able to intervene and change it. The questions … seem to come down to two issues, familiar in all the natural sciences: intervention and causation. (Hacking 2002, p.12)

Hacking was able to examine both the intervention and widely accepted, suspected cause of MPD; however, there is no agreed cause or even predominant theory amongst experts as to what causes

gender dysphoria. There is, however, a widely accepted view on what the intervention should be: Patients who were diagnosed with GID or gender dysphoria were expected to live as the opposite sex for a period of time while receiving counselling, they would then be allowed to undergo hormone therapy. Often, patients would eventually undergo genital affirmation surgery so that their physicality would better align with their gender identity. The thinking behind this intervention was that a patient would negate (or at least significantly reduce) their feelings of gender dysphoria if their physical body aligned with their gender identity; if a person has a natal sex of male but a gender identity of a woman, then, as much as is possible, their body should be made to be (appear) female.

Interestingly, the interventions that take place to combat gender dysphoria do not thoroughly consider how a patient comes to sense that they are a man or a woman aside from reference to sex, despite gender identity being necessarily linked to the condition. It also seems that the interventions which take place are not equally viable under each paradigm of gender identity. One standard intervention when treating transgender people was to ask them to live full-time for a period (often a year) in the opposite role ('this is still sometimes known as "real-life experience" or RLE') (GIRES, 2008). If gender identity is brute fact, then I argue that it makes no sense, in terms of medical treatment, to require a person to live in the opposite role. If an individual whose sex is male senses they are a woman, then they may already consider themselves to be living as a woman. Such an individual may not perceive significantly different social expectations of those who are men and women; consequently, they may not feel the need to make any changes to how they conduct themselves when they're directed to live in the opposite role. Said individual may still wish to undergo hormone therapy and surgery in order for their physicality to more closely align with their gender identity.

If, in contrast, gender identity is a result of the perceived differences in social expectations of men and women, then the intervention is more viable. Even if the patient in question states that they reject gender stereotypes, they must necessarily hold that men and women function differently within society. The direction to live in the opposite role is far more likely to be meaningful to them as they will be able to act according to their perceived societal expectations of the gender that aligns with their gender identity.

It is widely held that interventions are successful for some individuals experiencing gender dysphoria. Consequently, it could be argued that if these interventions work more effectively with the social expectation gender identity paradigm than with the inherent gender identity paradigm, it may lend credence to the social expectation gender identity paradigm being the more coherent.

Also true, however, is that it is much easier to deduce an effective intervention from the cause of an ailment than it is to deduce the cause of an ailment from an effective intervention. While it may be the case that the intervention is effective because the social expectation gender identity paradigm is correct, it may also be effective for reasons similar to a placebo – patients believe in its efficacy due to expert endorsement – or for reasons as yet unknown. Knowing effective interventions of a disorder may indicate a possible cause of a disorder, but knowing the cause of a disorder is likely to lead to the most effective interventions. It is for this reason that so little being known of the cause of gender dysphoria is a concern; it is also for this reason that the credibility the medical intervention for gender dysphoria provides the social expectation gender identity paradigm is severely limited.

As with gender dysphoria, there is no predominant theory amongst experts as to what causes gender incongruence, and because gender incongruence does not necessitate gender dysphoria, or any mental or behavioural disorder, what intervention should take place to combat it (if any) is even more unclear than with gender dysphoria. Some people who experience gender incongruence choose to proceed with the medical interventions common for gender dysphoria; some combination of therapy, hormonal transition, and surgical transition. They may elect to undertake these types of intervention because their gender incongruence involves them experiencing gender dysphoria (though it may be undiagnosed). However, they may not experience gender dysphoria at all, and elect for such interventions for altogether different reasons; for example, they might believe medical intervention will allow them to experience gender euphoria, 'a concept that emerged from within the transgender community … [which] is generally used to refer to a range of positive feelings … and joy in response to affirmation of one's body or one's gender identity' (Austin, Papciak, and Lovins 2022, pp. 2-3). Though people experiencing gender incongruence can, and do, proceed with medical transition, *ICD-11*'s definition of gender incongruence leaves open the possibility that an individual experiences a marked and persistent incongruence between their natal sex and gender, sufficient to classify them as transgender, yet has no need or desire for any form of therapy, and no need or desire to transition, hormonally or surgically, so that their body more closely aligns with their gender identity.

Given the lack of consensus on the cause of gender incongruence, in addition to the lack of consensus about what interventions, if any, are necessary to alleviate it, then If, as Hacking posits, we must look at cause and intervention to demonstrate that a condition is real, it seems that gender incongruence cannot (yet) be shown to be real, at least in some of the people who claim to experience it. This is not to say that the relevant people who claim to suffer from gender incongruence are mistaken or being dishonest in what they claim to experience; only that their experiences cannot be said to be caused

by one particular condition - gender incongruence - with any reliability. The possibility that their experiences *are* caused by gender incongruence remains; however, it cannot be demonstrated that this is the case.

2.3.1 Is the notion of 'gender incongruence' coherent?

Not only does the lack of consensus about cause or intervention cast doubt on our ability to understand gender incongruence as a single 'real' condition, it has been questioned whether the notion of gender incongruence is even coherent. Thus, in her paper, *Interrogating Incongruence: Conceptual and Normative Problems with ICD-11's and DSM-5'S Diagnostic Categories for Transgender People,* Nicole Vincent posits arguments which seemingly support the notion that the very concept of gender incongruence is incoherent, going so far as to argue that ascribing the condition to people may be damaging. In the abstract of her paper, she writes:

> According to WHO's ICD-11 and APA's DSM-5, transgender people's [gender identity][4] is incongruent with their natal sex … and the purpose of … medical interventions is to reduce that incongruence. However, … although this "incongruence thesis" (IT) may seem progressive, it is alas conceptually incoherent, insidiously regressive, and hostile to diversity. (Vincent 2024)

Vincent's *incongruence thesis* includes the condition of gender incongruence and also a common (though not a necessary) medical intervention for it, which Hacking would argue should be examined in order to determine the realness of gender incongruence. Any problems with *incongruence thesis* that Vincent is able to establish will therefore function as arguments against accepting gender incongruence as a real condition.

In terms of its conceptual incoherence, the basis of Vincent's argument is that, 'if sex [and] gender … are indeed different things, then transgender people's [gender identity] and natal sex cannot possibly be incongruent, simply because no combination of sex [and] gender … can be either congruent or incongruent. (Vincent 2024) She seeks to establish that natal sex and gender identity are conceptually distinct and come in different combinations, no one of which she thinks can be accurately termed an alignment, by positing the self-evident observation that:

[4] Throughout her paper, Vincent uses the term *experienced gender* in the same way that, throughout this paper, I have used the term *gender identity*. For purposes of clarity, I have elected to change *experienced gender* to *gender identity* whenever Vincent uses it.

> Although most female (sex) people seem to identify as girls or women (gender), and most male (sex) people indeed seem to identify as boys or men (gender), transgender people evidently do not. Some people whose natal sex is female have a [gender identity] of boys/men, some people whose natal sex is male have a [gender identity] of girls/women, and some people of both natal sexes identify as bi-gender, gender-fluid, gender-non-confirming, and gender-neutral. (Vincent 2024)

Although it is certainly worth investigating how Vincent's argument progresses from this starting point, it is worth noting that she may have been too quick to make the assessment that sex and gender identity actually are conceptually distinct. In Chapter 3, accounts of gender identity will be examined which seemingly allow for gender identity to be defined in relation to sex such that they could not be said to be completely conceptually distinct but could be said to exist in different combinations. One such account of gender identity, proposed by Julia Serano, which would fall under the inherent gender identity paradigm, posits that to have a gender identity of a woman is to expect one's body to be female. This account of gender identity defines gender through its relation to sex - the expectation of a sexed body - meaning that gender identity and sex are not (entirely) conceptually distinct. It also allows for gender identity and sex to exist in different combinations - it is self-evident that there is no logical necessity for an individual's expectation they have a particular type of body to equate to them actually having that particular type of body; thus, a person with the gender identity of a woman could be a male or a female, just as a person with the gender identity of a man could be a male or a female. Another concept of gender identity, proposed by Katharine Jenkins, which would fall under the social expectation gender identity paradigm, posits that to have the gender identity of a woman is to have an internal social map created to guide people marked for subordination due to observed or imagined bodily features associated with females' biological role in reproduction. Though it falls under the alternative paradigm of gender identity, this concept too defines gender in terms of sex, such that the two are not entirely distinct, and allows for different combinations of sex and gender identity - an individual having a social map for people with observed or imagined features associated with females' biological roles in reproduction does not require said individual to have a female body. As with Serano's account then, this account allows for a person with the gender identity of a woman to be a male or a female, just as it allows for a person with the gender identity of a man to be a male or a female.

In addition to the possibility that Vincent has been too quick to determine that sex and gender identity are conceptually distinct, it is also possible that she may have been too quick when asserting that things which do differ conceptually cannot be congruent or incongruent with each other. It seems, for example, that sports and balls are conceptually distinct; they certainly vary independently of one

another, so, empirically speaking, are autonomous. In addition, given the different factors that influence each of them, and the different facets that each of them manifests in different degrees, they are both spectral and dimensional. (Vincent 2024). Despite sports and balls being conceptually distinct, it is not obvious that sports and balls being congruent or incongruent with each other is conceptually incoherent. A football would be congruent with the game of football (given it met the necessary criteria in terms of size, weight and material), but would certainly be incongruent with the game of golf, chess (given it is a sport) and swimming. If it is acknowledged that concepts, such as sports and balls, can be conceptually distinct, yet congruent or incongruent with each other, it follows that even if sex and gender are conceptually distinct, this is not sufficient grounds to determine that the notion of them being congruent or incongruent with each other is incoherent.

Though there are possible, potentially considerable, issues with her position, it is clear that Vincent believes herself to have demonstrated that gender identity and natal sex are conceptually distinct. From this point, she argues that while some, particularly transgender people's, combinations of natal sex and gender identity may be less common than others, namely natal men and women's, this isn't sufficient to demonstrate that such combinations are incongruent: 'If sex and gender are (conceptually) distinct things that (empirically) vary independently of one another, then sex and gender simply cannot be either congruent or incongruent. (Vincent 2024). Vincent (2024) acknowledges that the combination of gender identity and natal sex which transgender experience may cause them a host of negative feelings, including discomfort, distress, embarrassment, shame and mortification; however, she points out that, 'this no more shows that their sex and gender are incongruent, than the fact that some lesbian and gay people feel bad about their sexuality shows that their sex and sexuality are incongruent.' (Vincent 2024)

As Vincent's position is that it is conceptually incoherent for natal sex and gender identity to be incongruent, she offers no explanation as to why it is incoherent to claim medical intervention can resolve incongruence between natal sex and gender identity; it is not possible to resolve an issue that cannot possibly exist. However, in her paper, Vincent distinguishes between gender incongruence understood as incongruence between gender identity and natal sex, and gender incongruence understood as incongruence between gender identity and natal gender, which she defines as the, 'gender a person was (assumed to be by others) at the time of their birth' (Vincent 2024) *Natal sex,* which, 'could refer to many things - e.g. primary or secondary sexual characteristics, hormone levels, chromosomes, genes etc' (Vincent 2024) can be neither congruent nor incongruent with gender identity because they are distinct, autonomous concepts which belong in different categories - i.e. natal sex is in the category of sex and gender identity is in the category of gender. However, since

natal gender and gender identity, 'are in the same category - i.e. gender - they *can* stand in relations of congruence with respect to one another.' (Vincent 2024)

Vincent writes:

> Although it is not incoherent to claim that transgender people's [gender identity] might be incongruent with their natal gender, what is incoherent is the suggestion that medical interventions that alter sexual characteristics can reduce an incongruence between experienced and natal gender. (Vincent 2024)

ICD-11 does not define gender incongruence as incongruence between gender identity and natal gender; however, Vincent's explanation as to why medical interventions cannot resolve (this understanding of) gender incongruence can still provide insight into why, even were they considered necessary, medical interventions may fail to establish that gender incongruence is a real condition. The reasoning behind how medical interventions would resolve gender incongruence must be coherent; however, in her paper, Vincent considers three different ways medical intervention might be thought to resolve gender incongruence, and argues that this is not the case for any of them.

First, Vincent (2024) (reservedly) acknowledges that, because it is possible that a person's sex may causally influence their gender, it is plausible that alteration of an individual's sexual characteristics might alter their gender identity. She explains that such medical intervention would not resolve gender incongruence however, because,

> transgender people's [gender identity] is their veridical gender – it sets the direction in which they transition – so their [gender identity] should not be altered. Hence, if medical interventions are to reduce [gender] incongruence, they must alter natal gender…[which] would require a time machine. (Vincent 2024)[5]

[5] It should be noted that Vincent's acknowledgment that it is plausible that altering an individual's sex may alter their gender identity, and her subsequent acknowledgement that altering sexual characteristics may alter gender identity, relies on the notion that sexual characteristics are the same as sex, or have a causal influence on sex, which will, in turn, have a causal influence on gender identity. While this may be true, it is also plausible that sexual characteristics are not one and the same as sex, and have no causal influence on sex, so altering them would not result in alteration of gender identity. If, for example, sex is exclusively down to genetics, such that sex (genetics) has a causal influence on sexual characteristics (and gender identity), then, evidently, sexual characteristics are not one and the same as sex. Given this, there seems no reason to believe amending sexual characteristics would have a causal influence on gender identity. One could change sexual characteristics as much as one desired and sex (genetics) wouldn't be altered at all, so there would be no causal effect on gender identity.
Given that sexual characteristics do have a causal influence on sex, it should be noted that a not-altogether dissimilar argument could be made in relation to medical interventions which aim to resolve incongruence between gender identity and natal sex (rather than natal gender): Even if altering an individual's sexual characteristics can alter their gender identity, it seems that this would be of no real use to transgender people.

As it is impossible to go back in time to change one's natal gender, it seems the only means by which gender incongruence could be alleviated would be to intervene with an individual's gender identity in such a manner that it became congruent with their natal gender. Vincent (2024) does indeed consider the possibility that medical interventions could be used to alter transgender people's sexual characteristics so that their gender identity aligns with their natal gender ie. giving a transgender woman testosterone in order to promote the feeling of being a man, with the ultimate goal of their gender identity becoming the same as their natal gender - that of a boy/man. Vincent claims, 'there is compelling evidence that people's [gender identity] resists change even if their primary sexual characteristics are surgically altered when they are toddlers, and even if they are brought up in the reassigned gender, and then receive cross-sex hormone treatment.' (Vincent 2024) Though how compelling the evidence is for gender identity resisting change could obviously be debated, the bigger issue, as Vincent points out, is that suggesting transgender people undertake medical intervention for this purpose would most likely cause outrage, particularly within the transgender community. This is because it does not resolve the gender incongruence in the direction transgender people would likely wish; it involves (at least implicit) acknowledgement that there is something incorrect about the state of being transgender, and would therefore likely be considered to be, 'on a par with gay conversion therapy.' (Vincent 2024) It is worth noting that it could also be suggested that transgender individuals alter their sexual characteristics in order to make their gender identity align with their natal sex (rather than their natal gender); such a suggestion would presumably cause the same level of outrage.[6]

Third, and finally, Vincent (2024) lists many of the medical interventions a transgender man could undertake in order to present as a man, and a transgender woman could undertake in order to present as a woman. She then claims:

> Even if these medical interventions could produce causal effects on [gender identity], their effects would only increase (not decrease) the gap between natal [gender] and [gender identity]. Consequently, the typical use of transgender medical interventions won't resolve the postulated incongruence between [gender identity] and natal gender either. (Vincent 2024)

Gender identity is not (typically) what transgender people wish to change; they wish to change their sex, or at least their sexual characteristics, so that they will be more comfortable with the gender identity they have. What they want, then, is ultimately the exact opposite of this particular stated aim of medical interventions; they want their sex, or at least sexual characteristics, to be altered but for their gender identity to remain the same.

[6] Vincent would obviously reject this framing as she doesn't think it even makes sense that one's gender identity could align with one's natal sex (as there is no such thing as being aligned/misaligned here).

A similar line of argument could be applied to a transgender person undergoing medical interventions to align their gender identity with their natal sex[7]. For instance, if a transgender man undergoes medical interventions to the extent that his presentation as a man is never questioned by anyone, while his gender expression would closely align with his gender identity, it seems that any incongruence between his natal sex and gender identity can have only increased. It would be reasonable to assume that as a transgender man begins to resemble the typical image of a man more closely, his gender identity may strengthen, thus exacerbating any existing incongruence between his natal sex and gender identity. This is not to suggest that the transgender person in question would not claim that medical intervention has resolved their gender incongruence – indeed, many do make such claims. However, the subjective feeling of resolution does not necessarily equate to objective resolution.

As has been alluded to, though Vincent refers to empirical evidence which (she believes) demonstrates that gender identity and natal sex are conceptually distinct, consequently meaning that gender incongruence (as understood as incongruence between gender identity and natal sex) is conceptually incoherent, she spends little time considering exactly what gender identity might be taken to mean. Gender identity can, and has been, conceived of in a multiplicity of different ways, even among transgender people, and there are some conceptions (which will be considered in the next chapter) that seemingly allow for gender incongruence (understood as incongruence between natal sex and gender identity) to be a coherent concept arguably negating much of Vincent's argument.

Despite the potential issues, given the intentions behind medical interventions that she posits, Vincent offers compelling arguments against medical interventions being coherent resolutions for gender incongruence. Even were such medical interventions considered coherent, however, Vincent (2024) argues that they reflect regressive, oppressive, heteronormative ideals that are hostile to diversity. She writes:

> It is … a rejection (not an affirmation) to view transgender people as misaligned unless/until they medically alter their bodies, and coercive and oppressive (not empowering) to support the provision of medical interventions for the purpose of aligning people with heteronormative ideals. (Vincent 2024)

Vincent's assertion here is based on the notion that there are, 'desirable, permitted, and potentially even preferable way[s] of looking and being' (Vincent 2024) a man or a woman within each culture, and these do not reflect the enormous variety among real-life men and women. She suggests that if

[7] Vincent would reject this argument for the same reasons stated in the previous footnote.

transgender people and the medical professionals who offer transgender people medical intervention were more aware, or at least more willing to consider, this variety, they would be less likely to view transgender people as experiencing (significant) gender incongruence. She further suggests that if social change allowed for people to take options such as, 'being a woman with breasts and quite a deep voice, or a man with conspicuous hips and a vagina' (Vincent 2024) without them being exposed to any form of prejudicial or discriminatory behaviour, this would likely be as, if not more, effective at resolving gender incongruence than medical intervention.

The notion of widespread social acceptance for individuals who pursue the options Vincent outlines is likely overly optimistic, particularly in the foreseeable future. She does, however, raise the interesting idea that it is social attitudes, and nothing about individuals' state of being, which are responsible for causing gender incongruence. Were it possible, within a particular society, for individuals to behave and present (present here only referring to superficial characteristics e.g. hair style, makeup, dress etc.) however they wished, without their status as a man or woman being questioned, it is plausible that within that society the number of individuals who experience gender incongruence (absent gender dysphoria) would dramatically decrease, perhaps even to zero. If, for example, a society allowed for a natal man to behave and present however they wished without them being considered feminine, or any less masculine, it is unclear what could possibly cause feelings of gender incongruence within that natal man, other than feelings of gender dysphoria which directly relate to physical characteristics.

If social change could potentially eliminate most cases of gender incongruence, certain conceptions of gender incongruence and the typical medical interventions for them become conceptually incoherent. Moreover, the possibility that the cause of gender incongruence is not rooted in individuals' state of being, but rather in societal factors, suggests that resolving gender incongruence may require no medical intervention at all. If, as Hacking posits, we must examine causation and intervention to determine whether a condition is real, these possibilities all bring into question the realness of gender incongruence as a condition. Of course, even if gender incongruence is not a real condition, it does not mean that gender incongruence is not real at all; only that it should be understood as a non-medicalised experience of human beings, analogous in many ways to experiences such as being discriminated against: Individuals who are discriminated against may present symptoms pertaining to their wellbeing, low self-esteem and anxiety for example, yet people only experience discrimination due to societal attitudes; were these societal attitudes to change, experiences of being discriminated against could be completely eliminated. Being discriminated against is, self-evidently, a real experience, it is arguably a way of being a person (though obviously not one people would likely choose), but it is not a medical condition.

While Vincent's arguments all support the notion that gender incongruence is not a real medical condition, she does differentiate between an individual claiming their sex and gender identity are incongruent, which she thinks doesn't make sense, and an individual claiming they *feel* as if their sex and gender identity are incongruent, which she thinks does make sense. She writes:

> When someone utters the claim "My gender *feels* incongruent with my sex", that claim will be true if that person really does feel that way, and it will be false if that person does not really feel that way. Secondly, the claim "My gender *feels* incongruent with my sex" expresses perfectly understandable sentiments — for instance, that one does not understand why they feel how they feel, or what they are meant to do about it. Thirdly, reports of *feelings* of incongruence are well-documented. (Vincent 2024)

It is not immediately obvious how an individual may feel x, when x is conceptually incoherent, and Vincent offers very little insight into how she thinks such could be possible. Even when making the second point (in the quotation above), it is not immediately apparent that an individual not understanding why they feel a certain way or what they're meant to do about that feeling equates to a meaningful feeling of gender incongruence; indeed, it seems that these perfectly understandable sentiments could apply to any feeling at all, and so don't make the meaning of *feelings of gender incongruence* any clearer. Furthermore, though, as per Vincent's third point, *sentiments* of gender incongruence are well documented, it must be noted that *events* of gender incongruence are also well documented, and Vincent is arguing for the incoherence of gender incongruence. That something is well documented does not necessarily entail that it is meaningful and/or real.

Despite the meaning of feelings of gender incongruence being unclear, it is possible that they cannot be deemed conceptually incoherent in the same way gender incongruence (as Vincent understands it) can. For this reason, Vincent asserts:

> Given the reality and intensity of transgender people's feelings of incongruence, if diagnostic categories for transgender people will remain in future editions of the ICD and DSM, then it may help to focus on feelings of incongruence, instead of incongruence simpliciter. After all, incongruence cannot exist, but feelings can and do. (Vincent 2024)

If gender incongruence cannot exist, then it would obviously be more sensible for any future diagnoses to focus on feelings of gender incongruence rather than gender incongruence simpliciter. However, though such a move might be a positive step, it is not clear that the reality of transgender people's feelings of incongruence should be a given (as Vincent suggests); perhaps it would be more helpful still for future editions of the ICD and DSM to focus on *belief* in (feelings *of)* gender incongruence

rather than feelings of gender incongruence. While it may be unclear how, or whether, an individual can feel x when x is impossible, it is absolutely clear that they may *believe* they feel x even if x is impossible. Reframing gender incongruence so that it relates to individuals' beliefs about their gender identity and natal sex being incongruent would possibly allow for more precise discussions regarding individuals' experiences. Nevertheless, regardless of whether gender incongruence is discussed in terms of feelings or beliefs in feelings, the cause of such remains largely mysterious and the efficacy of interventions largely undetermined. It is therefore not clear that such reframing would make it any more apparent that gender incongruence is a real condition, even if we have shown that the notion can be made coherent.

2.4 - What Does Gender Dysphoria Feel Like?

If we follow Vincent in understanding gender dysphoria not as distress at the actual incongruence between gender identity and sex but instead as relating to the feeling of incongruence (or belief in the feeling of incongruence), this raises the question of what it is like to experience gender dysphoria. Whether they were diagnosed as transvestites pre-1980 or are acknowledged as people with gender incongruence in present day, there have been many people who have reported feeling that their natal sex does not align with their gender identity. The people who (believe they) feel this way have generally been stigmatised and ridiculed by large swathes of society. While deplorable, it is important to note that this treatment and the emotions it results in do not describe what it feels like to experience gender dysphoria; rather, they are a consequence of societies and cultures which are threatened by, and seek to marginalise, people who vary from what is considered typical or normal, and which have a particular fascination with any topic related to sex.

While accounts of gender dysphoria vary considerably, a constant is the notion of persistent discomfort with aspects of one’s physical body. All people have at one time or another felt uncomfortable, and most people, if not all, are, or have been, dissatisfied with some aspect of their body. This shared experience means that while few people are likely to be able to truly empathise with people who suffer from gender dysphoria, they can gain some small insight into this particular feeling.

Beyond the notion of persistent discomfort, it is incredibly difficult to understand what it is like to experience gender dysphoria because much of the language used to describe it is not based on shared experience and is consequently, I would argue, incomprehensible to those who lack this experience.

Gender incongruence may, but does not necessarily, include feelings of gender dysphoria, the ICD definition leaving open the possibility that people who experience it are not discomforted by aspects of their body. This entails gender incongruence is even more difficult to understand for people who don't experience it than gender dysphoria is.

As shown by the DSMs, a typical description provided by those who suffer from gender dysphoria is that they "feel like the other sex/gender" or "feel like they were born in the wrong body". As with the experience of a marked and persistent incongruence between an individual´s experienced gender (gender identity [as per the ICD's description of gender incongruence]), these feelings often motivate people to change their bodies to more closely align with their gender identity. If we are to hope to have any understanding of what it feels like to be in the wrong body or be the other sex/gender, then we must necessarily come to understand what it feels like to be a man and what it feels like to be a woman. This allows examination of a very simple statement – I feel like a man - which will take place in the next chapter.

2.5 - Chapter Conclusion

Chapter 2 has systematically investigated the historical and conceptual development of transgenderism, scrutinising the evolution of medical classifications and societal understandings. Beginning with a critical analysis of the experience and conceptualisation of gender identity, the chapter delves into how medical institutions have historically framed transgenderism, contrasting earlier notions of it as a mental disorder with contemporary views that consider it a condition related to sexual health. By adopting Ian Hacking's framework of historical ontology, the chapter traces the categorisation of transgender individuals over time, demonstrating how these classifications have evolved alongside changes in societal and medical perspectives. Through this lens, the chapter explores the parallels between transgenderism and other historically pathologised conditions, specifically multiple personality disorder, revealing how social, institutional, and knowledge-based factors contribute to the "making up" of transgender people. The chapter further critiques the diagnostic criteria and definitions provided by authoritative texts like the DSM and ICD, highlighting their implications for understanding gender dysphoria and gender incongruence. It examines the debates surrounding the realness of gender dysphoria, seeking to determine whether it is a singular, genuine disorder or merely an iatrogenic condition produced by specific social circumstances. By

analysing the interventions used to treat gender dysphoria, the chapter assesses the viability of different gender identity paradigms, noting that the effectiveness of these interventions provides limited insight into the underlying causes of the condition. Finally, the chapter addresses the subjective experiences of those with gender dysphoria, discussing the persistent discomfort and incongruence felt by individuals whose gender identity does not align with their natal sex. It emphasises the difficulty in comprehending these experiences due to the lack of shared linguistic and experiential frameworks. Ultimately, the chapter demonstrates that while significant progress has been made in understanding and treating transgenderism, there remain profound complexities and ambiguities in how gender identity and related conditions are conceptualised, diagnosed, and experienced, calling for a nuanced and critically informed approach to these issues.

Chapter 3 – Paradigms of Gender Identity

Given that the gender identity an individual claims can differ from their natal sex, it is clear that it would be inappropriate to describe what it feels like to be a particular gender in terms of the natal sex characteristics which align with that gender. When examining what it feels like to be a man, for example, references to typical male anatomy and elevated testosterone levels are inadequate; moreover, it must be the case that the feelings associated with being a man cannot be equally applicable to being a woman. A necessary condition of feeling like a man, then, is *to have an experience that is not directly related to one's natal sex being male, and which is not equally typical of a woman.* Importantly, this necessary condition remains valid and functional regardless of whether gender identity is perceived as (partially) inherent to the human condition, as proposed by the inherent gender identity paradigm (IGIP), or as a product of the socially constructed characteristics of men and women, as posited by the social expectation gender identity paradigm (SEGIP).

Four characteristics that may be considered as stereotypically masculine include (1) being aggressive; (2) being assertive/forceful; (3) being lustful or driven by the possibility of sex; (4) being more logical than emotional.[8] Although differences in testosterone levels between men and women might support generalisations, such as men being more aggressive than women, it is widely acknowledged that such generalisations do not hold universally true; some men may not exhibit what is typically considered aggressive behaviour, while some women may indeed display aggressive tendencies. The truth of these generalisations hinges entirely upon scientifically demonstrable biological disparities between males and females, particularly relating to differences in hormone levels. Consequently, when these hormonal differences are disregarded, such generalisations can no longer be justifiably made.

I argue that when differences caused by sex are accounted for, none of the four stereotypically male feelings listed above, nor any other feeling people regularly experience, could be said to be more typical of a man than a woman. Even if an individual could accurately be described with all four

[8] I make no claim that these four traits actually are more typical of men than women, only that they are frequently considered such. The four traits I have chosen to list were those most frequently mentioned as being more typical of men in the following articles: Gender Differences in Personality: When, Where and Why? – Richard A. Lippa; Taking Sex Differences in Personality Seriously – Scott Barry Kauman (Scientific American); Men's and Women's Personalities: Worlds Apart Or Not So Different – Rachael Rettner (Live Science); What 31,000 Personality Tests Say About Differences Between Men and Women – Mark Travers (Forbes); Men and Women: No Big Difference (APA); Gender Differences in Personality Across the Ten Aspects of the Big Five – Yanna Weisberg, Colin G. DeYoung and Jacob B. Hirsh (NCBI); Gender, Sexuality and Relationship Diversity Guidance - Meg-John Barker (BCAP)

characteristics, it must be acknowledged that said individual could certainly be a woman; it should also be acknowledged that were the individual presumed to be a man, this would largely be due to the known effect of sex-related hormones.

It could be argued that, apart from feelings and behaviours ultimately caused by sex-based hormones, all men share an inherent experience of “manhood”. If this is the case, it is possible that the majority of natal men, perhaps even all of them, are largely unaware of this experience due to its lack of conflict with their physical makeup. For natal men, “manhood” may be indistinguishable from the recognition and acceptance that they are male, thus not constituting a distinct experience. Conversely, for transgender men, the experience of “manhood” would conflict with their physical characteristics; acknowledging that they are not natally male would prompt recognition of the experience of “manhood” for what it is.

One issue with such a notion is that the existence of an inherent experience of “manhood” would imply a commonality between natal men and transgender men, necessitating an explanation for how this experience is shared. Furthermore, for transgender men who have not always identified as men, having previously identified as women, it must be explained how the experience of “manhood” was either repressed or confused with an experience of “womanhood”. Moreover, even if there is an inherent experience of “manhood”, it would not entail the statement 'I feel like a man' is any easier to understand: Approximately half of the population - natal women and transgender women (who have always felt they were women) - would not share the experience, and the majority of those who did share it - natal men - may be unaware of it.

Despite the issues with the proposition that all men share an inherent experience, there are two prominent transgender scholars and authors who have posited exactly this type of argument, although their arguments relate to the feeling of being a woman rather than being a man. Just as the necessary condition for feeling like a man is *to have an experience that is not directly related to one’s natal sex being male, and which is not equally typical of a woman*, the necessary condition for feeling like a woman is *to have an experience that is not directly related to one’s natal sex being female, and which is not equally typical of a man.*

3.1 - Accounts of Inherent Gender Identity

Julia Serano is a transgender woman, biologist and author whose book, *Whipping Girl*, *A Transsexual Woman On Sexism and the Scapegoating of Femininity* is, 'considered to be an important book within feminism, … used in gender and queer studies, sociology, psychology, and human sexuality courses in colleges across North America, … [and is] often cited and discussed in mainstream publications.' (Serano 2016, p. x)

Within the book, Serano explains her deeply felt, internal and individual experience of gender as a subconscious expectation that her body will be a certain way. She writes, 'Perhaps the best way to describe how my subconscious sex feels to me is to say that it seems as if, on some level, my brain expects my body to be female.' (Serano 2016, p.80)
Serano refers to this idea as the 'brain-hardwiring hypothesis' and states that she is drawn to it because,

> It best explains why the thoughts [she] had of being female always felt vague and ever-present, like they were an unconscious knowing that always seemed to defy conscious reality. It would also account for how [she] knew there was something wrong with [her] being a boy before [she] ever could consciously put it into words… (Serano 2016, pp. 81)

In support of the brain-hardwiring hypothesis, Serano writes:

> There is some evidence to suggest that our brains have an intrinsic understanding of what sex our bodies should be. For example, there have been numerous instances in which male infants have been surgically reassigned as female shortly after birth due to botched circumcisions or cloacal exstrophy (a non-intersex medical condition). Despite being raised female [(as girls)] and appearing to have female genitals, the majority of such children eventually come to identify as male, demonstrating that brain sex may override both socialization and genital sex. There have also been studies that have examined a small, sexually dimorphic region of the brain known as the BSTc. Researchers found that the structure of the BSTc region in trans women more closely resembles that of most women, while in trans men it resembles that of most men. (Serano 2016, pp. 80-81)

An issue with Serano's presentation of the hypothesis is the language she employs, which is, on occasion, unnecessarily pseudoscientific, and which works to make the hypothesis appear more convincing than it would otherwise be, given the ambiguity of her claims. Serano refers to her *subconscious sex* as if this is an established phenomenon, though, to her credit, she later acknowledges, 'that some people will object to [her] referring to … subconscious "sex" rather than "gender"[9] (Serano 2016, p.81) She links the feelings of her subconscious sex to her brain's expectation that her body will be female. She does not explain, however, how she has identified the way a subconscious phenomenon feels, nor how an expectation which she can identify (on some level), can truly be subconscious. It is not obvious how her brain's expectation that her body is female can be differentiated from a conscious expectation that her body is female; in fact, one might argue that being aware of ever-present thoughts of being female and consequently coming to identify as a transgender woman are highly suggestive of the expectation of being female being (predominantly) conscious, not subconscious.

Serano's meaning is similarly unclear when she writes, 'brain sex may override both socialization and genital sex' (Serano 2016, p.80), as there is no explanation provided for the use of the term 'brain sex'. If an individual's body comprises cells containing XY chromosomes, it follows that their brain also possesses the same genetic composition. Therefore, when Serano refers to 'brain sex', it cannot pertain to genetic information. It is possible that Serano is referring to a physical difference between the brains of natal males and females, which isn't genetic but which influences/comprises gender identity; alternatively, she may be using 'brain sex' to denote gender identity without necessarily implying a physical difference in the brain. In either case, gender identity would refer to the brain's expectation regarding the body's characteristics.

It is also not immediately clear what Serano means when she refers to 'genital sex.' Even if after surgery, the natal male patient's genitals genuinely appeared to be female, the cells of the genitalia, like every other cell of the patient's body, would still have XY chromosomes and be genetically male. Furthermore, genitalia refers to both external and internal structures, and the patient would lack all of the internal structures of female genitalia. When Serano refers to 'genital sex', then, she is actually only referring to the external appearance of one's genitals.

[9] Serano prefers the term "subconscious sex" to "gender" because she has, 'experienced it as being rather exclusively about [her] physical sex, and because for [her] the subconscious desire to be female has existed independently of the social phenomena closely associated with the word "gender". (Serano 2016, p. 81)

If ‘brain sex’ is being used as a synonym for gender identity, without relating it back to a physical difference in the brain, and ‘genital sex’ is defined as above, Serano’s argument could be reformed to better demonstrate the flawed inductive reasoning that makes up the brain-hardwiring hypothesis:

Despite socialisation as girls and having the external appearance of female genitals, the majority of children (who are born male but, for whatever reason, are raised as female) come to identify as male, demonstrating that the brain’s expectation of a male body may override socialisation (as a girl) and the external appearance of female genitals.

It should be clarified that an individual can identify themselves as male, or indeed as a man, without necessarily making a gender identity claim. Stating *I am male* or *I am a man* could simply be an individual acknowledging their natal sex, rather than them expressing their gender identity. Therefore, when Serano discusses children who appeared female and were socialised as girls but later came to identify as male, her meaning becomes ambiguous. Even if such claims did refer to gender identity, however, there is no need for gender identity to be conceived of in the same way that Serano thinks of it. This being the case, it is evident that Serano is guilty of begging the question, assuming the brain has an expectation that the body is a certain way, but not demonstrating that this is true. Even without the presence of this logical fallacy, however, it is unclear why Serano, or anyone else, would be convinced by this line of evidence for the brain-hardwiring hypothesis. The same evidence Serano uses to support the hypothesis could just as readily be used to reach a completely opposing conclusion, for which there is far more scientific evidence: The reason why the children that Serano refers to came to identify as male, despite their socialisation as girls and the external appearance of female genitalia, is their biological/natal sex is male.

For Serano’s conclusion to hold true, we have to posit the existence of, and then defend, her particular concept of gender identity; we then have to explain how it may override an individual’s nature (their biology/natal sex), how they were nurtured (the way they were socialised) and their physical appearance. To arrive at the opposing conclusion, we simply have to acknowledge that every cell of each child who was raised as a girl due to botched surgery is genetically male, and accept that sometimes nature overpowers nurture, regardless of how an individual is made to appear. The children coming to identify as male could also simply be them acknowledging their biological nature, or could involve a completely different concept of gender identity to that which Serano advocates.

Alternatively, if Serano is implying that male and female brains are physically different in a non-genetic manner such that an individual's gender identity is affected, she offers insufficient evidence to substantiate this. As explained, the phenomena of natal males who were assigned female at birth coming to identify as men does not obviously support Serano's hypothesis, there being other, arguably more reasonable, explanations for such occurring; it is not clear why Serano would conclude they come to identity as male due to their brain sex being male, rather than their overarching biological/natal sex, which includes their brain, being male. Serano's second line of evidence for the brain-hardwiring hypothesis, 'that the structure of the BSTc region in trans women more closely resembles that of most women, while in trans men it resembles that of most men' (Serano 2016, pp.80-81) could potentially be offering further support for there being a non-genetic brain difference which determines gender identity (assuming that this is the correct interpretation of her writing). The claim relating to the BSTc region is based on the results of two brain research studies, which involved post-mortem examination of the brains of six transgender women and one transgender man. The results of the first study were published in the article, *A Sex Difference in the Human Brain and Its Relation to Transsexuality*. The study found sex a-typical differences in the bed nucleus of the stria terminalis (BSTc) when studying transgender subjects; the BSTc of transgender women more closely aligned with natal women than it did either heterosexual or homosexual natal men. The results of the second study were published in the article, *Male-to-Female Transsexuals Have Female Neuron Numbers in a Limbic Nucleus*; it confirmed the findings of the first study, also finding the brain of a transgender man was in the BSTc range of natal men.

For the results of these two brain research studies to support the brain-hardwiring hypothesis, it must be the case that the structure of the BSTc region in transgender individuals is the cause of their gender incongruence, or that the structure of the BSTc region and gender incongruence share a common biological cause. This would explain why transgender women subconsciously expect their bodies to be female despite having male bodies, and why transgender men subconsciously expect their bodies to be male despite having female bodies. It is important to highlight, therefore, that the authors of *A Sex Difference in the Human Brain and Its Relation to Transsexuality* acknowledge that 'as all the transsexuals had been treated with oestrogens, the reduced size of the BSTc could possibly have been due to the presence of high levels of oestrogen in the blood' (Zhou, J.N., Hofman, M., Gooren, L., et al. 1990, p.70), and therefore not related to the transsexuals' gender incongruence as initially suspected. Although the authors provide arguments to counter this possibility, a later study, *Sexual Differentiation of the Bed Nucleus of the Stria Terminalis in Humans May Extend to Adulthood*, which references the results of the first two studies, also casts doubt on their conclusions. The study found,

'a sex difference in BSTc volume only in adulthood, suggest[ing] that marked sex-dependent organizational changes in brain structure are not limited to early development but may extend into adulthood,' (Chung, Vries & Swaab 2002) which is after the time when most transgender people describe feelings of gender incongruence or of first noticing their feelings of gender incongruence. The study notes, 'it must … be taken into consideration that changes in BSTc volume in male-to-female transsexuals may be the result of a failure to develop a male-like gender identity,' (Chung, Vries & Swaab 2002) clearly suggesting that the reason why the brains of the transgender women resembled those of natal women and the brain of the transgender man resembled that of natal men could be due to gender incongruence, rather than the cause of gender incongruence.

Though the brain-hardwiring hypothesis would meet the necessary criteria for feeling like a woman, as it explains how a person could have an inherent experience of being a woman which is not directly related to their natal sex being female and which would not be equally typical of men[10], the evidence Serano presents for it is severely lacking, not just failing to establish the hypothesis but perhaps also contributing to its contradiction. Even were the evidence far more compelling however, it is unclear how many transgender people would accept the hypothesis as an explanation of their own sense of gender identity. Perhaps ironically, given they refer to Serano's book, *Whipping Girl* as, 'groundbreaking' (Lester 2017, p.72) when explaining her views on subconscious sex, C N Lester writes:

> Another favourite of the binary sex brigade is the idea of sex being 'hardwired' in the brain as 'male' or 'female' … 'Male and female brains are of course far more similar than they are different. Not only is there generally great overlap in "male" and "female" patterns, but also the male brain is like nothing in the world so much as a female brain. Neuroscientists can't even tell them apart on an individual level. So why focus on the difference? (Lester 2017, p.67)

It is not entirely clear why Lester regards appealing to the notion of hard-wired brains to be a favourite of people who believe sex is binary, not least because Serano refers to the idea in support of her own views; one might also think that people who believe sex is binary might not feel the need to go beyond referring to chromosomal, hormonal, gamete, and anatomical differences between males and females. Regardless, it is clear that some transgender people would reject the idea that their brain is hardwired. In her paper, *In Defence of Transracialism*, Rebecca Tuvel offers considerable insight into

[10] It would also meet the necessary criteria for feeling like a man, as it explains how a person could have an inherent experience of being a man which is not directly related to an individual's sex being male, and which would not be equally typical of women.

the reasons many trans people may reject such a hypothesis, noting that, 'it holds the societal acceptance of transgenderism hostage to a biological account of sex-gender' (Tuvel 2017, p. 265) and, as such, raises several issues:

> First, not all trans individuals claim to have been "all along" the sex with which they now identify. This suggests that their sexed identity was not bio-psychologically determined, hormonally or otherwise…. [a] bio-psychological account of transgender identity thus risks excluding these individuals….
>
> Second, and most importantly, this view problematically implies that we must settle the debate over the biological versus social basis of sex-gender identity before we can know for certain whether transgenderism is a "real" phenomenon, and therefore acceptable. Not only is such a basis widely disputed, but it would be decidedly unjust for the acceptance of trans individuals to turn on such knowledge…
>
> Moreover, it is worth highlighting the problems with suggesting that sex, as biologically based, determines the gender with which one psychologically identifies. First, even if there is a biological basis to sex, it does not automatically follow that there is something it "feels like" to be biologically female that grounds a shared experience of "what it's like" to be a woman. Rather, individual experiences of what it is like to "be" a woman are extremely varied, and feminists have long attempted to show how reductive and problematic it is to assume that all women share some core, let alone some biologically based, kernel of experience. Second, whatever criterion is offered to ground this similarity would inevitably disqualify many women, for not all women share the same hormone levels, reproductive capacity, gonadal structure, genital makeup, and so on. In fact, it is much more difficult than people suppose to isolate a core set of female sex features that captures all the people we wish to count as women. Therefore, anyone who suggests that all women share some biologically based feature of experience that sheds light on a shared psychological experience will have to show not only that biological sex gives rise to a particular gendered psychology, but that there is something biological that all women share. (Tuvel 2017, p. 266)

It is possible to avoid the objections above by providing an account of gender identity that maintains it as inherent to the human condition without tying it to brain structures or other biological features. One scholar who adopts this approach is philosopher, Sophie Grace Chappell, who writes in her commentary on Nicole Vincent's paper, *Interrogating Incongruence*,

> Suppose my conception of myself is as of someone whose body has female primary and secondary sexual characteristics rather than male primary and secondary sexual characteristics; but in fact, as I am perfectly well aware, my body is equipped with e.g. male genitalia rather than female. (Chappell 2021, pp. 1-2)

She continues later,

> 'What is it to have such a conception of oneself? In what sense can I conceive of myself as someone who has female characteristics, when I am also perfectly well aware that, to put it bluntly, I don't—not at least before medical intervention? … As a trans woman I have the persistent, consistent, and insistent sense that I should have a female body; that somehow that is me, in a way that having a male body is not.' (Chappell 2021, p. 2)

Chappell does not root her notion of gender identity in brain structure in the same way Serano does, nor does she refer to her conception of herself as subconscious. However, like Serano, Chappell's account of gender identity relates to how an individual thinks of themself. Serano would say a trans woman is a natal male who (subconsciously) expects their body to be female, while Chappell writes she is a natal male who, 'conceives of [her]self as someone who has female characteristics' (Chappell 2021, p. 2)

Chappell's conception of gender identity meets the necessary criteria for feeling like a woman for exactly the same reasons Serano's does; it also might initially seem easier to accept than Serano's conception, given that it does not rely on questionable evidence and that it is easy to understand how any individual may conceive of themselves as different to how they actually are. What Chappell does not explain, however, is how it is that a transgender individual comes to conceive of themselves as someone who has different primary and secondary sexual characteristics to those they actually have or where the sense that they should have a different body comes from. If there is a causal link between such an individual's biology and their self-conception, or the sense of how they should be, whether it be through their brain structure, as Serano advocates, or some other means, then self-conception as a basis for gender identity, 'holds the societal acceptance of transgenderism hostage to a biological account of sex-gender' (Tuvel 2017, p. 265) and suffers all the same issues Tuvel explains above. If how a transgender individual conceives of themselves is not in any way inherent to their nature, and somehow develops over time due to their individual experiences, it is not clear what it is that entails their gender identity claims should be taken any more seriously than any other claim an individual

may make about how they conceive of themselves; why it should not be thought of as highly irrational, as it might be if an obese person were to conceive of themselves as skinny, a short person were to conceive of themselves as tall, or a poor person were to conceive of themselves as rich. The obese person in question may have the persistent, consistent and insistent sense that they *should* be skinny, just as the short person may have the persistent, consistent and insistent sense that they *should* be tall, and the poor person may have the persistent, consistent and insistent sense that they *should* be rich. It is not clear, however, that this sense makes their respective self-conceptions any more reasonable; it is not obvious that an individual sensing that they should be something they are self-evidently not, makes them conceiving of themselves as that something any less irrational. Chappell may argue that there is something about the sense she and (presumably) other transgender people experience relating to how their bodies should be which differentiates them from other categories of people; however, she offers no explanation of what that difference might be, leaving open the possibility that an individual can have the persistent, insistent and consistent sense that they should be anything at all, and that their subsequent self-conception as such is no less reasonable than a natal male conceiving of themselves as a woman.

Chappell explains why *her* sense of herself and subsequent self-conception isn't delusional, writing,

> To say "that is me" is not, in the sense I intend it, inconsistent with recognising the degree to which, unfortunately, it isn't me. There is nothing delusional about this sense [that she should have a female body, and that having a female body is her in a way that having a male body is not], because it comes conjoined with an unhappy awareness of the often stark difference between the way things should be and the way things are.' (Chappell 2021, p. 2)

It is clear that Chappell's sense would not be classed as delusional in a medical context; Chappell is aware of reality, while delusional people typically find it impossible to accept that their beliefs (sense in this context) do not reflect reality, regardless of the amount and quality of evidence which is presented to demonstrate that this is the case. Whether there is nothing at all delusional about a sense which persists despite incontrovertible evidence supporting its falsehood might be debated, however; it is certainly not a delusion, but it is, perhaps, not entirely dissimilar from one.

Even if it is granted that there is nothing at all delusional about Chappell's sense, this offers very little in terms of determining its meaning and worth; a sense could be unintelligible, highly irrational and/or a symptom of mental illness without it being deemed delusional. I might claim, for example, that I

have the persistent, consistent and insistent sense that I should be president of the USA, meaning that I feel I would be a better leader of the USA than whoever is currently in office. I am aware that I am not President and not eligible to be President; however, these facts are not relevant to my sense that I should be President as my sense is limited to my feeling of how successful I would be in that role. Given my awareness of the difference between what I sense should be and what actually is, and the easily defined limitations of my sense, it is easy to put forward the argument that my sense has some meaning and that I am not completely irrational for holding it, even if, perhaps, I have an inflated sense of my own capabilities. If my sense that I should be president of the USA also involves the feeling that being president of the USA *is me* in a way that not being president of the USA *is not me*, however, it is far more difficult to maintain that my sense is not unintelligible and that I am not completely irrational for holding it. What it means for an individual to feel that a state of being which (they acknowledge) does not accurately reflect the reality of who/what they are is them in a way that their actual state of being is not, is completely unclear, to the extent that it is arguably meaningless; furthermore, in defying logic and reason, such a sense is, by definition, irrational. This point is perhaps better demonstrated with a somewhat more outlandish example: Were I to claim that, though I am unhappily aware that I am human, I sense that I should be a fox, and that being a fox is me in a way that being a human is not, I do not think it would be unlikely that I would be considered mentally unstable, even though I couldn't rightly be deemed delusional. While I am not suggesting that this claim is entirely analogous to Chappell's, just as this claim invites the obvious questions of how, exactly, a fox is me and a human isn't me, and why my claim should be accepted, Chappell's claim invites the questions of how, exactly, she is a person with female characteristics and not a person with male characteristics and why her claim should be accepted.

Though they don't conceive of gender identity in the same manner Chappell does, Danièle Moyal-Sharrock and Constantine Sandis attempt to explain the difference between trans women's claims that they should be women and the sort of hypothetical claims I provide above in their book, *Real Gender*. Indeed, it seems likely they would accuse me of making a category mistake for even insinuating that an individual claiming to be a fox might be somewhat analogous to a natal male claiming to be a woman. They write, 'granting trans self-identification does not imply granting absurd self-identification, such as identifying oneself as … animals or people other than yourself.' (Moyal-Sharrock and Sandis 2024, p.63) The basis for this claim seems to be how fixed the meaning of the word one is identifying as, and the authenticity with which one identifies oneself. *Fox*, presumably in addition to the names of all other non-human animals, is relatively fixed; in contrast, Moyal-Sharrock and Sandis write, 'the definition of woman as 'natal female' is not fixed; in fact, it is under scrutiny,

[meaning] the validity of the definition is questioned … because it unduly excludes women who are not born female.' (Moyal-Sharrock and Sandis 2024, p.63) This entails that an individual cannot authentically identify as a fox (unless they're delusional) as there is no possibility of them authentically believing that they meet the criteria of the (relatively) fixed meaning of *fox*. In contrast, a trans woman could authentically identify as a woman (without being delusional) because she could authentically believe she meets the criteria of being a woman, given *woman* isn't simply understood as *natal female.*

Firstly, it must be noted that it seems there is an aspect of question-begging in Moyal-Sharrock's notion that the definition of *woman* as *natal* female is being scrutinised because it excludes women who are not born female; surely it isn't valid to assume that there are women who are not born female, and use this to challenge the definition of *woman* as *natal female.* This thesis, many of the sources it references, and, indeed, (one presumes) Moyal-Sharrock and Sandis feeling the need to write their own book stand as testament to it not being conclusively proved that one can be a woman and not a natal female. Furthermore, it is self-evidently the case that the definition of a word being scrutinised/contested does not equate to the scrutinised/contested definition being inadequate or less fixed than definitions which are not contested

In addition, it is not clear from Moyal-Sharrock and Sandis' book what it is that determines how fixed words are. They quote Talia Mae Bettcher's paper *Trans Identities and First-Person Authority* writing that individuals may not, 'through sheer force of will, alter the meaning of words within determining cultural contexts' (Bettcher 2009, p.98); however, they, and indeed Bettcher, leave it largely undetermined what it is that causes the meanings of words to shift. While the meaning of *woman* may currently be being scrutinised, it is not at all obvious that this always has been, or always will be, the case. It also does not seem beyond the realms of possibility that words, like *fox*, which are supposedly relatively fixed, could be scrutinised in the near future if a sufficient number of people were to argue, for example, that this definition excluded foxes who were not born Vulpes, and the argument gained sufficient social uptake.

Finally, even if it is granted that the meanings of some words are more fixed than others, excluding the possibility of rationally and authentically identifying as describable by these words, it seems this allows for the possibility of identifying as things which have meanings as un-fixed as *woman*, whatever these may be. It also seems that *some* definition of *woman* is still required in order for individuals to rationally and authentically identify as a woman. This very chapter is dedicated to examining the issues with explaining what it is to be a woman aside from reference to sex; indeed, issues with the explanation Moyal-Sharrock and Sandis endorse are examined in section 3.3.

Chappell, herself, does not attempt to offer an adequate explanation as to how she is a person with female body in a way she isn't a person with a male body, simply writing, 'somehow' (Chappell 2021, p. 2) nor does she offer an explanation as to why it should be understood differently to other, arguably similar, identity claims.

Later in her paper, however, she acknowledges that her claim may be difficult for people to understand. She writes:

> Now of course, someone might find this ground and this content difficult or even impossible to understand. They might reject the talk that I have offered of "self-conception" or "what I should be" as outright unintelligible. But if so, what then? We would then be left with bare talk of unexplained desires. Trans women (we will now have to say) are just people who want to be physically female. (Chappell 2021, p. 3)

She continues, 'Trans women will now be people for whom there is an incongruence between where they are physically, and where they want to be physically.' (Chappell 2021, p. 3) It cannot be determined from her commentary on *Interrogating Incongruence* whether Chappell intended this idea to be considered an account of gender identity, but it does have the potential of being an easily understood one. Furthermore, in her book *Trans Figured*, Chappell writes,

> Being transgender, at least as I experience it, [is] a longing to be a certain way that essentially depends for its force and tone on your own awareness that at any rate anatomically you aren't that way, and (/or) weren't born that way. (Chappell 2024, p.160)

While Chappell doesn't explicitly reference her gender identity when writing this, it is suggestive that, for some transgender people at least, gender identity may ultimately amount to the persistent, consistent and insistent desire to have the typical physical characteristics of the opposite sex. If this is the case, it would make sense that natal men and natal women are largely unaware of their gender identity, as a desire for something you have with you at all times, namely the typical physical characteristics of your own natal sex, is unlikely to be persistent, consistent and insistent. Assuming that this was being posited as an account of gender identity, it can be reasonably assumed that the desire to look a certain way is not directly related to sex, and that the desire to have the characteristics typical of women would be more typical of women than of men; this would mean this account of gender identity would be compatible with the necessary criteria for feeling like a woman. The issue with such an account of gender identity is that it is unclear what would differentiate transgender

people and their desires from other people who desire to be different in ways that, through no fault of their own, are impossible for them to achieve, e.g. a short (fully-grown) adult who desires to be tall, or a British person who desires to be president of the USA. (I analyse the validity and social acceptance of other types of identity claim, beyond gender-identity, in chapter 5)

Chappell also offers what might be considered to be another account of gender identity in *Trans Figured,* writing, 'God made me transgender and loves me that way.' (Chappell 2024, p.160) Again, Chappell does not explicitly refer to gender identity here; however, she highlights the possibility that people have a particular gender identity because it is bestowed upon them by God. Chappell states that her claim that God made her transgender raises the obvious theological question, 'why didn't God just make [her] a natural born woman in the first place?' (Chappell 2024, p.160) While this is certainly a pertinent question, the notion that God is the source of people's gender identity raises other equally obvious, pertinent, and problematic questions that cast doubt on this (potential) concept of gender identity:

Why is it that some people are not aware of their gender identity or, indeed, deny that gender identity is a meaningful concept? Is it the case that God gives some people and/or makes some people aware of their gender identity and not others, or is it perhaps the case that some people are just more willing and/or capable of listening to God than others? While I cannot presume to know how Chappell would respond to these questions, it seems likely, given the diverse beliefs within Christianity and other faiths, that any answer would be controversial and potentially offensive to many who hold differing views on gender identity and God's role in its formation.

It is clear from her writing that Chappell is a Christian, and so she likely holds the classical theistic concept of God – a transcendent omnipotent, omniscient and omnibenevolent being. To raise a very specific derivation of the Problem of Evil; why would such a being impose, what is reported by many to be, great suffering on many transgender people by bestowing on them a gender identity which is incongruent with their natal sex? Chappell's own answer from God (when she questioned why He didn't make her a natal woman), 'To thicken the plot'. (Chappell 2024, p.160) seems deeply unsatisfying. There are the traditional theistic responses - that such suffering is some form of test; that such suffering will be worth it in the end (eschatological justification); that God's reasoning is far beyond our comprehension. Exploring these responses obviously goes far beyond the remit of this paper; here it suffices to note that the notion of gender identity being bestowed by God raises these questions. It also seems, to me at least, that by virtue of His omnipotence, whatever purpose suffering

achieves, God should be able to achieve equally, if not more, effectively without it.

How can we differentiate between what Chappell claims God has made her and told her, and what other people claim God has made and told them? Many religious people, in direct opposition to Chappell, claim that being transgender is a rejection of God and His message. History is also replete with examples of people who have carried out heinous acts, claiming, and presumably believing, they were commanded/made to do so by God. It is not my intention here to suggest any sort of equivalence between Chappell's claim and any other claim any individual has made about God; however, if Chappell wants to maintain her own claim while denying those of others, as she surely must, justification is required.

In addition to these questions, there is also the obvious issue that many people do not believe in God. To these atheists, the notion that God bestows gender identity, or indeed anything, upon people is likely meaningless, far more reflective of the mind of the person making the claim than of reality.
The feelings of being a particular gender which have been discussed to this point are compatible with the inherent gender identity paradigm. They all suggest that gender identities could exist and form even without the existence of differential gendered social expectations (albeit those expectations may nevertheless influence the ways people develop and express their gender identities in a society driven by gendered norms). E.g. in the God-given account, Sophie Grace Chappell would always have discovered herself to have a female gender identity, but gendered social norms could influence the way that that gender identity is expressed (e.g. through clothing choice). There are also explanations of how one may feel like a man or a woman which imply gender identities are entirely contingent on the existence of different societal expectations for men and women, and which consequently fit into the social expectation gender identity paradigm. In order to be valid, these explanations must meet the same necessary condition for feeling like a particular gender.

3.2 - Accounts of Gender Identity Derived from Social Expectations

Philosophers Charlotte Witt and Sally Haslanger provide accounts of womanhood that are based on social expectations. In both cases, they do not take themselves to be defining what it is to identify as a woman, but rather what it is to be one. For them, it is the social role one plays in society, and not how one self-identifies, which determines whether one is a woman.

Witt argues:

> Being a woman [is a] social position with bifurcated social norms that cluster around the engendering function. To be a woman is to be recognised as having a body that plays one role in the engendering function: women conceive and bear…. The social norms include, but are not limited to, those attaching to different gestational roles and to different parenting roles (Witt 2011, p.40).

Haslanger argues:

> S is a woman if [and only if] S is systematically subordinated along some dimension (economic, political, legal, social, etc.), and the group is 'marked' as a target for this treatment by observed or imagined bodily features presumed to be evidence of a female's biological role in reproduction.' (Haslanger 2000, p.39).

These accounts describe what it is to be a woman in terms of social roles and expectations, rather than in terms of inherent characteristics or self-identification. Given this, it is necessary to explore whether it is possible to reconcile a notion of gender identity with these kinds of social role accounts of womanhood.

An obvious solution might be to derive accounts of gender identity directly from Witt and Haslanger's definitions of womanhood. However, this approach is problematic because it fails to account for the ways in which many transgender women identify themselves. For instance, transgender women do not typically identify as people who are recognised as female and subjected to gender norms or subordination based on that recognition. Nevertheless, it can be examined how gender identity accounts, which are derived from social-role-based understandings of gender, might be formulated. It is important to note that these derived accounts of gender identity do not necessarily correspond to how Witt and Haslanger themselves conceive of gender identity, nor would they necessarily advocate them.

With inherent accounts of gender identity, what it is to be a woman and what it is to identify as a woman are essentially the same[11]. In contrast, accounts of gender identity derived from social expectations define a woman as x (in a given society), and an individual internalises that definition so that their gender identity is their deeply felt, internal, and individual experience of being x.

[11] i.e. For Serano, gender identity equates to her brain expecting her body to be female (which WHO and WPATH would refer to as a deeply felt, internal and individual experience of her brain expecting her body to be female); a woman is someone whose brain expects their body to be female. For Chappell, gender identity equates to her having the persistent, consistent, and insistent sense that she should have a female body; a woman is someone who has the persistent, consistent, and insistent sense that they should have a female body.

Under Witt's account of womanhood, an individual would have the gender identity of a woman if they have an internal experience of being recognised as having a body that conceives and bears (whether or not such recognition actually occurred), and subsequently feel the social norms related to having such a body are relevant to them. Similarly, under Haslanger's account, an individual would have the gender identity of a woman if they have an internal experience of being marked for subordination due to observed or imagined bodily features presumed to be evidence of a female's biological role in reproduction (whether or not they were actually marked for subordination for this reason).

One of the necessary criteria for feeling like a woman, which involves having an experience not directly related to one's natal sex, can be met by accounts derived from both Haslanger and Witt. This is because feeling as if one has been recognised as having female anatomy does not necessarily entail that one is natally female. It is reasonable to assume, however, that it is the presence of primary and/or secondary female sex characteristics which usually leads to one being recognised as having female anatomy, and most rational people will not feel as if they have been recognised as having anatomy they don't in fact have; this being the case, it will likely be an individual's natal sex that will ultimately determine whether they feel they have been recognised as having female anatomy. When instances and feelings of recognition related to the individual's sex are discounted, it is not clear that feeling as if one has been recognised as having female anatomy will be more typical of women than of men; it is therefore not necessarily the case that the derived accounts meet the second necessary criteria of feeling like a woman. It is, however, plausible that feeling one has been recognised as having female anatomy would remain more typical of women, even when sex-related recognitions are discounted, as natal women and transgender women are the individuals most likely to artificially accentuate their appearance so that they appear as if they have (more obvious) female anatomy.

Though they may potentially cohere with the necessary criteria for feeling like a woman, accounts of gender identity which are directly derived from accounts of womanhood have obviously problematic inclusion implications: Some natal women may not be recognised as having female anatomy, and some transgender women may claim they were women long before being recognised as having female anatomy (if they ever come to be recognised in this way).

While Haslanger's explanation of womanhood will exclude many transgender women, and so would likely cause significant public outcry if it garnered sufficient uptake, it does not exclude all transgender women. Under Haslanger's definition of woman, any transgender woman could meaningfully become a woman if they were able to transition to the extent that they were assumed to have female anatomy (given that the assumption entailed they were marked for, and subsequently experienced, systematic

subordination); presumably such individuals could rationally feel like women (given the experience persisted for a sufficiently long period of time).

Witt's position, though it excludes some natal and transgender women who are not recognised as having female anatomy, also allows for transgender women to become women once they are recognised as having female anatomy. In relation to excluding natal women and transgender women who are not recognised as having female anatomy from the category woman, Witt states that she is an advocate of the ascriptivist explanation of social normativity by which, 'social position occupancy … is secured by social recognition[;] social recognition is a necessary condition for social position occupancy.' (Witt 2011, p.45) She writes:

> The ascriptivist explanation of social normativity seems to fit the social positions of being a woman and being a man ... First, there is a genetic argument. Our social positions as girls and boys are fixed long before any practical identification is possible. It is fixed ascriptively by the doctor in the hospital, recorded on the birth certificate, and that initial categorization is reiterated over time through institutions like day care and school, books, toys, clothing, and so on. Second, individuals who do not practically identify with their socially ascribed gender are nonetheless responsive to those norms and evaluable under them. In these cases, an individual's responsiveness to a gender norm might be to flout it or to flat out reject it. But … flouting a norm implies that the norm is in some way or to some degree applicable to oneself. … In fact, it is not possible to flout a norm that does not apply to oneself … [A] tomboyish girl or a gentle boy will find themselves evaluable by others under stereotypical gender norms whether they identify with them or not. The girl is described as a tomboy regardless of whether she accepts the gender norms that ground that description. It just doesn't matter. Practical identification with the gender norm is not a necessary condition for that individual to be evaluable by others in relation to it. What does matter is that the individual is a girl, that she occupies that social position. (Witt 2011, pp.45 - 46)

This excerpt demonstrates that Witt understands there are some people who will not identify with their socially ascribed gender, but that this ultimately doesn't matter; rejecting socially ascribed gender norms associated with being recognised as having male anatomy is not sufficient for one to be categorised as a woman. Furthermore, as rejecting socially ascribed gender norms associated with being recognised as having male anatomy is, for Witt, being responsive to those same gender norms, it seems it would be impossible for an individual who is not recognised as having female anatomy to feel like a woman; if the individual is recognised as having male anatomy, any attitude and feelings they have towards gender norms, would be interpreted as attitudes and feelings related to being a

man. E.g. If a natal male who is recognised as having male anatomy rejects the gender norms associated with being recognised as having male anatomy, and subsequently dresses and behaves in a way women stereotypically do, said individual does not feel like a woman; rather, they feel like a man who rejects the gender norms that they are responsive to.

Though Witt's explanation of womanhood will exclude some transgender women; like Haslanger's, Witt's position does allow for a transgender woman to be included in the category woman once they have transitioned to the extent that they are recognised as having female anatomy. Indeed, Witt later writes that, after transitioning, transgender people move, 'from being responsive to one set of gendered social norms and expectations (of appearance, posture, activity, and so on) [and] become responsive to an entirely different set of gendered social norms.' (Witt 2011, p.88) Presumably, this means that transgender women who are recognised as having female anatomy would be able to feel like women, given they have been responsive to feminine social norms for a sufficient period of time.

Although Haslanger and Witt's accounts of womanhood will clearly exclude some individuals who would wish to be classified as women from the category *woman,* and also entail that some of these individuals cannot feel like women, it should be noted that the individuals who are excluded are those who are generally aware of how they are perceived by others. Accounts of gender identity derived from Haslanger and Witt's explanations of womanhood allow for individuals recognised as having male anatomy, who lack awareness of how they're perceived by others, to have the gender identity of women. It is possible that an individual who is recognised as having male anatomy may still have an internal and individual experience of being recognised as having female anatomy - the individual in question may feel as if it is happening even though it is not. While the accounts of gender identity allow for this, there are multiple obvious issues: First, it entails that the gender identity of (possibly) a significant number of transgender women - those not recognised as having female anatomy - would be based on an error. Second, the notion that transgender women feel they are recognised by others in a way they are not is suggestive of a lack of self-awareness, perhaps even irrationality. These two issues would almost certainly cause a tremendous amount of public outrage, particularly within the transgender community, as it is obviously the case that transgender people would wish to be considered rational, and for it not to be thought that their gender identity is based on a misconception. The third issue is that this explanation of gender identity does not cohere with how transgender women typically explain their own feelings of gender identity; while it is almost certainly the case that every account of gender identity will be contested by some, meaning this issue isn't only relevant to accounts directly derived from Haslanger and Witt's explanations of womanhood, it does seem that

an account of gender identity which is ultimately based on how an individual feels they are perceived by others is particularly likely to have few adherents.

Haslanger and Witt's explanations of womanhood are both compatible with the necessary criteria for feeling like a woman (having an experience that is not directly related to one's sex being female, and which is not equally typical of a man); however, this compatibility relies, completely, on the tenuous premise that natal women and transgender women are the most likely to artificially accentuate their appearance so that they appear as if they have [more obvious] female anatomy). The acceptance of this premise allows that being recognised as someone who has female anatomy could still be more typical of women than of men when sex-related reasons for such recognition are discounted, even though it is clearly the case that such recognition will almost-always be directly related to one's sex being female, and intuitive that this is (really) why it is more typical of women.[12] Even allowing that accounts of gender identity derived from Witt and Haslanger's explanations of womanhood are coherent with the necessary criteria of feeling like a woman, it seems clear that many individuals' claimed gender identity would be invalidated. Although the accounts will be compatible with the gender identity of the majority of natal women and some transgender women (those who have been sufficiently successful in transitioning), they are not compatible with the gender identity of any natal woman or transgender woman who is not recognised as having female anatomy (up until the time they are recognised as having female anatomy). Ultimately, these issues of inclusion entail that while Witt and Haslanger's explanations of *womanhood* do allow for meaningful explanations of gender identity to be derived from them, such explanations are likely to be rejected.

3.3 - A Psychology-Based Account of Gender Identity, Derived from Social Expectations

Philosopher Katharine Jenkins recognises the possible inclusion issues that arise due to Haslanger explaining woman as a political class, rather than an identity. In order to avoid them, rather than derive an account of gender identity directly from Haslanger's definition of woman, Jenkins incorporates Haslanger's definition into her own account of gender identity, which is rooted in psychology, and which, 'explicitly aims to respect the gender identifications of all trans people.' (Jenkins 2016, p.396) Jenkins' position is that, 'a truly inclusive ameliorative inquiry into the concept of woman is only

[12] Rejection of this premise would entail that accounts of gender identity derived from both Witt and Haslanger's explanation of what it is to be a woman are not coherent with the necessary criteria of feeling like a woman.

possible when gender as class and gender as identity are given equal consideration.' (Jenkins 2016, pp. 406 - 407)

Having accepted Haslanger's account of 'woman' as an account of what she calls 'gender as class', Jenkins goes on to offer an account of gender identity that presupposes the class-based understanding of gender. Thus, Jenkins writes, 'S has a female gender identity iff S's internal 'map' is formed to guide someone classed as a woman through the social or material realities that are, in that context, characteristic of women as a class'. (p. 410) What it means to be classed as a woman, in this case, is taken from Haslanger; it is to be marked as a target for subordination by observed or imagined bodily features presumed to be evidence of a female's biological role in reproduction. 'Gender identity is thus linked to how gender as class operates' (Jenkins 2016, p. 410)

For Jenkins, what makes an individual's gender identity that of a woman is not being targeted for subordination due to recognition of their female anatomy, but having a sufficient number of internalised norms common to individuals who have been targeted for subordination due to recognition of their female anatomy; these norms ultimately form a 'map' which guide women through reality. It is important to note that under Jenkins' definition,

> Having a female gender identity does not necessarily involve having internalized norms of femininity in the sense of accepting them on some level. Rather, what is important is that one takes those norms to be relevant to oneself; whether one feels at all moved to actually comply with the relevant norms is a distinct question. (Jenkins 2016, p. 411)[13]

The account of gender identity Jenkins provides is seemingly endorsed by Danièle Moyal-Sharrock and Constantine Sandis in their book *Real Gender.* They write:

> This definition of gender identity based on the relevance of norms in the life of an individual, *whether or not they in fact apply those norms*, is inclusive in that it allows for 'identifying as a woman' to mean different things for different people, or even for the same person at different times. It importantly captures the *fact* [my emphasis] that a trans woman can be a woman even prior to, or without, transitioning … It enables us to understand that a

[13] The notion of individuals recognising norms as relevant to them even when they don't endorse them is also present in Witt's (2011, pp.45 - 46) account of womanhood (and an account of gender identity directly derived from it), albeit Witt's assumption is that the norms individuals recognise as relevant to them will be ones associated with sex.

> 3-year old child assigned male at birth who consistently seeks to look and be treated by a girl, and who asks her mother 'why she made her wrong', is, in most cases, a girl.' (Moyal-Sharrock and Sandis 2024, p.18)

Jenkins' explanation of what it is to have the gender identity of a woman meets the necessary criteria for feeling like a particular gender, in that the experience she describes is not necessarily directly related to an individual's sex being female. An individual having an internal map formed to guide those classed as women through the social or material realities that are, in that context, characteristic of women does not necessitate that the individual in question is a natal female; a natal male could plausibly form an internal map to guide those classed as women.[14] Indeed, Jenkins explains:

> The phrase 'social or material reality' applies to a broad range of aspects of one's embodied existence, so that having an internal map that is formed to guide someone marked as a woman can mean different things depending on which aspects of existence the map is picking up on … For [a] trans woman, having a female gender identity may be primarily a matter of having the sense that her bodily features ought to be a certain way, for example, that she ought to have a vulva and not a penis and testes. (Jenkins 2016, p.413)

It is also the case that the experience Jenkins claims constitutes having the gender identity of a woman meets the necessary criteria of being more typical of women than it is of men. Jenkins is committed to the notion that if an individual has an internal map formed to guide those classed as women, then they have the gender identity of a woman, regardless of how they may identify themselves; her explanation of gender identity is therefore an experience common of all women and so necessarily more typical of, if not exclusive to, women.

Despite meeting the necessary criteria for feeling like a particular gender, problematic issues still arise from Jenkins' account of gender identity, many of which relate to Jenkins' failure to provide sufficient detail about what constitutes a map formed to guide individuals classed as a woman through social or material realities, and the mechanism by which such maps come into existence. One such issue is that (even when transgender men and transgender women are taken into account) it is obvious that natal males are far less likely than natal females to be recognised as having female anatomy, and so far less likely to be marked for subordination; it is therefore natal females who will determine feminine norms.

[14] It should be noted that this is plausible under Jenkins account because the mechanism by which 'maps' formed to guide individuals through reality are created is left largely mysterious; therefore, the possibility that natal males can form maps to guide those classed as women cannot be dismissed.

This being the case, it is difficult to understand how a natal male, who is unlikely to be marked for subordination (perhaps due to not yet beginning hormonal or surgical transition), is to internalise feminine norms as Jenkins describes, unless they do so through irrationality or delusion; they are not marked for subordination as they lack the (appearance of) female anatomy which, were it recognised, would entail such, but they internalise the norms that those who are marked for subordination are responsive to. This idea can be illustrated further by developing Jenkins' own example above: Aside from reasons relating to simply observing her own anatomy, one can hypothesise that a natal female with evident female anatomy could come to have a sense that she ought to have female anatomy, rather than male anatomy, because she (recognises she) is treated how society typically treats (other) people with evident female anatomy and not how society typically treats people with evident male anatomy. It seems, however, that the same process could not lead a transgender woman who would not be recognised as having female anatomy to develop a sense that she should have female anatomy unless she is delusional; she would have to believe that the norms that apply to her are those which are generally applied to individuals with female anatomy, despite being frequently exposed to evidence that she is treated as society typically treats (other) people with evident male anatomy.

This process by which maps to guide those classed as women could possibly develop allows for transgender women who are perceived, and treated, as if they have evident female anatomy to rationally develop social maps for those classed as women. However, the issue with this is that transgender women who amend their appearance so as to appear as if they have female anatomy are presumably motivated to do so by their gender identities - that of women - and it is obviously problematic that their gender identity would preclude the development of the map which, according to Jenkins, determines their gender identity. The notion that the only transgender women who can rationally develop maps formed to guide those classed as women are those who naturally appear as if they have female anatomy is also problematic and likely to be rejected by both Jenkins and the overwhelming majority of transgender people. This is because it entails that a significant number, if not a majority, of transgender people - those who don't naturally appear to have the anatomy of the sex which coheres with their gender identity - have a gender identity which is ultimately born of delusion.

Assuming that the overwhelming majority of people are neither irrational nor delusional in how they navigate reality, it is reasonable to conclude that it would be predominantly those individuals who are recognised as having female anatomy who would have internal maps formed to guide those classed as women; it also seems that the overwhelming majority of these individuals would be natal women,

who have internal maps formed to guide those classed as women because they are, in fact, classed as women.

There is the potential for maps developing in a manner different to that referred to above, which allows for natal males to rationally develop maps formed to guide those classed as women; however, not least because of the lack of detail Jenkins provides, it is deeply mysterious what this might be.

Another issue with Jenkins' account, which relates to the mechanism by which maps are formed, is that, despite what Jenkins might claim, it is not obviously necessary that a map would constitute a sense of gender identity (as defined by W.H.O), particularly in people whose map has been formed through irrationality or delusion. Jenkins writes:

> Gender identity, as I am conceiving of it, has both a subjective and an objective element. It is subjective in that it concerns people's own sense of which norms are relevant to them... On the other hand, it is objective in that there must be some genuine correspondence between the norms people take to be relevant to themselves and the norms associated with the relevant gender class in at least some context, although this correspondence need not be perfect. (Jenkins 2016, p.412)

With gender identity understood in this way, it seems plausible that an irrational natal man could sense genuine feminine norms are relevant to him, yet also experience a, 'deeply felt, internal and individual experience of [being a man]' (W.H.O., 2023)

This point is perhaps best expressed by amending one of Jenkins' own examples so that it refers to a natal man rather than a woman:

> Consider a [natal man] who feels that having visible body hair on [his] legs is unattractive, embarrassing, and unacceptable. In a visceral way, having hairy legs feels wrong for [him]. This feeling—this instinctive sense of how [his] body 'ought to be'—is part of [his] gender identity. It is in line with a dominant norm of feminine appearance and will therefore enable [him] to navigate the social and material reality of someone classed as a woman. (Jenkins 2016, p.411)

Jenkins may be correct that the natal man's feeling about how his body ought to be will *enable* him to navigate the social and material reality of someone classed as a woman, but it's not obvious that it will necessitate, or even motivate, him to navigate the reality of someone classed as a woman. This

means the feeling would not be part of his gender identity as it does not (obviously) entail that he will, in any way, sense that he is a woman. It seems it could be the case that a natal man may either shave his legs (due to the feeling hairy legs are unattractive, embarrassing and unacceptable) but not sense he is any less of a man, or reject the sense he should shave his legs as irrational and not sense he is any less of a man. In both cases, while the feeling he experiences is in line with the dominant norm of feminine appearance, it ultimately doesn't affect his deeply felt, internal and individual experience of [being a man]'[15] (W.H.O. 2023) While shaving one's legs is a single feminine norm, it seems that the same could plausibly be the case, regardless of how many norms had been internalised. If, for instance, a natal man had internalised a hundred feminine norms, or a thousand, enabling him to very effectively navigate the social and material reality of someone classed as a woman, it is not apparent that this would preclude him from being able to navigate the social and material reality of someone classed a man, and identifying as a man due to deeply felt, internal and individual feeling that he is such.

It seems Jenkins' account of gender identity would entail that such a natal male would have the gender of a woman, and that the truth of his own gender identity claims - that he is a man - are denied. This is somewhat problematic given that Jenkins would likely be opposed to the claimed gender identity of individuals, particularly transgender individuals, being rejected as false. If it is inappropriate to deny the gender identity claims of natal males who claim they're women, surely the same must be the case for natal males who claim they're men.

In meeting the necessary criteria for feeling like a particular gender, it seems that Jenkins' account could potentially offer a meaningful explanation of gender identity however, the lack of detail Jenkins provides in relation to social maps means that, as it stands, it does not. Jenkins does not explain how norms come to be internalised, nor the number of norms which must be internalised for them to constitute a map formed to guide people of a particular gender through reality; furthermore, she does not explain why an individual (possibly unconsciously) internalising a map formed to guide people of a particular gender necessarily entails the individual in question could be said to have a corresponding gender identity. As it is, it seems that (in any individual) internalised norms which guide people of a particular gender through reality can coexist with the deeply felt, internal and individual experience of being the opposite gender. It also seems that those natal males who do identify as women due to their internal map do so because they are irrational/delusional. Their internal sense of whether they are male, female or neither is somehow linked to, or the same as, their internal 'map', which came about due to them irrationally forming a guide for people recognised as having bodily features that

[15] It's not clear that such a man would even realise, or agree, that his feelings about hairy legs relate to gender.

they are unlikely to have/be mistaken for having. This point can perhaps be made even more explicit if another identity beside gender is used as an analogy: If an individual were to dress in a hijab for a number of years (in a region where this was commonplace for Muslim women), and, subsequently, was able to internalise a map (made of many norms) formed to guide similarly dressed Muslim women, it would not entail that the individual in question was Muslim, nor indeed a woman; knowing how to navigate reality as a hijab-wearing Muslim woman, clearly doesn't necessitate that this is what the individual would choose to do consistently, nor reflect any deep-seated feeling they have about themselves. That there is nothing precluding such an individual from being a natal man who is ideologically and ethically opposed to the fundamental tenets of Islam further illustrates that the successful internalisation of a map to guide a person of a particular identity cannot be the best explanation for that individual's own identity, nor any identity claims they make.

3.4 - Is a Meaningful Account of Gender Identity Which is Compatible With Egalitarian Principles Possible Under Either Paradigm of Gender Identity?

Sense of discomfort aside, when what being transgender feels like is considered under the inherent gender identity paradigm (IGIP), extremely little can be determined. Even were it possible for an individual to feel like a man or a woman, such a feeling would be impossible to meaningfully describe. One would have to isolate a feeling that isn't directly related to one's sex and isn't equally typical of the opposite gender; even were this possible, it would then be necessary to explain why this feeling is related to one's gender identity, rather than any other aspect of one's individual personality and character. The improbability of being able to identify what it feels like to be a man/woman and the implausibility of describing such a feeling in a meaningful way suggests that under the IGIP, there is no coherent feeling of being transgender. If an individual cannot feel like a particular gender (man or woman), or at the very least cannot effectively describe such a feeling, then it follows that one cannot feel, or know they feel, as if their sex and gender do not align. Though this is the case, theoretically, if it were possible for an individual to have an inherent feeling that they were a particular gender, and the inherent feeling included, or was the direct cause of, the individual being motivated to behave in particular ways, it would be difficult to maintain the position that gender identity is not compatible with egalitarian values. Such a state of affairs would entail that inherent gender identity, and not purely social pressures, has led to men and women being inclined towards particular behaviours, and

that, consequently, these behaviours have come to be associated with one gender more than another; they have come to be considered masculine or feminine. Of course, this coherence with egalitarianism would only hold for those behaviours that are part of, or caused by, the inherent feeling of gender identity (and it is mysterious how these would be accurately identified). Behaviours which are not part of, or caused by, the inherent sense of gender identity but are nevertheless perceived as masculine or feminine would presumably only be considered such due to sexist attitudes; furthermore, it would presumably be sexism which was responsible for the perception of any particular behaviour changing from being considered more typical of one gender to being considered only socially acceptable for that same gender. For example, if the inherent gender identity of being a woman (and not of being a man) included the inclination towards caring for the vulnerable, then it follows that this behaviour would be more typical of women than of men and could consequently begin to be perceived as a feminine pursuit. If, however, the social attitude became that men could not care for the vulnerable or were worthy of derision when they did so, this attitude would surely be due to sexism and so incompatible with egalitarian values. If, in contrast, caring for the vulnerable formed no part of the gender identity of being a woman, so women were not any more inherently inclined to this behaviour than men, it seems any perception that caring for the vulnerable is a feminine pursuit could only be based on sexism.[16] It appears, then, that although the IGIP does not allow for a coherent concept of gender identity, one which is both meaningful and plausible, *were there a coherent concept of gender identity under the IGIP*, it could potentially be compatible with egalitarian values.

A meaningful explanation of what it feels like to be transgender seems far more likely under the social expectation gender identity paradigm (SEGIP) than it does under the IGIP. The accounts of gender identity which are directly derived from Witt and Haslanger's definition of woman will likely accurately reflect the gender identity of a number of people, some of whom will be transgender. Though there are many ambiguities relating to the social maps Jenkins refers to in her account of gender identity, it is plausible that some people's gender identity is one and the same, or somehow causally related to, an internal social map which allows people of a particular gender to navigate reality. Though such accounts may be meaningful, it is not obvious that they would be widely deemed as acceptable given the inclusion problems they face (in the case of accounts directly derived from Witt and Haslanger's definition of woman) and the mechanism by which gender identity (social maps) comes to exist (in the case of Jenkins account).

[16] It should be noted that the notion of caring for the vulnerable being a feminine pursuit wouldn't necessarily be based on sexism towards women; it could be the case that sexism has resulted in men being thought incapable of caring for the vulnerable.

Even if the inclusion issues they cause and the mechanics problems they face were put aside, it seems that any SEGIP will be incompatible with egalitarian values.[17] Whether gender identity is based on social expectations or social maps, there must be an explanation as to why they are substantially different for the two genders (examined here), and this reason must ultimately be rooted in sexism. This can be effectively demonstrated with one of Jenkins' own examples: Women may choose not to abide by the feminine social norm of shaving their legs; however, there is no obvious reason as to why this is, or should be, a social norm for women (and not for men) to begin with, and it is self-evident that it being a norm is problematic in terms of the equal perception and treatment of men and women. Were it not a social norm for women to shave their legs, both men and women could still shave their legs if it were their preference to do so; women who choose not to shave their legs and men who choose to do so would not be perceived in anything approaching a negative light, however, because, whatever they chose, they would not be violating a social norm. As it is, women who choose not to shave their legs and men who choose to shave their legs can expect to be perceived (by many) as less feminine and less masculine respectively; this is because, for reasons that are entirely unclear, it is widely considered socially acceptable for women (but not men) to shave their legs, and for men (but not women) to have hairy legs. Whether one should or should not shave their legs is not the most invidious example of inequality between (the perception of) men and women however, it undeniably meets the *European Institute for Gender Equality's* definition of a gender stereotype as an, 'arbitrarily assigned characteristic and[/or] role determined and limited by [an individual's] gender' (European Institute for Gender Equality, 2016), and, as such, should be considered a manifestation of a sexist attitude. It seems, by the very virtue of being a social expectation exclusive to men or to women, or of forming any part of the social map for women and not for men (or vice versa), *any* characteristic or role must be similarly sexist in nature. It appears to be the case, then, that while accounts that fall under the IGIP are not coherent, but could be compatible with egalitarian values, SEGIPs can be coherent, but cannot be considered compatible with egalitarian values; at least not if we want both to preserve the idea that gender identities are important and be reflected in our laws and societal organisation, and to make egalitarian moves towards dismantling separate gender roles.

[17] In her paper, *Feminism without "gender identity"* (which was published after this chapter was completed and so did not inform any of this thesis beyond an addition to the introduction and this reference) Anca Gheaus reaches similar conclusions. Her paper, like this thesis, questions whether there is a meaningful definition of gender identity; she ultimately argues that, as it seems that even the most intelligible concepts of gender identity are incompatible with feminism's egalitarian aims, 'we should eliminate the concept of "gender identity" (Gheaus 2023, p31)

3.5 - Chapter Conclusion

Chapter 3 has critically explored both inherent and social expectation paradigms, evaluating their compatibility with egalitarian principles. The chapter began by addressing the complexities of defining what it means to feel like a particular gender, considering both biological and socially constructed aspects. Through the examination of scholars such as Julia Serano and Sophie Grace Chappell, the inherent gender identity paradigm (IGIP) was scrutinised for its reliance on the notion of a subconscious or biologically hardwired sense of gender, or alternatively on controversial assumptions about gendered essences as God-given, which faced significant theoretical and empirical challenges. The analysis revealed that the IGIP fails to offer a coherent framework, struggling to provide a universally meaningful and plausible explanation of gender identity, and often bordering on pseudoscience. In contrast, the social expectation gender identity paradigm (SEGIP) provided a more accessible framework by linking gender identity to societal roles and expectations. Philosophers Charlotte Witt and Sally Haslanger's accounts, which define womanhood based on social roles and subordination, while not themselves presented as analyses of gender identity as such, offered insights into how gender identity might be shaped by external perceptions and societal norms. However, these accounts also faced inclusion issues, particularly regarding individuals who do not fit neatly into socially recognised categories of gender. Katherine Jenkins' psychology-based approach attempted to bridge these gaps by proposing that gender identity is formed through internalised social norms, creating a 'map' to navigate gendered experiences. Despite its potential, Jenkins' approach highlighted significant ambiguities about the formation and function of these internal maps, raising questions about the rationality of gender identities formed under such frameworks. Ultimately, while SEGIP can provide a coherent, meaningful account of gender identity, it is fundamentally rooted in and perpetuates sexist attitudes, making it incompatible with egalitarian values. Overall, Chapter 3 demonstrates that both paradigms of gender identity have substantial limitations and complexities, challenging the possibility of achieving a coherent, universally applicable, and egalitarian concept of gender identity.

Chapter 4 - The Transgender Movement and Its Dissidents

Despite the widespread agreement on the World Health Organisation's definition of gender identity[18], there is no overriding consensus, scientific or otherwise, as to what it means to have a particular gender identity, and each explanation which has been posited faces significant theoretical and/or practical issues. Notably, the disagreement as to what it means to have a particular gender identity exists even between transgender people; consequently, it is clear that there must be disagreement (even amongst people who identify as transgender) as to what it means to be transgender. Even granting the superficial agreement that to be transgender is to have a gender identity which is incongruent with one's sex[19], without agreement on what gender identity entails, there can be no meaningful agreement on what it actually means for one's gender identity to be incongruent with one's sex.

One might think that this uncertainty would entail that the social movement in support of the acknowledgement and acceptance of transgender people would be largely accepting of the nuanced positions regarding gender identity and transgenderism, and that the people who make up the transgender movement would acknowledge the validity of positions which contradict their own. Interestingly, this is, generally speaking, not the case: Despite the lack of consensus on what it means to have a particular gender identity, the resulting lack of consensus on what it means to be transgender, and the multiple mutually-exclusive theories as to what it does mean, anyone who (publicly) questions the plausibility of the notion of individuals having a 'gender identity' and/or the coherence of transgenderism (when understood as the state of having a gender identity incongruent with one's sex) risks significant personal and professional reprisal from (many of) those within the transgender movement. Individuals have faced such reprisal even when it is absolutely clear that their comments questioning the legitimacy or meaningfulness of gender identity claims and/or transgenderism are well-intentioned, seeking to ensure the wellbeing of those individuals who identify, or who are identified, as transgender.

The purpose of this chapter is to examine the development of the transgender movement from a predominantly medical movement to a predominantly social one. Investigation into the development

[18] A person's deeply felt, internal and individual experience of gender, which may or may not correspond to the person's physiology or designated sex at birth (W.H.O. 2023)

[19] Some scholars reject this notion; notably Nicole Vincent, who argues in her paper *Interrogating Incongruence* that it is not possible for gender to be incongruent (or congruent) with sex. (See section 2.3)

of the movement will include inquiry into how hostility towards dissidents - individuals who are perceived as questioning transgenderism - has been incorporated into the movement's aim of promoting the rights and wellbeing of transgender people.

In his book, *Rewriting the Soul*, Ian Hacking investigates the development of the multiple (personality) movement. As Hacking's investigation parallels the investigation I wish to carry out, as I did in chapter two, I will be adopting his framework to trace the transgender movement over time.

4.1 - Essentials

Hacking (1988) writes that, 'successful movements require accidents, essentials and institutions,' (p.39). About essentials, he claims, 'a movement will "take" only if there is a larger social setting that will receive it. For the multiple movement, 'the essential ingredient … has been the American obsession with child abuse, a mix of fascination, revulsion, anger and fear.' (P.39)

There are three overlapping essential ingredients which have ensured the firm establishment of the transgender movement. The first is the general public's obsession with what may be considered 'deviant sexuality'; an obsession that may be thought to include a mix of fascination, revulsion, anger and fear. It may be thought (possibly incorrectly) that an individual being transgender might entail them taking part in homosexuality, cross dressing, and plastic surgery, including genital reconstruction. Each of these topics alone has proven to elicit public interest (and often outcry) so it is of little surprise that the lives of transgender people would be a matter of psychological and social interest. More recently, medical professionals such as Professor Michelle Forcier, who is a professor of Paediatrics and assistant Dean of Medicine at The Warren Alpert Medical School of Brown University, have publicly expressed the notion that, 'babies and infants understand difference in gender [and] … some children figure out their gender identity is not necessarily congruent with their sex assigned at birth' (Walsh, 2022). This idea, which is typically advocated by medical professionals who are proponents of gender affirmative care[20], has essentially combined the public's fascination with so-called 'deviant' sexuality with the significant level of interest the public (generally) has in the welfare of children. This has further raised the profile of transgenderism and the issues and debates associated with it, ensuring (if it was not already) that the public setting is conducive to receiving the

[20] 'Gender-affirmative health care can include any single or combination of a number of social, psychological, behavioural or medical (including hormonal treatment or surgery) interventions designed to support and affirm an individual's [claimed] gender identity' (World Health Organisation, n.d.)

transgender movement, in that the public are primed to give the phenomenon of transgenderism their attention.

The second essential ingredient is, in many ways, articulated by J. S. Mill's harm principle:

> That the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. (Mill 2001, p.13)

In the west, especially, the view that an individual should be able to do as they please as long as their actions don't harm others has only grown stronger with time. Furthermore, the populations of liberal democracies, such as the UK, have a tendency to look back at times in their history when individuals' liberties were not respected (obvious examples being the treatment of women and homosexuals) with shame. Shame about past intolerances has likely influenced governments' and populations' willingness to accept and defend the claimed rights and freedoms of individuals in the present day.

The third essential ingredient relates to the development of what is considered harmful to an individual's rights and freedoms. In the same essay in which Mill proposed his harm principle, he writes, 'there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered.' (Mill 2001, p. 106) He also notes:

> There are many who consider as an injury to themselves any conduct which they have a distaste for, and resent it as an outrage to their feelings ... But there is no parity between the feeling of a person for his own opinion, and the feeling of another who is offended at his holding it; no more than between the desire of a thief to take a purse, and the desire of the right owner to keep it. (Mill 2001, pp.77-78)

Here Mill demonstrates his support for freedom of speech and explains that behaving in a manner which another individual finds distasteful, whether this be through action or speech, should not be thought of as harming that individual, at least not to the extent that power should be exercised so that the distasteful behaviour is stopped; Mill believes the limits of freedom of speech are found, 'when the circumstances in which [opinions] are expressed are such as to constitute their expression

a positive instigation to some mischievous act.' (Mill 2001, p.52) In the present day, we might consider the limitations of freedom of speech, expressed by Mill, to be when speech violates specific laws[21], and also (some) hate speech[22], though there is much disagreement about what should be considered hate speech and when there should be legal repercussions for it.[23]

Within the last two decades, the perception of a significant number of the public on what can be considered harmful seems to have expanded far beyond what Mill proposed; it may now include not just physical abuse, mental abuse, and intentional hate speech, but also any expression that (unintentionally) causes offence or could be perceived as being derogatory about a person/particular group of people. For example, in their paper, *Reclaiming Critical Analysis: The Social Harms of "Bitch",* Sherryl Kleinman and Matthew Ezzell illustrate this notion, arguing that the use of the word *bitch* is harmful to society, regardless of the context in which the word is used (presumably with the exception of it being used to refer to a female canine). This is perhaps best expressed when they write, 'Women who "reclaim" the term—by declaring themselves "bitches," calling other women "bitches" in a friendly way, or using the term as a female-based generic—unwittingly reinforce sexism.' (Kleinman and Ezzell, 2009 p.47)

This development in what many consider harmful has resulted in a cultural hyper-awareness of any behaviour that might be perceived as social discrimination, with those who are considered to infringe upon the rights and liberties of others being targeted (often for cancellation) for their (perceived) offensive, antisocial views[24]. In recent years, this, 'phenomenon of promoting the "cancel[l]ing" of people, brands and even shows and movies due to what some consider to be offensive or problematic remarks or ideologies' (Kato, 2021) has been dubbed "cancel culture".

These three essentials have ensured a larger social setting which was, and continues to be, conducive to the development of trans activism and the transgender movement; together, they explain the current position of trans activism. The general public's fascination with anything which deviates from the norm, particularly when it pertains (in any way) to sex and the welfare of children, explains why there is a significant level of interest in transgenderism. The general public's commitment to avoiding

[21] In the UK, this would be libel; slander; blackmail; technical assault and (some) breach of contract.

[22] 'Threatening, abusive or insulting words or behaviours that causes, or is likely to cause, another person harassment, alarm or distress' (CPS, 2022)

[23] 'Under [non-crime hate incidents draft code of practice], [UK] police will only record non-crime hate incidents when it is absolutely necessary and proportionate and not simply because someone is offended. [It is thought] the measure will better protect people's fundamental right to freedom of expression as well as their personal data.' (Home Office, 2023)

[24] It should be noted that, regardless of what some may perceive, even were an individual to voice their offensive and antisocial views, this does not necessarily infringe upon the rights of those they are being offensive and antisocial towards.

the shameful errors of the past and to allowing individuals the liberty to live their lives however they wish explains the uptake of the idea of transgender inclusion and the support for the policies (some of which are examined in the following chapter) which have made transgender inclusion a reality. Finally, the recent change in public perception which has deemed offence as something harmful, to be avoided wherever possible, explains trans activists' efforts to silence criticism, and also the public's acceptance of these efforts.

4.2 - Accidents

When Hacking (1988) refers to accidents, he is referring to, 'isolated initiating events each of which has left its stamp on the movement' (p.40) When discussing accidents of the multiple movement, he refers to three psychiatrists and the work they produced, namely, Cornelia Wilbur, Henri Ellenberger, and Ralph Allison. Similarly, there are medical professionals whose work could be considered "accidents" of the transgender movement, e.g. Magnus Hirschfeld and Harry Benjamin. I have elected not to refer to these individuals (nor to Reed Erikson, who is not a medical professional) in this section; instead, their roles in the movement will be discussed later in the chapter in relation to the institutions they were involved with. There are a great many transgender people whose stories could also be considered accidents of the transgender movement, only four of whom will be referred to in this section; they have been selected due to the nature of the effect (the publication of) their stories have had on the transgender movement, each one working to further the social understanding and social uptake of transgender identities.

4.2.1 - Lili Elbe

Lili Elbe was perhaps the first documented person to undergo gender reassignment surgery. Born Einar Wegener, she lived the majority of her life as a man; she realised her true gender identity (that of a woman) when her wife, Gerda Wegener, asked her to wear women's clothing and sit-in for a portrait she was painting. The woman who was meant to be sitting for Gerda, the actress Anna Larssen, was running late and supposedly told Gerda that Einar should sit in for her as his legs were just as good as her own.

Einar and Gerda eventually moved to Paris, where Einar would sometimes appear in public as Lili Elbe. While in Paris, Einar visited doctors about the persona, Lili Elbe, who he had come to consider the

woman in his body. The doctors told Einar that, 'he was mad - or homosexual, which bothered him more. By his late forties he was despairing. Within the following year, he decided, he would either find a way to give permanence to Lili's existence or end Einar's.' (Joyce, 2021 ch.1)

In 1930, Einar visited the Institute of Sexual Science in Berlin. At the institute, over the course of a year, Einar underwent, 'five highly experimental surgeries … The series of operations removed her testicles and penis and then transplanted ovaries and a uterus into her.' (Blumberg, 2022)

After the surgeries, 'the King of Denmark issued Lili a new passport stating her sex as female, and annulled Einar's marriage to Gerda.' (Joyce, 2021) Lili described her final operation as, 'an abyss of suffering' (Elbe, 2020, p. 286) and died of heart failure not long afterwards on the 13th September 1931. It seems Lili perceived the pain and suffering as worthwhile, however, as in the book, *From Woman to Man*, it is recorded that she wrote:

> That I, Lili, am vital and have a right to life I have proved by living for fourteen months. It may be said that fourteen months is not much, but they seem to me like a whole and happy human life. The price which I have paid seems to me very small. If sooner or later I should succumb physically, I am quite reconciled. I shall at least have known what it is to live. (Elbe, 2020, p. 278)

Elbe's story was published in the book, *Man Into Woman* after her death by Ernst Ludwig Harthern-Jacobson (who used the pseudonym, Niels Hoyer). In accordance with her last wishes, Harthern-Jacobson used Elbe's personal diaries to write the book, and it became one of the first widely available books about a transgender person's life.

Lili Elbe's determination to live as the gender which was congruent with her gender identity, and her official recognition as that gender, has meant that her story is particularly inspirational to transgender people, some of whom cited it as the inspiration for them pursuing surgery[25]. The stamp it left on the transgender movement can still be seen today in the popularity of the book *Man to Woman*; the book *The Danish Girl*, written by David Erbershoff, which was inspired by Elbe's life, and the 2015 BAFTA Award winning film, *The Danish Girl*, which is an adaption of the book.

4.2.2 - Christine Jorgensen

[25] Notably, this includes Jan Morris, who recorded such in her own 1975 book about her gender transition and sex reassignment, *Conundrum*

Christine, born George, was the first person to become widely known in the United States for being transgender (though this term didn't exist at that point). In 1952 the *New York Daily News* outed her, running the story 'EX-GI Becomes Blonde Beauty' on its front page. The seeming juxtaposition of soldier and beautiful woman, in addition to the perceived "sexual deviance" inherent in her story, could not help but capture public imagination. An authorised account of Jorgensen's story, titled *The Story of My Life* was released in 1953 in *American Weekly*, and in 1967 she published her autobiography, *Christine Jorgensen: A Personal Autobiography,* which sold almost half a million copies:

> Her very public life after her 1952 transition and surgery was a model for other transsexuals for decades. She was a tireless lecturer on the subject of transsexuality, pleading for understanding from a public that all too often wanted to see transsexuals as freaks or perverts ... Ms Jorgensen's poise, charm, and wit won the hearts of millions. (Whittle, 2010)

Both the press's outing of Jorgensen, and Jorgensen's charisma, which allowed her to capture public imagination and empathy when describing her transition, are accidents which furthered interest in the medical and social manifestations of transgenderism. As with Lili Elbe, the effect Jorgensen had on the transgender movement is reflected in modern film, such as the 2012 film, *Christine on the Cutting Room Floor.*

4.2.3 - Caitlyn Jenner

The gender transition of Caitlyn Jenner, born William Bruce Jenner, provoked enormous public interest, as did her subsequent position as a transgender rights activist. Unlike the previous "accidents", Jenner's transition occurred after the advent of widely-available high-speed internet, smartphones and social media, meaning her story garnered a global following made up of tens, if not hundreds, of millions of people.

Before transitioning, Caitlyn was already a well-known personality due to her accomplishments as an Olympic decathlete and multiple television appearances, most notably on the popular reality TV show, *Keeping Up With the Kardashians,* which she featured in alongside other members of her family. Caitlyn had appeared on episodes of Keeping Up With the Kardashians while presenting (if not identifying) as a man - Bruce - and her transition became part of the show; a two-part special of the

show entitled *About Bruce* was dedicated to Caitlyn revealing her gender-identity and choice to live as a woman to her family.

Though the unprecedented public access to the gender transition of a public figure would be enough to deem Jenner an accident of the transgender movement, the media response to her coming out is also significant. In 2015, she:

> launched her new life as a woman on the cover of Vanity Fair, introducing her new identity to the world with an Annie Leibovitz portrait that ha[d] her posing in a revealing cream-colored [sic] silk corset under the headline "Call me Caitlyn". (Pilkington, 2015)

'The response on social media was positive, with the official Barack Obama X (formerly Twitter) account signalling support. Within four hours, and with just two tweets to her name, the Caitlyn Jenner [X] account had topped one million followers.' (Pilkington, 2015) That a renowned magazine would dedicate its cover to Caitlyn's transition, and the then-president of the United States of America would publicly come out in support of Jenner, stating, 'It takes courage to share your story' (Obama, 2015) aptly demonstrates the changing in public attitude towards transgender-identities. While Jenner still faced ridicule from both the media and members of the general public, the overriding attitude (or at least the most visible/publicised) seemed to be that she should be accepted as the gender which is congruent with her gender-identity. This attitude was perhaps best illustrated by Jenner winning *Glamour Magazine's* 2015 Woman of the Year Award; the women's magazine was either reasonably confident it wouldn't alienate its readers, or was willing to risk alienating them, when it deemed Jenner more deserving of the accolade than any natal woman.

Since Jenner came out to the public as transgender, many other famous people have also disclosed that their sex is not congruent with their gender identity eg. Elliot Page (previously Ellen Page), who revealed that he is a transgender man, and Sam Smith, who revealed that they are non-binary. Jenner arguably paved the way for these public figures, revealing the response they might expect to receive from the general public and the media.

4.2.4 - Laurel Hubbard

Laurel, born Gavin, was the first openly transgender athlete to compete in the Olympics in a different gender category to that which they were born into. Though transgender people have competed in these categories in other competitions, the massive publicity Laurel's placement in the 2020 Tokyo

Olympics received demonstrated to the general public that an individual's experienced gender-identity was (coming to be) considered more important than their biological sex. It is also worth noting that Hubbard was accepted as a woman by the Olympic Committee, and by much of the general public, despite not fully transitioning. 'Her inclusion in Tokyo [was] partly down to changes to the International Olympic Committee transgender guidelines in 2015, under which athletes who transition from male to female can compete in the women's category without requiring surgery to remove their testes.' (Ingle, 2021) The social ramifications of Hubbard (and other athletes) being allowed to compete in the gender category which coheres with their gender identity will be investigated in chapter six; here, it is sufficient to state that the impact Hubbard's inclusion in the women's category, and the media coverage it received, certainly left its stamp on the transgender movement in terms of the social uptake and understanding of transgender identities. It can also be speculated that it lent support to other institutions and organisations considering categorising transgender people in a similar fashion.

4.3 - Institutions

Hacking (1988) explains that if there are appropriate "accidents" and a suitable social setting, the increasing number of instances of a condition will eventually entail that institutions take over the work from a handful of isolated workers. The purpose of this section of the chapter will be to provide a brief overview of the development of institutions dedicated to working with gender identity and transgender people, before focusing on such institutions in Britain, and how (and why) the nature of the service British institutions provided changed over time. Regarding institutions relating to gender identity and transgenderism, legal scholar and trans man Stephen Whittle explains that it was,

> through the work of the early sexologists such as Krafft-Ebbing and Hirschfeld [that] transsexuality became a recognized phenomenon available for study, discussion and treatment... At Hirschfeld's infamous clinic, [the Berlin Institute] the first sex change operations were performed by Dr Felix Abraham: a mastectomy on a trans man in 1926, a penectomy on his domestic servant Dora in 1930, and a vaginoplasty on Lili Elbe, a Danish painter, in 1931. (Whittle, 2010)

One of the doctors who had worked at the Berlin Institute, and who was a friend of Magnus Hirschfeld, was Harry Benjamin. In 1963 Benjamin began helping one of his patients - Rita Alma Erikson - transition

into a man. Erikson officially changed his name to Reed Erikson in 1963, completing his sex change in 1965. In 1964, while still being treated by Benjamin, Erikson launched the Erikson Educational Foundation (EEF).

> The EEF helped to support… almost every aspect of work being done in the 1960s and 1970s in the field of transsexualism in the US and, to a lesser degree, in other countries. [It] funded many early research efforts, including the creation of the Harry Benjamin Foundation, the early work of the Johns Hopkins Clinic and numerous other important research projects. (Devor, 2020)

In addition to its direct financial contributions and contribution of human resources, The EEF,

> sponsored innumerable public addresses on the topic of transsexualism... The EEF also sponsored [different media platforms] bringing transsexualism to the attention of the public. In addition, the EEF also sponsored numerous publishing endeavours in the field of transsexualism including an informative quarterly newsletter, an invaluable set of educational pamphlets, and two major early reference works on the topic, Money & Green's (1969) *Transsexualism and Sex Reassignment* and Money & Ehrhardt's (1972) *Man, Woman, Boy, Girl*. Furthermore, the EEF was instrumental in organizing [sic] several of the earliest international conferences on transsexualism and in bringing discussions about transsexualism to conferences of broader interest. (Devor, 2020)

The Harry Benjamin International Dysphoria Association, which the EEF had helped create in 1978, eventually came to be known (in 2007) as the World Professional Association for Transgender Health (WPATH). It was formed as,

> an international, multidisciplinary, professional association whose mission is to promote evidence-based care, education, research, advocacy, public policy, and respect for transgender health. The vision of WPATH is to bring together diverse professionals dedicated to developing best practices and supportive policies worldwide that promote health, research, education, respect, dignity, and equality for transsexual, transgender, and gender nonconforming people in all cultural settings. (WPATH 2012, p.1)

In 1980 WPATH led the MIND conference to promote the newly founded Standards of Care (SOC).

> The overall goal of the SOC [was] to provide clinical guidance for health professionals to assist transsexual, transgender, and gender nonconforming people with safe and effective pathways to achieving lasting personal comfort with their gendered selves, in order to maximise their overall health, psychological well-being, and self-fulfilment. (WPATH 2012, p.1)

The SOC went on to, 'promote evidence-based care, education, research, public policy, and respect in transgender health' worldwide', (WPATH, 2021) and is referred to by many health organisations, including the NHS. The eighth version of the SOC was published in 2022.

In Britain, the Gender Identity Development Clinic (the first clinic to be part of the NHS' Gender Identity Development Service [GIDS]) opened at St. John's Hospital in South London in 1989. Hannah Barnes, in her recent study of the rise and fall of the Gender Identity Development Service, explains that:

> '[GIDS] was the creation of child and adolescent psychiatrist Domenico Di Ceglie … he wanted to, in his own words, create a service "for children with these rare and unusual experiences" of having a gender identity which didn't seem to match the biological body they were born with.' (Barnes 2023)

> The service in [the] early days was largely therapeutic: providing individual therapy, family work and group sessions. Some young people would remain in the service for years, others could be helped relatively quickly. In terms of outcomes, Di Ceglie said that only about 5 percent of the young people seen at his clinic would "commit themselves to a change of gender" and that "60% to 70% of all children he sees will become homosexual [but have a gender identity which is congruent with their sex] (Barnes 2023)

When the clinic first began prescribing puberty blockers, in order to be eligible for a prescription, a young person's gender-related distress would have to persist throughout puberty despite the young person undergoing extensive therapy and thorough assessments with the professionals working at the clinic. Even when this occurred, the young person could not receive puberty blockers until they were sixteen, and could not undergo surgical procedures until they were eighteen. Di Ceglie and the clinic's approach to working with young people was reflected in the Royal College of Psychiatrists official guidelines for treating young people with gender-related distress, published in 1998. The guidelines,

which were co-authored by Di Ceglie, expressed that gender identity disorders were both rare and complex.

> [They also] explained that adolescents could present with "firmly held and strongly expressed" views on their gender identity, and that the pressure to prescribe or refer young people for [puberty blockers and cross-sex hormones] could be great. However, this distress and certainty had to be understood in the context of adolescent development - a time of great fluidity. Strength of feeling "may give a false impression of irreversibility", it explained. (Barnes 2023)

The approach of the clinic (during this period) makes it abundantly clear that it was not taken for granted that young people had the greatest possible understanding of their own gender identity. Even when young people presented as having firm beliefs about their gender identity, it was acknowledged, at least amongst professionals, that these beliefs could be incorrect, and that extensive therapy was necessary before it would be ethical to provide young people with hormone blockers, despite these drugs being deemed (at the time) wholly reversible.

In 1994 the Gender Identity Development Clinic moved to the Portman Clinic and, with the Tavistock Centre, formed the Tavistock and Portman Trust; within the Portman Clinic (and Tavistock and Portman Trust) what was the Gender Identity Development Clinic came to be known as the Gender Identity Development Unit. Though both part of the Tavistock and Portman Trust, there was tension between GIDS and the rest of the Portman Clinic; despite the criteria the GIDS insisted patients must meet before they received hormonal and/or surgical intervention, many of the Portman Clinic clinicians were uncomfortable with the GIDS' use of medication. In 2005, as part of a report on the GIDS, the Portman Clinic's medical director, Dr David Taylor, wrote, '[The Tavistock and Portman Trust] does not sanction the routine use of mind-altering, brain-altering, development altering or body-altering medications or operations for the treatment of mental disorders.' (Taylor 2005, p.4) Stanley Ruszczynski, who took over from Taylor as the Portman Clinic's director, and remained in this position until 2016, 'concede[d] that he and his colleagues wanted them gone. "They didn't belong in the Portman Clinic; they didn't belong in the Trust."' (Barnes 2023)

Perhaps exacerbating the Portman Clinic's concern with GIDS was the, 'undue influence of patient support groups on [the GIDS'] clinical practice,' (Barnes 2023) the most notable of which was Mermaids. Mermaids should be considered a transgender movement institution in its own right. It

was founded in 1995 as a patient support group and was largely made up of parents whose children were being treated by the GIDS. ‘Di Ceglie believed that … Mermaids was able to offer “the kind of help and support that [he and his team], as professionals, [could] not” … and was a “complimentary organisation” to the service’ (Barnes 2023)

> Di Ceglie himself was a patron of the organisation, and, [those responsible for commissioning services for the NHS], were told, the ongoing relationship with Mermaids meant users' views have influenced the development and organisation of GIDS since its inception. (Barnes 2023)

Mermaids’ position on medication was, originally, similar to that of GIDS, in that it was a proponent of extensive therapy and assessment precluding the prescription of hormonal and surgical intervention. However, over time, Mermaids’ position, ‘appeared to be[come] that there was only one outcome for … children and young people [with gender identity issues] - medical transition’ (Barnes 2023) Indeed, in a series of leaked emails, Susie Green, who was the chief executive of Mermaids until 2022, revealed her belief that, ‘medical intervention is “absolutely vital” for children unhappy with their biological sex.’ (Gilligan, 2019) The emails made it clear that, ‘Mermaids want[ed] more [(medical intervention)], much faster[, and] campaign[ed] to end the NHS ban on children being given sex-change hormones that reduce fertility and require lifelong medical support.’ (Gilligan, 2019) Mermaids’ “campaign” found a measure of success:

> In an [email] exchange from November 2016, [Dr Polly] Carmichael [(who replaced Di Ceglie as director of GIDS in 2009)] appeared to give ground on the clinic’s policy that young people, even those over 16, must have been on sex-suppressing “blocker” hormones for about a year before being given sex-change hormones. After Green wrote that she hoped the requirement was being eased, Carmichael replied: “There is some flexibility around the year.” (Gilligan, 2019)

The age limit for hormonal intervention was not lowered however, ‘the lower limit for appointments that a young person had to attend to constitute an “assessment” was reduced from four to three hour-long appointments.’ (Barnes 2023) This, and the ever-increasing number of young people referred to GIDS, entailed that, ‘by 2017 [junior clinicians at GIDS] had 90 or 100 patients each’ (Barnes 2023) a great many of whom were already self-diagnosed as transgender, and who weren’t interested in any service that GIDS could provide beyond the prescription of cross-sex hormones.

It was the position of many clinicians working at GIDS that:

> Ideology and feelings have been allowed to trump medical evidence in the work at GIDS. And where ideology impacted GIDS so strongly was in the service's inability to keep an appropriate distance from charities and support groups like … Mermaids. That [Susie Green] saw [herself] as entitled to write to GIDS director Polly Carmichael directly and demand clinicians be reprimanded, or switched, or that the service go further and faster with physical intervention, is telling. (Barnes 2023)

In his book, *Rewriting the Soul,* Hacking writes about the institutions of the multiple personality movement, asking, 'Who will finally own the illness: highly qualified clinicians with years of training, or a populist alliance of patients and therapists who welcome a culture of multiples and cultivate personalities?' (Hacking 1988, p.53) The influence of Mermaids on GIDS demonstrates the relevance of an analogous question being posed about the transgender movement. Mermaids (and similar institutions) worked towards declassifying transgenderism as a mental and behavioural disorder, which occurred in 2019, welcoming a culture of different gender identities, and ensuring that the transgender movement transitioned from predominantly medical to predominantly social in nature.[26] Returning to Hacking's question, it seems that, in the case of the transgender movement, it was the populist alliance that came to own (what had been considered) the illness.

4.4 - Dissidents

Though the transgender movement has been largely successful in welcoming a culture of different gender identities, there are a considerable number of people who those within the transgender movement consider to be hindering the social progress that the movement heralds. A significant number of these dissidents of the transgender movement are gender critical, meaning they believe that sex is a fact of biology which cannot be changed and which has social and political relevance, and they (often) doubt the coherence of the concept of gender identity. In the UK, as of 2021, gender

[26] It is worth noting that, despite the movement's transition to being social in nature, Mermaids supports the notion that transgender identities are a fixed, permanent feature that individuals can recognise infallibly in themselves, and maintains that medical interventions are important for (many) transgender people in that they allow their lives to be as comfortable as possible.

critical beliefs are protected under the 2010 Equality Act. However, voicing gender critical beliefs is considered by many within the transgender movement to be an act of violence; supporters of the movement have gone so far as to claim, 'the gender critical movement is a totalitarian and genocidal social force.' (Lemkin Institute for Genocide Prevention, 2022) Statements of this kind have likely led many within the transgender movement to believe that they are literally saving lives when they speak out against, or attempt to cancel, dissidents, and so doing so has become an extension of the transgender movement's objectives to promote the visibility, safety and rights of transgender people; it is taken so seriously that it has been claimed that 'not one word of dissent, not a single utterance of biological fact, goes unpunished by the gender ideologues.' (O'Neill, 2023) Although claims like O'Neill's may seem extreme, it is arguably borne out by the examples I will examine below. It should be noted that dissidents who do not hold gender critical beliefs do not necessarily fare any better than those who do when they are targeted by the transgender movement; if they are perceived as having directly or indirectly, intentionally or unintentionally, questioned the validity of (trans)gender identities, that is sufficient to warrant denunciation and/or (attempted) cancellation.

This chapter will focus on three dissidents of the transgender movement. Their perceived transgression against transgender people will be examined, as will the response of the transgender movement. The disparity between transgression and response will demonstrate that, at least in some cases, the transgender movement is far less concerned with freedom of speech and truth than it is punishing and/or silencing those who are perceived as daring to speak out against it.

4.4.1 - Kenneth Zucker

Doctor Kenneth Zucker held the position of Psychologist-in-Chief at Toronto's Centre for Addiction and Mental Health and was head of its Gender Identity Service. In 2007, in his capacity as chair of the American Psychiatric Association's Workgroup on Sexual and Gender Identity Disorders, he oversaw the definition of *gender dysphoria* that was entered into the DSM-5. He was also involved in writing the 7th revision of the 2011 Standards of Care guidelines for the World Professional Association for Transgender Health. 'Until the 2015 controversy that cost him his job, [he] was universally recognised as an international expert on child and adolescent gender dysphoria.' (Shrier 2021, p.139)

> [Dr Zucker's] philosophy was simple… To reach an accurate diagnosis, [he] believes that mental health professionals need to look at the whole kid. Some children latch onto

> gender dysphoria as a way of coping with trauma or other distress. A therapist needed to question the patient's understanding of gender in order to determine why the patient might have fixated on that as a source of their problems. What beliefs did the patient have about boys or girls? Why did the child or adolescent come to believe changing gender would lead to a happier life? The goal of the questioning was often to challenge the notion that biological sex was the source of the patient's problem and, wherever possible, to alleviate the dysphoria.' (Shrier 2021, pp.139-140).

In an interview with Abigail Shrier, Zucker stated that when patients described having a male brain in their female body or a female brain in their male body, he did not immediately dismiss what they were telling him, and, 'acknowledges that interesting MRI studies [(likely those referred to chapter two)] have indicated that people suffering with gender dysphoria may have certain neural structures that more closely resemble those of the desired sex than the current sex.' (Shrier 2021, p.141). Despite this acknowledgement, Zucker stated,

> It's completely simplistic to say that there are 'male brains' or 'female brains,'… [With] most traits, both physical and behavioral, there's a lot of overlap between boys and girls, or men and women. … I said to this kid, "I don't care if you have a male brain or a female brain. This is how you're feeling currently and we need to figure out why you're feeling this way and what is the best way to help you lose this dysphoria." (Shrier 2021, p.141).

Zucker could be considered exceptionally successful in his treatment of patients suffering from gender dysphoria. His colleague, Devita Singh, examined the cases of more than one hundred boys who had seen Dr Zucker at his clinic, finding that 88% of them desisted, no longer reporting distressing feelings of dysphoria; this is despite the boys who desisted being just as severe in their gender dysphoria as those who persisted. (BBC, 2017) Despite Dr Zucker's success, perhaps in some ways because of it, he was targeted for cancellation by the transgender movement for the principle on which the treatment he provided rested; he did not believe that a patient's self-diagnosis should be accepted without question. Rather than accepting a child's word that they were transgender and taking steps to enable the child to transition to the gender they identified as, 'Dr Zucker practised a therapy that has been called "watchful waiting," a term that Zucker once applied to his own method but has since come to dislike [as it] implies a passivity that only sometimes characterised his approach.' (Shrier 2021, p.140). "Watchful waiting" entailed Zucker administering different levels of active therapy, and sometimes none, depending on what the child needed and why Zucker had determined they had come to suffer

from gender dysphoria. ‘In cases in which gender dysphoria … persisted without change into adolescence, Dr Zucker sometimes recommended medical transition. But transition was never his goal – if he could help a child or adolescent become more comfortable in their skin, he would.’ (Shrier 2021, p.141).

Dr Zucker’s refusal to accept the self-diagnosis of his patients and the “watchful waiting” therapy he advocated led to activists within the transgender movement claiming that Zucker had engaged in banned conversion therapy practices. Accusations were also made (which were later proven false) that he had denigrated and humiliated some of his transgender patients. On the basis of these claims, Dr Zucker was fired and his clinic was shut down.

The claims that the treatment offered by Dr Zucker was an example of conversion or reparative therapy, defined by the American Academy of Paediatrics as, ‘treatment models [which] are used to prevent children and adolescents from identifying as transgender or to dissuade them from exhibiting gender-diverse expressions,’ (Rafferty 2018, p.4) were never substantiated. After the claims against Dr Zucker had been investigated, the Centre for Addiction and Mental Health in Toronto publicly apologised for misrepresenting his work and tarnishing his reputation, paying him over half a million dollars plus legal fees in damages.

Dr Zucker is a striking example of a dissident of the transgender movement because it could not be clearer that he was both personally and professionally invested in helping young people suffering with gender-related issues. Furthermore, it was the very nature of his successful approach to assisting these young people, which in many ways reflected the approach of Dr Di Ceglie (see section 4.3), that was responsible for him being portrayed as an intolerant enemy of transgender people and the transgender movement more generally. Whether Dr Zucker’s work was genuinely misunderstood or knowingly lied about, it is clear that it was grossly misrepresented, and while the truth of what he was doing may have been perceived as a threat to those who are proponents of gender affirmative care (borne of the notion that individuals (even children) have privileged insight into their own gender identity), it is clear he did not deserve the personal and professional fallout of the transgender movement’s opposition to his work.

4.4.2 - Rebecca Tuvel

Rebecca Tuvel is a philosophy professor who published the paper, *In Defence of Transracialism* in the *Hypatia* journal. The content of the paper is examined in considerable depth in the next chapter; here it is sufficient to state that Tuvel's hypothesis was that considerations which support transgender identities also support transracial identities, and therefore they are equally deserving of social uptake. Tuvel makes it clear in her paper that she is supportive of transgender identities; however, the comparison she made between transracial and transgender identities resulted in her being accused of both transphobia and racism. The perspective of a significant, vocal proportion of the transgender movement was that transgender identities are conceptually more coherent than transracial identities, to the extent that any argument they are equally deserving of social uptake is insulting to transgender people.[27]

The response to Tuvel's paper being published was an open letter, signed by over 800 academics, demanding the paper's retraction. The basis on which the signatories of the paper made this demand are listed below and, as will be shown, mischaracterise Tuvel's work to such an extent that it seems that if the academics actually read (and understood) Tuvel's paper, they must have been criticising it in bad faith.

The open letter reads:

> We believe that this article falls short of scholarly standards in various areas:
>
> 1. It uses vocabulary and frameworks not recognized, accepted, or adopted by the conventions of the relevant subfields; for example, the author uses the language of "transgenderism" and engages in deadnaming a trans woman;
> 2. It mischaracterizes various theories and practices relating to religious identity and conversion; for example, the author gives an off-hand example about conversion to Judaism;
> 3. It misrepresents leading accounts of belonging to a racial group; for example, the author incorrectly cites Charles Mills as a defender of voluntary racial identification;
> 4. It fails to seek out and sufficiently engage with scholarly work by those who are most vulnerable to the intersection of racial and gender oppressions (women of color) in its discussion of "transracialism". We endorse Hypatia's stated commitment to "actively reflect and engage the diversity within feminism, the diverse experiences and situations of women,

[27] This notion is also examined in the next chapter.

> and the diverse forms that gender takes around the globe," and we find that this submission was published without being held to that commitment. (Vigo, 2017)

In each of the first three criticisms, the authors of the open letter make a general complaint followed by an example that is intended to illustrate their contention. While it can be assumed that the authors think the examples they provide are not the only instances of what they take issue with, it is difficult to determine where else in Tuvel's paper they supposedly occur. For this reason, it is the specific examples the authors provide that will be examined and refuted; if an example is successfully refuted, it will be understood that the entirety of the authors' complaint is meritless, as, presumably, the authors would choose the most severe example of their issue to specifically address (and it is unclear it exists elsewhere).

Criticism one relates to Tuvel's choice of language, specifically her use of the term *transgenderism* and her reference to *Bruce* (Jenner).

When discussing the term 'transgenderism' it is useful to refer to the writing of Julia Serano, a transgender woman who is an acclaimed writer on the subjects of sex and gender, and who is widely recognised as a transgender activist. On her website, Serano provides a glossary of, 'trans-, gender-, sexuality-, and activism-related terms [which] regularly appear in [her] writings.' (Serano, 2015-2016) Before the glossary begins, Serano explains that most of the entries were written in 2015-2016 however, she notes that she occasionally updates some of the entries. (If and when entries have been updated has not been recorded). Serano (2015-2016) writes:

> transgenderism: refers to the phenomenon of transgender people (i.e., our existence and our experiences; see gender variance), or the state of being transgender (e.g., I might talk about my own transgenderism; see transness). Although the word almost certainly originated in transgender communities, and was used by trans activists of the 1990s in a positive or neutral manner, some contemporary activists dislike the word because of the suffix "-ism," which they believe implies that transgender people are forwarding some kind of oppressive ideology (even though -isms also refer to naturally occurring phenomena)

Serano acknowledges that some contemporary activists may dislike the term *transgenderism;* however, the bracketed part of the entry, which she could have easily omitted, implies that she thinks the thinking motivating their dislike is flawed. She expands her views on the use of the word *transgenderism* in a blog article, *Regarding Trans* and Transgenderism*. In the article she writes:

> The most common complaint in this campaign against transgenderism centers on statements like "transgender people are not an 'ism'." But … "isms" aren't always ideologies—many of them (e.g., magnetism, metabolism, hypothyroidism, lesbianism, transgenderism) are simply naturally occurring phenomena. Plus, not all ideological "isms" are bad or dangerous—for instance, I personally think that feminism (as a whole) is a positive and beneficial thing…
>
> The other meme I've heard … is that trans people have never accepted or have always rejected the term transgenderism. Such statements are utterly ahistorical: … [T]he word has been used by trans activists (including myself) in a nonjudgmental and neutral manner for over two decades. What is new is that the term is now being misused by TERFs [(trans-exclusionary radical feminists)]. And even if you do not personally like the word transgenderism … you can probably recognize that it would be an extremely counterproductive strategy to surrender trans-related words to our enemies … as soon as they start misappropriating them. (Serano, 2015)

Serano makes it clear that she, and other transgender activists, recognise, accept, and have adopted the term *transgenderism*, and while Serano obviously cannot make unilateral decisions regarding what language is and is not acceptable to use when discussing transgender people, her posts make it equally obvious that the complaint about Tuvel's use of the term *transgenderism* cannot be substantiated. It is quite plausible that a scholar, or anyone, could read Serano's blog or one of Serano's works and conclude that *transgenderism* is an entirely acceptable word. After all, Serano's book, *Whipping Girl,* touted by National Public Radio (NPR) to be, 'a foundational text for anyone to understand transgender politics and culture in the US today' (Serano, 2017) begins Part 1 with the chapter, *Coming to Terms with Transgenderism and Transsexuality*. In a response to the open letter, Tuvel explained that this is exactly what happened; she wrote, 'my motivation for using [*transgenderism*] came from a blogpost by Julia Serano, as I find her defense of the term persuasive.' (Tuvel, 2017)

The second complaint in criticism one is that Tuvel engages in deadnaming a trans woman, namely Caitlyn Jenner, and, while this is true, it is also not obviously problematic. While it should be acknowledged that referring to a transgender person's birth-name can be considered hate speech, this is context dependent, and whether it is or not should be appraised on a case-by-case basis. Before Tuvel requested they be replaced with *Caitlyn* shortly after her paper's publication, there were two references to *Bruce*, both of which referred to, 'Bruce Jenner grac[ing] the front of Vanity Fair.' (Tuvel

2017, p.263) Assuming that Tuvel read the Vanity Fair article she refers to, and that Jenner may have had some level of oversight over what was published, it is worth noting that the very first sentence of the *Vanity Fair* cover story on Caitlyn Jenner reads, 'Few recent stories have gripped the public imagination as much as Bruce Jenner's journey from Olympic icon to transgender woman' (Bissinger, 2015) and that the story itself refers to *Bruce* no fewer than 38 times.

Also worth noting is Jenner's feelings about the use of her birth-name. In an interview for *The Guardian*, entitled, *Caitlyn Jenner on transitioning: "It was hard giving old Bruce up. He still lives inside me."* Emma Brockes writes the following about Caitlyn Jenner:

> When she slips up and refers to herself historically as "a guy" and "he", she thinks, "how can I word it better?", but also point-blank refuses to retire references to "Bruce" or castigate others who use it. This so-called "dead-naming" is a source of particular angst to many in the trans community, for whom use of their old names is associated with efforts to shame them. But, says Jenner, "I had a life for 65 years. OK?" Besides which, "I liked Bruce. He was a good person. He did a lot in his life. Oh, 'he didn't even exist'. Yes he did exist! He worked his butt off. He won the [Olympic] Games. He raised amazing kids. He did a lot of very, very good things and it's not like I just want to throw that away." (Brockes, 2017)

Caitlyn Jenner's obvious acceptance of the use of the name *Bruce*, and the context in which Tuvel used the name, makes it clear that the authors of the open letter were attacking Tuvel for something which Caitlyn Jenner herself would have been extremely unlikely to take offence at. If criticism one was not made in bad faith, then it seems likely that the authors were entirely ignorant of (some of) the conventions of the relevant subfields and the perspective of Caitlyn Jenner on the use of her birth-name.

In relation to criticism two, Tuvel refers to a conversion to Judaism just once in her paper, writing, 'If the rabbi thinks you are not seriously committed to Judaism, she can block you from attempted conversion.' (Tuvel 2017, p.264) It is mysterious how the authors of the open letter could possibly know that this example was off-hand but, regardless, it can be categorically stated that it is not a mischaracterisation of conversion to Judaism. Rabbis ultimately choose whether a person is a suitable potential convert and have licence to refuse, or block, those they deem are not. Even if an individual is considered a suitable potential convert, 'some traditional rabbis may actively discourage [them] by turning them away three times. This is a test of how sincere [they are] in wishing to become Jewish.'

(Epstein, n.d.) So fundamental to converting to Judaism is the notion that people who are not seriously committed must be turned away, it is difficult to see criticism two as anything other than a baseless attack on Tuvel's scholarship.

In relation to Criticism three; the claim that Tuvel incorrectly cites Charles Mills as a defender of voluntary racial identification is simply not true. The first time Tuvel refers to Mills, it is to list the five categories he identifies as being generally relevant to the determination of racial membership - 'self-awareness of ancestry, public awareness of ancestry, culture, experience and self-identification' (Mills 1998, p.50). The second and final time is to quote his argument that ancestry is 'crucial [to racial membership] not because it necessarily manifests itself in biological racial traits but … because it's taken to be crucial.' (Mills 1998, p.58)
Not once does Tuvel write, or even suggest, that Mills is a defender of voluntary racial identification. That Mills includes self-identification as being a category which is generally relevant to the determination of racial membership does not entail that he defends voluntary racial identification, nor does Tuvel suggest such; not least, one might presume, because of the relevance of the other four categories he mentions and, specifically, the perceived importance of ancestry. The utter lack of evidence substantiating the open-letter authors' claim makes it abundantly clear that criticism three was made in bad faith.

Unlike the first three criticisms, there is no exemplar of criticism four; only the argument that Tuvel fails to seek out and sufficiently engage with the scholarly works of women of colour. This contention is incredibly ambiguous. It is not clear, for example, what would be deemed sufficient engagement with the scholarly works of women of colour i.e. how many scholarly works are necessary and how they should be engaged with. It is also not clear why further, or any, engagement with the scholarly works of women of colour would affect the nature of Tuvel's argument, or her paper more generally. Finally, it is not clear whether all the authors and signatories of the open-letter would agree on what constitutes sufficient engagement with the scholarly works of women of colour, and why they believe it is their perception of whether Tuvel sufficiently engaged with the scholarly works of women of colour that is most relevant. As a statement from the Board of Hypatia about the open letter makes clear, 'Professor Tuvel's paper went through the usual double-masked peer review process and was accepted by the reviewers and by the Editor. [Hypatia's board] endorse[s] [the editor's] assessment that, barring discovery of misconduct or plagiarism, the decision to publish stands.' (Weinberg, 2017) One can take from this that at least two of Hypatia's reviewers and also Hypatia's editor did not see

Tuvel's level of engagement with the scholarly works of women of colour as an issue; this was the case for Hypatia's editor even once she had the opportunity to reconsider after reading the open-letter.

The nature of the criticisms made against Tuvel's paper make it seem highly likely that the purpose of the open-letter was to silence discussion that might potentially motivate people to question the validity of transgender identities, rather than to raise genuine concerns about Tuvel's scholarship. In addition to the open-letter, Tuvel faced 'so much wrath on electronic media [that was] expressed in the form of ad hominem attacks.' (Tuvel, 2017). She writes that as a result of her paper,

> I have received hate mail. I have been denounced a horrible person by people who have never met me. I have been warned that this is a project I should not have started and can only have questionable motivations for writing. Many people are now strongly urging me and the journal to retract the article and issue an apology. They have cautioned me that not doing so would be devastating for me personally, professionally, and morally. (Tuvel, 2017)

Unlike the open-letter, many of these responses to Tuvel do not even pretend to be motivated by academic concerns; it can be assumed that they were simply intended to pressure Tuvel into steering clear of anything that contradicts, or even threatens, the narrative that the transgender movement wishes to promote.

4.4.3 - J. K. Rowling

J. K. Rowling is a critically acclaimed author, best known for creating the Harry Potter book series and subsequent franchise. In July of 2020, Rowling commented on the article *Opinion: Creating a more equal post-COVID-19 world for people who menstruate*, stating that, 'there used to be a word for those people [who menstruate] … Wumben? Wimpund? Woomud?' (Rowling, 2020b) Despite the article itself stating, 'an estimated 1.8 billion girls, women and gender non-binary persons menstruate…' (Sommer, Kamowa and Mahon, 2020) Rowling obviously took issue with the authors feeling they needed to write 'people who menstruate' rather than 'women'. Her comment caused a great deal of backlash from supporters of the transgender movement, mainly involving her being labelled

transphobic and calls for her cancellation[28]; the backlash inspired Rowling to clarify her position with the following statements:

> The idea that women like me, who've been empathetic to trans people for decades, feeling kinship because they're vulnerable in the same way as women - i.e., to male violence - 'hate' trans people because they think sex is real and has lived consequences - is a nonsense.
>
> I respect every trans person's right to live any way that feels authentic and comfortable to them. I'd march with you if you were discriminated against on the basis of being trans. At the same time, my life has been shaped by being female. I do not believe it's hateful to say so. (Rowling, 2020a; 2020c)

Rowling's statements can be considered gender critical, in that they demonstrate her belief that sex is both a biological fact and a socially and politically relevant defining characteristic. Like her initial comment, Rowling's clarifying comments were widely labelled as transphobic; one common response from members of the general public and also associates of Rowling, including Daniel Radcliffe, Rupert Grint and Emma Watson, being the statement, *trans women are women*. It is self-evident that comments being labelled transphobic does not entail that they actually are such; it should therefore be examined why some people perceive(d) Rowling's comments (and Rowling herself) as transphobic and whether they are justified in this view[29].

Transphobia, as defined by Stonewall, is, 'the fear or dislike of someone based on the fact they are [(perceived to be)] trans, including denying their gender identity or refusing to accept it.'[30] (Stonewall, n.d.) Under this definition, it is clear to see why Rowling's comments were perceived as transphobic: Although none of her comments explicitly express fear or dislike of trans people, they are gender critical in nature. By essentially stating that menstruating people should be categorised as women, Rowling's initial comment could be perceived as rejecting the (claimed) gender identity of menstruating transgender men. Her clarifying comments differentiating between natal women, like

[28] Amongst other things, this involved calls for people to refuse to purchase and read her books; many people suggested that people who owned Harry Potter books should burn them.

[29] Rowling is a prolific user of X (formerly Twitter) who makes very many comments referring to transgender people. The investigation of Rowling which takes place in this chapter is limited to the comments quoted here; the comments which began the controversy relating to Rowling's views on transgender people. Although I suspect that many of Rowling's later comments which refer to transgender people have been treated in the same manner as those quoted, I make no claims that this is the case.

[30] For simplicity, I will refer to fearing or disliking someone due to their (perceived) nature or beliefs as being hateful.

Rowling herself, and transgender women, arguably denies the (claimed) gender identity of transgender women. Under Stonewall's definition of transphobia, this is hateful.

Though the perception that Rowling's comments are transphobic is justified under Stonewall's definition of transphobia, there are issues with understanding transphobia in this way. One such issue is that it entails gender critical beliefs are inherently hateful; this is problematic because, although they weren't at the time Rowling made her comments, gender critical beliefs are now protected under the 2010 Equality Act. They are protected because they are recognised as meeting the Grainger criteria for being philosophical beliefs; of particular relevance here are criteria four and five:

> (iv) [They] must attain a certain level of cogency, seriousness, cohesion and importance.
>
> (v) [They] must be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with the fundamental rights of others (Briône, 2022)

That gender critical views meet these criteria demonstrates that they cannot be inherently hateful. Indeed, under the *Protecting Freedom of Expression* section of their webpage on hate crime, the UK Law Commission explains that, 'in relation to the stirring up hatred offences, the Commission has recommended … explicit protection for "gender critical" views.' (Law Commission, 2024). It follows, then, that a person cannot be justifiably deemed hateful for holding such views.

It should be noted that the position of the UK government coheres with freedom of speech and (arguably) common sense: If simply not accepting the gender identity (claims) of transgender people is sufficient to deem one transphobic, then it follows that even doubting the coherence of the concept of gender identity, as this thesis does, is transphobic; this is because it could be considered to implicitly deny the gender identity claims of transgender people (in addition to the gender identity claims of natal men and women who hold that gender identity is a coherent concept). Not only does it seem highly implausible and counter-intuitive that doubt, which is the basis for much rational enquiry, particularly within the field of philosophy, could entail that an individual is transphobic (or phobic of anything), doubting the coherence of other concepts, even those protected by the 2010 Equality Act, is not treated in an analogous fashion: If an individual were to openly express doubt or disbelief regarding the core tenets of Islam, stating that they don't accept there is such a being as Allah, that they don't accept Mohammed is the prophet of Allah, that they don't accept Jannah and Jahannam are real places, and that they don't accept souls exist; this, alone, would not be sufficient to deem them Islamophobic. This is because neither prejudice nor discrimination against Muslims is necessarily

borne of these views; the views do not, in fact, establish anything at all about the individual who holds them beyond the individual not being Muslim.

It is self-evidently the case that one can reject even the most fundamental beliefs of another individual due to a different perspective on the available evidence and still respect that individual's right to believe what they do. Different beliefs about what is true may lead to different opinions on what behaviours are appropriate and/or ethical however, this too can be discussed and debated in a respectful fashion; disagreement does not necessarily equate or lead to hatred. Rowling expresses these same sentiments in her comments when she explains that her views on the primacy of sex do not entail that she hates trans people, and that she, in fact, respects the rights of trans people to live however they wish. It is worth noting at this point that Rowling's views on sex seem largely undeniable, to the extent that I would suggest the majority of transgender people would find it difficult to disagree with them: If one's lived experience was not affected by one's natal sex, it is completely unclear why any person would ever feel the need to pursue hormonal or surgical gender transition. It seems as if the existence of transgender people could itself function as an argument in support of Rowling's claim that sex is a real phenomenon with lived consequences. One could still maintain that the sarcastic nature of Rowling's initial comment suggests a level of thoughtlessness regarding transgender people; however, it is not unreasonable to assume that Rowling herself was offended by being effectively reduced to a bodily process - person who menstruates - and it was this, not disdain for transgender people, which motivated her comment. I argue this notion is made more credible by Rowling's later clarifying comments.

As it appears that it would be unreasonable to maintain a definition of transphobia that would deem the content of Rowling's comments transphobic, not least because such a definition is inconsistent with how other social-group phobias are understood, it follows that Rowling did not deserve the backlash the comments caused. It seems that, as with Zucker and Tuvel, the response Rowling received from the transgender movement was due to her genuinely-held views being perceived as threatening to the narrative the transgender movement wishes to promote, rather than due to them genuinely reflecting hatred towards transgender people.

4.5 - Accidents, Essentials and Institutions: The Evolution of the Transgender Movement

As Hacking (1988) claimed in *Rewriting the Soul*, 'successful movements require accidents, essentials and institutions.' (p.49) Elbe, Jorgensen, Jenner and Hubbard were, 'fortuitous, accidental meteors in the night sky.' (Hacking 1988, p.49) Their individual stories brought transgenderism into the public eye, each developing the public perception of what it is to be transgender in their own way. In the early to mid-20th century, when Elbe and Jorgensen were trying to establish themselves as women, the essential ingredient of (what was considered) "deviant sexuality" entailed a significant level of public interest in their stories. While this essential ingredient remained to promote interest in the stories of later transgender public figures, such as Jenner and Hubbard, it was now combined with the second essential; the commitment to individual liberty and a determination to see that transgender people were not treated as poorly as homosexual people had been in the past. This commitment to individual liberty may be considered a social course correction; it seems as though any progressive society should strive to ensure that its members are free and do not experience prejudice and discrimination. The third essential of the transgender movement however (the notion that it is inappropriate, perhaps unethical, to behave in any way that might offend transgender people), affords transgender people treatment dissimilar to most other groups. That people have faced negative personal and professional consequences for voicing professional, sometimes medical, opinions speaks to the transgender movement's determination to support a particular ideal or narrative, and suppress opposing ideas.

It is not difficult to see how these essentials are reflected in the development of the work being done in institutions dedicated to helping transgender people. It is apparent that, to begin with, any medical treatment of transgender people was physician-led. Patients who claimed to be (what we would now understand as) transgender were perceived within the institutions as people who were (potentially) suffering from a diagnosable mental illness, yet their claims were to be thoroughly investigated before any diagnosis was made; there were also a great many steps for each patient to go through after diagnosis before they could receive hormonal or surgical treatment. Now, in no small part due to the work of institutions like Mermaids, a great many medical institutions practise gender-affirmative care. If an individual claims that they are transgender, then it is the physicians' role to enable their

transition.[31] To openly doubt or question the claims of the individual, as Kenneth Zucker was perceived as doing, could have disastrous personal and professional consequences.

So it is that we are left with the current state of play. The contemporary notion of a transgender person is that of a person who experiences incongruence between their sex and gender identity, and whose gender-related claims should be accepted and respected, even if they are not completely understood. To fail to accept and respect their claims - as a dissident might - is to categorise oneself, at best, as someone who lacks understanding and/or empathy, or, at worst, as an intolerant bigot. It is the role of transgender activists and the greater transgender movement to ensure that this remains the status quo, and that people who may threaten it - people who might question the wisdom of being so accepting of gender-based claims and/or who might suggest that offending transgender people (or anyone) is not so obviously harmful - are to be dealt with in such a fashion that few others would consider supporting them.

4.6 - Chapter Conclusion

Throughout Chapter 4, the analysis has demonstrated the development and impact of the transgender movement, highlighting key "accidents", essentials, and institutional changes that have shaped its trajectory. The chapter begins by discussing the broader societal fascination with non-normative identities and the commitment to rectifying past injustices, which has created a receptive environment for transgender activism. It then explores significant events and figures, such as Caitlyn Jenner and Laurel Hubbard, whose visibility and media coverage have shifted public perceptions and influenced policies regarding transgender inclusion. The chapter further examines the institutional evolution from early sexology to contemporary organisations such as GIDS and Mermaids in Britain, illustrating how the focus has shifted from a medical to a predominantly social approach. This shift has been accompanied by contentious debates and the marginalisation of dissenting voices, particularly those critical of the coherence of contemporary concepts of gender identity. Ultimately, the chapter demonstrates that while the transgender movement has made significant strides in (what those within it perceive as) promoting visibility and rights, it has also generated considerable opposition and controversy, particularly concerning the balance between ideological advocacy and empirical evidence in shaping public policy and institutional practices.

[31] The National Health Service's shift to a more gender-affirming care model will be explored in ch.6 through examination of the Cass Review.

Chapter 5 - Privileged Identity Claims

In this chapter, I will address the significant differences in how society perceives and responds to various identity claims. By exploring and critically analysing the parallels between transracial and transgender identity claims, part one of the chapter will highlight the privileged status transgender identity claims enjoy. These claims are accepted on grounds that have led to the rejection and even ridicule of other types of identity claims, notably transracial identity claims. Focusing on the arguments presented by scholars in response to Rebecca Tuvel's paper, *In Defense of Transracialism*, part one aims to demonstrate the logical and ethical consistency required in accepting various identity claims. By examining the objections raised against transracial identities and comparing them with the acceptance of transgender identities, the chapter will shed light on the societal implications and philosophical foundations underlying these identity discussions.

The second part of the chapter expands on the themes of the first, arguing that if transgender identity claims are accepted, logical and ethical consistency necessitates the acceptance of transability identity claims. Ultimately, the chapter seeks to challenge readers to reconsider the criteria by which identity claims are validated and to advocate for a more coherent and consistent approach to identity politics.

Part 1 - Why the Transracial and Transgender Identity Comparison Holds Up

In March of 2017 *Hypatia* published a paper authored by Rebecca Tuvel, entitled “In Defense of Transracialism”. In the paper, Tuvel proposed that, ‘considerations that support transgenderism seem to apply equally to transracialism.’ (Tuvel 2017, p. 263) On this basis she concluded:

> [W]e have reason to allow racial self-identification, coupled with racial social treatment, to play a greater role in the determination of race, [and] society should accept an individual’s decision to change race the same way it should accept an individual’s decision to change sex. (Tuvel 2017, p. 275)

The reception of Tuvel’s paper was exceedingly negative; over 800 academics supported an open letter sent to *Hypatia* which demanded it be retracted. As has been demonstrated in chapter four, the bones of contention the open letter raised with Tuvel’s paper were unsubstantiated, the aim of the letter seeming to be to tarnish Tuvel’s reputation and discourage consideration of controversial ideas

relating to identity politics, rather than to raise genuine concerns with Tuvel's reasoning or the arguments she made. Though the open letter to *Hypatia* lacked intellectual honesty, other scholars have since responded to Tuvel's arguments, providing what they believe to be genuine reasons why transracial identities should not be accepted. For these arguments to be successful in refuting Tuvel's position, it must be shown that what they claim about transracial identities could not be claimed with equal coherence about transgender identities. If the claims do have equal coherence, then any argument against transracial identities made on the basis of such claims also yields a corresponding argument against transgender identities. If this is the case, the objections to transracial identity which are presented fail to show that transgenderism and transracialism are not analogous in exactly the manner Tuvel suggested they are.

In what follows I will consider some of the arguments made against transracial identities that were presented in response to Tuvel's paper, and demonstrate that they would be equally convincing if presented against transgender identities. In doing so, I will show that it is not coherent for the authors of these arguments to accept transgender identities while denying transracial ones; for their positions to be logically consistent, they must oppose both types of identity or neither. This is not to say, nor is it the purpose of this chapter to demonstrate, that there is *no* good argument which shows that transracial identities are not acceptable while transgender identities are. The arguments presented in response to Tuvel, however, fail to substantiate any difference in acceptability between these types of identity claim.[32]

5.1 - Identifying Disanalogies

A direct line of attack against Tuvel's analogy between transracial and transgender identity would be to identify a relevant *disanalog*y between the cases. This is the approach of Robin Dembroff and Dee Payton. In an article for the Boston Review, entitled *Why We Shouldn't Compare Transracial to Transgender Identity,* they write:

[32] A criticism of Tuvel which will not be considered in this chapter relates to her methodology; this is because Tuvel herself went to some lengths to defend her use of analytic methodology, particularly against the criticisms of philosophers Sabrina Hom and Tina Botts, in her paper, *Racial Transitions and Controversial Positions.* In addition, it is not clear that advocating one philosophical methodology over another necessarily relates to the validity of the conclusions reached by applying those methodologies. Like Tuvel,

> I think it unwise to advocate for a methodological monopoly on any important philosophical question. I agree with Botts that continental methods can shed light on complex questions of race and racial identity. Yet I strongly disagree that analytic methods cannot do the same. Both methodologies have their merits and drawbacks—and both are valuable. (Tuvel 2018, p.79)

> We think that there is a deeply important asymmetry between Jenner's claim to be a woman and Diallo's [(commonly known as Rachel Dolezal)] claim to be Black. We also think that, as a result of this asymmetry, transgender identities deserve social uptake and so-called "transracial" identifications as Black almost always do not. (We leave space for unique circumstances in which someone who has deeply invested in a Black community and been forthcoming about their racial history is nevertheless accepted within that community as Black.) In other words, we think that transgender women and men should be recognized and treated as women and men (respectively), but that persons should not be recognized and treated as Black solely on the basis of self-identification. (Dembroff and Payton, 2020)

They explain that the basis for their view, 'isn't whether individuals like Diallo and Krug are *in fact* Black given our present rules of racial classification, but whether they *should be*.' (Dembroff and Payton, 2020) Dembroff and Payton are involved here in a project of conceptual engineering, determining what concepts we *should* have in order to serve important political goals, such as social justice. They are not so much concerned with our current concept of race (and gender) as they are with how these concepts might be redesigned to optimise their value in serving important social and political ends.

Dembroff and Payton write that when seeking to determine whether transracial claims should be socially recognised they, 'focus … only on Blackness[, and] don't assume these considerations apply to all race classifications.' (Dembroff and Payton, 2020) Despite this, when they begin to explain the asymmetry between transracial and transgender claims, it quickly becomes apparent that they, like many of the other authors referenced in this paper, are more specifically referring to black people in the USA. They write:

> Being Black in the United States … isn't simply a matter of internal identification; it is also a matter of how your community and ancestors have been treated by other people, institutions, and governments. Given this, we think that race classification should (continue to) track—as accurately as possible—intergenerationally inherited inequalities. More directly, we need conceptual and linguistic tools for identifying those who are entitled to reparations for racial wrongs, where by "reparations" we mean institutional correction of intergenerational inequality. These might include, but are not limited to: affirmative action in employment and education; compensation for past economic and personal exploitation; debt-cancellation for affected populations; medical, home buying, and college aid; institutional apologies for past harms; and the creation of a standardized curriculum which

> explicitly addresses the role of racial oppression in state-building. (Dembroff and Payton, 2020)

The authors note that central to this argument, 'is the observation that in the case of Blackness, *inequality accumulates intergenerationally*' (Dembroff and Payton, 2020) and point out that the, 'gaps in median wealth (wealth at the middle of a distribution) between Black and white households [are increasing, being] larger today than thirty years ago.' (Dembroff and Payton, 2020) Dembroff and Payton go on to explain that women, like black people (in the USA), suffer from societal inequality but that it does not accumulate intergenerationally; in doing so, they think they have demonstrated at least one way in which transgender and transracial claims are not analogous.

Dembroff and Paton's focus on tracking *intergenerationally inherited* inequality is arguably distracting them from the importance of tracking other types of disparity and inequality. According to the US Bureau of Labor Statistics, only 5.3% of aircraft pilots and flight engineers, and 3.2% of aircraft mechanics and service technicians are women (US Bureau of Labor Statistics, 2022). These women may not experience intergenerationally inherited inequality but that does not entail that it is not important to track the disparity between their number and the number of men employed in the aviation industry, and to intervene if this disparity is a consequence of inequality of opportunity for men and women. An even more significant disparity can be seen when crime statistics are examined: In the USA 99.1% of forcible rape (penetration without consent with any body part or object), 92.2% of sex offenses (excluding forcible rape and prostitution), and 80.1% of all violent crime is committed by men. (Criminal Justice Information Services Division, 2012). In the case of employment and also in the case of crime (to name just two fields), one reason we may want to track the disparity between the number of men and women is to determine if and when intervention is necessary and what type of intervention it should be, a particular concern being who the intervention should be predominantly targeted at. It is clear that in such cases inherited inequality is irrelevant to both the tracking that needs to take place and the intervention that comes as a possible consequence of such tracking. It is equally clear that people transitioning from one gender to another can skew statistics as, 'small numbers of misallocated cases can have a large effect on research findings in any sub-group analysis where one sex is dominant' (Sullivan 2021, p. 640); this has implications on whether interventions are implemented and on the nature and effectiveness of the interventions that are implemented. To argue, as Dembroff and Paton do, that the social uptake of transgender identities is acceptable but the uptake of transracial identities is not on the grounds that the uptake of transracial identities would jeopardise our ability to track intergenerational equality is to seemingly ignore other, arguably equally important, reasons we might wish to track sex; Dembroff and Paton are putting an onus on

intergenerational inequality that is not obviously warranted. Even if we take Dembroff and Payton's line of argument and deem that women are not deserving of reparations and affirmative action of the same accuracy/effectiveness as black people because the inequality women experience is not intergenerational, we still have other important motivations, completely distinct from accurately tracking equitable social treatment, to track individuals' sex as accurately as we do race; being maximally effective when intervening with rapists, sex offenders and perpetrators of other types of violent crime being obvious examples.

Statistical data aside, there are a number of issues with Dembroff and Payton's argument which suggest there is good reason to reject their conclusion that we should not compare transracial with transgender identity.

All of the issues they raise regarding inequality could be negated by implementing some method of allowing an individual to identify their "ancestral race" in addition to the race they identify as on all official forms, much like how many official forms now allow individuals to identify both their natal sex and gender, or sex registered at birth and gender:

> The 2021 [UK] census included the compulsory question 'What is your sex?' with the standard binary response options 'Male' and 'Female' [and also] an additional voluntary question on gender identity: 'Is the gender you identify with the same as your sex registered at birth?'(Yes/No), with an open text response field for those choosing 'No' to write in their gender identity however they chose. The aim of the gender identity question was to allow people with trans and non-binary or other gender identities to express this. These two distinct questions should have made it possible to maintain the principle that sex and gender identity are distinct characteristics, and to capture them separately. (Sullivan 2021, p. 638)[33]

Were a similar pair of questions implemented for race, the government, and the populace, could be assured that those entitled to reparations for racial wrongs are identified, yet everyone would be given the additional freedom to identify as the race which coheres with what they consider to be their racial identity. Though this would negate Dembroff and Payton's concerns, it should be acknowledged that their concerns appear to be based on the misconception that there is currently an accurate method to determine an individual's race, and seemingly ignore how race is currently recorded and recognised in the USA. Whether it be on the birth certificates of their children or on censuses, 'an individual's

[33] The effort to collect information on both sex and gender was harmed by UK government proposals (which were successfully challenged by Fair Play For Women in the UK High Court) to allow the sex question to be answered on the basis of self-identified sex. As it stands the sex question can still be answered so that the answer coheres with a Gender Recognition Certificate.

response to the race question is based upon self-identification.' (United States Census Bureau, 2022). This means that there is no way by which the government, or any institution, can accurately identify who is and is not entitled to reparations for racial wrongs (beyond individuals implicitly claiming they are when they identify their race), and also that the racial inequality identified by Dembroff and Payton is based on the self-identification of those who completed the censuses. Furthermore, it is not the case that every American can accurately identify their own racial ancestry, and, consequently, will be unaware of how to accurately identify their own race and whether they are entitled to reparations for racial wrongs or not. Whether knowingly or not, Dembroff and Payton are arguing that racial self-identification does not deserve social uptake because it would interfere with the consequences of possibly incorrect but officially sanctioned racial self-identification.

Dembroff and Payton perhaps believe that the officially sanctioned racial self-identification on the census is different due to the expectation that people will, in the case of being black or African-American, genuinely attempt to identify whether they have, 'origins in any of the Black racial groups of Africa.' (United States Census Bureau, 2022) It is possible that this belief holds up and those people who are actually aware of their origins do self-identify their race differently on the census to how they otherwise might if they were being asked about their racial-identity. Even if this is the case, however, Dembroff and Payton make no attempt to quantify the strength of the link between an individual's racial origins and intergenerational inequality, so someone could correctly identify as black due to ancestry which they are far removed from. It is unclear, for example, whether an individual who legitimately identifies themselves as (at least partially) black due to having origins in the Black racial groups of Africa, their great grandfather being black (all other known ancestry being white), would have a strong enough link to their black ancestry to have experienced intergenerational inequality. It is not obvious that Dembroff and Payton's argument would entail such a person *should* be classed as black.

It seems, then, that it is plausible for people to correctly identify their origins as black yet it not be the case that they *should* be black (on Dembroff and Payton's account), and also for people to erroneously identify their origins, either because they are unaware of them or because their origins do not cohere with what they feel to be their racial identity. Dembroff and Payton are concerned with who *should* be categorised as black on the basis of intergenerationally accrued inequality but, given the lack of clarity on how immediate one's black ancestry must be for one to experience intergenerational inequality and also the limitations on checking the veracity of race self-identification on the census (and other official forms), it seems there is no way to effectively track the presence of intergenerationally accrued inequality.

Dembroff and Payton's argument also has problematic implications which arise from their focus on being black in the USA. It is not clear from their paper, for example, whether Dembroff and Payton would consider it acceptable for a black person who was born, and whose family has lived for generations, in a nation with a great degree of racial equality (or, at least, with significantly better racial equality than the USA) to self-identify as black in the USA because, for said individual, racial inequality has not accrued intergenerationally and they would not be entitled to the reparations black Americans (whose family have lived in America for generations) are entitled to. If Dembroff and Payton were to claim it was acceptable for such an individual to continue to self-identify as black on moving to America, then it is unclear what would differentiate them from a white American who identifies as black, given whether one *should* be able to identify as black is based on equality, and neither individual would have suffered the intergenerationally accrued inequality that black Americans do. If, in contrast, Dembroff and Payton were to claim it was unacceptable for such an individual to continue to identify as black on moving to America, it is completely unclear what race they should identify as.

Similar problematic implications relate to it being unclear whether, in Dembroff and Payton's view, it would have been acceptable for an individual like Diallo to identify as black in a country other than the USA, or in the USA but on the condition they (somehow) opted out of all reparations for racial wrongs, or in the USA but after such a time that all reparations for racial wrongs had been paid out. By focusing on whether a person *should* be classed as black and linking this to economic and social equality, Dembroff and Payton would create a state of affairs where a person's race could change, against their will, with a change in location, and the acceptability of self-identifying as black varies from place to place and with the passage of time. At the same time, their position allows for the continued possibility of people in the USA having their race miscategorised due to them, either purposefully or accidentally, wrongly self-identifying as a particular race. It is this self-identification, which Dembroff and Payton are opposed to, that would determine whether they receive reparations for racial wrongs that they may or may not be entitled to.

Even without these issues, however, a significant concern with Dembroff and Payton's position is that it is not immediately apparent why racial inequality being intergenerationally accrued and gender inequality not being so, 'marks a central difference between transgender-inclusive classification in the category "woman" and transracial-inclusive classification in the category "Black."' (Dembroff and Payton, 2020) to the extent that people *should* be recognised as women but *should not* be recognised as black on the basis of self-identification. Dembroff and Payton attempt to justify their position by stating that, 'while transracial individuals … eschew much of the weight of anti-Black oppression and

white supremacy, trans women and cis [(natal)] women alike are burdened by the legacy of patriarchy.' (Dembroff and Payton, 2020) They expand on this notion further by arguing:

> The experience of gender discrimination and misogyny is not limited to cisgender women—in many cases, transgender women experience more extreme forms of misogyny than do cisgender women. There are certain forms of misogyny that trans women are less likely to face than cis women (e.g., menstruation stigma); there are forms of misogyny that cis women are less likely to face than trans women (e.g., transmisogyny). However, there are no universal truths about experiences of misogyny: individual experiences of misogyny are deeply impacted, not only by sex assigned at birth, but also by socioeconomic class, race, age, ethnicity, ability, body type, and geographic location. While we think all women should reflect on their respective social positions—particularly when claiming to speak for other women—we think it is a mistake to enter into debate over whether trans women or cis women experience more misogyny. (Dembroff and Payton, 2020)

While transgender women may experience gender discrimination and misogyny, I would argue that there is a strong case that they do not experience it to the same extent as natal women (regardless of whether Dembroff and Payton think it a mistake to debate such). To be misogynistic is to think of/treat a person negatively because they are (assumed to be) a female. While transgender women and natal women alike may be burdened by the legacy of the patriarchy, transgender women only face this burden directly while they are perceived as female (for many this is from the point they transition and become perceptibly female); natal women, in contrast, can experience it directly from very early childhood and, given how some cultures perceive the difference in value of male and female children, can be subjected to it even before birth, once prenatal scans reveal their sex. Of course, transgender women can experience misogyny indirectly very early in life, perhaps while still presenting as male, and be detrimentally psychologically impacted by what they witness; it seems, however, that natal women could experience indirect misogyny in a similar fashion while also experiencing it directly.[34]

Given that natal women generally experience misogyny for a significantly greater extent of their lives than transgender women, this allows a universal truth about the experience of misogyny to be expressed: Whether one is a *natal woman* is the greatest single determining factor in the extent of misogyny one will experience, and, consequently, *natal women* experience misogyny more than any other category of person. If this is accepted, and it is tremendously difficult to understand how it could

[34] It seems there would be nothing from inhibiting transracial individuals from experiencing racism in an analogous fashion.

ever be denied, just as, 'transracial individuals … eschew much of the weight of anti-Black oppression and white supremacy' (Dembroff and Payton, 2020) it must be acknowledged that transgender women eschew much of the weight of anti-women oppression and male supremacy (male privilege). It may be the case that the reason transracial individuals don't suffer as black people do is because of the absence of intergenerationally accrued inequality, while the reason transgender women don't suffer as natal women do is because of the severely reduced period they experience direct gender discrimination and misogyny, but the difference in reason for less suffering is not obviously sufficient to justify allowing self-identification of gender but not of race.

There are some who may contest how I have defined misogyny - negative treatment on the basis of being perceived as female (which only transgender women who are perceived as female are likely to experience) - arguing that it is too narrow and restrictive. As expressed by Dembroff and Payton, some scholars argue that one particular form of misogyny is transmisogyny - negative treatment on the basis of being perceived as a transgender woman - which would presumably be mostly experienced by those transgender women who are not generally perceived as being female. The notion that there is a form of misogyny which is aimed at people because they are not (perceptibly) female is peculiar however, parity of reasoning would require that, if transmisogyny is accepted as a form of misogyny particularly faced by transgender women, we should accept *transracism* as a form of racism particularly faced by transracial individuals. Indeed, Dembroff and Payton's argument could be reworked as follows:

> The experience of [race] discrimination and [racism] is not limited to [individuals with black ancestry]—in many cases, trans[racial individuals] experience more extreme forms of [racism] than do [individuals with black ancestry]. There are certain forms of [racism] that trans[racial individuals] are less likely to face than individuals with black ancestry] (e.g., ["scientific" racism[35]]); there are forms of [racism] that [individuals with black ancestry] are less likely to face than trans[racial individuals] (e.g., trans[racism]). However, there are no universal truths about experiences of [racism]: individual experiences of [racism] are deeply impacted, not only by [race assigned at birth, but also by socioeconomic class, [sex], age, [gender], ability, body type, and geographic location. While we think all [black people] should reflect on their respective social positions—particularly when claiming to speak for other [black people] — we think it is a mistake to enter into debate over whether trans [black

[35] 'Scientific racism is an organized system of misusing science to promote false scientific beliefs in which dominant racial and ethnic groups are perceived as being superior' (Bonham Jr., 2024)

> people] or [individuals with black ancestry] experience more [racism]. (Dembroff and Payton, 2020)

Given this parity of reasoning, it seems *transracism* would aptly describe the type of hostility that Rachel Dolezal faced for claiming to be black despite her having no (knowledge of any) sufficiently recent black ancestry[36]. Just as instances of transmisogyny rely on the (assumed) recognition or knowledge that an individual claiming (implicitly and/or explicitly) to be a woman is not a natal woman, the abuse Dolezal faced completely relied upon the knowledge that, despite her claims to the contrary, she has no black ancestry. It may be the case that instances of (intentional) transracialism are significantly rarer than instances of transgenderism, (as there are likely to be fewer non-passing individuals who claim a racial identity different from their ancestry) however, that does not necessarily entail that transracial individuals face transracism any less frequently than transgender women face transmisogyny.

In summation, while Dembroff and Payton, 'think that transracial-inclusive race classification would undermine our ability to track racial inequality, and for reasons that are irrelevant in the case of transgender-inclusive gender classification' (Dembroff and Payton, 2020), this can only be the case if we are presently able to accurately track racial inequality. Dembroff and Payton provide no explanation whatsoever as to how racial inequality is tracked in their paper, and this is perhaps unsurprising given that race, and therefore racial inequality, is tracked in the USA through racial self-identification, the very method they oppose. Dembroff and Payton's concern is the intergenerationally accrued inequality that black Americans with appropriate black ancestry experience, and ensuring the potential of these Americans to receive reparations for racial wrongs. They fail to consider, however, how to determine whether a person is a black American with appropriate black ancestry; the fact there is currently no way for the US government, or any institution, to determine whether a person is a black American with appropriate black ancestry; that many Americans are unaware of their own black ancestry; that some black people in America, not originally being from America, may not have experienced intergenerationally accrued inequality; and that by linking the ability to self-identify as a race to social and economic equality, they create the strange state of affairs that an individual's race might vary by locale and across time. Dembroff and Payton also don't consider that their concerns about tracking racial inequality could all be negated by allowing people to identify their "ancestral

[36] 'Dolezal served as the head of the National Association for the Advancement of Colored People (NAACP) chapter in Spokane, Washington. In June 2015, she resigned from her post after it was revealed that although Dolezal has been presenting as a black woman for some years, her parents are in fact white. Since then, the news has been rife with ridicule and condemnation of Dolezal for misrepresenting her "true" race. She has been called a deceiver, a liar, and a cultural appropriator, among other things.' (Tuvel 2017 p.263)

race" in addition to the race they identify with, much like how allowing people to identify their sex assigned at birth in addition to their gender would allow it to be determined, for example, which people should be screened for ovarian cancer. Though it is clearly questionable whether the USA has an accurate method of tracking racial inequality to begin with, and obviously demonstrable that transracial-inclusive race classification wouldn't necessarily undermine any method of tracking in place; even were this not the case, Dembroff and Payton fail to demonstrate that racial inequality being intergenerationally accrued is sufficient to allow racial self-identification while denying gender self-identification. It may be true that racial inequality, unlike gender inequality, is intergenerationally accrued, meaning transracial people would avoid much of its effects. Dembroff and Payton's assertion that, 'gender inequality … affects both transgender and cisgender women' (Dembroff and Payton, 2020), does not tell the whole story, however, as it fails to take into account that transgender women avoid much gender inequality due to them being affected by it for a much shorter period of time. The numerous significant issues with Dembroff and Payton's argument allows for the rejection of their conclusion that we should not compare transracial and transgender identities; there may be reasons why this sort of comparison is unacceptable but it is clear that Dembroff and Payton do not provide them.

5.2 - Tuvel's four arguments

Tuvel herself anticipates four objections to her analogy between transgender identity and transracial identity in her paper. The following criticisms directly take issue with Tuvel's responses to these four objections to changing race. The objections Tuvel rejects are:

> [F]irst, the idea that it is unacceptable to claim a black identity unless one has grown up with a black experience; second, the idea that society's current understanding of race places limits on an individual's (perhaps otherwise) legitimate claim to change race; third, the idea that identifying as a member of another race insults or otherwise harms members of that race; and finally, that it is a wrongful exercise of white privilege for a white person to cross into the black racial category, and that such crossing is therefore wrong. (Tuvel 2017, p. 268)

5.2.1 - The 'experience' objection

Philosopher Kris Sealey notes that in response to objection one, which she calls, 'the "experience" objection' (Sealey 2018, p.22) Tuvel argues that it should be sufficient that a person's current experience is that of another's race, even if her past experience was not. She holds that "it remains

unclear why one's past experience with racism is required for one's current status as black." (Sealey 2018, p. 22)

In response Sealey argues:

> It is only in light of … past experience with being racialized in a particular way that [one's] current experience can be categorized as such (namely, an experience of being racialized in that particular way). Said differently, the past … is never "past," since it is always implicated in (and informing) the present. This seems to be particularly the case for questions of identity in general, and racial identity in particular. So if it is the case that someone like Rachel Dolezal is "racialized as black in her current life," then this presupposes that she comes to this "current life" with a comportment shaped by past experiences of being racialized as black. Without this organic relationship between past and present (such that "past" is always-already here, with and in the present), one's current experience counts as something other than being racialized as black. (Sealey 2018, pp. 22-23)

Sealey does not offer any further explanation as to why, out of all possible identity claims, it is particularly the case for racial identity that it is only in light of one's past experiences of being treated a certain way that current experiences can be categorised in that same way. Regardless, it is clear that Sealey believes that Dolezal, and people like her, can only claim to be regarded and treated as black, and lead their lives as black people, in the present if this has been the case in their, '(always-already here, with and in the present)' (Sealey 2018, p. 23) past. If this is not the case, however they might be regarded by and function within society, it is not as a black person.

An immediate issue with Sealey's response to Tuvel is that, despite arguing one's past should determine how one is categorised in the present, she offers no explanation of time-scale when she refers to the past. It was, '[in] 2012 [(when she was 34) that] Rachel Dolezal had a warning for her adopted brother [(Ezra Dolezal)] … [She said], "Over here, I'm going to be considered black, and I have a black father. Don't blow my cover." (Nashrulla, 13/6/15). It was in 2015, when she was 37, that Rachel Dolezal's parentage and self-identification as black became the subject of public controversy. Assuming that before 2012 Dolezal did not identify, nor present herself, as black, one might take Sealey's line of argument and state that as she had no past experience of racialization, even if in (the then-present) 2012 it seemed as if Dolezal was being racialized, in that she was generally perceived and treated as if she were black, how she was being treated could not be categorised as racialization. If it is assumed that between 2012 and 2015 Dolezal was generally perceived and treated as black, however, an argument could be made that by 2015 she did have past experience of being racialized

and so her then-present experience could be categorised as racialization. It seems that, for Sealey, three years is not a sufficient amount of time for one to accumulate past experiences of categorization; however, moving beyond the reality of the case, had Dolezal been generally perceived as a black woman for thirty years, rather than three, before her "true" race was revealed, it is questionable whether one could successfully argue that her self-identification as black should be considered unacceptable on the grounds she had no past experience of racialization. It is not difficult to imagine a scenario in which a young white girl, perhaps with a naturally dark complexion, is adopted by a black family and, fully supported by her family, begins to present and identify herself as black. Such a girl, like Dolezal, would have no past experience of racialization when she began to identify as black, and Sealey leaves it completely open to speculation (if it is possible at all) how long said girl would have to be treated and perceived as black before she could claim (in the present) that she was experiencing racialization.

Vague references to the past aside, a major issue with Sealey's response is that it is unclear why it wouldn't remain equally valid and relevant if it were amended to discuss gender rather than race (Sealey does state that it is particularly the case for racial identity that one's past experience of categorization informs how one's present experiences can be categorised however, this is completely unsubstantiated). As has been done with other scholar's arguments, we can consider Sealey's argument with gender terms and examples substituted for race terms and examples:

> It is only in light of … past experience with being [gendered/sexualised] in a particular way that [one's] current experience can be categorized as such (namely, an experience of being [gendered/sexualised in that particular way). Said differently, the past … is never "past," since it is always implicated in (and informing) the present ... So if it is the case that someone like [Caitlyn Jenner (selected as an example of a trans woman as Tuvel uses her as such)] is "[gendered] as [female] in her current life," then this presupposes that she comes to this "current life" with a comportment shaped by past experiences of being [gendered/sexualised] as [female]. Without this organic relationship between past and present (such that "past" is always-already here, with and in the present), one's current experience counts as something other than being [gendered/sexualised] as [female]. (Sealey 2018, pp. 22-23)

It is undoubtedly true that just as people are treated differently depending on their skin colour (in the USA), people are also treated differently depending on their sex, black people and women (generally) being treated worse than white people and men respectively. In the case of gender, whether an individual is perceived as a male or female will often determine the extent to which they experience gender discrimination, women (in general) being discriminated against to a far greater degree than

men. It is possible that when Jenner began to self-identify as a woman people began to ascribe to her an outlook, behaviours or sexual role based on her self-proclaimed gender. Following Sealey's rationale, however, it would be incorrect to call what Jenner began to experience genderisation as a woman because she had arrived at that moment in life with no past experience of being gendered as a woman. It is worth noting that this is exactly the line of objection to considering transgender women as unproblematically "real women'' raised by writer, Chimamanda Ngozi Adichie:

> So when people talk about, 'are trans women women?' my feeling is trans women are trans women. I think if you've lived in the world as a man, with the privileges that the world accords to men, and then sort of switch gender, it's difficult for me to accept that then we can equate your experience with the experience of a woman who has lived from the beginning in the world as a woman, and who has not been accorded those privileges that men are. (Adichie, 2017)

It is clear that Adichie, and those who share her view, believe that what excludes transgender women from being real women is not solely their genetics or anatomy; it is, pre-transition, having not lived in the world as women who lack the privileges afforded to men.

As it seems that Sealey's argument functions just as well for gender as it does for race, it is clear the argument cannot be used to explain why transracial and transgender identities are not analogous.

5.2.2 - The 'social understanding' objection

In response to Tuvel's rejection of objection 2 - society's current understanding of race places limitations on an individual's ability to legitimately change race - which Sealey refers to as, 'the "social understanding" objection' (Sealey 2018, p.22) Sealey writes:

> [Tuvel] points out that … what gets named as ancestry is biologically (or genetically) ambiguous, and insufficiently robust to qualify as an actual biological component of racialized identities. In other words, she is correct in her synopsis that "racial groupings of people are arbitrary from a genetic point of view." It follows from this that, yes, "there is no essential genetic 'black' core that [someone like Rachel Dolezal] is violating" when she attempts to transition from white to black. (Sealey 2018, p. 23)

The argument Sealey makes in response to Tuvel's response to objection 2 seems to have two prongs, both of which are questionable in terms of their success in showing transgender and transracial identities are not analogous. First, she writes:

> [T]here does seem to be some core that is misrepresented (if not outright violated), in a case like Dolezal's. This "core" … while not genetic in the strict sense, does unavoidably inform what it means to be (and to not be) black. In Alain Locke's 1924 essay, "The Concept of Race as Applied to Social Culture," he shows us that what is understood as the ancestral (bloodline, genetic) core of a racial group is really the socially constituted appropriation of that ancestry … the biology of race is really about a relationship—namely, a relationship between actual genetic ancestry (on the one hand), and the cultural and social signification of that ancestry (on the other), which then allows ancestry to mean certain things, in certain contexts, for certain groups of people. Hence, the role and predicative force of ancestry, in my racial identity, is not biological at all, but rather, social (or cultural). (Sealey 2018, p. 23)

Sealey is clearly attempting to demonstrate that there is some quintessential characteristic which determines whether a person is or is not black. The characteristic is not entirely genetic itself but rather relies on the relationship between one's genetics and the (partly historical) cultural and social significance of those genetics. It should be noted that what Sealey writes is ambiguous in that she does not explain how recent one's black ancestry has to be for it to have social and cultural significance and hence form the core of being black. This is interesting, given that genetic lines of evidence support the notion that the 'lineage of Homo sapiens probably originated in Africa' (Scerri et al., 2018, p.582) because it means that everyone could claim to have genetic black ancestry. It seems, at least in some contexts, there is the possibility of this genetic black ancestry having cultural and social significance, and so arguably all people (in said contexts) could claim they are black and expect to be recognised as such.

According to Sealey, as Dolezal has no (sufficiently recent) black ancestry (as far as we know), it is impossible for there to be any relationship between her genetics and the cultural and social significance of those genetics; hence, according to Sealey, she is misrepresenting or violating the core of what it is to be black.

Even accounting for its ambiguity, Sealey's argument is problematic because she acknowledges that racial groupings are arbitrary, in terms of genetics, and that there is no essential genetic black core, but then proceeds to define an essential black core in terms of genetics. If, 'actual genetic ancestry' (Sealey 2018, p. 23) is a necessary condition of being black, it being impossible to have the relationship between ancestry and social and cultural significance of that ancestry without it (and lack of said ancestry being the reason why people like Dolezal misrepresent or violate said core), then what Sealey means when she claims the core is, 'not genetic in the strict sense' (Sealey 2018, p. 23) is that the core is not *solely* genetic. Sealey is committed to saying that one cannot be black without the appropriate

genetics even if, like Dolezal, they are widely perceived to have said genetics, because they cannot have the necessary relationship between ancestry and social and cultural significance. It seems, therefore, that she is at once committed to claiming that racial groupings are and are not arbitrary from a genetic point of view, and that she is incorrect when she claims the predicative force of ancestry is not at all biological.

A second reason why Sealey's response is problematic is that, as with her first response to Tuvel, it is unclear why it would be any less valid or relevant were it adapted to refer to gender rather than race:

> "Gender groupings of people are arbitrary from a genetic point of view." It follows from this that, yes, "there is no essential genetic … core [of a woman] that [someone like Caitlyn Jenner] is violating" when she attempts to transition from [being a man] to [being a woman]. But there does seem to be some core that is misrepresented (if not outright violated), in a case like [Jenner]'s. This "core" … while not genetic in the strict sense, does unavoidably inform what it means to be (and to not be) [a woman]. … what is understood as the [genetic] core of a [gender] group is really the socially constituted appropriation of [those genetics] … the biology of [gender] is really about a relationship—namely, a relationship between [the] actual genetic[s of sex] (on the one hand), and the cultural and social signification of that [sex, (which may be called gender,)] (on the other), which then allows [gender] to mean certain things, in certain contexts, for certain groups of people. Hence, the role and predicative force of [sex], in my [gender] identity, is not biological at all, but rather, social (or cultural). (Sealey 2018, p. 23)

Given that Sealey supports transgender identities, it is likely that Sealey would want to argue that, as with race, there is no essential genetic core of gender. But if this is so, then by analogy with Sealey's treatment of race, it seems that the core of being a woman could still be determined by the social and cultural significance of being female. Journalist and broadcaster Jenni Murray demonstrates that she holds this position with her analysis of Simone de Beauvoir's claim that, 'one is not born but rather becomes a woman.' (De Beauvoir p.396):

> I have understood perfectly what de Beauvoir meant ever since I read her as a teenage girl. Her subject was that "second sex". She used the word sex advisedly. Your sex, male or female, is what you're born with and determines whether you'll provide the sperm or the eggs in the reproductive process. What de Beauvoir was analysing was gendered socialisation.
>
> In other words, the girl who grows into a woman goes through a lifetime of pressure to

> become the socially constructed idea of what a woman should be, regardless of her innate talents, abilities or ambitions. It's what feminism has sought to challenge. She did not mean that an individual born into the male sex, socialised into the expectations of the masculine gender, can simply decide to take hormones and maybe have surgery and "become a woman". (Murray, 2017)

Murray writes to transgender women, 'be trans, be proud - but don't call yourself a "real woman"' (Murray, 2017) making it clear that for her (and those who share her view) what excludes transgender women from being "real women" is having not experienced the social pressures, or genderisation, that people treated as girls/women *due to their perceived female genetics and/or anatomy* have experienced.

Though it is the case that people on both sides of the debate as to whether transgender women should be classed as "real women" see that there is cultural and social significance of being a woman, it's unclear why this social significance should be perceived as completely separable from being a natal female. Just as the social and cultural significance of being black can be argued to be related to actual genetic ancestry, the social and cultural significance of being a woman can be argued to be related to actual genetics. In some cultures, for example, the genetics of one's sex being female might have social or cultural significance because it is genetics that entails one is perceptibly female; in said culture, being perceptibly female entails one is deemed a "woman" and assumed to be a natural care-giver. In such a context, gender, namely "woman", obviously means certain things beyond the genetics of one's sex, and the role and predicative force of the genetics of one's sex in their gender identity is not (solely) biological but cultural.

Instead of differentiating them as Sealey does, a more consistent position would be to assert that both gender and race are determined by the relationship between genetics and their social and cultural significance. In this view, figures like Dolezal and Jenner may be seen as misrepresenting or violating an essential core. Alternatively, one could argue that both gender and race are determined solely by the social and cultural perceptions associated with belonging to these groups. From this perspective, neither Dolezal nor Jenner necessarily misrepresent an essential core.

The second prong of Sealey's argument, which could be understood as going some way to explaining why she thinks genetics is an essential component of race but not of gender, is somewhat peculiar. She writes:

> Our current [social] context, supported by collective (though not unanimous) agreement, [where a person born with male genitalia should be permitted to self-identify as a woman] is a consequence of the social transformation (let's just call it social progress, since this is what it is) that moved the dial of our shared practises around gender identity. But Tuvel's question seems to stack the deck at the outset, to suggest that this assessment would have, or even should have been possible prior to that collective change in context. … we decide, together, those social transformations that are morally required and/or legitimate. To be sure, there are actual individuals staking these claims throughout such social transformations. But such individual decisions are always against a backdrop of transforming social practises and customs. (Sealey 2018, p. 25)

It seems Sealey is arguing that societies could not have made the assessment that it should be possible to identify as transgender before the collective change in social context that allowed people to identify as transgender, and that societies decide when these social transformations are morally required and/or legitimate. It follows that Sealey's position is that we have collectively (though not unanimously) decided that it is morally required/legitimate for the presence of particular genetics to not determine gender, meaning transgender identity claims are socially acceptable. The same cannot be said for transracial identity claims, where the collective decision is that relevant genetic ancestry (through its relationship to the social and cultural significance of that ancestry) is a prerequisite of race membership. It is the case, therefore, that transgender identity claims are socially acceptable while transracial identity claims are not.

Sealey's argument is peculiar because she provides no real explanation as to why societies *should* differentiate between transgender and transracial identity claims; rather she explains that it is just the case that societies *do* differentiate between them because of our collective decision to do so. In such circumstances, it would seem that it would make sense to argue - as Tuvel does - that we should accept transracial identity claims in the same way we accept transgender identity claims, as such arguments may affect society's collective decision. Indeed, it is difficult to understand what could lead to a collective decision regarding the acceptability of transracial identity claims other than arguments for the validity and acceptance of such claims. In short, with the second prong of her argument, it seems Sealey fails to differentiate between transracial identity claims being currently socially unacceptable and the idea that transracial identity claims *should be* socially unacceptable; she does not explain why transracial and transgender identity claims cannot be considered to be analogous, she simply acknowledges the obvious reality that, at present, they are treated differently.

Botts criticises Tuvel's responses to the first and second objection together, summarising Tuvel's response to the first objection as, 'not having had the black experience is not an ethical barrier to being black, for the reason that having had the experience of being a woman is not a necessary condition for being a trans woman.' (Botts 2018, p.63) and the second as, 'since social progress requires acceptance of the transgender experience as legitimate, social progress also requires acceptance of "transracialism."' (Botts 2018, p.64) She states:

> The tenuousness of these two arguments is arguably crystal clear, for the reason that both rely on an analogy between the transgender experience and "transracialism" that … has not been established, and the spuriousness of which is highlighted by simply substituting another non-objective (or socially constructed, if you prefer) social identity (centaurism) for "transracialism." (Botts 2018, p.64)

Before examining the particulars of Botts' argument, it is worth acknowledging Tuvel's own direct response to Botts. Explaining why she thinks Botts' criticism fails, Tuvel writes:

> I explicitly consider the objection that my argument could be taken to suggest that self-identification alone is sufficient for acceptance into a particular identity category. In response to this concern, I argue that self-identification alone is not sufficient. Rather, my article suggests it must at least be possible for one to be treated as a member of the relevant social identity category, the content of which can differ from one context to the next. Since she was taken to be one, it is possible for Rachel Dolezal to be treated as a black woman. But unlike black women, centaurs do not exist. Since it is not possible for any human to access what it is like to be treated as a centaur, then, my argument quite evidently does not apply equally to centaurism. (Tuvel 2018, p.81)

Though there are significant dissimilarities, Botts' response to Tuvel's rejection of the first and second objection echoes Sealey's response to Tuvel's rejection of the second objection. Botts only very briefly refers to the analogy between the transgender experience and transracial experience not being established however, the manner in which she attempts to substantiate this earlier in her paper is by arguing that race, unlike gender, is a social construct founded on a relationship between ancestry and social story; this has clear parallels with Sealey's claim that, 'the biology of race is really about a relationship—namely, a relationship between actual genetic ancestry (on the one hand), and the cultural and social signification of that ancestry (on the other)' (Sealey 2018, p. 23) Botts writes:

> I indicated that according to the contemporary understanding of what race is in the twenty-first century in the United States (specifically, an identity marker based in ancestry, which is not changeable), race, unlike gender, is what I called more "externally derived," whereas gender is what I called more "internally derived." What I meant was that while it may be true that both race and gender are what is often called "socially constructed," that is, rooted in neither biology nor any other similarly scientific feature, each is socially constructed in different ways. While the social story of race carries with it the belief that race is determined by ancestry (or a factor external to self), the social story of gender carries no similarly external anchor. Owing to this failure to entail any similar type of external anchor, I argued, gender identity is more fluid, more freely defined (or even changed) than racial identity, even conceding the lack of classically "objective" content in both cases. (Botts 2018, p. 52)[37]

Botts' reference to the contemporary understanding of race raises some concerns. Although she gives some small detail of what this understanding entails when she refers to an identity marker based in ancestry, she fails to sufficiently elaborate on this concept throughout her paper, leaving important questions unanswered. It is unclear, for example, exactly what this identity marker might be and how far back in one's ancestry it might be located. Importantly, Botts does not address the logical or ethical appropriateness of this contemporary understanding of race. Logically, it is not obvious how one could coherently hold that race is, 'rooted in neither biology nor any other similarly scientific feature' (Botts 2018, p. 52) yet also be determined by ancestry. If any contemporary understandings of race in the United States entail holding to the truth of a contradiction, then such understandings should be dismissed; if Botts holds that there is no contradiction, then how this may be the case requires further explanation. Botts' failure to provide detailed insights into the contemporary understanding of race in the twenty-first century United States also prevents an assessment of its ethical implications. While she states that the social story of race includes the belief that race is determined by ancestry, she does not provide an account of who holds these beliefs and whether they are well-founded, leaving room to question the ethical validity of such beliefs.

Even accepting the ambiguous conception of race that Botts refers to, and also allowing that such a conception is ethical and logically sound, the crux of Botts' argument, that race as it is currently socially constructed carries an external factor which gender does not, fails to hold up to scrutiny. As previously referred to, according to the World Health Organisation:

[37] Botts, like Sealey, provides no explanation of how recent one's ancestry must be, potentially meaning that everyone could argue they have the same racial identity marker borne of their African lineage.

> Gender refers to the characteristics of women, men, girls and boys that are socially constructed. This includes norms, behaviours and roles associated with being a woman, man, girl or boy, as well as relationships with each other. As a social construct, gender varies from society to society and can change over time.' (WHO, 2022)

This definition of gender makes it perfectly clear that there is an external element of gender, albeit a socially constructed one. Social norms and expectations, which vary from place to place and across time periods, differ for boys and girls, men and women. These roles and expectations are already present when children are born and dictate whether the child's behaviour entails they are perceived as masculine or feminine; further demonstrating the external aspect of gender is the fact that a child perceived as masculine in one locale or time period may be perceived as feminine in another, and such a change in perception does not require any change at all in the child. Given this widely accepted WHO account of gender, it is likely that when Botts refers to gender as having no factor external to self, she means to refer to gender identity, defined by WHO as, 'a person's deeply felt, internal and individual experience of gender, which may or may not correspond to the person's physiology or designated sex at birth. (World Health Organisation, 2022). Even if this is the case, however, as no single individual determines or, generally speaking, has a significant level of influence over societal norms, particularly when they're a child, gender identity, insofar as it is understood in terms of how one's sense of self relates to societal gender norms, must also be at least partially determined by factors external to self. Indeed, if it is the case that one's gender identity is (somehow) borne of the comparison of one's feelings (including desired behaviours) with gender (understood as the norms, behaviours and roles of boys, girls, women and men which developed completely external to self and which vary by locale), one could obviously not have a gender identity without factors external to self. Given the WHO definition of gender, it would be impossible for a natal male child to meaningfully identify as a girl unless 'girl' has some criteria external to the child and beyond the child's immediate control that could be met. In short, gender is defined in such a manner that it is made explicit that it is anchored in factors external to self, and gender identity, due to its relationship to gender, must also be anchored in factors external to self. Botts' argument that gender and race are not analogous due to gender not being anchored in factors external to self therefore fails.

The ambiguity of Botts' claim that gender, 'carries no similarly external anchor [to race]' (Botts 2018, p. 52) allows for the possibility that, in her view, the obvious external anchors of gender and gender identity are not sufficiently similar to that of race. It could be the case that what Botts means is that gender identity is not anchored to an individual's sex in the same manner that race is anchored in an individual's ancestry. If this is the nature of Botts' claim, then it is similar to the criticism made by Sealey, who significantly expands on the idea and focuses on it as a reason to reject transracial

identities; as such it can be responded to (and rejected) for exactly the same reasons (stated earlier in this section)

Botts' failure to demonstrate that Tuvel's rejection of objection one and two should be dismissed on the basis that transgenderism and transracialism are not analogous is compounded by her statement that the spuriousness of the arguments can be highlighted by substituting centaurism for transracialism (Botts 2018, p.64) As Tuvel demonstrates in her own response to Botts, by relying on the apparent self-evident absurdity of centaurism, Botts does exceedingly little to evidence that an analogy between the transgender experience and transracial experience has not been sufficiently established. Consequently, she fails to effectively explain why transgender identity claims should be accepted when transracial identity claims should not.

Botts goes onto write:

> We do not "generally treat people wrongly when we block them from assuming the personal identity they wish to assume," particularly when the personal identity they wish to assume is clearly beyond the bounds of historically-situated reality. Proclaiming that one is black does not make one black any more than proclaiming one is Jesus Christ (or a centaur) makes one Jesus Christ (or a centaur). Reality is not conferred by personal choice alone, such that it is not obviously unethical to fail to accept someone's statement of personal choice on a topic on which personal choice is fairly irrelevant. (Botts 2018, p.64)

This final paragraph in Botts' analysis of Tuvel's response to the first two ethical barriers is peculiar because, though she is obviously attempting to demonstrate that transracialism is unacceptable, everything she claims could be claimed with equal validity of transgender identities, arguably demonstrating that the two are in some ways analogous. Indeed, in a footnote placed after the last word of this final claim, Botts writes:

> Pointedly, even the transgender experience is not currently legitimized on the basis of personal testimony alone, and it certainly is not experienced as a choice by those who have it. Rather, the transgender experience is experienced as everpresent and unchosen, unchangeable, just the way things are (at least as it has been described to me by those who have it). (Botts 2018, p.71)

Botts dismisses transracial identity claims on the grounds that they are not sufficiently analogous to transgender identity claims. However, by asserting that we do not wrong individuals by rejecting their identity claims, a notion applicable to transgender identities, she implies that transracial identity

claims are analogous. While Botts implicitly acknowledges this in her footnote, her rationale for accepting transgender identity claims and not transracial identity claims appears to rely primarily on the acceptance of anecdotal evidence she has gathered from transgender individuals, to the effect that she accepts transgender identities are deeply felt and involuntary in a manner she believes transracial identities could not be. Not only is anecdotal evidence a weak basis for any assertion of fact, particularly given the diversity of opinion within the transgender community on what the transgender experience entails, what Botts is claiming here is arguably both question-begging and self-defeating: She seems to accept the conclusion that the testimony of transgender individuals reflects reality without substantiating this claim, while simultaneously disregarding the testimony of transracial individuals[38]. Additionally, she seems to be at once arguing that testimony is not sufficient to legitimise the transgender experience, but that it is sufficient to establish that, 'the transgender experience is experienced as everpresent and unchosen, unchangeable, just the way things are' (Botts 2018, p.71) which (Botts thinks) legitimises the transgender experience. Furthermore, it must be stated that Botts is categorically incorrect when she claims personal testimony is not sufficient to legitimise the transgender experience:

> The gender affirmative model [(GAM)] is defined as a method of therapeutic care that includes allowing children to speak for themselves about their self-experienced gender identity and expressions and providing support for them to evolve into their authentic gender selves, no matter at what age. Interventions include social transition from one gender to another and/or evolving gender nonconforming expressions and presentations, as well as later gender-affirming medical interventions (puberty blockers, cross-sex hormones, surgeries) (Ehrensaft 2017, p. 62)

The GAM of therapeutic care has, as one of its primary principles, the notion that practitioners should not contradict their patients' gender identity claims, responding to everything said, as much as is possible, in an affirmative manner. It must be acknowledged, therefore, that there is an entire therapeutic practice based on the notion that personal testimony is sufficient to legitimise the transgender experience.

[38] Dolezal has repeatedly referred to her racial identity in a similar manner to how Botts describes the transgender experience being described to her, but the notion her testimony reflects reality seems to have been rejected out-of-hand.

5.2.3 - The ‘racial harm’ objection

Botts writes that Tuvel’s argument for rejecting the third potential ethical barrier to accepting transracialism (the idea that identifying as a member of another race insults or otherwise harms members of that race) involves arguing, ‘the white-to-black transracial person “genuinely'' identifies as black, unlike the person who wears blackface.’ (Botts 2018, p.64) Botts responds:

> ‘At least this philosopher of color became offended at this point in Tuvel’s argument. What gave Tuvel the right to dismiss the concerns of some black people on this topic so summarily, I thought to myself? Was Tuvel even aware that her phrase “genuinely identifies as black” was question-begging?’ (Botts 2018, p.64)

Firstly, it must be noted that Botts’ offence is entirely irrelevant to the validity of Tuvel’s claim; people can be offended by anything at all, and the legitimacy of what has been said/written does not necessarily relate to whether it offends those who hear/read it. In addition, if the offence felt by Botts and other people of colour were to hold against the validity of transracial identity claims, it is clear that the offence felt by women, some of whom have been very vocal, should hold against the validity of transgender identity claims made by transgender women.

Secondly, it is difficult to understand how Botts has interpreted “genuinely identifies as black” as question begging unless she has done so in bad faith. The context of Tuvel’s paper makes it abundantly clear that “genuinely identifies as black” means “genuinely believes themselves to be black”; that when the person in question identifies themselves as black, there is no intention of deception. Also, while society (in general) may accept the claims that transgender men genuinely identify as men and transgender women genuinely identify as women, Botts offers no explanation as to why these claims are not question begging when Tuvel’s claim that a person genuinely identifies as black is.

Unlike Botts, Sealey does not directly respond to Tuvel’s rejection of objection 3 however; one way in which Sealey thinks black people may be harmed, given the acceptance of transracial identities, can be identified in the final part of her paper where she considers white allyship. Sealey asks, 'What happens to white allyship in a world that permits transracial white-to-black identities?’ (Sealey 2018, p. 27)

She suggests that:

> [White] allyship [is put at] risk when, instead of performing whiteness differently, white persons aim to shed their white identities altogether. This is because the white person who attempts to shed her white identity becomes blind to the racial privilege that she cannot

> opt out of, and therefore runs the risk of perpetuating the very structural racisms against which an ally ought to fight. (Sealey 2018, p. 27)

Notably everything Sealey claims here could as easily be applied to gender: One might ask, 'What happens to [male] allyship in a world that permits trans[gender male-to-female] identities?' (Sealey 2018, p. 27)

One might suggest:

> [Male] allyship [is put] at risk when, instead of performing [maleness] differently, [male] persons aim to shed their [male] identities altogether. This is because the [male] person who attempts to shed [his male] identity becomes blind to the [male] privilege that [he] cannot opt out of, and therefore runs the risk of perpetuating the very structural [sexisms] against which an ally ought to fight. (Sealey 2018, p. 27)

In order for her views to be logically consistent, Sealey must accept that if white-to-black transition is problematic because it threatens white allyship, then male-to-female transition must be problematic for the threat it poses to male allyship. It follows that if male-to-female transition does not risk male allyship, there is no reason to suspect white-to-black transition would threaten white allyship. Sealey would likely acknowledge that in places, such as the USA, where male-to-female gender transition is (generally) regarded as morally acceptable, there are still calls, made by men and women alike, for men to perform maleness differently, and there are opportunities for men to do just that. Men can perform maleness differently and be stronger allies to women by, for example, understanding, not abusing, and striving to reduce their male privilege; by calling out misogyny, and by striving to protect women (when it is unfortunately necessary) from other men. If none of these opportunities are negated by the existence and acceptance of trans women, then there is no reason to believe the calls and opportunity to perform whiteness differently would be negated by the existence and acceptance of transracial black-to-white identities.

Ironically, it is those gender critical feminists who oppose Sealey's view on transgenderism for whom opposing transracial identities would make most sense. Some such feminists view gender transition as taking part in a kind of treachery, reinforcing gendered expectations by accepting that if (say) there is a male person who has feminine traits (whatever those may be), they should be seen as a woman rather than as one of the many ways men can be in a post-sexist world. This kind of thinking is reflected in Janice Raymond's discussion of transsexualism (prior to the term 'transgender' taking precedence) which is considered controversial because of just how opposed to what (would now be called) transgender identities it is:

> Thus, a man who is emotional or nurturing is encouraged to think of himself as a woman instead of as a man who is trying to break out of the masculine role. … Ultimately transsexual surgery reinforces social conformity by encouraging the individual to become an agreeable participant in a role-defined society, substituting one sex role stereotype for the other. The medical solution becomes a "social tranquilizer" reinforcing sexism and its foundation of sex-role conformity." (Raymond 1994, xvii)

It would be completely consistent for a gender-critical feminist, such as Raymond, to view race transitions as a similar kind of treachery, reinforcing race expectations by accepting, for example, that a white person with black traits (whatever those may be) should be seen as black rather than as one of the many ways white people can be in a post-racist world. This can be seen by making small amendments to Raymond's work so that the focus becomes race rather than gender:

> Thus a [white person] who, [to quote Dolezal, feels 'anger and pain towards whites' (Aitkenheade, 25/2/17)] is encouraged to think of [themselves] as a [black person] instead of as a [white person] who is trying to break out of the [stereotypically white] role. … Ultimately [racial transition] reinforces social conformity by encouraging the individual to become an agreeable participant in a role-defined society, substituting one [racial] stereotype for the other. [Racial transition] becomes a. "social tranquilizer" reinforcing [racism] and its foundation of [race]-role conformity." (Raymond 1994, xvii)

5.2.4 - The 'privilege' objection

Botts summarises Tuvel's rejection of the fourth ethical barrier to transracial claims (that it is an exercise of white privilege for a white person to identify as black) as, 'it is not an exercise of white privilege to try to change one's race from white to black … but, even if it were, there is nothing wrong with that' (Botts 2018, p.65) Botts responds:

> Obviously, a white person's choice to masquerade as black (for fun? for social advantage? for personal advantage? to deceive black people into taking her into their confidence? some other reason?) is an exercise in white privilege for the obvious reason that they can turn around and be white again at will, at a moment's notice. Even more obviously, there is definitely something wrong with exercising white privilege, and that is that whenever it occurs, it is an instantiation, a reification, of the system of social hierarchy on the basis of race that exists in the United States. Arguably, only someone wholly out of touch with the lived experience of being racialized as black would not be able to see these points. (Botts 2018, p.65)

Botts' response here relies on faulty reasoning. After accusing Tuvel of question-begging, it appears Botts is doing just that. If Botts' claim, 'obviously, a white person's choice to masquerade as black is an exercise in white privilege' (Botts 2018, p.65) is taken at face value, then it is fairly uncontroversial. To masquerade as black is to put on a false show of being black, and the ability to do this could be borne of white privilege; indeed "blackface" itself could be used as a legitimate example of a white person using their white privilege to masquerade as black. If, however, Botts is using, 'a white person's choice to masquerade as black' (Botts 2018, p.65) to refer to perceptibly white people, who claim to be black, which seems far more likely, then she is begging the question. *If* transracial identity claims are plausible, then a perceptibly white person who claims to be black is not masquerading. Botts' use of the word, "masquerade" and her suggestions of why such "masquerading" might occur demonstrates that she has assumed that a white person cannot genuinely identify as black rather than proving that this is the case.

The reason why Botts argues that a white person choosing to masquerade as black is obviously exercising white privilege - 'they can turn around and be white again at will, at a moment's notice' (Botts 2018, p.65) - is also problematic. It is completely unclear what Botts means by, 'be white again at will' (Botts 2018, p.65). If Botts is referring to appearance, then it is clear that not every person who would be classified as white is immediately recognisable as white, some due to their natural appearance and some due to how they have purposefully amended their appearance; regardless of which it is, whether they would be able to become (perceptibly) white again at will is questionable. If Botts is not referring to appearance, then how a white individual who may not be immediately recognisable as white, and who identifies as black, can be white again at a moment's notice needs significant explanation. Botts must explain what changed when they became white again, and how they were able to affect that change.

Finally, everything Botts argues in relation to the fourth potential ethical barrier can be similarly argued in relation to transgender identity claims, in particular the identity claims of transgender women. This can be show by substituting Botts' reference to race with reference to gender:

> Obviously, a [male] person's choice to masquerade as [a woman] (for fun? for social advantage? for personal advantage? to deceive [women] into taking [him] into their confidence? some other reason?) is an exercise in [male] privilege for the obvious reason that they can turn around and be [a man] again at will, at a moment's notice. Even more obviously, there is something wrong with exercising [male] privilege, and that is that whenever it occurs, it is an instantiation, a reification, of the system of social hierarchy on the basis of [gender] that exists in the United States. Arguably, only someone wholly out of touch with the lived

> experience of being [gendered and sexualised as a woman] would not be able to see these points. (Botts 2018, p.65)

It is remarkable that, while trying to demonstrate that transracial and transgender identity claims are not analogous, Botts offers evidence that they can be seen as such. Also remarkable is that Botts would conclude her paragraph of faulty reasoning with an appeal to purity; i.e. that only those out of touch with being racialized as black would not concede to the argument she is making.

Botts' criticisms of Tuvel's methodology are unfounded. Botts fails to demonstrate that transracialism and transgenderism are not analogous, and similarly fails to demonstrate that Tuvel has not successfully navigated the potential ethical objections to transracial identity claims, at least to the extent the ethical objections to transgender identity claims have been navigated. Botts relies overly much on the implications of what she takes to be an argument ad absurdum - centaurism - while doing insufficient philosophical work to demonstrate that centaurism actually is absurd, and while failing to note relevant differences between centaurism and transracialism that might allow us to say that centaurism is absurd while transracialism is not. This can be seen, as well as anywhere in Botts' paper, with her summary thoughts on Tuvel's response to the third and fourth ethical objections. Botts writes:

> Now, since I myself am not a centaur (nor do I know any centaurs well enough to be qualified by proxy to speak on the topic of their experiences), it will be difficult for me to do justice to any ethical objections to centaurism that may arise from members of the centaur community, but I will give it a try. So, as I understand it, centaurs are the children of Ixion, king of Lapiths, and Nephele, a cloud made in the image of Hera. So, I am going to hypothesize that a group of centaurs takes issue with someone not born of this particular parentage claiming to be a centaur trapped in the body of a human. My Tuvelian response to this objection might be that although that's the way centaurs are currently defined, centaurs need not be defined in this way in the future. In fact, social progress requires that "we" (the universal "we" that, of course, does not exist, and usually just means the majority/ mainstream view) look past these sorts of arbitrary constraints in order to allow centaur status to anyone who "genuinely feels" they are a centaur. Notice that my conclusion about how "we" need not be constrained by what actual centaurs think (on the topic of what is required to make one a centaur) dismisses the testimony of the centaur community outright. (Botts 2018, pp. 65-66)

As with Botts' previously quoted paragraph, reference to centaurism can be substituted with reference to gender, and function, just as coherently, as an objection to transgender identities[39]:

> Now, since I myself am not a [woman] (nor do I know [enough women] well enough to be qualified by proxy to speak on the topic of their experiences), it will be difficult for me to do justice to any ethical objections to [transgender identities] that may arise from members of the [relevant] community, but I will give it a try … I am going to hypothesize that a group of [women] takes issue with someone [without female biology] claiming to be a [woman] trapped in the body of a [man]. My Tuvelian response to this objection might be that although that's the way [women] are currently defined, [women] need not be defined in this way in the future. In fact, social progress requires that "we" (the universal "we" that, of course, does not exist, and usually just means the majority/ mainstream view) look past these sorts of arbitrary constraints in order to allow [woman] status to anyone who "genuinely feels" they are a [woman]. Notice that my conclusion about how "we" need not be constrained by what actual [women] think (on the topic of what is required to make one a [woman]) dismisses the testimony of the community [of women] outright. (Botts 2018, pp. 65-66)

It is astonishing that Botts could write such a paragraph with the intention of demonstrating that transracial claims are problematic and not analogous to transgender claims while not realising that everything she writes is equally applicable to transgender identity claims. Presumably Botts is relying on the notion that a not-insignificant number of natal women are agreeable to transgender women being counted as women; however, it is by no means clear that (anything approaching) a majority of natal women feel this way; furthermore, if it is the case that Bott's is relying on a majority of natal women being agreeable to transgender women being counted as women, doing so is peculiar given that Botts is so dismissive of the view of a majority being the view that should be accepted. It is completely unclear why Botts takes issue with the potential redefining of race but sees no issue, or indeed parity, with how 'woman' and 'man' have been redefined. On the face of it, it seems to be a terrific double standard.

In response to Tuvel's rejection of objection 4, which Sealey calls 'the "privilege" objection' (Sealey 2018, p. 24), Sealey writes:

[39] I have elected to amend the paragraph to refer to transgender women however, it could just as easily be amended to refer to transgender men. It should also be noted that even if an individual is a woman, their experience is by no means typical of all women, nor will they know enough women well enough to be qualified to speak on the topic of their experiences.

> [In order] to respond to the second part of Tuvel's response to this objection … I will quote her here: "[It] is difficult to see how giving up one's whiteness and becoming black is an exercise of white privilege. Rather, it seems like the ultimate renunciation of white privilege, if by white privilege we understand an unequal system of advantages conferred onto white bodies." She then goes on to say that if, indeed, someone like Dolezal represents this renunciation of white privilege, society should "view [her] as refusing to benefit from an unequal system of advantages conferred on the basis of her skin color." (Sealey 2018, p. 25)

Sealey rejects Tuvel's view that Dolezal is renouncing white privilege on the basis, 'that Dolezal's decision to reject her privilege comes from a position of privilege, and ultimately affirms that privilege in her very decision to reject it (the privilege lies in having the option to say "yes" or "no"). (Sealey 2018, p. 25) Sealey (2018) asks whether black people's ability to mask their phenotypically black appearance is comparable to white people's ability to mask that they're white. She then writes that the phenomenon of black people being misrecognised as white, which, 'used to be called passing, and … wasn't pretty' (Sealey 2018, p. 25) has an insidious history, making it nowhere near the equivalent of what Rachel Dolezal did. For these reasons, Sealey concludes that Dolezal giving up some aspects of her white privilege was only possible because of her white privilege.

There are numerous issues with Sealey's response, both inherent in her view of racial transition and also in how it could be argued to relate to gender transition. Firstly, Sealey focusses overly much on the Dolezal case; Dolezal was simply an example Tuvel used of a well-known person who identified as a race other than her "true race". Tuvel makes it abundantly clear in her own paper that she is not defending Dolezal's behaviour, supporting her claims, or using her as an exemplar of what transracial people experience; she writes, 'My concern … is less with the veracity of Dolezal's claims, and more with the arguments for and against transracialism.' (Tuvel 2017, p. 264). This being the case, even if Sealey is successful in demonstrating that Dolezal uses white privilege to deny aspects of white privilege, she has not conclusively demonstrated that transracial identities are inherently problematic.

Secondly, even granting that Sealey is correct when she claims black-to-white passing has an insidious history, it is not obvious that said history is relevant to contemporary cases. The practice of black-to-white passing undoubtedly had a historic risk however, that risk does not entail black people living in contemporary society do not have the privilege necessary to make transracial identity claims or, 'would be called to shoulder the historical implications of passing.' (Sealey 2018, p. 25). In an article titled *They Considered Themselves White, But DNA Tests Told a More Complex Story,* The Washington Post states that the increased ability of Americans to take genetic tests has resulted in a, 'growing number of self-identified European Americans [learning] they are actually part African.' (Bahrampour,

2018) The article refers to Nicole Persley, who believed her ancestry was one hundred percent European, and notes:

> Her youth could not have been whiter. In the 1970s and ’80s in her rural home town, she went to school with farmers’ kids who listened to country music and sometimes made racist jokes. She was, as she recalls, “basically raised a Southern white girl.” (Bahrampour, 2018)

For Nicole Persley, ‘the link turned out to be her grandfather, who had moved away from his native Georgia and started a new life passing as white in Michigan.’ (Bahrampour, 2018). It is unclear whether Persley, who could certainly be considered black under some definitions of the term, could be classed as passing as white as she was (originally) unaware of her ancestry. Given that Persley, and those like her, are under no obligation to share the results of their genetic tests however; it would be most peculiar to claim that once they discover their ancestry, they begin to lack the privilege to identify as white, or must face the historical implications of passing when they do so. It seems far more likely that they would continue to have the necessary privilege to identify as white, and might think little, if anything, of the implications of ancestry they knew nothing about, particularly if that ancestry is distant. Furthermore, today, any white person perceptibly attempting to appear or pass as black is likely to be labelled a racist or, as Dolezal was, guilty of racial fraudulence. These labels have obvious and potentially very serious consequences, the consequences, both personal and professional, that Rachel Dolezal faced when she was discovered to be white serving as adequate examples. It is not obvious that if a black person, in a similar position to Dolezal, *today* had claimed to be white, that they would be met with significantly more negative consequences than Dolezal was (albeit historically, black to white passing has been severely punished when exposed). Indeed, given the systemic racism accepted by many to be present in many US institutions, it is perhaps likely that the consequences would have been significantly less negative for a black person as potentially understandable, if not unquestioningly acceptable, reasons for such behaviour could have been easily posited. In addition, Sealey’s argument that black people have to face the historical implications of passing as white, whereas white people do not face similar implications, does not entail that black people who wish to identify as white *should* have to face those implications. Sealey is describing what she believes to be the current state of affairs, but whether, in contemporary society, it is black people discovered to be passing as white or white people discovered to be passing as black who would face the most severe consequences, is largely irrelevant to whether they *should* face any consequences at all. If Sealey is committed to the idea that black people *should* have all the same rights and privileges as white people, which it is likely safe to assume, then it follows that she should hold the position that black people *should* have the same choice to pass as white as white people have to pass as black. The historical

inability of black people to have this same choice is surely just one more regrettable example, among a great many, of white people having options and choices available to them that black people did not have.

A third problem with Sealey's argument, directly relating to the two previously highlighted, is that it seems to be only relevant to cases of white people wishing to transition to black in the USA. Were it accepted that Sealey is correct when she claims that Dolezal used and reaffirmed her white privilege in order to give up aspects of her white privilege, and that black-to-white passing has an insidious history which entails it is not equivalent to white-to-black passing, this would do nothing to suggest there is anything inherently unacceptable or problematic with other types of racial transition and transracial identity claims. Oli London, for example, is a white British, non-binary person who has previously identified as Korean. After having surgery to make him appear more Korean, he told his followers:

> I'm finally Korean. I've transitioned. … Finally, I've been trapped in the wrong body for eight years and that's the worst feeling in the world when you're trapped and don't feel like you can be yourself. But finally, I'm Korean, I can be myself and I'm so, so happy. (London, 2021)

The historical asymmetry of privilege between white people and Koreans, and between white and black Americans is not comparable, nor is the insidious history of black-to-white passing comparable to the history of Korean-to-white passing. If the case of Oli London is problematic, then, as many people have suggested it is, it is not clear that it is an asymmetry of privilege which makes it so. It is unclear what argument Sealey would make, in relation to a misuse of privilege, to suggest it is problematic for a white person, such as Oli London, to self-identify as a race other than black, and yet many people appear to share the intuition that Oli London's claim to be Korean is problematic. There is also obviously the potential for transracial claims that involve neither white nor black people, nor the social context of the USA.

The final issue with Sealey's argument is that, though her position is such that transgender identity claims should be accepted while transracial identity claims should be rejected, there are clear parallels between what transgender identity claims entail and what she claims of transracial identity claims. One could argue, for example, that it is a wrongful exercise of male privilege for a male-born person to cross into the female gender category. It can be hypothesised that Tuvel, who supports both transracial and transgender identity claims, might make a response to such an argument that is consistent with and parallels what she claimed about white privilege, and her claim about white privilege can be amended, very simply, to demonstrate what this might look like:

> "[It] is difficult to see how giving up [being a man (or boy)] and becoming [a woman (or girl)] is an exercise of [male] privilege. Rather, it seems like the ultimate renunciation of [male] privilege, if by [male] privilege we understand an unequal system of advantages conferred onto [males]." (Tuvel 2017, p. 271)

Even if this response does not accurately reflect Tuvel's position on such matters, which in reality it may not, it is possible someone would make such an argument, and, given the existence of male privilege, not difficult to understand why they might.

If Sealey's response to Tuvel were to be amended in the same manner Tuvel's response to objection 3 was, she would be committed to making the argument, 'that [the decision of men] to reject [their] privilege comes from a position of privilege, and ultimately affirms that privilege in [their] very decision to reject it (the privilege lies in having the option to say "yes" or "no"). (Sealey 2018, p. 25) Such an argument would lead to Sealey rejecting transgender identities, or at least trans woman identities, on the same basis she rejects white-to-black transracial identities. As this doesn't reflect Sealey's views, it seems there must be some disparity between white privilege and male privilege that would allow her to avoid such a response. Sealey could perhaps argue, and with some justification, that in terms of ease of passing, natal males who wish to transition to women face more challenges in transitioning convincingly than natal females who wish to transition to men; this being the case, unlike with racial transition, (when only considering black and white people in the USA) it is the privileged group and not the underprivileged group who don't have the same choice of transition available to them. An issue with such a stance is that all males, even those who have yet to go through puberty or, having gone through puberty, are phenotypically feminine enough to be perceived as women, benefit from male privilege. Many males, then, do have the same choices available to them as females in terms of being able to gender transition. Furthermore, though transgender men are perhaps more likely to pass as men than transgender women are as women, it does not necessarily follow that they are more likely to feel/be accepted as men than transgender women are as women. As Danièle Moyal-Sharrock and Constantine Sandis highlight in their book, Real Gender, some transgender men find the assumption that it is easier to be a trans man than a trans woman problematic. To elucidate this point, they quote C. J. Atkinson, who writes, 'because of the lazy assumption that being trans masculine is 'easy', because of the belief that trans men can pass by unnoticed, as men, our trans masculine stories are erased. (Atkinson, C. J. 2018)

An alternative argument for disparity between white and male privilege would be that there is no insidious history of women 'passing' as men, while there is of black people 'passing' as white. Even if an insidious history of misrecognition would affect an individual's ability to transition, which is not at

all self-evident, such an argument would be so bizarre as to be highly unlikely, given that history is replete with examples of women who were able to achieve great things only because they disguised themselves as, and claimed to be, men[40]. It could, of course, be argued that the history of black people being misrecognised as white is more insidious than that of women being misrecognised as men however, it is not obvious that this is the case and certainly not a sufficient basis on which to claim that male privilege is not comparable with white privilege.

Sealey's responses to Tuvel function as defences of the objections to transracial identity claims that Tuvel is responding to; however, when Sealey's responses are scrutinised, it becomes clear that the overwhelming majority of her arguments could be equally coherently and effectively used to defend objections to transgender identity claims. The only obvious exception to this is Sealey's claim that the social context (of the USA at least) is such that transgender identity claims are morally acceptable whereas transracial identity claims are not. As Tuvel clearly demonstrates that she understands social context is not currently conducive to accepting transracial identity claims, it is difficult to understand how this could be considered an argument against accepting transracial identity claims. The purpose of Tuvel's paper is to argue that considerations which support transgender identity claims also support transracial claims, and to ask readers to consider how people who claim to be transracial, such as Dolezal, should be treated. It can be deduced, therefore, that Tuvel is supportive of the social context changing; pointing out that the social context hasn't changed yet seems almost irrelevant.

Though Tuvel's assertion that, 'society should accept an individual's decision to change race the same way it should accept an individual's decision to change sex (Tuvel 2017, p. 275) has many opponents who take issue with many different aspects of the arguments she makes in support of her claim, it is abundantly clear that none of these arguments hold up to scrutiny. As has been demonstrated throughout this chapter, when considered together, the arguments made in opposition to Tuvel rely on faulty assumptions, unsubstantiated claims, ambiguous terminology, and, are very often, as applicable to transgenderism as they are transracialism. Ultimately, there is not a single point made in any of the considered arguments which justifies the notion that transgender identities deserve social uptake but transracial identities do not; sound logic and parity of reasoning demand that either both types of identity are acceptable or neither are. In some ways it seems that the philosophical opposition to Tuvel which has been considered here reflects the more general opposition considered in the previous chapter; there is a significant number of people highlighting a significant number of

[40] To provide just three fairly well-known examples: Hannah Snell, who was able to serve in the British Military because she assumed the identity of her brother-in-law, James Gray; Margaret Ann Bulky who took her uncle's name, James Barry, in order to practise as a doctor; Rena Kanokogi who won a YMCA judo tournament while passing herself off as a man, only to have the winner's medal stripped from her when she revealed she was a woman.

(supposed) problems, but, while the quantity of issues might be distracting and lead some to believe Tuvel's work is seriously flawed, they are ultimately baseless and do little, if anything, to disprove the conclusions Tuvel arrives at.

Part 2 - In Defence of Transableism

Thus far in the chapter, I have supported Rebecca Tuvel's assertion that 'considerations that support transgenderism appear to also apply to transracialism' (Tuvel, 2017, p. 263), at least to the extent that I have demonstrated the arguments against Tuvel's analogy between transgenderism and transracialism are not substantiated.

In the same vein as Tuvel's argument, I now wish to present the notion that if a society is accepting of transgender identities, in that transgender identity claims are (generally) met with a positive reception and transgender identities are acknowledged as being deserving of social uptake, then it would be a tremendous double standard for said society to be dismissive of transability identity claims and transability identities.[41] This is because considerations that support transgenderism appear to apply equally to transableism, and so, in order to be logically and ethically consistent, societies should either accept both types of identity or neither.

> ''Transability'' denotes the persistent desire to acquire a physical disability and/or to seek the actual elective transition of the body from [non-disabled] to disabled. It can be understood as the cultural translation of the diagnostic category Body Integrity Identity Disorder (BIID) (Arfini 2014 p.228)

The eleventh edition of the International Classification of Diseases (ICD-11) refers to the disorder not as Body Integrity Identity Disorder but as Body Integrity Dysphoria (BID):

> Body integrity dysphoria is characterised by an intense and persistent desire to become physically disabled in a significant way (e.g. major limb amputee, paraplegic, blind), with onset by early adolescence accompanied by persistent discomfort, or intense feelings of inappropriateness concerning current non-disabled body configuration. (ICD-11 2022)

[41] K. Whittaker (pseudonym) reaches the same conclusion in their paper, *The Limits of Identity: Running Tuvel's Argument the Other Way*. It should be noted that this thesis was written completely independently of Whittaker's paper and prior to it being published.

ICD-11 notes that, 'it is common for individuals to describe their discomfort in terms of feeling like they should have been born with the desired disability (e.g., missing a leg).' (ICD-11 2022) It also explains:

> Individuals with Body Integrity Dysphoria do not harbour false beliefs about external reality related to their desire to be disabled and thus are not considered to be delusional. Instead, they experience an internal feeling that they would be 'right' only if they were disabled. (ICD-11 2022)

It is apparent, then, that both transgender and transabled people (frequently) experience tremendous discomfort with the natural state of their bodies, have the feeling and conviction that their bodies should be different to how they actually are, and desire their bodies to match their feelings regarding how their bodies should be. Furthermore, neither transgender nor transabled people are, medically speaking, considered to be delusional.

Of course, it may be argued that it is impossible to feel disabled when one is not, and perhaps even insulting to clinically-recognised disabled people to suggest that a person can feel this way. It is not my intention here to argue that such a feeling is possible; rather, it is to posit that it is unreasonable to at once maintain that some individuals feel as if their body is the wrong sex, and that no individuals (can) feel as if their body has more functional utility than it should have. It is unclear how such a position would even be defended. One way it might be attempted is by arguing that sex, unlike many disabilities, and particularly unlike the desired disabilities most common of people with BID, is rooted in biology; this would involve taking a similar stance to that which Julia Serano takes in her book *Whipping Girl*, where she advocates for the notion, 'that our brains may be hardwired to expect our bodies to be female or male, independent of our socialization or the appearance of our bodies.' (Serano, 2007 p.81) Assuming that our brains are not hardwired to expect our bodies to be missing limbs (the desire to be an amputee is one of the most common characteristics of people with BID), independent of our socialisation or the appearance of our bodies, then transgender people are experiencing something which is inherent to their biological makeup whereas transabled people are not. The evidence for our brains being hardwired to expect our bodies to be male or female is severely lacking[42] but, even were it not, such a position would be problematic. As Tuvel notes, 'it holds the societal acceptance of transgenderism hostage to a biological account of sex-gender' (Tuvel 2017, p. 265) and, as such, raises several issues:

[42] See Chapter 3

> First, not all trans individuals claim to have been "all along" the sex with which they now identify. This suggests that their sexed identity was not bio-psychologically determined, hormonally or otherwise…. [a] bio-psychological account of transgender identity thus risks excluding these individuals….
>
> Second, and most importantly, this view problematically implies that we must settle the debate over the biological versus social basis of sex-gender identity before we can know for certain whether transgenderism is a "real" phenomenon, and therefore acceptable. Not only is such a basis widely disputed, but it would be decidedly unjust for the acceptance of trans individuals to turn on such knowledge…
>
> Moreover, it is worth highlighting the problems with suggesting that sex, as biologically based, determines the gender with which one psychologically identifies. First, even if there is a biological basis to sex, it does not automatically follow that there is something it "feels like" to be biologically female that grounds a shared experience of "what it's like" to be a woman. Rather, individual experiences of what it is like to "be" a woman are extremely varied, and feminists have long attempted to show how reductive and problematic it is to assume that all women share some core, let alone some biologically based, kernel of experience. Second, whatever criterion is offered to ground this similarity would inevitably disqualify many women, for not all women share the same hormone levels, reproductive capacity, gonadal structure, genital makeup, and so on. In fact, it is much more difficult than people suppose to isolate a core set of female sex features that captures all the people we wish to count as women. Therefore, anyone who suggests that all women share some biologically based feature of experience that sheds light on a shared psychological experience will have to show not only that biological sex gives rise to a particular gendered psychology, but that there is something biological that all women share. (Tuvel 2017, p. 266)

If it can be granted, given these issues, that it is not sex being rooted in biology that is responsible for transgender people feeling as if their body should be a different sex, there must be some other dissimilarity between transgenderism and transableism that would justify the acceptance of transgender identities and the denial of transabled ones. It is reasonable to assume that the dissimilarity would have to be significant, given that it is arguably more plausible for a person to feel as if they should be disabled than it does for them to feel as if they should be a different sex. After all, any person, regardless of their age, sex and race, can become disabled, either temporarily or permanently, at any point in their lives. It requires nothing more than an unfortunate accident for a person to legitimately experience, 'a physical or mental impairment that has a 'substantial' and 'long-

term' negative effect on [their] ability to do normal daily activities'[43] (Definition of disability under the Equality Act 2010, 2022). Even without such an accident, what it is like to live with a particular disability can be imitated (and therefore imagined) fairly successfully, so that when a person claims they should be disabled, it is possible that the claim has a very specific meaning. When someone with BID who wishes to be an arm-amputee claims they should be disabled, their claim can often be understood to mean that they currently experience the full functionality of their arm but the experience is so discomforting for them that they desire not to have the arm in question; they feel as if they shouldn't have it. What they're expressing may be further substantiated by them having experienced, and preferred, not having functionality of their arm, either due to an accident they experienced or to them artificially negating the functionality of the arm they want amputating[44].

Sex, in contrast to disability, is written into every cell of the body, and there is no naturally occurring event that would cause an individual to experience being the sex different to that which they were born. It also does not seem like one could effectively imitate or imagine the physical functionality of completely different sex-based characteristics to those one actually has. All this has the effect of making an individual's claim that they should be a different sex tremendously ambiguous. It is not at all clear, for example, how someone who has, and has always had, male sex-based characteristics can determine they should have female sex-based characteristics which they have never before experienced having. If it is granted that such an individual could both isolate the effects of male sex-based characteristics on their body, and also find them so discomforting that they desire not to have them, there is still no obvious explanation as to where their feeling that they should have female sex-based characteristics arose from or, indeed, how they can identify that is what they are feeling. Given a woman isn't simply an individual who lacks male characteristics, wanting to lack male characteristics doesn't constitute feeling like a woman and isn't a sufficient explanation as to why one should be a woman. Even if a natal male's claim that they should be a different sex is interpreted to simply mean that they feel should have a different shaped body, one typical of a natal female, it doesn't necessarily follow that they feel they should be a different sex; it is self-evidently possible to have the bodily characteristics typical of natal females while being a natal male who identifies as a man[45]. The same cannot be said of disability; if an individual's claim that they should be disabled is interpreted as meaning they feel they should have a different body - one of an amputee - then it necessarily follows

[43] Substantial is defined as 'not trivial'; long term is defined as '12 months or more'.

[44] Many people with BID also find being able to see the limb they want amputating very distressing; for this reason, in addition to negating the limb's functionality, many of them will bind it and dress in such a way that it is hidden from view.

[45] David Remier, who, on John Money's advice, was raised as a girl after a botched circumcision, but (despite his physical appearance and not being told about the surgery) identified as a man exemplifies this notion.

that they feel they should be disabled. It does not seem as if one could lack an arm and not be disabled in the same way a natal male could lack the typical characteristics of a man and/or possess the typical characteristics of a natal woman and not be a woman.

It is possible that the dissimilarity between transgenderism and transableism can be found in theoretical and ethical barriers that would hinder the social uptake of transabled identities but have no such effect on the social uptake of transgender identities. Accordingly, and in line with Tuvel's discussion of transracial identities, I will assess four reasons that a society may have to reject an individual's decision to identify as, and possibly purposefully become, disabled: First, the idea that it is unacceptable to claim a disabled identity unless one has been born disabled or become disabled unintentionally; second, the idea that the social uptake of transabled identities would cause an unnecessary increase in the demand for those resources and provisions that enable disabled people to function in society without, or with reduced, disadvantages; third, the idea that identifying as a disabled person insults or otherwise harms clinically-recognised disabled people; and finally, that it is a wrongful exercise of non-disabled privilege for a non-disabled person to cross into the disabled category, and that such crossing is therefore wrong.

In order to address the first barrier, it is useful to refer to the social treatment of someone who experiences BID. Chloe Jennings-White is a PhD chemist who lives as if she is a paraplegic, despite being able to walk.

> Jennings-White uses a wheelchair to treat her BIID, and although she was sceptical that it would help her at first, she calls the feeling of first sitting down in the chair "magical." She now lives most of her life in a wheelchair, but uses her legs to hike, drive and occasionally ski -- which she hopes will finally paralyze her. (Lupkin, 2013)

It is not my purpose here to discern whether Jennings-White genuinely experiences the feeling that she should be disabled, but rather to examine how her claim that she should be disabled is received by many within society. In the 2016 documentary, *Missing Peace* Jennings-White shares some of the online abuse she frequently receives; comments such as, 'This is not funny. It was truly sick, I was born paralysed. You think its [sic] a fantasy?! I want to be able to walk, run, and jump. This video shows me how ungrateful people can be.'; 'Euthanasia'; 'Put a bullet in her brain delete this video burn all of her documents and she never existed life is to [sic]', [and] 'they just want disability benefits, is there such a thing as this disorder in countries where the government doesn't provide benefits for disabled people?' (Missing Peace, 2016) She also claims that people have been 'irate to the extent that they threatened [her] with physical harm [and] death threats.' (Missing Peace, 2016)

The people making such comments and threats obviously feel that it is unacceptable to claim a disabled identity if one would not be clinically recognised as disabled, but why they feel this way is not immediately clear. Unlike with transgender and transracial identities, where it is often posited that one needs to have grown up (or at the very least have very significant experience of) being treated as the relevant sex/race in order to be validly categorised as a member of that sex/race, it is uncontroversial to claim that one need not experience a history of being treated as if one were disabled in order to be disabled. Given that one can become disabled in an instant, at any point in life, it is self-evident that no (perceived) history of disability is necessary for one to be (perceived as) clinically-recognised as disabled. It can be concluded, therefore, that what makes the claiming of a disabled identity unacceptable is not a historic lack of experiencing physical impairment, ableism, or any other difficulty that clinically-recognised disabled people may experience.

It may be argued that claiming a disabled identity is unacceptable unless one has been born disabled or become disabled unintentionally because it entitles one to benefits that are reserved for clinically-recognised disabled people, perhaps even depriving clinically-recognised disabled people from access to them; this is what is being suggested by the comment, aimed at Jennings-White, which asks if BID exists in countries without disability benefits. This idea will be considered in more depth when assessing the second potential objection to transabled identities; however, it is worth noting here that Jenning-White receives no disability benefits due to her feeling that she should be paraplegic. Furthermore:

> One of the characteristics of an apotemnophile [apotemnophilia is a name for the condition that causes those who have it to not feel "correct" in their own bodies] is the desire to do great things for society in spite of the [desired physical disability]. Hence, the … view that these individuals would just become disabled individuals collecting benefits and imposing on society can be silenced immediately. (Dua 2010, p.77)

Given that it cannot be the lack of a history with disability, taking resources that one is not genuinely entitled to, or depriving clinically-recognised disabled people of the resources that they deserve which make the disabled identities of people like Jennings-White unacceptable, perhaps it is the perceived dishonesty or ungratefulness in what they are claiming. This would be peculiar however, given that dishonesty and/or ungratefulness do not seem to make similar claims relating to one's identity unacceptable. It is never mentioned in the documentary, *Missing Peac*e, nor in any of the many comments insulting Jennings-White that the documentary displays, but Jennings-White is a transgender woman. Before gender-critical beliefs were recognised as being protected by the 2010 Equality Act, the expression of any notion that Jennings-White, by being biologically male, is being

dishonest when she refers to herself as a woman might be considered grounds for dismissal from one's employment; even now, after it has been granted that one is entitled to hold and express the view that it is sex which determines whether an individual is a boy/man or girl/woman, it would still likely be perceived as hateful by many. It may be argued that Jennings-White's claim that she is a woman is incorrect because she is a natal male, and so should be rejected, but the potentially perceived dishonesty of her gender identity claim, if it was raised as an issue at all, would be unlikely to be used as an explanation as to why her gender identity is unacceptable. Even without any controversial claim of dishonesty, it must be acknowledged that Jennings-White, before transitioning, would have been categorised as a white man, arguably the most privileged social group, benefiting from both white and male privilege. Not being grateful for male privilege is not an accusation often made about transgender women however, and is not commonly used as an explanation as to why transgender woman identities are unacceptable.

The second objection holds that transabled people would cause an unnecessary increase in the demand for those resources and provisions that enable clinically-recognised disabled people to function in society without, or with reduced, disadvantages. In order to properly evaluate this objection, it is necessary to first note that some people with BID also have genuine disabilities:

> In 2006, Jennings-White had a skiing accident that injured her spinal cord and partially paralyzed her left leg. While it's true that a psychiatrist suggested she use a wheelchair to help with her mind-body mismatch, that's not the main reason she uses it. Rather, her physician, who also knew about her body integrity dysphoria (BID), prescribed the wheelchair in 2008 for the back pain that resulted from her spinal cord injury. (Taylor, 2021)

While it is anecdotal, Jennings-White notes:

> Most people with BID she's spoken with—about 75 percent, she estimates—also have disabilities over which they had no control. "I know very many people with BID who had no choice about being born with cerebral palsy, spina bifida, Ehlers-Danlos syndrome, etc.; or who had no choice about acquiring multiple sclerosis, reflex sympathetic dystrophy, fibromyalgia, etc.; including myself," (Taylor, 2021)

It is clearly the case that there will be people with BID (perhaps even most) who do not have a disability at all, or who have a disability which does not require the resources and provisions that the disability they feel they should have requires. It must be acknowledged however, that there are some people with BID who would not require any further provisions and resources than those they are already entitled to; these people with BID can obviously not be said to be contributing to any increase in

demand for resources and provisions which should arguably be reserved for clinically-recognised disabled people.

Of those transabled people who have no clinically recognised disability or a clinically-recognised disability that doesn't require the resources and provisions of the disability they feel they should have, many would not wish to receive any resource or provision intended for clinically-recognised disabled people. As noted, one of the hallmarks of transabled people, 'is the desire to do great things for society in spite of the[ir] [desired physical disability]. (Dua 2010, p.77) Furthermore, in a study on transableism carried out by Clive Baldwin, a professor of social work and director of the Centre for Interdisciplinary Research on Narrative at Canada's St. Thomas University, 'a few participants made the important distinction between acquiring an impairment (which was something they wanted) and being disabled (which they did not). (Taylor, 2021) Baldwin stated:

> This reflects … the social model of disability - that people may have a physical impairment but it is society that disables them. The participants who expressed these views were very clear that they wanted to be able to do everything they wanted to do, just with the physical impairment. (Taylor, 2021)

BID is, 'a rare, infrequently studied and highly secretive condition', (Blom, Hennekam and Denys, 2012) to the extent that as of 2020, 'there [we]re only about 200 cases of BID recorded in the medical literature' (Prior, 2020) This being the case, it is tremendously difficult to attempt to quantify the number of transabled people who might cause an increase in the demand for the resources and provisions intended for clinically-recognised disabled people. What is clear, however, is that any increase in demand cannot be significant given that, of the small number of people who are transabled, some, perhaps most, would either not require or not want any provisions intended for non-transabled, disabled people.

Of those transabled people who may need and/or want the resources and provisions intended for clinically-recognised disabled people, it must be considered that many will experience, 'significant psychological suffering (anxiety, obsessions, depression, suicide attempts) [as a result of their BID,] … [and be] isolated and left to fend for themselves (Baril, A & Leblanc, C 2015 p.33) It is therefore plausible that allowing them access to resources and provisions intended for clinically-recognised disabled people would be effective medical intervention for their mental health issues, and also possibly more cost effective than providing them alternative mental health treatment, particularly if they would require treatment for a prolonged period of time. This is analogous to how people with gender dysphoria may be treated; rather than (solely) continuously treat the mental health symptoms of their gender dysphoria, medics often attempt to alleviate those symptoms by recommending the

patient lives as if they were the gender which is congruent with their gender-identity, rather than their sex. This is then often followed by hormonal and surgical transition. If it is acceptable to encourage people who suffer with gender dysphoria to live as the gender which coheres with their gender-identity, and utilise resources intended for members of the sex they wish to transition to, then it seems it must also be acceptable to encourage transabled people to live as if they have the disability they desire, and utilise resources intended for people with those genuine disabilities.

Those transabled people who are not yet accounted for, the acceptability of whose transabled identities is still in question, are those who have no genuine disability for which they require access to resources and provisions intended for clinically-recognised disabled people; who have no mental health issues which may be effectively treated by allowing them access to resources and provisions intended for clinically-recognised disabled people; but who want access to resources and provisions intended for clinically-recognised disabled people. Given that body identity dysphoria is rare, it is likely that there are very few, if any, of such people however, it is worth examining which resources and provisions intended for clinically-recognised disabled people they might cause an increase in demand for, and how they would go about gaining access to them. In the UK, disabled people (depending on the severity of their disability) are entitled to such benefits as Employment and Support Allowance (ESA) Personal Independence Payment (PIP) and a Blue Badge parking permit. The questions that are asked in order to determine whether an individual is entitled to each of these benefits are of the sort where it is clear one would have to lie, were they not clinically-recognised as disabled, in order to receive them. A question on the application for ESA asks, 'Can you move from one seat to another right next to it without help from someone else?' (Citizens Advice, 2020) Part A of a similar question on the PIP eligibility form asks, 'Does your condition affect you moving around?' (Citizens Advice, 2022); Part C of the same question states, 'Tell us more about the difficulties you have with moving around and how you manage them.' (Citizens Advice, 2022). In order to get a Blue Badge, one must either be confirmed to have a disability through one's ESA or PIP benefits, confirm that one is severely sight impaired, confirm that one is terminally ill, or confirm one has a permanent disability that is not expected to improve within three years (Apply Blue Badge Government Service, 2022) If the transabled people in question completed the applications for these benefits honestly, it is clear that they would not receive them, and so neither increase the demand for them nor reduce clinically-recognised disabled people's access to them. They could, of course, lie in order to receive the benefits however; this is an option that is open to anyone, not just transabled people, and results in serious penalties if it is discovered, the maximum penalty being a ten-year custodial sentence (Sentencing Council, 2022)

The third objection holds that identifying as a disabled person insults or otherwise harms clinically-recognised disabled people. It is clear that assuming a disabled identity could prove harmful and insulting to clinically-recognised disabled people for a multiplicity of reasons however, it seems that this would only be the case if an individual was disingenuous in their assumption of such an identity; doing so not because they genuinely (believe they) feel as if they *should* be disabled, but in order to appropriate particular perceived characteristics of clinically-recognised disabled people for a limited time. The same could be said about assuming the identity of a member of any social group. If a natal female assumes the identity of a man not out of any genuine desire to have male sex characteristics or out of genuine identification with masculine social norms, but rather to express (perhaps only for a brief period of time) questionable and potentially problematic male stereotypes, it would be insulting and damaging to men. It would also likely be considered insulting and damaging to transgender men, who assume the identity of men because of genuine identification with what (they believe) it is to be a man; indeed, it may be considered more insulting to transgender men than to natal men as not only would it insult and damage what it is to be a man, it would call into question the motivations of all those people who express themselves as men when, from a biological standpoint, that is not what they are.

Given that there are legitimate and socially acceptable reasons for individuals to transition from one social category to another, it is obviously necessary to distinguish between individuals who are motivated by these legitimate and socially acceptable reasons and individuals who are not. Tuvel (2017) argues that we can deem an individual's assumption of an identity as pretence if it relies on said individual's core identity not being who they publicly and permanently purport to be; if, after a limited period of time, they intend to resume their original identity because that is who they feel they really are. In contrast, someone who genuinely identifies as a member of a particular social category will try to live as a member of that social category every day, in perpetuity because it is who they feel they really are. Unless it is argued that it is inherently insulting and harmful to transition from one social category to another, in which case it must be acknowledged that transgender women and transgender men identities are inherently insulting and harmful to women and men respectively, it should be accepted that appropriately motivated individuals can transition from any social category to any other, including from non-disabled to disabled, without delivering harm or insult. As Tuvel (2017) points out, such a transition could even be viewed as affirming, insofar as it suggests that being a member the social category which is being transitioned to is desirable.

It should also be acknowledged that even if it were the case that transitioning from being non-disabled to disabled is insulting and harmful to clinically-recognised disabled people, it is not immediately obvious that this would be sufficient reason for transabled identities to be deemed unacceptable. It is

absolutely clear that many natal females consider transgender women identities to be insulting and harmful to women, sometimes for reasons that are obviously analogous to why clinically-recognised disabled people might find transabled identities insulting and harmful. In the context of sporting competitions, for example, it is understandable that there could be concerns that a transabled person, who mimics a disability in order for their body to be congruent with how they feel and think about themselves, may have an unfair physical advantage over clinically-recognised disabled people. Even if there is no advantage, it is undeniable that any transabled person who competes against clinically-recognised disabled people in a sporting competition has taken the place of a clinically-recognised disabled person, and, in doing so, reduced the extent to which clinically-recognised disabled people are represented. If transabled identities are unacceptable, being harmful and insulting for these, or similar, reasons, then by parity of reasoning, the same must be the case for transgender identities. Transgender women athletes, particularly those who experienced male puberty, have an undeniable physical advantage over natal females. Many believe that this advantage is negated by testosterone suppression however:

> Longitudinal studies examining the effects of testosterone suppression on muscle mass and strength in transgender women consistently show very modest changes, where the loss of lean body mass, muscle area and strength typically amounts to approximately 5% after 12 months of treatment. Thus, the muscular advantage enjoyed by transgender women is only minimally reduced when testosterone is suppressed. (Hilton & Lundberg 2021, p.199)[46]

It has been the case, then, that transgender women have attempted to make their bodies more like those of natal females in order to compete with natal females in sporting competitions. It is clear that the physical advantages which transgender women experience as a result of male puberty are not negated by attempts to make their bodies more like those of natal females however; even if they were successful in negating all such advantages, it is undeniable that any transgender woman athlete who competes against natal female athletes has taken the place of a natal female, and, in doing so, reduced the extent to which natal females are represented.

Natal female athlete and four-time Olympic medallist, Nancy Hogshead-Makar, stated that, 'as an Olympic champion and as a civil rights lawyer, [she] can assure [the public] that there was nothing fair about transgender woman Lia Thomas competing for the University of Pennsylvania in NCAA swimming.' (Hogshead-Makar, 2022) Television commentator Liz Storer stated that, 'Lia Thomas'

[46] This will be explored further in chapter 6.

claim transgender athletes are “not a threat” to women’s sport is an inherently unfair trend that is “downright insulting” to women.’ (Wu, 2022)

Claims such as these make it abundantly clear that there are natal females who find trans women identities harmful and insulting to natal females. If transgender identities remain acceptable despite views such as these, it is not clear why transabled identities being potentially insulting and harmful to some clinically-recognised disabled people should make them unacceptable.

Finally, there is the objection that it is a wrongful exercise of non-disabled privilege for a non-disabled person to cross into the disabled category. The idea here is that transabled identities are unacceptable because it is easier for non-disabled people to identify as disabled than it is for clinically-recognised disabled people to identify as non-disabled, and because there is the possibility of transabled people returning to being non-disabled.

There are several issues with this argument. Firstly, the argument simply isn’t relevant to many (perhaps most, or even all) people who would be considered transabled. As stated, there are transabled people who would be correctly categorised as disabled due to a disability unrelated to the one they feel they should have. Such people cannot be said to be undertaking a wrongful exercise of non-disabled privilege for the simple reason that they are not non-disabled. In addition, Body Integrity Dysphoria is a mental health condition, which would be classed as a disability as long as, ‘it has a long term effect on … day-to-day activity.’ (Gov UK, 2022) ICD-11 notes:

> There may be periods of time where the intensity of the desire [to become disabled] and the accompanying dysphoria is so great that the individual can think of nothing else and may make plans or take action to become disabled. At other times, the desire to become disabled and the associated intense negative feelings abate, although at no time does it completely cease to be present. (ICD-11 2022)

It is apparent, then, that Body Integrity Dysphoria would be classed as a disability for a number of those who suffer with it; for such people, being transabled cannot involve a wrongful exercise of non-disabled privilege [47] These people would be correctly categorised as disabled, due to their experience of BID - they have a clinically-recognised disability - but also transabled, because the disability they identify as having would not be the same as the other disability they experience.

[47] An argument could be made that within the identity category of disabled, there is non-amputee privilege. The issue with such a position is that it invites discussion of a hierarchy of privilege within the category of disabled, and such a discussion goes well beyond the scope of this paper.

A second issue is that it is not necessarily easier for non-disabled people to identify as disabled than it is for disabled people to identify as non-disabled. There are obviously cases where it would be impossible for people with specific disabilities to convincingly identify as non-disabled; for example, there are paraplegics unable to move their lower bodies who, if put in a position where they were required to walk in front of witnesses, would be unable to do so. Similarly, however, there are non-disabled people who would struggle to convincingly mimic having specific disabilities. An individual who has both legs is tremendously unlikely to be able to convincingly identify as a double leg amputee; regardless of how well they bind their legs; a brief investigation, perhaps even a passing glance, would reveal they were not as they claimed. Despite instances such as these, where the inability to pass is apparent, there are multiple considerations relating to disability which entail it will not usually be so easy to identify whether an individual is disabled or not.

Firstly, when it is posited that it is easier for non-disabled people to identify as disabled than it is for clinically-recognised disabled people to identify as non-disabled, it is unclear whom the people in question are identifying themselves to. It is likely impossible to qualify whether it is easier for a non-disabled individual to believe that they have a disability than it is for a clinically-recognised disabled individual to believe that they don't have a disability; it can be assumed, therefore, that what is being referred to when ease of identifying is discussed is not the inherent feeling of one's identity - identifying to one's self. It should be noted, however, that according to a poll for the Disability Commission, despite 22% of the British general public being classified as disabled (according to the Equality Act definition), 51% of this category do not consider themselves to be disabled. (Disability Commission, 2020) This demonstrates that the percentage of clinically-recognised disabled people who consider themselves, and presumably identify as, non-disabled far outweighs that of the non-disabled people who consider themselves, and identify as, disabled.

If what is being referred to when ease of identifying is discussed is individuals identifying themselves to members of the general public - whether they can convincingly pass as what they identify as - then why it is not obviously easier for non-disabled people to identify as disabled than it is for clinically-recognised disabled people to identify as non-disabled will be explained in following considerations. If, however, what is being referred to is the ability to identify one's self in any official capacity, then it seems obviously the case that it is markedly easier for a clinically-recognised disabled individual to identify as non-disabled than it is for a non-disabled individual to identify as disabled. As previously noted, for an individual to officially identify as disabled (in the UK) and so qualify for disability benefits, they are, 'required to complete an assessment and provide medical evidence.' (Gov.uk, 2022) In contrast, it is tremendously easy to identify as non-disabled; there is no legal obligation for individuals to disclose that they have a disability, and many clinically-recognised disabled people choose not to

because of the perceived benefits of being considered non-disabled and/or the perceived disadvantages of being considered disabled. The perceived benefits of being regarded as non-disabled, and perceived disadvantages of being regarded as disabled are perhaps motivated by statistics such as those that reveal there is a 28.1% gap in the employment rate between disabled people (who disclose their disability) and non-disabled people, in favour of non-disabled people. (Office for National Statistics, 2021). Indeed, 30% of (openly) disabled adults who applied for a job between 2013 and 2018 said they felt like the employer hadn't taken them seriously as a candidate because they were disabled, arguably providing a strong incentive to not identify as disabled (at least when applying for jobs). (Leonard Cheshire, 2018)

A second consideration is that there is very often no manner by which it can be determined whether an individual is suffering from a disability as opposed to a temporary impairment. In the case of wheelchair use, for example; while many people use wheelchairs due to a disability which limits their mobility, the Wheelchair Service, which works in association with the NHS, will provide a wheelchair to anyone who, 'has limited mobility – with a long term restriction of walking ability (over 6 months)' (NHS Bristol Centre for Enablement, 2019) The provision of wheelchairs for people who will not suffer continuous mobility issues for over 12 months, and so who are not considered disabled, entails that clinically-recognised disabled people who utilise wheelchairs could easily identify as non-disabled people suffering from a temporary impairment. There may well be members of the general public who assume that anyone using a wheelchair is disabled, in which case clinically-recognised disabled wheelchair users would not pass as non-disabled however, such people would also identify non-disabled wheelchair users as disabled, and, in both cases, the identification would be based on the false assumption that a wheelchair equates to a disability.

Linked to the idea of there being no clear distinction between disability and temporary impairment is the effect of the continuous advancement of medical intervention on disability. Advancement in prosthetics has meant that some amputees no longer meet the Equality Act's criteria for disability; these amputees were clinically-recognised as disabled before prosthetics but non-disabled after receiving them. Similarly, surgical implants are allowing people who were previously completely paralysed to regain mobility (Rowland et al., 2022) Medical intervention allowing people to cross from the disabled category into the non-disabled category, combined with the lack of clear distinction between disability and temporary impairment means that there is very often no obvious characteristic on display by which an individual can be identified as disabled or non-disabled; consequently, there is a significant degree of freedom in terms of whether an individual identifies as disabled or non-disabled. Individuals may, of course, be identified by others as disabled or non-disabled but it seems

that much of the time this will be due to the assumptions of the specific people they encounter, rather than due to any clear identifier.

A third consideration is non-visible disabilities, sometimes referred to as hidden or invisible disabilities. These are, 'disabilit[ies] or health condition[s] that [are] not immediately obvious.' (The Disability Unit Gov UK, 2022) The (perceived) need for advertisement campaigns, such as ITV's Invisible Disabilities (ITV Press Centre, 2022), which are created to increase the public's understanding that some disabilities are not visible, demonstrates that a great many of the general public assume that if they cannot see a person's disability, the person in question must be non-disabled. While such assumptions may be problematic, for obvious reasons, they also entail that a clinically-recognised disabled person who has a hidden-disability could easily identify as non-disabled. Such a clinically-recognised disabled person has no need to explain that they are experiencing a temporary impairment, or rely on members of the public understanding that they may be experiencing a temporary impairment, as a wheelchair user might; without any intentional modification of their behaviour, the nature of their disability means they will be assumed to be non-disabled.

While it seems far from obvious that it is easier for a non-disabled person to identify as disabled than it is for a clinically-recognised disabled person to identify as non-disabled, to the extent that there is an argument to be made that it is easier for a clinically-recognised disabled person to identify as non-disabled, there is still the issue that a transabled person could return to being non-disabled. It has already been stated that this issue is not relevant to those transabled people who have a disability (though not the one they believe they should have). It should also be noted that transabled people who are successful in giving themselves the disability they feel they should have - transabled people who wish to be amputees and remove the relevant limb, for example - become clinically-recognised as disabled. While they may still be considered transabled; according to the Equality Act definition, they are clinically-recognised as disabled, with no more possibility of returning to being non-disabled than any other clinically-recognised disabled person with a similar disability. This makes the (complete) transition of transabled people arguably more permanent than that of transgender people who transition hormonally and surgically, and certainly more permanent than those transgender people who do not transition hormonally and/or surgically. For those transabled people who do not have a disability of any kind and have not yet completely transitioned (perhaps having no intention of ever doing so) it is true that they could cease mimicking the disability they think they should have and return to being non-disabled, with all the non-disabled privilege that entails. It is not clear why this would mean transabled identities are unacceptable however, given transgender identities are acceptable, and some transgender women could easily return to being men, once again enjoying male privilege. Logically, if one type of identity is acceptable, so too must the other be.

As Tuvel (2017) attempted with race, I have tried to show that reasons similar to those we accept with regard to individuals who transition to another sex extend to those who wish to transition from being non-disabled to being disabled.

Unlike Tuvel, the basis of my argument is not that, 'I think we have stronger reasons to accept individuals' self-identities than to force them to feel beholden to an identity thrust upon them at birth.' (Tuvel 2017, p.272) Rather, it is that I think society should strive to be ethically and logically consistent in its treatment of individuals, so that if one type of identity is accepted, so too should any sufficiently analogous identity be. I believe myself to have shown that harm to disabled people is not any more of an inevitable or obvious consequence of transableism than harm to natal males and, particularly, natal females is of transgenderism. Therefore, *if* a society accepts transgender identities, ethical and logical consistency demands said society *should* also accept transabled identities, and any other identity that can be demonstrated to be similarly analogous.

5.3 - Chapter Conclusion

Chapter 5 has systematically examined the ethical complexities and societal implications of privileged identity claims, focusing initially on the contentious issues surrounding transracial and transgender identities, and later extending the discussion to transableism. Through a critical analysis of the arguments presented by scholars such as Botts, Tuvel, and Sealey, the chapter demonstrates that the opposition to transracial identities often mirrors the arguments used against transgender identities, exposing inconsistencies and unfounded objections in the logic employed by critics. The chapter further argues for logical and ethical consistency in accepting identity claims by positing that if society is to accept transgender identities based on the discomfort and incongruity individuals feel with their assigned sex, then it should also extend this acceptance to transracial identities and, by extension, to transable identities. By examining the experiences of individuals with Body Integrity Dysphoria and addressing the potential ethical and practical concerns, the chapter contends that dismissing transableism while accepting transgenderism (and/or transracialism) constitutes a double standard. Therefore, the chapter underscores the need for a consistent and equitable approach to all identity claims, challenging societal norms and urging a re-evaluation of what constitutes acceptable identity transitions.

Chapter 6 - Consequences of Accepting Gender Identity Claims

The social acceptance and uptake of gender identity as a meaningful concept has had a multitude of significant societal impacts. One purpose of this chapter will be to investigate the implications of using gender identity claims as a means by which to categorise individuals within the fields of competitive sport and criminal justice. A particular focus of the investigation will be to determine whether categorising athletes and (alleged) criminals by their claimed gender identity, as opposed to their natal sex, is compatible with the egalitarian values that liberal democracies, such as the United Kingdom and the United States of America, purport to hold dear. If categorising people by their gender identity is compatible with egalitarian values, it can be assumed that the experiences of individuals categorised in this manner would be safer and/or fairer, or, at the very least, no less safe and/or fair, than they were when said individuals were categorised by sex. If, however, categorising people by gender identity is incompatible with egalitarian values, one would expect that the experience of individuals categorised in this manner to be less safe and/or less fair than they were when said individuals were categorised by sex.

Competitive sport and criminal justice have been selected as areas of investigation because, up until recently, it was the natal sex of an individual which was the determining factor in whether they would be categorised as a man or a woman within these fields. Within (much of) the field of competitive sport, this categorisation would determine whether an individual competed against men or women. Within the field of criminal justice, whether an individual was categorised as a man or a woman would determine whether any time they were sentenced to was served in a men's or a women's prison.

The second purpose of this chapter will be to investigate the impact of the acceptance and integration of gender identity as a meaningful concept within the field of medicine, particularly within the UK's National Health Service (NHS). This investigation, which will predominantly be undertaken via an examination of the final report of the Cass Review[48], will assess the consequences of accepting and integrating gender identity claims for NHS service users and for the NHS as a whole. Medicine is arguably the field within which the acceptance and uptake of gender identity claims has the most significant impact on individuals. The Cass Review has the stated purpose of, 'understand[ing] the

[48] The Cass Review is an, 'independent Review of Gender Identity Services for Children and Young People [which] was commissioned by NHS England to make recommendations on the questions relating to the provision of these services.' (Cass 2024, p.16)

reasons for the growth in referrals and the changing epidemiology [related to gender identity issues], and to identify the clinical approach and service model that would best serve this population.' (Cass 2024, p.20); it also has the stated ambition, 'to understand the existing evidence, [and] also to improve the evidence base so that young people, their families and carers, and the clinicians working with them have the best information upon which to form their decisions.' (Cass 2024, p.20) The Cass Review is, therefore, the ideal vehicle for examining how the NHS (the service itself and the service users) has been affected by the acceptance of gender identity claims, and how it may be affected (if the recommendations of the Cass Review are accepted) going forward.

6.1 - Competitive Sport

When investigating the implications of accepting gender identity claims as a means of athlete categorisation within the field of competitive sports, it is appropriate to establish why separate men and women's categories exist to begin with. In her paper *Sex Equality in Sports*, Jane English provides an account of equal opportunities which is identified with equal chances. She writes:

> Sports offer… *basic benefits* to which it seems everyone has an equal right: health, the self-respect to be gained by doing one's best, the cooperation to be learned from working with teammates and the incentive gained from having opponents, the "character" of learning to be a good loser and a good winner, the chance to improve one's skills and learn to accept criticism – and just plain fun. (English 1978, p. 270)

She goes onto explain:

> The justification for maintaining different teams for the sexes is the impact on women that integration would have. When there are virtually no female athletic stars, or when women receive much less prize money than men do, this is damaging to the self-respect of all women. (English 1978, pp. 272 - 273)

It is English's view that integrating men and women's sports would be damaging to women because of the physiological advantages that men have over women (in the context of many sporting competitions): 'women are smaller than men, they have a higher percentage of fat, they lack the hormones necessary for massive muscle development, they have a different hip structure and a slower oxygenation rate.' (English 1978, pp. 274 - 275) This non-exhaustive list of physiological advantages which men possess would entail that, if women were to compete against men, women would find far less success, and, consequently, according to English, their self-respect would be negatively impacted.

While it is not possible to quantify the potential effect on the relevant women's self-respect, there is evidence which supports English's claims on the impact that the integration of men and women's sport would have:

During the 1998 Australian Open (tennis tournament) Venus and Serena Williams, both of whom are widely regarded as amongst the best female tennis players of all time, watched some of the male players practising. On the basis of what they saw, they made the claim that they could beat any man who was ranked outside of the top 200 tennis players. This claim eventually led to two games, played on the same day, first between Karsten Braasch (who was ranked 203 in men's tennis) and Serena Williams, then between Karsten Braasch and Venus Williams; Braasch won both games. After the games Venus and Serena Williams revised their initial claim, stating they believed they could beat any man ranked outside of the top 350 tennis players.

At the time of the games neither Venus nor Serena Williams were as highly decorated as they are now; they had been professional tennis players for only four and three years respectively, with Venus having won one title a year prior to the game and Serena being yet to win any (her first would be in 1999). Despite this, given their calibre as female tennis players, their prediction of who they could beat, their subsequent losses, and their revised prediction all lend credence to the notion that, were men and women's sport integrated (with no interventionary measures put in place) women would find significantly less success and acclaim than they would in a women's only category.

The same conclusion can be reached by simply comparing the times (senior) men and women achieve when they compete in the current sex-segregated categories; according to the results recorded by World Athletics, for example, more than 7,000 men have beaten the women's world record time for the 100m. (World Athletics, 2024a; 2024b)

One reason separate men and women's categories exist within (much of) sport, then, is to help ensure that no athlete has what may be considered an unfair and disproportionate advantage over another, and, consequently, each athlete has a chance of success (negating the potential loss of self-respect if this were not the case). As philosopher Jon Pike puts it, 'female sport is justified as a separate category by the existence of male [physiological] advantage … This entails a simple claim about fairness: male advantage is unfair in female sport. (Pike 2023, p.6)

The physiological differences between males and females which would give males an unfair and disproportionate competitive advantage were men and women's sporting categories integrated would also, in some sports, disproportionately negatively affect the safety, and therefore potentially the health, of female athletes. This notion was reflected in the conclusions of the World Rugby Working Group which concluded:

> While there is overlap in variables such as mass, strength speed and the resultant kinetic and kinematic forces we have modelled to explore the risk factors, the situation where a typical player with male characteristics tackles a typical player with female characteristics creates a minimum of 20%-30% greater risk for those female players. In the event of smaller female players being exposed to that risk, of larger male players acting as opponents, the risk increases significantly, and may reach levels twice as large. (World Rugby, 2024)

Though some sports, particularly contact sports such as rugby, entail an inherent risk to the athletes who compete in them, ensuring there is not a disproportionate risk to some athletes is another reason why separate men and women's categories exist within (some) competitive sports. The safety of athletes is a concern within the field of competitive sport which is distinct to fairness, but which could be considered closely related to it; it is unfair that female athletes would face a disproportionate risk to their health and safety were the men and women's sporting categories of some sports integrated.

Promoting fair competition and the health and safety of all competitors are often-stated and understandable egalitarian principles which explain why men and women are segregated in (some) competitive sports; however, not all scholars agree that men and women's sports should be segregated as they are. In her paper *The Sport Nexus and Gender Injustice*, Ann Travers provides a useful summation of how, 'queer postmodern feminism's deconstruction of the two sex system as ideological rather than natural [(which she attributes to the writings of Anne-Fausto-Sterling, Donna Haraway and Judith Butler)] supports an argument for the elimination of sex segregated sport.' (Travers 2008, p.90) The argument is articulated as follows:

> First, differences in men's and women's athletic performances can be attributed to social, political, economic, and psychological discrimination rather than biological factors. Given the cultural context within which athletes develop and perform, there is no uncontaminated data to support essential performance related differences between men and women (Pronger, 1990). Second, sport is implicated in translating the ideology of the two sex system into the material reality of bodies that conform to sexist expectations (Young, 1998). As such sport helps to mask the very gender diversity it plays such an important role in containing (Fausto-Sterling, 2000). Third, the very separation of girls from boys and women from men constitutes gender injustice. The legal reforms that require equal facilities and equal investment in sport and recreation opportunities and facilities for girls and women reinforce rather than diminish gender injustice. … For these reasons, therefore, all levels of sport should be radically restructured to eliminate sex identity as a basis for organising, separating or

> grouping individuals. … [T]his strategy would see the elimination of sex categories in all levels of competition. (Travers 2008, p.90)

Despite Travers' dissenting opinion, as of yet, the argument for the elimination of sex-segregated sport has been defeated by the considerations above, which support the continued sex-segregation of (some) sports premised on fair competition and female athletes' continued health and safety. In what follows I will assume that sex segregation in sports is justified, and consider the question of whether there is a case for segregating along the lines of gender identity rather than sex.

6.1.1 - Transgender Athletes; transgender men

In segregating competitive sport by sex as they have traditionally done, some scholars maintain that sport institutions have been, and, in some cases, continue to be, 'hostile to athletes who fail to conform to the strict and static sex binarism.' (Torres, Frias and Patiño 2022, p.33) In his paper *The Tenuous Inclusion of Transgender Athletes in Sport,* Adam Love explains that this 'has presented considerable barriers to the participation of transgender athletes who often have faced policies of overt exclusion' (Love 2017, p.94) In recent years, the heightened visibility and prominence of the transgender movement has led to escalating demands for the revision or removal of policies perceived as overtly exclusionary to transgender athletes, the aim being for sport institutions to allow transgender athletes to compete in the categories which align with their claimed gender identity, rather than their natal sex. In this section of the paper, I will examine some of the primary arguments supporting the inclusion of transgender athletes in the categories which align with their claimed gender identity, and assess whether such inclusion is compatible with the egalitarian principles that initially prompted the segregation of men's and women's sports. The considerations surrounding transgender women competing in the women's category and those surrounding transgender men competing in the men's category are asymmetrical. Therefore, I will first examine whether transgender men competing in the men's category aligns with the aforementioned egalitarian principles, before addressing the issue of transgender women competing in the women's category, which will be my primary focus.

Many of those transgender men who have not elected to undergo any form of gender-affirming medical treatment, namely masculinising hormone therapy or surgery, will, in all probability, have physiques that are more typical of females than of males. As, 'males are typically significantly heavier, faster, stronger, and more powerful than typical females,' (World Rugby 2024) these transgender men would be at an unfair and disproportionate disadvantage when competing against natal men in (many) competitive sports. Furthermore, the same physical attributes which would put transgender men at a

disadvantage in competition against natal men would be those which entailed they faced a disproportionate and unfair risk to their health and safety in many sporting competitions. While the physical differences between natal men and transgender men who have not undergone gender-affirming medical treatment would make the inclusion of transgender men in the men's category both unfair and unsafe, it is conceivable, at least in some individual sports (such as fencing, perhaps), that transgender men might be the only competitors facing an increased level of unfairness and risk due to their inclusion. Transgender men being included in the men's category of such sports would still violate the egalitarian principles which initially prompted separate men and women's categories; however, if said transgender men were to knowingly consent to compete at a disadvantage and with an elevated level of risk, this may be sufficient basis for an argument for their inclusion[49]. In team sports, such consent may, alone, be an insufficient basis for an argument for the inclusion of transgender men who have not undergone gender-affirming medical treatment in the men's category. This is because the entire team could potentially be disadvantaged by one player being significantly lighter, slower, weaker and less powerful than males typically are. In addition, in some team sports, such as rugby and American football, the health and physical wellbeing of players can be directly dependant on the physical prowess of their teammates; in such sports, the physique of a transgender man may put his teammates (in addition to himself) at a disproportionate and unfair risk of harm.[50] As transgender men who have not undergone any form of gender-affirming medical treatment do not benefit from male competitive advantage, while it would perhaps not be their preference to do so, it would not violate egalitarian principles for them to compete in the women's category of those sports in which male physiology provides competitive advantages. It would also not violate egalitarian principles for transgender men to compete in the men's category of those sports, such as chess, where it seems male physiology provides no competitive advantage.

Transgender men who have undergone gender-affirming medical treatment, particularly testosterone hormone therapy, may experience an increase in muscle mass, strength, and weight, aligning their physiques more closely with that typical of males. In such circumstances, it is conceivable that the inclusion of transgender men in the men's category would not impose a disproportionate and unfair competitive disadvantage on transgender men, nor entail a disproportionate and unfair risk to their

[49] Some sports institutions may, of course, state that an individual knowingly consenting to a significantly elevated degree of risk of harm does not justify the sports institution allowing that individual to face an elevated degree of risk of harm. It also seems that this argument may function equally well if it was natal women, rather than transgender men, who wished to compete in the men's category.

[50] The higher the level of sporting competition, the more improbable it is that the issues surrounding transgender men competing in team sports would be of significant concern, as the rigorous team selection procedures would likely discern and eliminate individuals who do not meet the requisite standards of athletic prowess.

health and wellbeing. Additionally, in team sports, the inclusion of transgender men would not negatively impact the overall performance of their team, nor pose an increased risk to the health and safety of their teammates. Given that the changes to transgender men's physical makeup, borne of testosterone hormone therapy, did affect them in the manner described above, their inclusion in the men's category would not necessarily violate the egalitarian principles which prompted the separation of men and women's categories in sporting competition. This idea is reflected in the transgender men guidelines for World Rugby, which state that one condition of transgender men competing in the men's category is:

> Written confirmation from a medical practitioner or qualified coach with an understanding of the demands of rugby, to whom the player is known, that the player is in a physical condition to play and that this view is supported by a musculo-skeletal evaluation and/or other appropriate assessments. (World Rugby, 2024)

Such confirmation goes some way to ensuring that the transgender man in question is physically capable of competing at the appropriate level without significant risk to their health (though they are still required to provide 'written acknowledgement and acceptance … of the associated risks of playing contact rugby with males who are statistically likely to be stronger, faster and heavier than them') (World Rugby, 2024). Although it is not explicitly stated as a motivating factor for the relevant transgender guidelines in the case of World Rugby, which seem to be solely premised on the safety of transgender men, confirmation of this kind would also go some way towards ensuring that transgender men's team(mate)s would not be (significantly) detrimentally affected by their inclusion.

One likely line of objection to the argument that transgender men should not be allowed to compete in the men's category (unless they meet conditions in the case of those transgender men who have undergone some degree of testosterone hormone therapy) due to the disadvantage and risk they face and potentially pose to others is that a comparable disadvantage and risk could be caused by those natal men who have physiques which are significantly smaller than what is typical for males, but who are allowed to compete in the men's category.

The most obvious response to such an objection is to debate whether the disadvantages and risks associated with transgender men really are truly comparable to those associated with smaller natal men. It may be argued, for example, that males have a greater bone mineral density (BMD) than, and a different bone structure to, females, and that in a, 'meta-analysis including 19 cross-sectional and before-after studies, with a total of 487 trans men … hormone therapy had a neutral effect on BMD at all sites evaluated.' (Fighera et al., 2019 p. 959) This suggests that while smaller natal men may appear to be comparable to transgender men, this is not, in reality, the case because they still possess

physiological advantages (in relation to sporting competition) which natal women and transgender men do not.

Though egalitarian principles may allow for transgender men who undergo gender-affirming medical treatment to become eligible for men's sporting categories due to the physical changes their treatments may entail, these same changes would render them ineligible for women's sporting categories (where male physiology presents competitors with an advantage). Egalitarian principles in sports deem that any male advantage is unfair in female sports due to the disproportionate advantage it confers and the risk of harm it poses to female players. Therefore, when gender-affirming medical treatment endows a transgender man with any level of what is considered male advantage, it becomes unfair for them to compete in women's sports categories. Consequently, some transgender men may find themselves in the unfortunate position where egalitarian principles dictate that they have too few male competitive advantages to fairly and safely compete in men's sporting categories, yet too many male competitive advantages (any) to safely and fairly compete in women's sporting categories.

6.1.2 - Transgender Athletes; transgender women

The same male physiological advantages which could lead to transgender men facing unfair competition and increased risk of harm were they to compete in the men's sporting category, entail it would be unfair and potentially dangerous to natal women for transgender women to compete in the women's sporting category.
Arguments for the inclusion on transgender women in the women's sport category therefore tend to be premised on one of two major lines of argument, which I will examine separately:

1) The inclusion of transgender women in the women's sport category does not present a disproportionate and unfair advantage to transgender women, nor a significantly increased risk of harm to natal women.
2) The inclusion of transgender athletes in the category which aligns with their claimed gender identity is of such importance that it should be prioritised over fairness and risk of harm within the field of competitive sport.

It is often stated in support of the first line of argument that the feminising hormone therapy and surgeries that many transgender women undergo negate the male physiological advantages that transgender women gain during puberty; therefore, any advantage they might have over, and risk they may present to, natal women is mitigated by medical intervention. This notion was reflected in

the 2015 *IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism* which, amongst its eligibility criteria for transgender women competing in the women's category, stated:

> 2.2 The athlete must demonstrate that her total testosterone level in serum has been below 10 nmol/L for at least 12 months prior to her first competition
> 2.3. The athlete's total testosterone level in serum must remain below 10 nmol/L throughout the period of desired eligibility to compete in the female category. (International Olympic Committee 2015, p.2)[51]

The argument that a reduction in testosterone levels is sufficient to allow transgender women to compete fairly against natal women is popular amongst proponents of the inclusion of transgender athletes in the categories which align with their claimed gender identity; it is/has also been the basis for many policies which regulate the inclusion of transgender women in sport (as can been seen above). In their *Transgender Women Guidelines*, World Rugby acknowledges this argument but explains:

> Peer-reviewed evidence suggests that [a reduction in testosterone levels is not sufficient to remove male physiological advantage], and particularly that the reduction in total mass, muscle mass, and strength variables of transgender women may not be sufficient in order to remove the differences between males and females, and thus assure other participants of safety or fairness in competition.
>
> Based on the available evidence provided by studies where testosterone is reduced, the biological variables that confer sporting performance advantages and create risks … appear to be only minimally affected. Indeed, most studies assessing mass, muscle mass and/or strength suggest that the reductions in these variables range between 5% and 10% … Given that the typical male vs female advantage ranges from 30% to 100%, these reductions are small and the biological differences relevant to sport are largely retained.
>
> For instance, bone mass is typically maintained in transgender women over the course of at least 24 months of testosterone suppression, with some evidence even indicating small but significant increases in bone mineral density at the lumbar spine. Height and other skeletal measurements such as bone length and hip width have also not been shown to change with testosterone suppression, and nor is there any plausible biological mechanism by which this

[51] The present International Olympic Committee guidelines, which replaced those of 2015, suggest transgender women athletes will not need to reduce their testosterone levels, and state there should be no presumption that transgender women have an automatic advantage over natal women.

> might occur, and so sporting advantages due to skeletal differences between males and females appear unlikely to change with testosterone reduction. (World Rugby, 2024)

The compelling scientific evidence which demonstrates that feminising hormone treatments are insufficient to negate male physiological advantage entails that any argument for the inclusion of transgender women in women's sporting categories, which is based on their male physiological advantages being mitigated for, will lack cogency. It should be noted, too, that such arguments do not support the inclusion of those transgender women who have chosen not to undertake the relevant feminising medical treatments.

Another argument supporting the notion that the inclusion of transgender women in women's sporting categories does not confer a disproportionate and unfair advantage to transgender women, nor does it significantly increase the risk of harm to natal women, could be thought to hinge on the interpretation of the terms *disproportionate* and *significant*. The argument suggests that, 'there are many genetic attributes that are potentially unfair in accordance with gender-segregated standards' (Bianchi 2017, p.234). Therefore, the physiological advantages inherent in transgender women may not be considered disproportionate and the subsequent increase in risk of harm they present may not be deemed significant when compared to the advantages and risks faced by some natal women when they are in competition with other natal women. Though a natal man, Michael Phelps is often referred to in support of this type of argument, to the extent it has come to be known as the *Phelps-Gambit*; Andria Bianchi writes:

> [Phelps'] success in swimming is at least partly influenced by his "wingspan", the fact that he is double jointed, and his size 14 feet. Each of these characteristics is genetic attributes [sic] that many of his competitors probably lack. This example shows that certain attributes may be potentially unequal or unnatural in comparison to other competitors in gender-segregated categories in a similar kind of way as the (unproven) argument that trans[gender] women have unnaturally high levels of testosterone. (Bianchi 2017, p.234)

While Bianchi is referring specifically to the increased levels of testosterone that transgender women are endowed with, the same form of argument could potentially be used in reference to any competitive advantage born of male physiology. Indeed, in an interview with Trevor Noah, transgender woman athlete and philosopher, Veronica Ivy uses this form of argument, but refers to the difference in height between the natal woman who placed first - over six-foot-three - and the natal woman who placed tenth - five-foot-five - in the 2016 Rio Olympic Games women's high jump final. (Noah, 2022)

A major issue with this type of argument for transgender women being allowed to compete in the women's category is that it fails to distinguish between a competition advantage - 'quality/ability that, *ceteris paribus*, might be thought to confer an advantage in competition in a given sport' (J Parry and I Martínková 2021, p.1489) - and a category advantage - an advantage, 'of a different order, [one that] provides the foundation and context within which competition advantages may be expressed.' (J Parry and I Martínková 2021, p.1490) As philosopher of sport John Pike articulates:

> The point of category advantages is that we control for them, and the point of competition advantages is that we allow them to be manifested in competition … If there were no category advantages, sport would be a free-for[-]all, and the winners would tend to be able-bodied men in their late twenties (mutatis mutandis). If there were no competition advantages and categories controlled for every advantage, there would be no competition at all, merely 8 billion categories, one for every human. (J. Pike 2023, pp.10 - 11)

To compare the physiological advantages such as those Phelps has over other natal male competitors with those transgender women have over natal women competitors is to make an unfair comparison between mutually exclusive competition and category advantages. Phelps' competition advantages are accepted within the men's sporting category; however, as explained above, the very existence of women's sporting categories is justified by male physiological advantages. Allowing transgender women to compete in women's categories conflates competitive fairness and categorical advantage, presenting an unfair situation where sex becomes both a competitive advantage and a defining category marker.

The third and final argument I will consider regarding whether the inclusion of transgender women in the women's sports category presents a disproportionate and unfair advantage to transgender women and/or a significantly increased risk of harm to natal women pertains to the performance achievements of transgender women in competitive sports. It is often argued by those who support transgender women competing in the women's category that, as transgender women athletes do not dominate when they do compete against natal women, their inclusion in the women's category must be fair, any advantages they possess or risk they present evidently not being disproportional. Veronica Ivy made this argument in support of transgender women competing in the women's category when she claimed:

> We've [(transgender women)] been allowed to compete [(at the highest level in the women's sport category)] for decades and no one has won an elite world championship, no

> one has won an Olympic gold medal, [the 2021] Tokyo Olympics was the first time a trans woman even qualified for the Olympics. (Noah, 2022)

Setting aside those occasions when transgender women athletes have dominated in the women's category, Lia Thomas' swimming performances being an excellent example, this still seems to be a very peculiar argument given there is no necessary link between a disproportionate unfair advantage and competitive success. This is perhaps best exemplified by referring to disproportionate unfair advantages which are not biological in nature; in the first known case of mechanical doping, for example, Femke Van den Driessche was found to have competed in the World Championship cycling race with a bike that contained a motor. However, she did not win the competition.[52] It is apparent that cycling a bike which is capable of propelling itself is to possess a disproportionate, unfair advantage when all other cyclists have bikes which they must propel themselves; that such an advantage did not equate to victory aptly exemplifies that lack of domination, or even just a lack of success, does not entail that the competition was fair. Furthermore, it must be acknowledged that every transgender woman athlete who has beaten a natal woman athlete in order to qualify for a competition benefited from male physiological advantage when qualifying. The level of the competition and the success the transgender women found, or failed to find, are arguably irrelevant given the significant possibility they only qualified to begin with due to advantages born of their male physiology, which would have been unfair and disproportionate given they were competing against natal women.

It is clear that the inclusion of transgender athletes, particularly transgender women, in the sports category that aligns with their claimed gender identity would violate egalitarian principles, specifically those which led to the separation of men and women's sports. Rather than presenting arguments which attempt to deny this, some scholars acknowledge it, arguing instead that inclusion, particularly the inclusion of transgender athletes, is an egalitarian principle of such importance that it should take priority over the egalitarian principles of fairness and safety.

In their paper, *Beyond Fairness: the Ethics of Inclusion for Transgender and Intersex Athletes,* John Gleaves and Tim Lehrbach conclude that, 'the rationale for inclusion of transgender and intersex athletes must move beyond the idea of fairness.' (J. Gleaves & T. Lehrbach 2016, p.323) This conclusion is premised on their argument that, 'gender-segregated sport is best understood and defended as a tool for writing gendered meaningful narratives. Gender segregated sport is a way for men and women

[52] Jon Pike uses this same example to the same effect in his paper, *Why 'Meaningful Competition' is not fair competition.*

to 'tell stories about themselves to themselves' that invoke and further inform their gendered identities.' (J. Gleaves & T. Lehrbach 2016, p.319) They state,

> Considering gender's role in sport in this light, the rationale for inclusion of transgender and intersex athletes should be based on the fact that these athletes are as immersed in writing their meaningful narratives as any other person playing sport. In fact, they further enrich sport's diverse gendered narratives when they do not conform to traditional notions of man and woman, male or female, feminine or masculine. (J. Gleaves & T. Lehrbach 2016, p.320)

Contrary to Gleaves and Lehrbach's stance, I have argued that gender-segregated sport is best understood and defended as a tool for ensuring (as much as is possible) fair competition and the safety of competitors.[53] Even were this argument to be dismissed outright, however, inherent flaws persist within Gleaves' and Lehrbach's position. Their claim that, 'transgender athletes are as immersed in writing their meaningful narrative as any other person playing sport' (J. Gleaves & T. Lehrbach 2016, p.320) is not quantified, and seems to overlook, or perhaps trivialise, relevant parties. Numerous natal women have raised objections to competing against transgender women. It is plausible that these natal women are in the process of writing their own meaningful gendered narratives focusing, amongst other things, on what determined, hard-working women (understood as adult natal females) are capable of. Allowing transgender women to compete in women's sport categories may be interpreted as undermining the accomplishments of natal women and contradicting the narrative they aim to convey; this is because, regardless of how determined and hard-working transgender women are, all their accomplishments can be seen as involving (residual) male advantage, which natal women do not possess. Even if Gleaves and Lehrbach are correct in their assumption that transgender athletes are as immersed in writing their narratives as any other athlete, this is not sufficient justification to prioritise the narratives of transgender women over those they might contradict. Furthermore, Gleaves and Lehrbach do not consider those athletes for whom gender identity, or even gender more generally, holds no significance. It is undoubtedly the case that some athletes, perhaps even most, view the men and women's categories in sport as pertaining to sex, rather than gender. These athletes, some of whom may hold the protected position of being gender-critical, would obviously have no desire to write, nor be involved in, gendered meaningful narratives through their participation in sport, and so it is deeply mysterious why Gleaves and Lehrbach view such narratives as the primary reason to allow athletes to compete in the category that aligns with their gender identity (as opposed

[53] I have not considered Gleaves and Lehrbach's reasons for rejecting this position here as they are sufficiently similar to those considered and refuted earlier in this chapter.

to their natal sex). A particularly perplexing aspect of Gleaves and Lehrbach's stance is their advocating for the promotion of meaningful gendered narratives as if it is a separate, alternative endeavour from ensuring fairness and safety in the context of segregating men and women within sports, despite the potential for the integration of these aims. If the gender categories were replaced with sex categories such that all references to *gender* were replaced with *sex, man* with *male,* and *woman* with *female*, then athletes could compete in the appropriate sex category (based on whether they possessed any degree of male advantage), ensuring fairness and safety[54]. Those athletes who wished to could also publicly identify their gender, allowing for meaningful gendered narratives; indeed, it seems this would make gendered narratives even more meaningful than they currently are within sport as there would be a far smaller possibility of conflating gendered narratives and biological distinctions. Such a change in categorisation and terminology would also place the new *sex* category in line with other existing sporting categories, such as age and weight, which indicate an objective, biological characteristic of an individual, rather than a subjective aspect of their psychological and social identity.

6.2 - Criminal Justice

Similar to competitive sports, when examining the implications of recognising gender identity claims for convict categorisation within the criminal justice system, it is essential to understand the rationale behind segregating men and women in prisons to begin with. As was demonstrated in the previous sections, males, as a matter of biology, are generally larger and stronger than females. In addition, violent crime statistics suggest that males are far more likely to commit acts of violence than females are; data taken from *Proportion of arrests by sex and offence group* demonstrates that 81.55% of all violent crime committed against a person was committed by males. (Home Office, 2024) Separating men and women who have committed crimes, then, was, 'primarily intended to protect [women] from all forms of verbal or physical abuse, particularly sexual violence.' (Association for the Prevention of Torture, 2024). Indeed, before the 1823 Gaol Act mandated separate housing for male and female convicts, male convicts could reportedly, 'pay the guards to unlock women's cells at night' (Evans, 2022). This allowed male convicts the opportunity to perpetrate acts of (sexual) violence against female convicts in an environment from which the latter could not realistically escape. It is also

[54] Intersex conditions entail that not every athlete would be easily categorised as male or female. However, there are fewer intersex people than transgender people, and the overwhelming majority of athletes would be easily categorised by sex:
'The term intersex … should be restricted to those conditions in which chromosomal sex is inconsistent with phenotypic sex, or in which the phenotype is not classifiable as either male or female. … The true prevalence of intersex is … about 0.018%, almost 100 times lower than Fausto-Sterling's estimate of 1.7%.' (L. Sax 2002, p.174)

indicative of the constant vulnerability to harm experienced by female convicts from the larger and stronger male convicts.

The increased size, strength, and propensity for violence among males entail that imprisoning female convicts with male convicts would disproportionately endanger the health and wellbeing of female inmates. Placing one category of prisoner at a significantly greater risk of harm than another is evidently unfair. Therefore, imprisoning male and female convicts together would seem to violate egalitarian principles, which segregating prisoners by sex aims to prevent. The notion that egalitarian principles require prisoners to be segregated by sex is reflected in the *United Nations Standard Minimum Rules for the Treatment of Prisoners*, which state, 'Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate.'[55] (United Nations 2016, p.10) It is also expressed in the most recent version of the HM Prison & Probation Service policy on *The Care and Management of Individuals who are Transgender,* which reads, 'Transgender women (including those with GRCs [Gender Recognition Certificates]) with birth genitalia and/or any sexual or violent offence conviction or current charge should not be held in the general women's estate' (Ministry of Justice 2024, p.5) It should be noted that before a 2023 revision, it was the policy of the Ministry of Justice (MoJ) for transgender inmates to, 'be treated in accordance with their legally recognised gender in every respect' (Ministry of Justice 2019, p.6) such that it was a requirement that all transgender individuals were, 'initially allocated to part of the estate which matche[d] their legally recognised gender. (Ministry of Justice 2019, p.9) It was also policy for:

> Additional structured risk assessments and resources [to be] required before a person is allocated or transferred to part of the estate which does not match their sex assigned at birth [(natal sex)], including where a person has gained legal recognition of the gender with which they identify. (Ministry of Justice 2019, p.9)

It is not clear from the policy, however, how it was to be accurately determined whether an individual's legally recognised gender did not match their natal sex; this is because prisoners' legal gender was self-reported and because GRCs allow for birth certificates to be changed, birth certificates being how the natal sex of prisoners is determined.[56] Furthermore, even given the aforementioned additional risk assessments and resources, there was nothing about the policy which necessarily

[55] I acknowledge that the use of the terms *men* and *women* rather than *male* and *female* allows for this to be interpreted as an instruction to separate prisoners by gender rather than by sex.

[56] 'In the 2018 data collection, prisoners were asked about their legal gender. For earlier years the gender is self-reported on reception to the prison and based on information recorded on central administrative databases. It is not possible to determine if this is the legal gender or whether the gender has changed. Prisoners are asked how they self-identify their gender.' (Ministry of Justice 2019, p.5)

precluded a transgender individual who had their birth genitalia and/or conviction/s of (sexual) violence being allocated to part of the estate which did not cohere with their natal sex; indeed, this occurred in 2018 when transgender women, Karen White was allocated to HMP New Hall.[57]

Unlike competitive sports, which often take place in front of a public audience and are frequently reported on in accessible forms for the general public, what occurs in prisons happens behind closed doors. As a result, information on the treatment of transgender convicts is far more limited compared to that available on transgender athletes. This scarcity of information means that conclusions must often be extrapolated from limited data. This is particularly the case for transgender men in prisons, as when mainstream media runs stories covering transgender convicts, they tend to focus on stories about transgender women.

6.2.1 - Transgender Prisoners; transgender men

According to the 2022/2023 *HM Prison and Probation Service Offender Equalities Annual Report*, in England and Wales, 'there were 268 prisoners living in, or presenting in, a gender different from their legal gender' (Ministry of Justice, 2023, p.9). This figure excludes the 13 prisoners possessing GRCs, who are not accounted for in reports on transgender prisoners.[58] Of the 268 transgender prisoners documented, 41 are transgender men (i.e., natal females), all of whom, at the time of the report's publication, were housed in women's prisons. Given that some transgender women (natal males) are housed in women's prisons in England and Wales, and no legal cases, nor high-profile public campaigns, advocating for transgender men's placement in men's prisons exist (as they do for transgender women being placed in women's prisons), it can be inferred that transgender men generally accept being housed in women's prisons rather than men's prisons. The exact reasons why transgender men have not strived to be housed in men's prisons cannot be determined without them publicly speaking out on the topic however, their reasons can be speculated upon: As explained above in section 6.1.1, transgender men who have not elected to undergo any form of gender-affirming medical treatment will, in all probability, have physiques that are more typical of females than of males. Just as such transgender men would be at an unfair and disproportionate disadvantage when

[57] 'In 2018, Karen White … received a life sentence for sexually assaulting two female inmates in prison and raping two other women outside prison. White was legally recognised as a man and lived most of her life as Stephen Wood. Before 2017, White had previous convictions for violence and dishonesty; indecent assault, indecent exposure and gross indecency involving women and children. … White was held on remand at HMP New Hall, a women's prison… While there, she sexually assaulted two female prisoners.' (Bright 2020 p.183)

[58] No data pertaining to the location of transgender prisoners with GRCs is published by the Ministry of Justice. In addition, the number of transgender prisoners is likely to be underestimated, 'because some transgender prisoners, both with and without GRCs, may not have declared that they are transgender or had a local case board.' (Ministry of Justice, 2024)

competing against natal men in (many) competitive sports, they would, in all likelihood, be at an unfair and disproportionate disadvantage in any instances of physical confrontation which may occur in men's prisons; moreover, in a prison environment, unlike in competitive sport, there is a distinct possibility that transgender men would be actively targeted for (sexual) violence due to their smaller size and perceived sex. According to the UK Government's Justice Data statistics, the average number of prisoner-on-prisoner assaults per 1,000 prisoners from 2014 to 2023 was 204 (Justice Data, 2024). As some prisoners may be involved in more than one assault, it cannot be concluded that approximately 20% of prisoners are involved in prisoner-on-prisoner assaults. However, the number of assaults is likely high enough to dissuade transgender men from striving to place themselves in men's prisons where they are both at risk of violence and at a physical disadvantage when violence occurs. It is also important to recognise that transgender men who have not undergone gender-affirming medical treatment, and thus have female genitalia, would likely be at a significantly increased risk of sexual assault and rape in a men's prison as males overwhelmingly comprise the perpetrators of all forms of sexual assault while females overwhelmingly comprise the victims.

If the transgender men who are prisoners have undergone gender-affirming medical treatment, they may, as explained above in 6.1.1, have experienced an increase in muscle mass, strength, and weight, aligning their physiques more closely with that typical of males. This would reduce the significance of the disadvantage they would face in men's prisons were they to become involved in any instances of prisoner-on-prisoner violence; if they have also undergone female-to-male genital reassignment surgery, it is possible that their risk of sexual assault and rape may also be somewhat decreased (although they could still be targeted in light of being a transgender man). The changes brought on by gender-affirming treatment would potentially allow for transgender men to be housed in men's prisons without egalitarian principles relating to fairness and safety being violated. It must be noted, however, that the same changes which would mitigate the disadvantages faced by transgender men in men's prisons, would entail corresponding advantages if they were housed in women's prisons; having physiques more closely aligned with natal males, they would probably be larger and stronger than most natal women prisoners, meaning they would have an advantage if they were ever involved in prisoner-on-prisoner violence. Indeed, in Scotland, where one transgender man (out of a total of four) is housed in a men's prison[59], guidance from the *Scottish Prison Service* (*SPS) Policy for the Management of Transgender People in Custody* reflects this idea, stating that transgender men must be kept separate from natal women, 'if it is deemed necessary and proportionate to keep women in custody safe.' (SPS 2023, p.6) Such advantages would potentially mean that housing transgender men

[59] Data taken from SPS Quarterly Public Information Page 2023

who have undergone gender-affirming medical treatment in women's prisons would disproportionately risk the health and safety of natal women prisoners, violating egalitarian principles relating to fairness and safety. Transgender men being housed in women's prisons poses fewer problems than allowing transgender men to compete against natal women in sporting competitions, however, as the small number of transgender men in prisons, coupled with prisons' secure, heavily-monitored environment, which allows for transgender men to be separated from other prisoners, entails the health and safety of natal women prisoners can (largely) be ensured. This means that while the risks posed to natal women by transgender men are potentially disproportionate, they are not necessarily disproportionate.

Considering these factors, it can be speculated that, when faced with a choice between environments with differing levels of risk to their health and well-being, most individuals would prefer the safer option. Therefore, it follows that transgender men would generally prefer to be housed in women's prisons over men's prisons. Egalitarian principles relating to fairness and safety are consistent with transgender men being held in women's prisons as, if they have not undergone gender-affirming medical treatment, it would be unsafe and unfair to house them in men's prisons. If transgender men have undergone gender-affirming medical treatment, it might also be consistent with egalitarian principles to house them in men's prisons. However, the relative ease of keeping natal women safe from transgender men in women's prisons allows for the argument that any increased risk to the health and safety of natal women is not disproportionate. Housing medically-transitioned transgender men in women's prisons, then, could also be consistent with egalitarian principles; it would also avoid any potential issues arising from evidence of medical procedures being the basis for where transgender men are imprisoned. Similar to how some transgender men athletes request to compete against natal men, it is possible that transgender men could request to be held in men's prisons despite the possible elevated risks it would entail; given the government's responsibility to keep prisoners safe, however, there is no guarantee that such requests would be accepted.

6.2.2 - Transgender Prisoners; transgender women

The biological differences between natal males and natal females, which would pose a disproportionate level of danger to natal females if they were imprisoned together, and which presumably contributed to the HM Prison & Probation Service amending their policy on *The Care and Management of Individuals who are Transgender*, have been thoroughly explored in the previous sections. This section will therefore take such differences as given, and examine the arguments for imprisoning transgender women alongside natal women despite them.

Arguments for the imprisoning transgender women alongside natal women in women's prisons mirror those arguments for allowing transgender women athletes to compete in the women's sport category; they tend to be premised on one of two major lines of argument, which can be expressed as follows:

1. Despite the biological differences between transgender women and natal women, imprisoning transgender women alongside women in women's prisons does not present a significantly increased risk of harm to natal women.[60]
2. Transgender women being housed alongside women in women's prisons is of such importance that it should be prioritised over any potential risk of harm to natal women.

Proponents of the first line of argument often cite statistics indicating low rates of violent incidents involving transgender inmates. In an article titled *Ministry of Justice dispels bigoted myths around trans prisoners and sexual assault with cold, hard and indisputable facts*, Vic Parsons reports 'that out of 122 reported sexual assaults in women's prisons [between 2010 and 2020], just five were perpetrated by trans inmates[61].' (Parsons, 2020) This data, sourced from the MoJ, might initially suggest that transgender women pose a minimal risk to natal women. However, drawing definitive conclusions from such limited and incomplete data would be premature. The MoJ, '[does not] break this data down year by year, as it may then be used to identify individuals', (UK Parliament, 2020), meaning the five sexual assaults, which were reported to occur over a decade, could potentially represent a higher frequency if examined on an annual basis. Furthermore, these statistics do not consider the proportion of transgender inmates relative to natal female inmates. Between 2010 and 2020 England and Wales had an average prison population of approximately 93,010 people (Statistica, 2024); 4.6% of this figure - 4309 prisoners - were recorded as being female, and were serving time in women's prisons. In 2021 (no figures were published in 2020 due to the Covid pandemic) there were 197 transgender prisoners in England and Wales, 40 of whom were housed in women's prisons. This translates to transgender prisoners accounting for just 0.9% of the total prison population in women's prisons. According to MoJ figures, the number of transgender inmates has increased over time; this means it can be concluded that, over a ten-year period, fewer than 0.9% of prisoners were responsible for over 4% of reported sexual assaults. This discrepancy suggests that transgender prisoners indeed pose a disproportionate risk of harm to natal women. It should be noted that conclusions can only be reached about transgender prisoners, rather than transgender women prisoners, as the MoJ did not,

[60] Many proponents of this argument are unwilling to acknowledge the risks to the health, safety and wellbeing of natal women which relate to the biological differences between transgender women and natal women; however, as explained, these differences have been evidenced to such an extent that will be taken as given, and so not function as part of this argument.

[61] This data only refers to transgender inmates without a GRC as no data was collected on transgender inmates with a GRC.

in this instance, differentiate between transgender men and transgender women when presenting figures on sexual assaults perpetrated by transgender inmates. Though the figure varies over time, in 2021 (before the change in MoJ policy) only five or fewer[62] of the 40 transgender inmates in women's prisons were recorded as being transgender women; therefore, the figures produced by the MoJ allow for the possibility that approximately 0.12% of prisoners in women's prisons (transgender women) were responsible for 4% of reported sexual assaults.

While figures on occurrences of sexual assault support the notion that transgender women inmates present a significantly increased risk to natal women, it is important to acknowledge that *risk of harm* and *occurrences of harm* are two distinct phenomena. It is possible, for example, that although transgender women inmates present a significant risk to natal women inmates, occurrences of natal women being harmed by transgender women remain lower than they otherwise might due to resources being dedicated to preventing transgender women harming natal women. It should also be acknowledged that the existence of a risk of harm may have derogatory effects on an individual's health and wellbeing, particularly their mental health, even if the risk does not culminate in actual harm being inflicted; this may be especially true for the significant number of natal women prisoners who have experienced sexual violence and/or exploitation prior to imprisonment. That transgender women present a significant risk to natal women is supported by a Swedish study, *Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery*[63]*,* and also by the MoJ's own data.

> The primary purpose of the [Swedish] study was to consider whether medical transition helps patients (leads to better social and health outcomes) and to inform what support they might need post transition. It is [a] methodologically robust, peer reviewed, large scale comparative source on offending rates comparing trans[gender women who have undergone hormonal and surgical transition] and women. It compared the likelihood of a person having one or more criminal convictions, and convictions for violent crime (defined as "homicide and attempted homicide, aggravated assault and assault, robbery, threatening behaviour, harassment, arson, or any sexual offense"). (Freedman, Stock, Sullivan 2021, p.1)

The Swedish study's findings were that, 'male-to-females . . . retained a male pattern regarding criminality. The same was true regarding violent crime.' (Dhejne et al., 2011, p.6) Indeed, transgender women,

---

[62] '5 or fewer is the disclosure control rule used for the transgender data collection.' (Ministry of Justice, 2021)

[63] 'Some on-line discussion of this piece describe[s] its findings on offending as discredited. Policy analysts Murray Blackburn MacKenzie conducted a search of the academic literature and were unable to find any academic rebuttal of these specific findings, or any equivalent study which shows the opposite effect to Dhejne et al's result.' (Freedman, Stock, Sullivan 2021, p.2)

> Were over 6 times more likely to be convicted of an offence than female comparators and 18 times more likely to be convicted of a violent offence. The group had no statistically significant differences from other natal males, for convictions in general or for violent offending. (Freedman et al., 2021, p.1)

The findings of the Swedish study are reflected in the data the MoJ presented in response to a Freedom of Information (FOI) request submitted by the campaign group *Fair Play For Women* in 2020. The response to the FOI shows that, according to the March/April 2019 data collected by the MoJ, there were 129 transgender prisoners housed in male prisons, 76 of whom were sentenced for one or more sexual offences.

Some of the data which informed the response to the FOI was obtained by asking transgender prisoners what their legal gender is. As the inmates' responses were not confirmed by checking official records, there is the possibility that this data may not be entirely accurate. *Fair Play For Women* note, however, that:

> Any doubt regarding the sex of the transgender prisoners can be avoided by instead using the data on gender identity. When asked about the gender with which the prisoner identified 119 said they identify as ‘female’ (10 did not give a response). This means we can say with absolute confidence that at least 119 of the 129 prisoners in men’s prisons were transwomen. Even if all 10 transgender prisoners in men’s prisons who did not confirm their gender identity were sex offenders this still means at least 66 of the 119 confirmed transwomen [sic] must have been sentenced for one or more sexual offences (Fair Play For Women, 2020)

The data obtained by *Fair Play For Women* demonstrates that, in the relevant period, anywhere between 55.5% and 63.9% of all transgender women prisoners were sentenced for one or more sexual assaults. This compares to 125 sex offenders out of 3812 women in prison (3.3%) and 13234 sex offenders out of 78781 men in prison (16.8%) in the same period. (Freedman et al., 2021, p.3)

The findings of the Swedish study, when combined with the MoJ’s own data, leave little doubt that transgender women inmates pose a significantly increased risk of harm to natal women inmates; indeed, this is reflected in the MoJ’s recent change in policy on the treatment of transgender inmates. While the newest MoJ policy states that transgender women with male genitalia and/or any sexual or violent offence convictions should not be housed in general women’s prisons, it should be acknowledged that this does not completely alleviate the risk that natal women face. As shown by the Swedish data, which only examined transgender women who had undergone hormonal and surgical

transition, transgender women, even those without their birth genitalia, retain a male pattern regarding criminality. Additionally, it is self-evident that an individual lacking a sexual or violent offense conviction does not guarantee that they have never committed such acts, nor does it ensure that they will not engage in violence and/or sexual assault after imprisonment. Therefore, it seems that regardless of the measures implemented to mitigate it, imprisoning transgender women alongside natal women in women's prisons will always increase the risk of harm to natal women prisoners. To ensure that the egalitarian values of fairness and safety are not violated, it would be necessary to guarantee that no transgender women are ever imprisoned alongside natal women.[64]

Whether they acknowledge the risks that transgender women inmates present to natal women inmates or not, some maintain that transgender women should be housed alongside natal women in women's prisons because it is of such importance for their mental health and wellbeing. In 2021 it was reported that a female prisoner, known as FDJ, claimed she was sexually assaulted in prison in 2017 by a transgender woman who had a previous conviction for sexual violence and who was in possession of a GRC. (Lawrie, 2021) Following the assault, FDJ, 'challenge[d] the policy in relation to the allocation to a women's prison of transgender women who have been convicted of sexual or violent offences against women.' (FDJ vs. Secretary of State for Justice 2019, p.2). It is clear from the court documents that Lord Justice Holroyde, who ruled on the case, understood the risks transgender women pose to natal women (which were evidenced with statistics presented to the court) and also that he understood the anxieties and fears natal women may experience when imprisoned alongside transgender women. Despite this, Lord Justice Holroyde ultimately ruled that all transgender women could not be excluded from women's prison because, 'to do so would be to ignore, impermissibly, the rights of transgender women to live in their chosen gender' (FDJ vs. Secretary of State for Justice 2019, p.2) and that the risk mitigating processes which were in place at that time were sufficiently robust to deal with specific cases of transgender women, with and without GRCs, who had convictions for (sexual) violence. Current MoJ policy would exclude the transgender woman accused of assaulting FDJ from being housed in any women's prison however, this court case effectively exemplifies the rights of transgender women, particularly those relating to their mental health and wellbeing, justifying their allocation to women's prisons despite the risk of harm and discomfort they pose to natal woman.

When determining where transgender inmates should be housed, it seems that lawmakers, policymakers, and those responsible for enforcement strive to strike a balance between upholding the rights and wellbeing of transgender individuals and maintaining the egalitarian values of fairness,

[64] It might be claimed that despite it violating egalitarian values in the strictest sense, housing transgender women alongside natal women in women's prisons achieves the best possible balance of egalitarian values; such a position will be addressed later in this chapter.

health and safety. This mirrors what philosopher Jon Pike claims occurs in sport, when he writes, 'proposals for trans inclusion in women's sport seem to raise questions about safety, fairness and inclusion. So, it is fairly standard to read pleas that these values are balanced against each other.' (Pike 2021, p. 157) Though writing about sport and inclusion, rather than prison and gender expression, Pike claims there are three problems with such an approach, and these problems seem as applicable to housing transgender women alongside natal women in women's prisons as they do to transgender women competing in women's sports. The first problem is that fairness cannot be easily compared with the rights of transgender women to live in their chosen gender; to amend Pike's own question, 'what amount of "fairness" ought to be sacrificed for what amount of increase in [a transgender women's ability to live in their chosen gender]?' (Pike 2021, p. 158)

> Second, this practical problem arises from and expresses a prior assumption that decision-makers are entitled to trade off different goods – that, for example, they are entitled to trade off injury risk or unfairness against [one's ability to live in their chosen gender]… Third, importantly, because it cannot be concretised, this allows regulators to regulate, yet with a completely opaque process. This introduces an element of ad hocery into the process: 'How did you decide? Oh, well we balanced up various considerations!' (Pike 2021, p. 158)

To effectively address these issues Pike advises that regulatory bodies adopt an approach of lexical priority, stating 'well-advised IFs [(International Federations)] should do the following: Consider three values: safety, fairness, inclusion in that order.' (Pike 2021, p. 159) If an analogous argument is extrapolated and applied to imprisonment, this would involve the MoJ considering the three values: safety, fairness, and the ability to live in one's chosen gender[65]:

> Safety comes first, fairness second, and [ability to live in one's chosen gender] third. So, [the MoJ] ought not to adopt fair rules that are unsafe. Of the possible sets of rules, we want only those that are safe. Of the set of safe rules, we want those that are also fair. Of the set of safe and fair rules, we want those that [allow individuals to live in their chosen gender]. (Pike 2021, p. 159)

The justification for the prioritisation of these values arises from the nature of imprisonment. When an individual is imprisoned, they lose much of their ability to ensure their own safety. For instance, imprisoned individuals are not responsible for the state and upkeep of their environment, nor can

[65] Ability to live as one's chosen gender has been selected as the third value as this reflects the language of the high court in the ruling which deemed transgender women could not be excluded from women's prisons; it could also be thought to include both inclusion in the prison that coheres with prisoners' claimed gender identity and prisoners' ability to express their claimed gender identity while imprisoned.

they remove themselves from it; they are not responsible for the nature of those they are imprisoned with; they are not responsible for the quality of the healthcare they receive; they are not responsible for the quality of the meals they are served etc. As harm is a risk that follows from an essential component of being imprisoned - inability to control (or leave) one's environment - the MoJ has a special obligation to minimise the risk of harm faced by prisoners. This is analogous to World Rugby having a special obligation to minimise the risk of tackling, a risk that follows from an essential component of rugby, and World Sailing having a special obligation to minimise the risk of drowning, a risk that follows from an essential component of sailing. (Pike, 2021) There will always be some risk associated with imprisoning an individual however, to adapt Pike's words, 'because there is some risk, it is particularly incumbent on [the MoJ] to be alert to increased risk, and to oppose any increased risk that is not an ineliminable part of [imprisonment]. (Pike 2021, p. 161).

While it is the case that all the risks of harm associated with imprisonment cannot be removed, without it ceasing to be (effective) imprisonment, this is not the case with fairness. Striving to make imprisonment fairer, in that it is maximally equitable for prisoners, does not detract from the essential essence of imprisonment and so, after safety, fairness should be the prioritised value. Unlike both safety and fairness, the ability to live in one's chosen gender is not a value which is applicable to all inmates[66], nor is it made impossible by being housed in a men's prison rather than a women's (or vice versa); for this reason, it is positioned as the least important value. It may be argued that, just as it is unfair for inmates to face different levels of risk while imprisoned, it is unfair that some prisoners, but not others, are able to live in their chosen gender. Even if this argument has merit, however, given that safety is the value with the highest priority, fairness relating to safety must take precedence over fairness relating to living in one's chosen gender (and everything else).

Given this is accepted, two conditionals can be created (Pike 2021):

The Safety Conditional: If there is a disproportionate risk of harm caused by housing transgender women alongside natal women in women's prisons, then it is unsafe for transgender women to be housed alongside natal women in women's prisons.

The Fairness Conditional: If transgender women retain male traits and characteristics, then it is unfair for transgender women to be imprisoned alongside natal women in women's prisons.

If it is unsafe or unfair to house transgender women alongside natal women in women's prisons, then this ought not to be allowed, because of the lexical priority of safety and, then, fairness (Pike 2021). Lexical priority would negate the argument that transgender women being housed alongside natal

[66] Living as a chosen gender is not a meaningful concept to all people, ie. people with gender critical beliefs.

women in women's prisons is of such importance that it should be prioritised over any potential risk of harm to natal women, as it is minimising risk of harm to all inmates which takes priority above everything else. Furthermore, the evidence examined in this chapter demonstrates that housing transgender women alongside natal women in women's prisons is both unsafe and unfair, and therefore shouldn't be done. It should be noted that acknowledging it is both unfair and unsafe to house transgender women alongside natal women in women's prisons does not entail that it is either safe or fair to house transgender women alongside natal men in men's prisons. If it is also considered unsafe and unfair to house transgender women alongside natal men in men's prisons, this could justify the creation of specialised prisons for transgender prisoners. Perhaps more likely, it could also justify wings within existing prisons specifically designated for transgender inmates; such wings could ensure that transgender women are not housed alongside natal women even if they are allocated to women's prisons, and similarly, that they are not housed alongside natal men even if they are allocated to men's prisons. This, to a large extent, would cohere with the current MoJ policy, which states that, 'consideration must be given to an appropriate location within the prison that ensures the individual's safety and that of all others in our care, with the use of separate accommodation where appropriate.' (Ministry of Justice 2024, p.11)

6.3 - Medicine (Cass Review of NHS Practice)

The NHS is the UK's, and one of the world's, largest employers, directly employing 1.7 million people (Rolewicz, Palmer and Lobont, 2024) and every day there are approximately 1.6 million patient interactions with NHS services (Bulut, 2023). When examining the consequences of accepting gender identity claims on the NHS, it is essential to distinguish between the consequences on different NHS stakeholders, and between the consequences on NHS stakeholders and on the NHS as a whole. This section will examine the consequences of accepting gender identity claims on one specific group of stakeholders - the young patients who interact with these services and clinicians. It will conclude by examining the consequences of accepting gender identity claims on the NHS as a whole.

The Cass Review has been selected as the primary means of examining the consequences on the NHS and these specific stakeholders because it is an independent review, commissioned by the NHS itself, and has as its focus the services the NHS provides to young people and children needing support with gender-related issues. The Review makes this, in addition to its commitment to being objective, clear when it states:

> It is not the role of the review to take any position on the beliefs that underpin [the] debates [relating to the rights of transgender people]. Rather, th[e] Review is strictly focused on the clinical services provided to children and young people who seek help from the NHS to resolve their gender-related distress. (Cass 2024, p.16)

As, 'the Review is independent of the NHS and Government and neither required nor sought approval or sign-off of this report's contents prior to publication' (Cass 2024 p.17), does not engage with the emotionally and politically driven debates surrounding transgender rights, and strives, always, to limit its recommendations to those that can be made on the available evidence[67], it seems an appropriate and highly-effective way to explore the consequences of accepting gender identity claims on the NHS.

It is important to note that this examination will only focus on some of the major consequences of the acceptance of gender identity claims within the NHS. The complexities of gender identity and the vast scope of NHS operations mean that it is not possible to discuss, or indeed determine, every possible consequence.

6.3.1 - NHS Stakeholders; Gender-Related Service Users[68]

The consequences of the NHS accepting gender identity claims which are experienced by service users largely depend on whether the patient in question was genuinely experiencing gender-identity related distress, how significant the distress was, and how persistent it was likely to be. It should be acknowledged from the outset that for some patients - perhaps those who would have been diagnosed with gender-identity related issues even early in the NHS' Gender Identity Development Service's (GIDS) history (after receiving holistic care), placed on a medical pathway, and subsequently experienced relief from distressing symptoms - the consequences of the NHS accepting gender identity claims will be largely positive. Even for these patients, however, there are implications which may not be entirely favourable, stemming from how the NHS responded to patients with gender-identity related issues once their gender-identity claims were accepted.

Recognising that there will likely be a correlation between how genuine/severe patients' gender-related distress is and how problematic the consequences of the NHS accepting gender-identity claims

---

[67] 'To scrutinise the existing evidence the Review commissioned a robust and independent evidence review and research programme from the University of York to inform its recommendations and remained cautious in its advice whilst awaiting the findings. The University of York's programme of work has shown that there continues to be a lack of high-quality evidence in this area and disappointingly, as will become clear in this report, attempts to improve the evidence base have been thwarted by a lack of cooperation from the adult gender services. The Review has therefore had to base its recommendations on the currently available evidence, supplemented by its own extensive programme of engagement.' (Cass 2024, p. 20)

[68] In the section I have used the terms *service user* and *patient* synonymously.

are, this section will briefly examine the NHS not adequately exploring the underlying factors contributing to gender-related distress, and assess the risk of (sometimes unnecessary) medical intervention, which are both consequences of the NHS (increasingly readily) accepting gender-identity claims. These are by no means the only consequences of the NHS accepting gender-identity claims which are experienced by NHS patients; however, they are some of the most significant which have not been explicitly addressed in previous sections of this thesis.

The Cass Review refers to a shift in care models within the NHS, from the watchful waiting model advocated by Dr. Kenneth Zucker (see section 4.4.1) which, 'assumes that young children have malleable gender brains … and that treatment goals can include helping a young child accept the gender that matches the sex assigned to them at birth' (Ehrensaft 2017, p.60) towards a more gender-affirming model, which, 'allows that a child of any age may be cognizant of their authentic identity and will benefit from a social transition at any stage of development.' (Ehrensaft 2017, p.60) The Review records that, 'staff at GIDS [told those carrying out the Review] that in their practice an affirmative model can encompass respecting the young person's experience and sense of self whilst still exploring the meaning of that experience in a non-directive therapeutic relationship. (Cass 2024, p.70). The shift towards a more gender-affirming model could be signified by quicker, easier patient access to hormonal treatments, and indeed,

> From 2014, puberty blockers moved from a research-only protocol to being available through routine clinical practice … [and] were given to a wider range of adolescents … [including] patients with no history of gender incongruence prior to puberty, as well as those with neurodiversity and complex mental health presentations. (Cass 2024, pp.72 -73)

The review states that, 'in 2014 the number of referrals [to GIDS] started to grow exponentially in the UK, with a higher number of birth-registered females presenting in early teenage years' (Cass 2024, p.72).

While one effect of this shift from watchful waiting to gender affirmation was an increase in referrals to the service, its implications for patients are also significant. In the section, *Psychological interventions,* the Cass Review states:

> The systematic review of psychosocial interventions found that the low quality of the studies, the poor reporting of the intervention details, and the wide variation in the types of interventions investigated, meant it was not possible to determine how effective different interventions were for children and young people experiencing gender distress. Despite this, we know that many psychological therapies have a good evidence base for the

> treatment in the general population of conditions that are common in this group, such as depression and anxiety.
>
> This is why it is so important to understand the full range of needs and ensure that these young people have access to the same helpful evidence-based interventions as others. (Cass 2024, pp. 30-31)

For the indeterminate number of patients whose gender-related stress was actually caused by other underlying difficulties, and for whom therapeutic or psychological interventions may have, as Di Ceglie[69] suggested, "secondarily affected the gender identity development" (Barnes 2023, p. 24), it is evident that the NHS' failure to adequately explore these underlying factors may have resulted in invalid diagnoses and unnecessary medical interventions. The consequences of unnecessary medical interventions will be explored later in this section however, the effect of incorrect diagnoses on NHS patients, even absent subsequent medical intervention, may be significant.

Arguably, the primary issue caused by misdiagnosis, absent subsequent medical intervention, is that it likely prevents or delays appropriate treatment. If a patient believes the incorrect diagnosis explains the symptoms that they are experiencing, they will be unlikely to seek out alternative explanations. This entails that their symptoms will likely persist and they will not understand why, or they will believe the reason why is that whatever action(s) they're taking to resolve the ailment (which they don't actually have) is ineffective. In addition to any mental anguish caused by not understanding why symptoms aren't being relieved (which might be significant), it is clear that for many ailments, the longer they go undiagnosed and untreated, the more the health of the patient experiencing them will deteriorate; in more extreme cases, then, misdiagnosis can lead to irreversible health problems, or even be fatal, for NHS patients. Of course, it is not necessarily the case that a misdiagnosis results in another physical or mental illness going undiagnosed; it may also be the case that an incorrect diagnosis distracts from and/or overshadows issues that are not strictly medical in nature. The Cass Review reports:

> Children and young people referred to specialist gender services have higher rates of mental health difficulties than the general population. Because gender incongruence is not considered to be a mental health condition clinicians are often reluctant to explore or address co-occurring mental health issues in children and young people presenting with gender distress. (Cass 2024, p. 141)

[69] Domenico Di Ceglie is the child and adolescent psychologist who is the founder and former director of GIDS.

The stated reluctance of clinicians to explore or address mental health conditions suggests that mental health conditions, perhaps even those that are at the core of a patient's gender-related distress, may go undiagnosed and untreated, possibly resulting in the issues referenced above. The Review also states, however:

> Clinicians working with children and young people experiencing gender dysphoria have highlighted that safeguarding issues can be overshadowed or confused when there is focus on gender or in situations where there are high levels of gender-related distress. [These safeguarding issues] include:
>
> - Transphobic bullying in school and other settings.
> - Breakdown in relationships with families.
> - Online grooming or harm.
> - Cultural or religious pressure.
>
> The Review has [also] heard about a small number of cases where the child's gender identity was consciously or unconsciously influenced by the parent. (Cass 2024, p. 142)

This suggests misdiagnosis could distract from non-medical issues which are detrimental to NHS patients' health and wellbeing, and which, similar to some medical ailments, could have very serious negative consequences if left unexplored and unresolved. It should be acknowledged that effectively addressing these non-medical issues might secondarily affect patients' gender identity development such that placing them on medical pathways for gender-related distress becomes unnecessary.

Although misdiagnosis is problematic even without resulting medical intervention, it becomes significantly more concerning when such intervention occurs. In such circumstances, all the issues caused by misdiagnosis without medical intervention can affect patients, compounded by additional problems stemming from the medical pathway they are placed on. For NHS patients diagnosed with gender-related distress, these pathways may include puberty blockers, followed by gender-affirming hormone therapy and surgery. It should be noted that, even when the diagnosis of gender-related distress is accurate, placing patients on a medical pathway, ultimately as a result of accepting gender-identity claims, may have problematic consequences.

Before the potential issues associated with puberty blockers are examined, it is worth noting the Cass Review's (2024 p.174) finding that there is no clarity about the treatment aims of suppressing puberty through the use of puberty blockers, with options including reducing gender dysphoria, allowing time to make decisions, allowing patients to better "pass" as the gender which is congruent with their gender-identity in adult life, and generally improving quality of life. The Review (2024 p.174) goes on

to explain that most guidelines justify the use of puberty blockers by emphasising their full reversibility.

In what follows, the effectiveness of puberty blockers in achieving the possible aims for which they were prescribed will be examined, along with an assessment of the associated risks and their reversibility. Considering these factors, the overall impact on NHS patients will be evaluated.

In terms of reducing gender dysphoria, the Cass Review states, 'only two moderate quality studies looked at gender dysphoria and body satisfaction [and] neither reported any change before or after receiving puberty suppression.' (Cass 2024, p. 176) It seems, therefore, that there is insufficient evidence to justify the prescription of puberty blockers towards this aim.

In relation to using puberty blockers to allow patients time to make decisions, the Cass Review reports that, 'data suggest[s] that puberty blockers are not buying time to think, given that the vast majority of those who start puberty suppression continue to masculinising/feminising hormones, particularly if they start earlier in puberty. (Cass 2024, p. 176) Again, then, it seems that there is insufficient evidence to justify the prescription of hormone blockers towards this aim.

The Review (2024 p.177) reports mixed findings in regards to puberty blockers helping patients better "pass" as the gender which is congruent with their gender-identity. The Review indicates that the effectiveness of puberty blockers helping patients "pass" is largely determined by when they begin taking them. It does note, however, that the effect puberty blockers have on "passing" was, 'particularly important for the transgender women, who were able to access puberty blockers before developing facial hair and dropping their voice.' (Cass 2024, p. 177) The Review also suggests that puberty blockers might be of limited use to some patients in terms of improving their ability to "pass" because, 'evidence to date suggests that puberty blockers neither lead to substantially reduced adult height in transgender females nor increased eventual height in transgender males' (Cass 2024, p. 177) Evidence indicates, then, that puberty blockers help some patients "pass", but not others; essentially, there is a wide range of usefulness in this regard.

Given that numerous factors can affect NHS patients' overall quality of life, including their experience of gender dysphoria and their ability to "pass" in adult life, it is very difficult to accurately determine the specific effect of puberty blockers in this context. Reflecting this, the Cass Review reports that, 'the University of York concluded that there is insufficient and/or inconsistent evidence about the effects of puberty suppression on psychological or psychosocial health. (Cass 2024, pp. 176 - 177) It seems, therefore, that it cannot be conclusively stated that puberty blockers will improve the general quality of life of the NHS patients they are prescribed to.

Regardless of the treatment aim of puberty blockers, their use is accompanied by known risks. The Cass Review reports that, 'blocking the release of … sex hormones could have a range of unintended and as yet unidentified consequences.' (Cass 2024, p. 178) One known risk of puberty blockers is that they could alter the normal trajectory of the development of patients' sexual and gender identity. The Cass Review explains:

> Adolescence is a time of overall identity development, sexual development, sexual fluidity and experimentation [and] blocking this experience means that young people have to understand their identity and sexuality based only on their discomfort about puberty and a sense of their gender identity developed at an early stage of the pubertal process. Therefore, there is no way of knowing whether the normal trajectory of the sexual and gender identity may be permanently altered. (Cass 2024, p. 178)

This means it is feasible that the gender-identity of some NHS patients might have developed such that it became completely congruent with their natal sex, and it was the very act of them utilising puberty blockers which stopped this from occurring.

Another risk of using puberty blockers relates to their impact on neurocognitive development, namely that, 'brain maturation may be temporarily or permanently disrupted [by their use], which could have a significant impact on the young person's ability to make complex risk-laden decisions, as well as having possible longerterm [sic] neuropsychological consequences.' (Cass 2024, p.178) Although the Review (2024, p.178) found that there was very limited research on the short, medium or long term effects of puberty blockers on neurocognitive development, there was evidence that adolescents who took them for more than a year had worse executive functioning than those who did not take them.

A third known risk of using puberty blockers is that they might detrimentally affect the success of gender-affirming surgery (if this is something the patient chooses to undergo). The Cass Review reports:

> If puberty suppression is started too early in birth-registered males it can make subsequent vaginoplasty (creation of a vagina and vulva) more difficult due to inadequate penile growth. In some transgender females this has necessitated the use of gut in place of penile tissue, which has a higher risk of surgical complications. (Cass 2024, p.178)

The fourth known risk of using puberty blockers relates to the effect it has on bone density. 'Multiple studies … found that bone density is compromised during puberty suppression, and height gain may lag behind that seen in other adolescents.' (Cass 2024, p.178)

The Cass Review makes it very clear that while there are multiple potential treatment aims of prescribing puberty blockers to patients, there is no definitive, or even particularly strong, evidence that any of these aims are likely to be achieved. The Review makes it equally clear that prescribing puberty blockers to patients carries risks which may completely counteract the treatment aims of prescribing them. If, for example, puberty blockers reduce penis growth in a transgender woman, making the vaginoplasty she eventually wishes to undergo more difficult, this could result in a decline in her general quality of life, especially if there are surgical complications; beyond the physical trauma, the experience could cause significant psychological distress. If the difficulties in completing the vaginoplasty resulted in a less aesthetically accurate and pleasing vagina, puberty blockers could also be the root cause of her being less capable of "passing" as the sex which is congruent with her gender identity (at least while she is naked) and increase her gender dysphoria.

If puberty blockers were fully reversible, as many guidelines suggest, then the risks associated with their use would not be of major concern for patients. Strangely, the Cass Review does not explicitly investigate the extent to which puberty blockers are reversible however, pertinent information can be inferred from the evidence that it does provide. As referenced above, the Cass Review states that puberty blockers could possibly have a permanent effect on the normal trajectory of the development of sexual and gender identity. If this is the case, then it is apparent that this may be one irreversible effect of using puberty blockers; regardless of whether the sexual and gender identity of a patient prescribed puberty blockers was considered healthy, or even normal, after a period of using puberty blockers, the trajectory of their sexual and gender identity development would have been affected, and how it may have developed without the use of puberty blockers would be unknown. In addition, the Cass Review (2024 p.178) makes it plain that there is too little research on the long-term effects of using puberty blockers to determine whether the detrimental effects they may have on neurocognitive development and bone density are reversible. Aside from these potential irreversible effects of using puberty blockers, it is undeniably the case that one irreversible effect of using puberty blockers relates to (lost) time. The Cass Review (2024 p.179) explains that, despite them never being intended for prolonged use, some patients remain on puberty blockers into adulthood, perhaps because they wish to be non-binary or are hesitant about progressing onto gender-affirming hormone treatment. It seems self-evident that if an adolescent service-user were to use puberty blockers for a prolonged period of time, then desist, allowing themselves to develop how they would have had they not taken puberty blockers, this could have multiple irreversible consequences. The patient in question would be a number of years of physical and (possibly) neurocognitive development behind their peers, during a period of life - adolescence - when the absence of such development would likely be obvious. Even if the patient developed normally after they ceased using puberty blockers, they

would never regain the opportunity to develop alongside their peers at the typical age, nor would they be able to form the relationships with their peers that might have developed if they had matured together. This lag in development and the resulting social isolation could lead to further irreversible consequences, namely psychological damage, as the individual grapples with feeling out of sync with their peers and missing out on key developmental experiences.

Even for an NHS patient who is the ideal candidate for puberty blockers—an adolescent natal male whose voice has not yet dropped, who hasn't developed facial hair, and who was confirmed early in GIDS' history (after holistic care) to be experiencing gender-related distress—there are significant risks associated with using them, and no clear, evidenced benefit beyond preventing some of the irreversible changes associated with natal male pubertal development. For patients misdiagnosed with gender-related issues and subsequently prescribed puberty blockers, the consequences could be nothing short of horrific. Even if they avoid all of the associated risks, which is by no means guaranteed, the damage which could be caused by not developing alongside their peers is immeasurable.[70]

If patients progress on the medical pathway beyond the use of puberty blockers, the next step is gender-affirming hormone therapy. The Cass Review records that, 'treatment with masculinising/feminising hormones is not without long-term problems and side effects, but for those who have undergone a successful transition, the physical costs are dramatically outweighed by the long-term benefits.' (2024 p.182) Assuming the treatment is appropriate, the major long-term benefit of gender-affirming therapy is that the patient will experience the effects of puberty for their desired gender. For example, transgender women will experience breast development and reduced body hair, while transgender men will experience voice-deepening and increased muscle mass. In relation to the long-term problems and possible side-effects of masculinising/feminising hormones, the Cass Review states, 'inconsistent results were found for height/growth, bone health and cardiometabolic health. Evidence relating to gender dysphoria, body satisfaction, psychosocial and cognitive outcomes was insufficient to draw clear conclusions. No study assessed fertility in birth-registered females. (2024 p.184)

Though the Cass Review references inconsistent results and inconclusive evidence regarding the side-effects of gender-affirming hormone therapy, it goes into little further detail regarding what the

[70] It is due to acknowledgement of this that on 29th May 2004, the Conservative Government, 'introduced regulations to restrict the prescribing and supply of puberty-suppressing hormones, known as 'puberty blockers', to children and young people under 18 in England, Wales and Scotland [with the intention] the emergency ban would last from 3 June to 3 September 2024. (Department of Health and Social Care, 2024) The current Labour Government has stated that they are, 'minded to renew the emergency banning order with a view to converting it to a permanent ban, subject to appropriate consultation.' (Glass, 2024)

possible side-effects actually are. The NHS webpage on gender dysphoria treatment states the following about hormone therapy, however:

> The most common risks or side effects include:
>
> - blood clots
> - gallstones
> - weight gain
> - acne
> - dyslipidaemia (abnormal levels of fat in the blood)
> - elevated liver enzymes
> - polycythaemia (high concentration of red blood cells)
> - hair loss or balding (androgenic alopecia) …
>
> Long-term cross-sex hormone treatment may also lead, eventually, to infertility, even if treatment is stopped. (NHS, 2020a)

This list of side-effects makes it clear that gender-affirming hormone therapy may have negative consequences even for those NHS patients who were correctly diagnosed and are appropriate candidates for such medical treatment. For those patients who are incorrectly diagnosed, in addition to all the possible negative side-effects they may experience, the acceptance of (their) gender identity claims will have led to a situation where they have inappropriate secondary sex characteristics. It is unclear how psychologically damaging it would be for an individual to undergo unnecessary hormone therapy; however, it can be assumed that the impact could be significant. It is also fair to assume that attempting to undo the changes brought about by gender-affirming hormone therapy could be both physically and mentally traumatic for a patient.

The final major step on the medical pathway for NHS patients with gender-related issues is gender-affirming surgery. For transgender men, possible surgeries include mastectomies (removal of breast tissue), phalloplasties/metoidioplasties (creation of a penis), and scrotoplasties (creation of a scrotum). For transgender women, surgeries include breast implants, penectomies (removal of the penis), orchiectomies (removal of the testicles), and vaginoplasties (construction of a vagina). The NHS website provides detailed lists of possible side effects and potential complications for each of these surgeries. While these lists are too extensive to review here, it is sufficient to say that even when surgery is appropriate, patients may face life-changing difficulties that could detrimentally affect their

physical and mental well-being for the rest of their lives[71]. For those who were misdiagnosed, the risks are even greater. In addition to the surgical risks, they may experience severe psychological trauma from unnecessary surgical alterations and subsequent regret. If they attempt to reverse the effects of the surgery, they face the risks of additional surgeries and the physical trauma involved in recovery.

The consequences for NHS patients of the NHS (increasingly) accepting gender identity claims include a lack of holistic care and a higher risk of misdiagnosis. This misdiagnosis can result in patients being placed on medical pathways that are entirely inappropriate for them. As has been demonstrated, even when the pathway is appropriate, there are significant risks and no guarantee that the intended outcomes will be achieved. For those misdiagnosed, the experience can cause severe psychological trauma, and the medical pathway can lead to physical and psychological distress that can be fairly described as horrific. While some patients might claim that the NHS's acceptance of gender identity claims has vastly improved their quality of life, others have experienced immeasurable harm. Given the potential for such extreme positive and negative impacts, one would expect thorough investigation before NHS patients are diagnosed with gender identity-related issues. The Cass Review reveals that as time progressed, the inadequacy of such investigations increased. This indicates that many NHS patients, whether appropriately or inappropriately diagnosed, were mistreated. As it can take several years to fully investigate patient outcomes, it also indicates that the full extent of the consequences of the NHS accepting gender identity claims which are experienced by patients may not be known for some time.

6.3.2 - NHS; The Institution

As with NHS patients, the NHS as a whole faces multiple consequences due to its (increasingly ready) acceptance of gender identity claims. Two particularly important and interlinked consequences that will be examined here are the NHS's deviation from its commitment to evidence-based practice and the damage caused to both its reputation and public trust.

NHS documentation is replete with the stated commitment to evidence-based practice, and nowhere is this clearer than in the NHS' *Long Term Plan,* which reads, 'compared with many other countries, our health service is already well designed. ... An NHS … with a strong scientific tradition of evidence-based decisions about care – [this is an] organising principle which [has] stood the test of time.' (NHS, 2019) In order to explain why evidence-based practice is so important to the NHS, 'Sir Muir Gray,

[71] In addition to the risks associated with each specific surgery, it should be noted that there are also risks associated with undergoing general anaesthesia, which many gender-affirming surgeries require. According to the NHS (2021) one of the rare risks associated with general anaesthesia is death.

[former] Chief Knowledge Officer of the NHS, coined the phrase, “knowledge is the enemy of disease”, meaning the more we know about a condition, the more we can overcome it.’ (Brún 2013, p.3) The NHS’ commitment to evidence-based practice is, as one might expect, disseminated to its many employees. In a guide for executive nurses, Chief Nursing Officer for England, Ruth May writes:

> I am a strong advocate for environments which embrace evidence-based practice, leadership at all levels and establishing mechanisms to support staff as innovators within their own areas of practice. Accelerating the use of research and evidence into practice helps us continually strive to prevent and tackle health inequalities and improve the care experience for the patients, individuals and populations we care for and work alongside. (NHS 2020, p.3)

Given the intricacies and nuance of the medical and non-medical issues related to gender-related distress and the complex nature of the gender-reassignment medical pathway, one would expect the NHS's commitment to evidence-based practice to be at the forefront of its approach. The intricate interplay of psychological, physiological, and social factors in gender-identity related care would clearly necessitate a rigorous adherence to evidence-based guidelines in order to ensure the health, safety and overall well-being of patients. Such a commitment would be crucial not only for the optimal outcomes of the medical interventions themselves but also for maintaining the trust and confidence of both patients and the broader public in the NHS's ability to deliver high-quality, scientifically grounded healthcare.

The Cass Review clearly demonstrates that the NHS failed to adhere to its commitment to evidence-based practice in the provision of gender-identity related services. While this is made apparent throughout the Review, it is particularly evident in the *Summary and Recommendations* section, which states:

> When the Review started, the evidence base, particularly in relation to the use of puberty blockers and masculinising/feminising hormones, had already been shown to be weak. There was, and remains, a lot of misinformation easily accessible online, with opposing sides of the debate pointing to research to justify a position, regardless of the quality of the studies …
>
> The University of York’s programme of work has shown that there continues to be a lack of high-quality evidence in this area and disappointingly, as will become clear in this report, attempts to improve the evidence base have been thwarted by a lack of cooperation from the adult gender services. (Cass 2024, p.20)

It is of concern that medical intervention of any kind could be administered without a rigorous evidence-base supporting its use; however, it is perhaps more concerning that some service providers within the NHS adult gender services would hinder improvement to the existing evidence base. The Cass Review does not detail the reasons for the reluctance of service providers within the NHS adult gender services to improve the evidence-base however, it seems that it must be ultimately due to one, or some combination, of six possible reasons:

1. Insufficient time and/or resources to be able to assist with the improvement of the evidence-base.
2. Satisfaction with/commitment to the medical practice as it stood.
3. The perception that there was insufficient value in improving the quality of the evidence-base.
4. Concerns about the ethical implications or potential patient outcomes of participating in further research.
5. Institutional or systemic barriers that impeded the collection or dissemination of new evidence.
6. Resistance to change due to professional inertia or fear of professional consequences if current practices were challenged.

Given the possible implications of improper medical treatment and the NHS's stated commitment to evidence-based practice, none of these reasons, nor any possible combination of them, is sufficient justification for a willingness to act on poor-quality evidence or hesitance to improve it:

While it is well known that the resources of the NHS are often stretched, particularly in the case of GIDS from 2014, adequate allocation of time and resources is essential to ensure that medical practices are safe and effective. This is precisely what was hoped to be achieved by improving the evidence base. Failing to prioritise improvement to the evidence-base due to resource constraints compromises patient care and undermines the integrity of medical practice. Moreover, inappropriate medical interventions could ultimately cost the NHS more time and resources[72] than it would take to improve the evidence base and ensure that medical interventions are appropriate.

It is unclear why any medical professional would ever have a commitment to a medical practice when there is the clear possibility such practice could be improved upon, nor why they would be satisfied with a medical practice if there was obvious potential for improvement. Regardless, satisfaction with current practices should not prevent the pursuit of better practice, which can only be achieved with

[72] Due to the time and cost involved in rectifying the effects of inappropriate medical interventions, in addition to the time and cost associated with any potential lawsuits brought against the NHS for administering inappropriate medical interventions.

better quality evidence. Continuous improvement is a hallmark of quality healthcare, and complacency can lead to outdated or suboptimal treatments being used.

Given the NHS' commitment to evidence-based practice, and how significantly NHS practice has improved since its inception, in no small part, due to this commitment, the value in improving the evidence-base could not be more apparent. The perception that there is insufficient value in improving the evidence-base of any medical intervention is not only misguided; it directly contradicts core tenets of the NHS. In all fields, though particularly in medicine, due to its profound effects on people's lives and wellbeing, high quality evidence is a necessity for informed decision making; within the field of medicine, it is the only way to ensure patients receive the highest quality care.

Concerns about the ethical implications or potential patient outcomes of participating in further research are a particularly peculiar reason for NHS service providers to be reluctant to improve the evidence base. This is because ethical concerns and patient outcomes are precisely why a robust evidence base is needed. Research must be conducted ethically, but avoiding it altogether can result in the continued use of unproven or harmful interventions, which is clearly unethical.

In an institution committed to evidence-based practice to best support patients, it would be hoped that there would be no institutional or systemic barriers impeding the collection or dissemination of new evidence. It seems, in fact, that such an institution should be the last place where such barriers exist. Institutional and/or systemic barriers can take many forms; however, regardless of their nature, they must be addressed in order to facilitate the collection and dissemination of new evidence. Accepting these barriers without challenging them perpetuates a cycle of inadequate evidence and substandard care, which is contrary to the tenets of the NHS.

Arguably all health care professionals, but particularly those employed by the NHS, have a duty to advance their practice based on the best available evidence. Reluctance to do so due to professional inertia should be deemed a signifier that the relevant individual is not suitable for employment within an institution that acknowledges knowledge and understanding are the enemies of disease and illness. If an individual is unwilling to advance their practice, or contribute to evidence-gathering so that practice might be advanced in the future, their work ethic directly contradicts the stated ethos of the NHS as a whole. Fear of professional consequences is even more problematic than professional inertia as it suggests that service-providers with managerial responsibilities may be reluctant to advance practice (for any of the six reasons stated above) and willing to punish those they manage who are not similarly reluctant. Regardless of the reasons for it, resistance to change can lead to the continued use of outdated and/or harmful diagnoses and treatments, and there are a plethora of examples

demonstrating that this is the case, including the development of what is now called gender incongruence (see section 2.2).[73]

Lacking sufficient ethical justification, the NHS' reliance on poor evidence contradicts its core principles, damaging its reputation and public trust. All NHS patients rely on the NHS to help them with recovery. For this recovery to be as effective as possible, they rely on the NHS to provide them with the best possible healthcare; therefore, whether they are consciously aware of it or not, they rely on the NHS to always uphold its commitment to evidence-based practice, continuously researching and gathering data on the efficacy of different medical interventions. While all patients face the risk that more effective treatments might be developed after they have received care, it is crucial for them to trust that they are receiving the best treatment available (to the general public) at the time. Discovering that their treatment was based on poor-quality evidence can lead to a loss of confidence in the (long-term) efficacy of the intervention, and a loss of trust in both the service providers and the institution they represent. That some patients lack trust in the medical pathway for gender-related distress is reflected in the Cass Review, which states:

> The quality of the evidence base for interventions for gender incongruence and gender dysphoria is a source of debate and contention. This makes it very difficult for young people and their families to know what information to trust and what to expect from the treatments offered. (Cass 2024, p.47)

When patients lose confidence in a healthcare system, they are less likely to seek timely medical advice, adhere to prescribed treatments, or participate in preventive health measures. This can result in worsened health outcomes and increased strain on NHS resources. Moreover, public scrutiny and political pressures can lead to hasty policy changes that may not be grounded in solid evidence, perpetuating a cycle of suboptimal care.

6.4 - Chapter Conclusion

Chapter 6 has demonstrated the extensive societal consequences of accepting gender identity claims across competitive sports, the criminal justice system, and the National Health Service. In Section 6.1,

[73] Another example, not related to gender identity, could be the use of lobotomy: In the UK, between the early 1940s and the late 1970s, 'more than 20,000 lobotomies were performed, ... typically … on patients with schizophrenia, severe depression or Obsessive Compulsive Disorder (OCD) - but also, in some cases, on people with learning difficulties or problems controlling aggression. (Prentice, 2020) 'Only the development of Thorazine as an effective, less invasive anti-psychotic brought the widespread practice of lobotomy to an end.' (Garnett 2019, p.7)

it has been shown that categorising athletes by gender identity rather than natal sex undermines fair competition and women's opportunities, with physiological differences necessitating separate categories to ensure equity. This point is illustrated through historical cases, such as the Williams sisters competing against lower-ranked male tennis players, highlighting the competitive imbalance. Section 6.2 has highlighted significant safety and ethical concerns within the criminal justice system when inmates are housed based on gender identity rather than natal sex, leading to increased incidents of sexual violence in women's prisons. Lastly, Section 6.3 has revealed the NHS's shift from a holistic, evidence-based approach to a more medicalised pathway in gender-related services, as criticised by the Cass Review. This shift has resulted in a surge of referrals and the use of puberty blockers without sufficient long-term data, potentially endangering patient safety. The chapter has effectively demonstrated that while accepting gender identity claims aims to promote egalitarian values, it often results in unforeseen consequences that compromise fairness, safety, and the quality of care in these essential societal sectors, thereby violating the very egalitarian principles it seeks to uphold.

Chapter 7 - Conclusions

This investigation into understandings of gender identity claims and their implications for egalitarian principles reveals a complex interplay of philosophical, scientific, and societal tensions.

Chapter 2 systematically investigated the historical and conceptual development of transgenderism, scrutinising the evolution of medical classifications and societal understandings. The chapter delved into the experience and conceptualisation of gender identity, examining how medical institutions historically framed transgenderism, contrasting earlier notions of it as a mental disorder with contemporary views that consider it a condition related to sexual health. By adopting Ian Hacking's framework of historical ontology, the chapter traced the categorisation of transgender individuals over time, demonstrating how these classifications have evolved alongside changes in societal and medical perspectives. Through this lens, the chapter explored parallels between transgenderism and another historically pathologised condition, multiple personality disorder (now called Dissociative Identity Disorder), revealing how social, institutional, and knowledge-based factors contribute to the "making up" of transgender people. The chapter further critiqued the diagnostic criteria and definitions provided by authoritative texts like the DSM and ICD, highlighting their implications for understanding gender dysphoria and gender incongruence. It examined debates surrounding the realness of gender dysphoria, questioning whether it is a genuine disorder and/or a product of specific social circumstances. By analysing the interventions used to treat gender dysphoria, the chapter assessed the viability of different gender identity paradigms, noting that the effectiveness of these interventions provides limited insight into the underlying causes of the condition. Finally, the chapter addressed the subjective experiences of those with gender dysphoria, discussing the persistent discomfort and incongruence felt by individuals whose gender identity does not align with their natal sex. It emphasised the difficulty in comprehending these experiences due to the lack of shared linguistic and experiential frameworks. Ultimately, the chapter demonstrated that while significant progress has been made in understanding and treating transgenderism, profound complexities and ambiguities remain in how gender identity and related conditions are conceptualised, diagnosed, and experienced, calling for a nuanced and critically informed approach to these issues.

Chapter 3 critically explored paradigms of gender identity, focusing on both inherent and social expectation paradigms and evaluating their coherence and their compatibility with egalitarian principles. Through the examination of scholars such as Julia Serano and Sophie Grace Chappell, the inherent gender identity paradigm (IGIP) was scrutinised for its reliance on the notion of a subconscious or biologically hardwired sense of gender, which faced significant theoretical and

empirical challenges. The analysis revealed that while IGIP might potentially offer a coherent framework for some individuals, it struggles to provide a universally meaningful and plausible explanation of gender identity, and is unable to withstand scrutiny when held to the same evidentiary standards as other biological claims. The lack of robust scientific evidence supporting the existence of an inherent gender identity, distinct from psychological and social factors, casts doubt on its validity as a biological phenomenon.

In contrast, the social expectation gender identity paradigm (SEGIP) provided a more accessible framework by linking gender identity to societal roles and expectations. Philosophers Charlotte Witt and Sally Haslanger's accounts, which define womanhood based on social roles and subordination, while not themselves presented as analyses of gender identity as such, offered insights into how gender identity might be shaped by external perceptions and societal norms. However, these accounts faced inclusion issues, particularly regarding individuals who do not neatly fit into socially recognised categories of gender. Katherine Jenkins' psychology-based approach attempted to bridge these gaps by proposing that gender identity is formed through internalised social norms, creating a 'map' to navigate gendered experiences. Despite its potential, Jenkins' approach highlighted significant ambiguities about the formation and function of these internal maps, raising questions about the rationality of gender identities formed under such frameworks. Ultimately, while SEGIP can provide a meaningful account of gender identity, it is fundamentally rooted in and perpetuates sexist attitudes, making it incompatible with egalitarian values. Overall, Chapter 3 demonstrated that both paradigms of gender identity have substantial limitations and complexities, challenging the possibility of achieving a coherent, universally applicable, and egalitarian concept of gender identity.

Chapter 4 demonstrated the development and impact of the transgender movement, highlighting key "accidents," essentials, and institutional changes that have shaped its trajectory. The chapter began by discussing the broader societal fascination with non-normative identities and the commitment to rectifying past injustices, which has created a receptive environment for transgender activism. It then explored significant figures such as Caitlyn Jenner and Laurel Hubbard, whose visibility and media coverage have shifted public perceptions and influenced policies regarding transgender inclusion. The chapter further examined the institutional evolution from early sexology to contemporary organisations like GIDS and Mermaids in Britain, illustrating how the focus has shifted from a medical to a predominantly social approach. This shift has been accompanied by contentious debates and the marginalisation of dissenting voices, particularly those critical of the coherence of contemporary concepts of gender identity. Ultimately, the chapter demonstrated that while the transgender movement has made significant strides in promoting visibility and rights, it has also generated

considerable opposition and controversy, particularly concerning the balance between ideological advocacy and empirical evidence in shaping societal attitudes, public policy and institutional practices.

Chapter 5 systematically examined the ethical complexities and societal implications of privileged identity claims, focusing initially on the contentious issues surrounding transracial and transgender identities and later extending the discussion to transableism. Through a critical analysis of the arguments presented by scholars such as Botts, Tuvel, and Sealey, the chapter demonstrated that the opposition to transracial identities often mirrors the arguments used against transgender identities, exposing inconsistencies and unfounded objections in the logic employed by critics. The chapter further argued for logical and ethical consistency in accepting identity claims by positing that if society is to accept transgender identities based on the discomfort and incongruity individuals feel with their natal sex, then it should also extend this acceptance to transracial identities and, by extension, to transable identities. By examining the experiences of individuals with Body Integrity Dysphoria and addressing the potential ethical and practical concerns, the chapter contended that dismissing transableism and/or transracialism while accepting transgenderism constitutes a double standard. Therefore, the chapter underscored the need for a consistent and equitable approach to all identity claims, grounded in sound reasoning and empirical evidence.

Chapter 6 demonstrated the extensive societal consequences of accepting gender identity claims across competitive sports, the criminal justice system, and the National Health Service. In Section 6.1, it was shown that categorising athletes by gender identity rather than natal sex undermines fair competition and women's opportunities, with physiological differences necessitating separate categories to ensure equity. This point was illustrated through historical cases such as the Williams sisters competing against lower-ranked male tennis players, highlighting the competitive imbalance. Section 6.2 highlighted significant safety and ethical concerns within the criminal justice system when inmates are housed based on gender identity rather than natal sex, leading to increased incidents of sexual violence in women's prisons. Lastly, Section 6.3 revealed the NHS's shift from a holistic, evidence-based approach to a more medicalised pathway in gender-related services, as criticised by the Cass Review. This shift has resulted in a surge of referrals and the use of puberty blockers without sufficient long-term data, potentially endangering patient safety. The chapter effectively demonstrated that while accepting gender identity claims aims to promote egalitarian values, it often results in unforeseen consequences that compromise fairness, safety, and the quality of care in these essential societal sectors, thereby violating the very egalitarian principles it seeks to uphold.

In light of these considerations, I conclude that there is need for a reassessment of current approaches to gender identity, emphasising the necessity of an evidence-based, nuanced perspective that

acknowledges the complexity of human experience without sacrificing scientific rigour or social justice. Respecting individual autonomy and expression must be balanced with recognising potential harms arising from uncritically accepting gender identity claims. A balanced approach would involve acknowledging the diversity of human experiences while ensuring that policies and practices are grounded in sound scientific evidence, and uphold fairness and equality. This includes fostering open dialogue and debate, allowing different viewpoints to be critically examined without fear of reprisal. Logical and ethical consistency in accepting all identity claims is paramount, avoiding prioritisation based on emotive arguments which lack substantiation.

This thesis underscores the importance of intellectual honesty, critical thinking, and open dialogue in navigating the complex terrain of gender identity. If we are to be consistent in the level of evidence required to justify biological claims, the inherent gender identity paradigm should not be accepted. While the social expectation gender identity paradigm may potentially align with human nature, it conflicts with the egalitarian values we should advocate, particularly when gender identity is prioritised over sex. Both paradigms foster an ideology that suppresses discourse by labelling rational questions as hateful, even when similar identity claims are discussed without such stigma. Ultimately, no concept of gender identity which partakes in either of the examined paradigms is both coherent and compatible with the egalitarian principles we should, and also claim to, advocate. Given the lack of alternative paradigms, the possibility that the very concept of gender identity is inherently divisive and contradictory to our professed egalitarian values must be seriously considered. However, by prioritising evidence-based reasoning and upholding egalitarian principles, we can strive towards a more just and equitable society for all, regardless of sex, gender, and any other identity claim individuals might make.

Bibliography

Adams, M. and Ferguson, S. (2022). 68 Terms That Describe Gender Identity and Expression. [Online]. Healthline. Available at: https://www.healthline.com/health/different-genders [Accessed 17 April 2024].

Allarakha, S. (2022). What Are the 72 Other Genders? [Online]. MedicineNet. Available at: https://www.medicinenet.com/what_are_the_72_other_genders/article.htm [Accessed 25 April 2023].

American Psychiatric Association. (1952). Diagnostic and Statistical Manual: Mental Disorders (DSM-I).

American Psychiatric Association. (1968). Diagnostic and Statistical Manual of Mental Disorders Second Edition (DSM-II).

American Psychiatric Association. (1973). Homosexuality and Sexual Orientation Disturbance: Proposed Change in DSM-II, 6th Printing, page 44 POSITION STATEMENT (RETIRED).

American Psychiatric Association. (1980). Diagnostic and Statistical Manual of Mental Disorders Third Edition (DSM-III).

American Psychiatric Association. (1987). Diagnostic and Statistical Manual of Mental Disorders Third Edition Revised (DSM-III-R).

American Psychiatric Association. (1994). Diagnostic and Statistical Manual of Mental Disorders Fourth Edition (DSM-VI).

American Psychiatric Association. (2000). Diagnostic and Statistical Manual of Mental Disorders Fourth Edition Text Revision (DSM-VI-TR). [Online]. Available at: www.psych.org. [Accessed 24 April 2024]

American Psychiatric Association. (2013). Diagnostic and statistical manual of mental disorders Fifth Edition (DSM-5). American Psychiatric Association.

American Psychological Association. (2005). Men and Women: No Big Difference Learning Gender-Difference Myths. [Online]. American Psychological Association. Available at: www.apa.org/topics/personality/men-women-difference [Accessed 24 April 2024].

Arfini, E. A. G. (2014). Transability. Transgender Studies Quarterly, 1 (1–2), pp.228–230.

Arneson, Richard, "Egalitarianism", The Stanford Encyclopedia of Philosophy (Summer 2013 Edition), Edward N. Zalta (ed.), Available at: https://plato.stanford.edu/archives/sum2013/entries/egalitarianism/>. [Accessed 7 February 2025].

Ashley, F. (2023). What Is It like to Have a Gender Identity? Mind, 132 (528), pp.1053–1073.

Atkinson, C. J. (2018) Trans masculine people are being excluded from the conversation. [Online] The Economist. Available at: https://www.economist.com/open-future/2018/07/17/trans-masculine-people-are-being-excluded-from-the-conversation [Accessed 13 February 2025]

Austin, A., Papciak, R. and Lovins, L. (2022a). Gender Euphoria: A Grounded Theory Exploration of Experiencing Gender Affirmation. Psychology and Sexuality, 13 (10).

Austin, A., Papciak, R. and Lovins, L. (2022b). Gender euphoria: a grounded theory exploration of experiencing gender affirmation. Psychology and Sexuality, 13 (5), pp.1406–1426.

Bahrampour, T. (2018). They considered themselves white, but DNA tests told a more complex story. [Online]. The Washington Post. Available at: https://www.washingtonpost.com/local/social-issues/they-considered-themselves-white-but-dna-tests-told-a-more-complex-story/2018/02/06/16215d1a-e181-11e7-8679-a9728984779c_story.html [Accessed 25 April 2023].

Barack Obama. (2015). It takes courage to share your story. [Online]. X. Available at: https://x.com/BarackObama/status/605487361011544065 [Accessed 14 June 2024].

Baril, A. and Leblanc, C. (2015). Needing to Acquire a Physical Impairment/Disability: (Re)Thinking the Connections between Trans and Disability Studies through Transability. Hypatia, 30 (1), pp.30–48.

Barker, M.-J. (2019). Gender, Sexual, and Relationship Diversity (GSRD). [Online]. Available at: https://www.bacp.co.uk/media/5877/bacp-gender-sexual-relationship-diversity-gpacp001-april19.pdfwww.bacp.co.uk.[Accessed 10 February 2025]

Barnes, H. (2023). Time To Think. Swift Press.

BBC. (2017). Transgender Kids: Who Knows Best?

Beard, J. (2018). Transgender Prisoners. [Online]. Available at: https://commonslibrary.parliament.uk/research-briefings/cbp-7420/ [Accessed 10 February 2025].

de Beauvoir, S. (1949). The Second Sex. Tingle Books.

Bettcher, Talia Mae, 'Trans Identities and First-Person Authority', in Laurie J Shrage (ed.), “You’ve Changed”: Sex Reassignment and Personal Identity (New York, NY, 2009; online edn, Oxford Academic) [Online] Availabe at: https://doi.org/10.1093/oso/9780195385717.003.0007 [Accessed 12 February 2025].

Bianchi, A. (2017). Transgender women in sport. Journal of the Philosophy of Sport, 44 (2), pp.229–242.

Biggs, M. (2022). Queer Theory and the Transition from Sex to Gender in English Prisons. Journal of Controversial Ideas, 2 (1)

Bissinger, B. (2015). Caitlyn Jenner: The Full Story. [Online]. Vanity Fair. Available at: https://www.vanityfair.com/hollywood/2015/06/caitlyn-jenner-bruce-cover-annie-leibovitz [Accessed 14 June 2024].

Blom, R. M., Hennekam, R. C. and Denys, D. (2012). Body integrity identity disorder. PLoS ONE, 7 (4).

Blumberg, N. (2022). Lili Elbe. [Online]. Britannica. Available at: https://www.britannica.com/biography/Lili-Elbe [Accessed 28 July 2023].

Bonham Jr., V. L. (2024). Scientific Racism. [Online]. National Human Genome Research Institute. Available at: https://www.genome.gov/genetics-glossary/Scientific-Racism [Accessed 5 May 2024].

Botts, T. F. (2018). Race and method: The Tuvel affair. Philosophy Today, 62 (1), Philosophy Documentation Center., pp.51–72.

Bright, K. L. (2020). Law in Motion: 50 Years of Legal Change. Milton Keynes: The Open University Law School. [Online] Available at: https://www.open.ac.uk/blogs/50YearsOfLaw/?p=210#:~:text=This%20book%20is%20a%20celebration,The%20Open%20University%20Law%20School. [Accessed 10 February 2025]

Brione, P. (2022). Employment Tribunal rulings on gender-critical beliefs in the workplace. UK Parliament - House of Commons Library.

Brockes, E. (2017). Caitlyn Jenner on transitioning: 'It was hard giving old Bruce up. He still lives inside me'. [Online]. The Guardian. Available at: https://www.theguardian.com/tv-and-radio/2017/may/08/caitlyn-jenner-bruce-transitioning-kardashians-reality-tv-star [Accessed 14 June 2024].

Brún Caroline. (2013). Finding the Evidence A key step in the information production process. [Online] Available at: https://www.england.nhs.uk/tis/wp-content/uploads/sites/17/2014/09/tis-guide-finding-the-evidence-07nov.pdf [Accessed 10 February 2025]

Cass, H. (2024). The Cass Review.

Chappell, S. G. (2022). Does consciousness have a gender? [Online]. iai news. Available at: https://iai.tv/articles/does-consciousness-have-a-gender-auid-2033 [Accessed 30 March 2022].

Chappell, S. G. (2024) Commentary on Interrogating Incongruence: conceptual and normative problems with ICD-11's and DSM-5's diagnostic categories for transgender people, Australasian Philosophical Review, 7(3)'Interrogating incongruence'. *Australasian Philosophical Review*.

Chung, W. C. J., De Vries, G. J. and Swaab, D. F. (2002). Sexual Differentiation of the Bed Nucleus of the Stria Terminalis in Humans May Extend into Adulthood. The Journal of Neuroscience, 22 (3), pp.1027–1033.

Citizens Advice. (2023). Q2 - standing and sitting. [Online]. Citizens Advice. Available at: https://www.citizensadvice.org.uk/benefits/sick-or-disabled-people-and-carers/employment-and-support-allowance/help-with-your-esa-claim/fill-in-form-esa/2-standing-and-sitting/ [Accessed 25 April 2023].

Citizens Advice. (2023). Q14: moving around. [Online]. Citizens Advice. Available at: https://www.citizensadvice.org.uk/benefits/sick-or-disabled-people-and-carers/pip/help-with-your-claim/fill-in-form-pip/14-moving-around/ [Accessed 25 April 2023].

Clarke, J. A. (2022). Sex Assigned at Birth. *Columbia Law Review*, 122 (7), pp.1821–1898.

Crown Prosecution Service. (2022). Public Order Offences incorporating the Charging Standard. [Online] Available at: https://www.cps.gov.uk/legal-guidance/public-order-offences-incorporating-charging-standard [Accessed 10 February 2025]cps.gov.

Dembroff, R. and Dee, P. (2020). Why We Shouldn't Compare Transracial to Transgender Identity. [Online]. The Boston Review. Available at: https://www.bostonreview.net/articles/robin-dembroff-dee-payton-breaking-analogy-between-race-and-gender/ [Accessed 25 April 2023].

Department of Health and Social Care (2024). New Restrictions on Puberty Blockers. [Online] Gov.uk. Available at https://www.gov.uk/government/news/new-restrictions-on-puberty-blockers [Accessed 16/07/2024].

Devine, C. (2022). Female Sports Participation, Gender Identity and the British 2010 Equality Act. Sports, Ethics and Philosophy, 16 (4), pp.503–525.

Devor, A. (2020). Reed Erickson and the Erickson Foundation. [Online]. Online Academic Community. Available at: https://onlineacademiccommunity.uvic.ca/ahdevor/publications/erickson/ [Accessed 14 June 2024].

Dua, A. (2010). Apotemnophilia: ethical considerations of amputating a healthy limb. Ethics, 36, pp.75–78.

Ehrensaft, D. (2017). Gender nonconforming youth: current perspectives. Adolescent Health, Medicine and Therapeutics, Volume 8, pp.57–67.

Elbe, L. (2020). Man Into Woman. Bloomsbury Academic.

Elliott, D. et al. (2021). Simulating the 2020 Census Miscounts and the Fairness of Outcomes. [Online] Available at: https://www.urban.org/sites/default/files/publication/104961/simulating-the-2020-census.pdf [Accessed 10 February 2025]

English, J. (1978). Sex Equality in Sports. Philosophy and Public Affairs, 7 (3), pp.269–277.

Epstein, L. *How To Decide If You Should Convert to Judaism*. [Online]. myjewishlearning.com. Available at: https://www.myjewishlearning.com/article/considering-conversion/ [Accessed 18 June 2024].

European Institute of Gender Equality (2016) *gender stereotypes* [Online]. eige.europa.eu. Available at: https://eige.europa.eu/publications-resources/thesaurus/terms/1223?language_content_entity=en#:~:text=Stereotypes%20about%20women%20both%20result,back%20the%20advancement%20of%20women. [Accessed 25 April 2023].

Evans, L. (2022). *Our prison culture is more barbaric than it was in 1823: Elizabeth Fry 'The Angel of Prisons' reviewed*. [Online]. The Spectator. Available at: https://www.spectator.co.uk/article/our-prison-culture-is-more-barbaric-than-it-was-in-1823-elizabeth-fry-the-angel-of-prisons-reviewed/ [Accessed 18 June 2024].

Fair Play For Women. (2020). Transgender women exhibit a male type pattern of criminality [Online]. Fair Play For Women. Available at: fairplayforwomen.com/transgender-male-criminality-sex-offences/ [Accessed 12 April 2024].

Fausto-Sterling, A. (1992). Myths of Gender. BasicBooks.

Fausto-Sterling, A. (2020). Sexing the Body. New York: Basic Books.

Faye, S. (2021). The Trans-Gender Issue An Argument for Justice. Penguin Books.

Federal Bureau of Investigation. (2013). Table 42: Arrests by Sex. [Online]. Federal Bureau of Investigation. Available at: https://ucr.fbi.gov/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/42tabledatadecoverviewpdf/table_42_arrests_by_sex_2012.xls#:~:text=Arrests%2C%20by%20Sex%2C%202012,and%20nonnegligent%20manslaughter%20in%202012. [Accessed 25 April 2023].

Fighera, T. M. et al. (2019). Bone Mass Effects of Cross-Sex Hormone Therapy in Transgender People: Updated Systematic Review and Meta-Analysis. Journal of Endocrine Society, pp.3–5.

Fine, C. (2012). Delusions of Gender. Icon Books Ltd.

Fine, C. (2017). Testosterone Rex. Icon Books Ltd.

Freedman, R., Stock, K. and Sullivan, A. (2021). Evidence and Data on Trans Women's Offending Rates. [Online] Available at: https://committees.parliament.uk/writtenevidence/18973/pdf/#:~:text=MtF%20transitioners%20were%20over%206,general%20or%20for%20violent%20offending. [Accessed 10 February 2025]

Frias, F. J. L. and Torres, C. R. (2023). Embodied Experience, Embodied Advantage, and the Inclusion of Transgender Athletes in Competitive Sport: Expanded Framework, Criticisms, and Policy Recommendations. Sport, Ethics and Philosophy: 1-21.

Garnett, C. (2019). When Faces Made the Case for Lobotomy. National Institutes of Health, LXXI (22). [Online]. Available at: https://www.prevention. [Accessed 25 April 2023]

Gheaus, A. (2023). Feminism without "gender identity". Politics, Philosophy & Economics, Vol 22(1), pp.31-54.

Gilligan, A. (2019). Child sex-change charity Mermaids handed £500,000 by national lottery. [Online]. The Times. Available at: https://www.thetimes.com/uk/healthcare/article/child-sex-change-charity-handed-500-000-by-national-lottery-dvbt7t2kb [Accessed 14 June 2024].

GIRES. (2008). Guidance for GPs, other clinicians and health professionals on the care of gender variant people Transgender wellbeing and healthcare. [Online]. NHS. Available at: www.dh.gov.uk/publications [Accessed 25 April 2023].

Glass, J. (2024). *Labour Government may make puberty blocker ban permanent, High Court told*. [Online]. The Standard. Available at: https://www.standard.co.uk/news/politics/high-court-nhs-secretary-of-state-victoria-atkins-government-b1170434.html [Accessed 16 July 2024].

Gleaves, J. and Lehrbach, T. (2016). Beyond fairness: the ethics of inclusion for transgender and intersex athletes. Journal of the Philosophy of Sport, 43 (2), pp.311–326.

Gov.uk. (2022a). Health conditions, disability and Universal Credit. [Online]. Gov.uk. Available at: https://www.gov.uk/health-conditions-disability-universal-credit [Accessed 14 June 2024].

Gov.uk. (2022b). When a mental health condition becomes a disability. [Online]. Gov.uk. Available at: https://www.gov.uk/when-mental-health-condition-becomes-disability#:~:text=A%20mental%20health%20condition%20is,likely%20to%20last%2C%2012%20months. [Accessed 14 June 2024].

Hacking, I. (1995). Rewriting the Soul. Princeton, New Jersey: Princeton University Press.

Hacking, I. (2006). Making Up People. London Review of Books, 28 (16). [Online]. Available at: https://www.lrb.co.uk/the-paper/v28/n16/ian-hacking/making-up-people. [Accessed 25 April 2023].

Haslanger, S. (2000). Gender and Race: (What) Are They? (What) Do We Want Them To Be? Noûs, 34 (1), pp.31–55.

Hendl, T. and Britton, L. (Forthcoming2024). Interrogating oppressive gender structures: how to be accomplices to transgender people. *Australasian Philosophical Review, 7(3)Australasian Philosophical Review*.

Hilton, E. N. and Lundberg, T. R. (2021). Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage. Sports Medicine, 51 (2), pp.199–214.

Hom, S. L. (2018). (Dis)engaging with race theory: Feminist philosophy's debate on 'transracialism' as a case study. Philosophy Today, 62 (1), pp.31–50.

Home Office. (2023). News story Police will prioritise freedom of speech under new hate incident guidance. [Online]. Gov.uk. Available at: https://www.gov.uk/government/news/police-will-prioritise-freedom-of-speech-under-new-hate-incident-guidance [Accessed 14 June 2024].

Home Office. (2024). Police powers and procedures: Stop and search and arrests, England and Wales, year ending 31 March 2023 (second edition). [Online] Available at: https://www.gov.uk/government/statistics/stop-and-search-and-arrests-year-ending-march-2023/police-powers-and-procedures-stop-and-search-and-arrests-england-and-wales-year-ending-31-march-2023 [Accessed 10 February 2025]

Ingle, S. (2021). Weightlifter Laurel Hubbard will be first trans athlete to compete at Olympics. [Online]. The Guardian. Available at: https://www.theguardian.com/sport/2021/jun/21/olympics-tokyo-laurel-hubbard-trans-weightlifter-new-zealand [Accessed 14 June 2024].

International Olympic Committee. (2015). IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism November 2015 [Online] . Available at: https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf [Accessed 10 February 2025]

ITV Press Centre. (2021). ITV launches new on air campaign to highlight Invisible Disabilities . [Online]. Available at: https://www.itv.com/presscentre/media-releases/itv-launches-new-air-campaign-highlight-invisible-disabilities [Accessed 14 June 2024].

Jenkins, K. (2016). Amelioration and Inclusion: Gender Identity and the Concept of Woman*. Ethics, 126, pp.364–421.

Joyce, H. (2021). Trans. Oneworld Publications.

Justice Data. (2024). Justice Data. [Online]. Gov.uk. Available at: https://data.justice.gov.uk/ [Accessed 14 April 2024].

Kato, B. (2021). What is cancel culture? Everything to know about the toxic online trend. [Online]. New York Post. Available at: https://nypost.com/article/what-is-cancel-culture-breaking-down-the-toxic-online-trend/#:~:text=Cancel%20culture%20%E2%80%94%20the%20phenomenon%20of,Dr. [Accessed 20 May 2023].

Kaufman, S. B. (2019). Taking Sex Differences in Personality Seriously. [Online]. Scientific American. Available at: https://www.scientificamerican.com/blog/beautiful-minds/taking-sex-differences-in-personality-seriously/ [Accessed 24 April 2024].

Kleinman, S., Ezzell, M. B. and Frost, A. C. (2009). Reclaiming Critical Analysis: The Social Harms of "Bitch". Sociological Analysis, 3 (1), pp.47–68.

Lamble, S. (2012). Rethinking gendered prison policies: Impacts on transgender prisoners. The Howard League for Penal Reform, 16, pp.7–12.

Lawrence, A. A. (2006). Clinical and Theoretical Parallels Between Desire for Limb Amputation and Gender Identity Disorder. Archives of Sexual Behaviour, 35 (3), pp.263–278.

Lemkin Institute for Genocide Prevention (2022) Statement on the Genocidal Nature of the Gender Critical Movement's Ideology and Practice [Online] Lemkin Institute for Genocide Prevention Available at: https://www.lemkininstitute.com/statements-new-page/statement-on-the-genocidal-nature-of-the-gender-critical-movement%E2%80%99s-ideology-and-practice [Accessed 25 April 2023].

Lester, C. N. (2017). Trans Like Me. Virago.

Lindemann, H. (Forthcoming). (2024) Commentary on Interrogating Incongruence: conceptual and normative problems with ICD-11's and DSM-5's diagnostic categories for transgender people, Australasian Philosophical Review, 7(3)Commentary. *Australasian Philosophical Review*.

Lippa, R. A. (2010). Gender Differences in Personality and Interests: When, Where, and Why? Social and Personality Psychology Compass, 4 (11), pp.1098–1110.

London, O. (2021). BRITISH INFLUENCER 'I'M FINALLY KOREAN' ... Had 18 Surgeries to Look Like BTS Singer!!! [Online]. TMZ. Available at: https://www.tmz.com/2021/06/28/british-influencer-18-surgeries-bts-park-jimin-identifies-korean/ [Accessed 14 June 2024].

Love, A. (2017) The tenuous inclusion of transgender athletes in sport. Transgender Athletes in Competitive Sport. Routledge

Lupkin, S. (2013). Disorder Makes Patients Want to Be Disabled. [Online]. abc NEWS. Available at: https://abcnews.go.com/Health/body-identity-integrity-disorder-makes-patients-disabled/story?id=18423618 [Accessed 25 April 2023].

Martínková, I., Parry, J. and Imbrišević, M. (2023). Transgender Athletes and Principles of Sport Categorization: Why Genealogy and the Gendered Body Will Not Help. Sport, Ethics and Philosophy, 17 (1).

Mill, J. S. (1859/2001). On Liberty. Oxford University Press.

Mills, C. (1998). Blackness Visible: Essays on Philosophy and Race. Cornell University Press.

Ministry of Justice. (2021). HM Prison and Probation Service Offender Equalities Annual Report.

Ministry of Justice. (2023). HM Prison and Probation Service Offender Equalities Annual Report.

Ministry of Justice - HM Prison and Probation Service. (2019). The Care and Management of Individuals who are Transgender. Ministry of Justice.

Ministry of Justice - HM Prison and Probation Service. (2024). The Care and Management of Individuals who are Transgender. Ministry of Justice.

Missing Peace. (2016). Missing Peace. Available at: https://www.facebook.com/parawannabes/videos/the-missing-peace-biid-documentary/1838418792936931/ [Accessed 10/02/25]

Mock, J. (2014). Redefining Realness. Atria Books.

Morris, J. (2010). Conundrum. Faber and Faber Ltd.

Moyal-Sharrock, D. and Sandis, C. (2024). Real Gender. Polity Press

Murray, J. (2017). Jenni Murray: Be trans, be proud - but don't call yourself a "real woman". [Online]. The Times. Available at: https://www.thetimes.com/uk/society/article/be-trans-be-proud-but-dont-call-yourself-a-real-woman-frtld7q5c [Accessed 25 April 2023].

Nahrulla, T. (2015). Rachel Dolezal's Brother Says She Warned: 'Don't Blow My Cover'. [Online]. BuzzFeed News. Available at: https://www.buzzfeednews.com/article/tasneemnashrulla/rachel-dolezals-brother-says-she-warned-dont-blow-my-cover [Accessed 25 April 2023].

National Health Service Brighton and Sussex University Hospital. (2016). *Gender and Sexual Diversities*. [Online]. NHS Gender and Sexual Diversities Briefing. Available at: https://www.bsuh.nhs.uk/wp-content/uploads/sites/5/2016/09/Gender-and-Sexual-Diversities-Briefing.pdf [Accessed 18 June 2024].

National Health Service. (2019). The NHS Long Term Plan. [Online] Available at https://www.longtermplan.nhs.uk/wp-content/uploads/2019/08/nhs-long-term-plan-version-1.2.pdf [Accessed 10 February 2025]

National Health Service. (2020). Leading the acceleration of evidence into practice: a guide for executive nurses.

National Health Service. (2020a). Treatment - Gender dysphoria. [Online]. Available at: https://www.nhs.uk/conditions/gender-dysphoria/treatment/ [Accessed 14 June 2024].

National Health Service. (2021). General anaesthesia. [Online]. Available at: https://www.nhs.uk/conditions/general-anaesthesia/ [Accessed 14 June 2024].

National Health Service. Glossary. [Online]. Available at: https://www.healthcareers.nhs.uk/glossary [Accessed 14 June 2023].

Noah, T. (2022). Veronica Ivy - Trans Athlete Rights - Extended Interview. [Online]. Comedy Central. Available at: https://www.cc.com/video/c6demu/the-daily-show-with-trevor-noah-veronica-ivy-trans-athlete-rights-extended-interview [Accessed 14 June 2024].

O'Neill (2023) Why the trans movement is so intolerant [Online) Spiked. Available at: https://www.spiked-online.com/2023/04/17/why-the-trans-movement-is-so-intolerant/ [Accessed 16 June 2023].

Olezeski, C. L. et al. (2020). Assessing gender in young children: Constructs and considerations. Psychology of Sexual Orientation and Gender Diversity, 7 (3), pp.293–303.

Parsons, V. (2020). Ministry of Justice reveals truth behind trans prisoners and sexual assault. [Online]. Pink News. Available at: www.thepinknews.com/2020/05/21/trans-prisoners-victims-sexual-assault-more-than-perpetrators-ministry-of-justice-liz-truss/ [Accessed 12 April 2024].

Phillips, R. (2014). Abjection. Transgender Studies Quarterly, 1 (1–2), pp.269–276.

Pike, J. (2021). Safety, fairness and inclusion: transgender athletes and the essence of Rugby. Journal of the Philosophy of Sport, 48 (2), pp.155–168.

Pike, J. (2023). Why 'Meaningful Competition' is not fair competition. Journal of the Philosophy of Sport, 50 (1), pp.1–17.

Pilkington, E. (2015). 'Call me Caitlyn': Jenner owns her identity in Vanity Fair interview. [Online]. The Guardian. Available at: https://www.theguardian.com/tv-and-radio/2015/jun/01/caitlyn-jenner-bruce-jenner-vanity-fair [Accessed 14 June 2023].

Prentice, C. (2021). Lobotomy:The brain op described as 'easier than curing a toothache'. [Online]. BBC News. Available at: https://www.bbc.co.uk/news/stories-55854145 [Accessed 12 April 2024].

Prior, R. (2020). Understanding the rare condition that makes people want to amputate their own limbs Health Wellness. [Online]. CNN. Available at: https://edition.cnn.com/2020/05/07/health/body-integrity-dysphoria-wellness/index.html [Accessed 25 April 2023].

Rafferty, J. (2018). Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents. Pediatrics, 142 (4).

Rayment, S. (2024). More than 70 per cent of transgender prisoners are in for sex offences or violent crimes. [Online]. The Telegraph. Available at: https://www.telegraph.co.uk/news/2024/02/24/government-figures-70-per-cent-of-transgender-prisoners-are/#:~:text=figures%20have%20revealed.-,At%20least%20181%20of%20the%20244%20transgender%20inmates%2C%20more%20than,grievous%20bodily%20harm%20and%20robbery. [Accessed 12 April 2024].

Raymond, J. (1994). The Transsexual Empire. New York: Teachers College Press.

Reality Check Team. (2018). How many transgender inmates are there? [Online]. BBC News. Available at: https://www.bbc.co.uk/news/uk-42221629 [Accessed 12 April 2024].

Rettner, R. (2022). Men's and Women's Personalities: Worlds Apart, or Not So Different? [Online]. Live Science. Available at: https://www.livescience.com/36066-men-women-personality-differences.html [Accessed 24 April 2024].

Rowling, J. K. (2020a). I respect every trans person's right to live any way that feels authentic and comfortable to them. I'd march with you if you were discriminated against on the basis of being trans. At the same time, my life has been shaped by being female. I do not believe it's hateful to say so. [Online]. X. Available at: https://x.com/jk_rowling/status/1269407862234775552?lang=en [Accessed 14 June 2024].

Rowling, J. K. (2020b). 'People who menstruate.' I'm sure there used to be a word for those people. Someone help me out. Wumben? Wimpund? Woomud? . [Online]. X. Available at: https://x.com/jk_rowling/status/1269382518362509313?lang=en-GB [Accessed 14 June 2024].

Rowling, J. K. (2020c). The idea that women like me, who've been empathetic to trans people for decades, feeling kinship because they're vulnerable in the same way as women - ie, to male violence - 'hate' trans people because they think sex is real and has lived consequences - is a nonsense. [Online]. X. Available at: https://x.com/jk_rowling/status/1269406094595588096 [Accessed 14 June 2024].

Sax, L. (2002). How common is intersex? a response to Anne Fausto-Sterling. The Journal of Sex Research, 39 (3), pp.174–178.

Scerri, E. M. L. et al. (2018). Did Our Species Evolve in Subdivided Populations across Africa, and Why Does It Matter? Trends in ecology & evolution, 33 (8), pp.582–594.

Sealey, K. (2018). Transracialism and white allyship: A response to Rebecca Tuvel. Philosophy Today, 62 (1), pp.21–29.

Sentencing Council. (2023). Benefit fraud. [Online]. Sentencing Council. Available at: https://www.sentencingcouncil.org.uk/outlines/benefit-fraud/#:~:text=After [Accessed 25 April 2023].

Serano, J. (2015). Regarding Trans* and Transgenderism. [Online]. juliaserano.blogspot.com. Available at: https://juliaserano.blogspot.com/2015/08/regarding-trans-and-transgenderism.html [Accessed 14 June 2024].

Serano, J. (2016). Julia's trans, gender, sexuality, & activism glossary! [Online]. Juliaserano.com. Available at: https://juliaserano.com/terminology.html [Accessed 14 June 2024].

Serano, J. (2016). Whipping Girl. New York: Seal Press.

Shrier, A. (2021). Irreversible Damage. Swift Press.

Smith, R. (2021). Chimamanda Ngozi Adichie Trans Remarks List of Author's Controversial Comments. [Online]. Newsweek. Available at: https://www.newsweek.com/what-chimamanda-ngozi-adichie-has-said-about-trans-women-1601187 [Accessed 25 April 2023].

Soh, D. (2020). The End of Gender. Threshold Editions.

Sommer, M., Kamova, V. and Mahon, T. (2020). Opinion: Creating a more equal post-COVID-19 world for people who menstruate. [Online]. devex. Available at: https://www.devex.com/news/sponsored/opinion-creating-a-more-equal-post-covid-19-world-for-people-who-menstruate-97312#.XtwLnv0aEeR.twitter [Accessed 14 June 2024].

Stock, K. (2021). Material Girls. Fleet.

Stonewall. (2020). LGBT History Month: trans people have always been here. [Online]. Stonewall.org.uk. Available at: www.stonewall.org.uk/about-us/news/lgbt-history-month-trans-people-have-always-been-here [Accessed 24 April 2023].

Stonewall. List of LGBTQ+ terms. [Online]. Available at: https://www.stonewall.org.uk/list-lgbtq-terms [Accessed 14 June 2024].

Sturge, G. (2023). UK Prison Population Statistics. Commonslibrary.parilament.uk

Sturge, G. (2024). UK Prison Population Statistics Prison population. [Online]. UK Parliament House of Commons Library. Available at: https://commonslibrary.parliament.uk/research-briefings/sn04334/ [Accessed 12 April 2024].

Sullivan, A. (2021). Sex and the Office for National Statistics: A Case Study in Policy Capture. Political Quarterly, 92 (4), pp.638–651.

Sullivan, A. et al. (2024). Sex and Gender. Sullivan, A. and Todd, S. (Eds). Routledge.

Swimming World Magazine. (2021). Nancy Hogshead-Makar Explains Problems With Lia Thomas Situation. [Online]. Swimming World Magazine. Available at: https://www.swimmingworldmagazine.com/news/nancy-hogshead-makar-explains-problems-with-lia-thomas-situation/ [Accessed 25 April 2023].

Taylor, A. P. (2021). Transableism, Jonathan Safran Foer, and Me. [Online]. Vol. 1 Brooklyn. Available at: vol1brooklyn.com/2021/01/06/transableism/jonathan-safran-foer-and-me/ [Accessed 25 April 2023].

The Disability Unit. (2020). Living with Non-Visible Disabilities. [Online]. Gov.uk. Available at: https://disabilityunit.blog.gov.uk/2020/12/17/living-with-non-visible-disabilities/ [Accessed 14 June 2024].

The Economist. (2023). Where should trans prisoners serve their sentences? [Online]. The Economist. Available at: https://www.economist.com/britain/2023/02/02/where-should-trans-prisoners-serve-their-sentences?utm_medium=cpc.adword.pd&utm_source=google&ppccampaignID=18156330227&ppcadID=&utm_campaign=a.22brand_pmax&utm_content=conversion.direct-response.anonymous&gad_source=1&gclid=Cj0KCQjwsaqzBhDdARIsAK2gqnfx5eeDmUuhsi_uyiWUU-A_HNeEAFaQSsMiKXmrnjllO8Pv11Xhjd8aAiwDEALw_wcB&gclsrc=aw.ds [Accessed 12 April 2024].

Torres, C. R., Frias, F. J. L. and Patiño, M. J. M. (2022). Beyond Physiology: Embodied Experience, Embodied Advantage, and the Inclusion of Transgender Athletes in Competitive Sport. Sport, Ethics and Philosophy, 16 (1), pp.33–49.

Travers, A. (2008). The Sports Nexus and Gender Injustice. Studies in Social Justice, 2 (1).

Travers, M. (2019). What 31,000+ Personality Tests Say About Differences Between Men And Women. [Online]. Forbes. Available at: forbes.com/sites/traversmark/2019/08/21/2hat-31000-personality-tests-say-about-differences-between-men-and-women-?sh=4901ab43703d [Accessed 24 April 2024].

Tuvel, R. (2017). In Defense of Transracialism. Hypatia, 32 (2), pp.263–278.

Tuvel, R. (2018). Racial transitions and controversial positions: Reply to Taylor, Gordon, Sealey, Hom, and Botts. Philosophy Today, 62 (1), Philosophy Documentation Center., pp.73–88.

United States Census Bureau. (2021). About the Topic of Race. [Online]. United States Census Bureau. Available at: https://www.census.gov/topics/population/race/about/faq.html [Accessed 13 June 2024].

US Bureau of Labor Statistics. (2022). Labor Force Statistics from the Current Population Survey. [Online]. US Bureau of Labor Statistics. Available at: https://web.archive.org/web/20220308053839/https://www.bls.gov/cps/cpsaat11.htmTheWaybackMachine-https://web.archive.org/web/20220308053839/https://www.bls.gov/cps/cpsaat11.htm [Accessed 25 April 2023].

US Census Bureau. (2020). Percent Black or African American Alone or in Combination, Total Population by State: 2020. [Online]. US Census Bureau. Available at: census.gov.library/visualizations/interactive/race-and-ethnicity-in-the-united-state-2010-and-2020-census.html [Accessed 25 April 2023].

Vigo, J. (2017). An open letter on the Hypatia controversy. [Online]. ipetitions. Available at: https://www.ipetitions.com/petition/an-open-letter-on-the-hypatia-controversy/?utm_source=facebook&utm_medium=social&utm_campaign=sign-pet? [Accessed 14 June 2024].

Vincent, N. A. (2024) Interrogating Incongruence: conceptual and normative problems with ICD-11's and DSM-5's diagnostic categories for transgender people, Australasian Philosophical Review, 7(3):1-25. DOI: 10.1080/24740500.2023.2441455(Forthcoming). Interrogating Incongruence: Conceptual and Normative Problems with ICD-11's and DSM-5's Diagnostic Categories for Transgender People. *Australasian Philosophical Review*.

Walsh, M. (2022). What is a Woman? Available at https://www.dailywire.com/videos/what-is-a-woman [Accessed 10 February 2025]

Watson, J. (2014). Transgender inmates 'terrify' female prisoners, secret report says. [Online]. The Times. Available at: https://www.thetimes.com/uk/scotland/article/transgender-inmates-terrify-female-prisoners-secret-report-says-xqmkxxwpz#:~:text=Female%20inmates%20are%20terrified%20that,have%20been%20secret%20until%20now. [Accessed 12 April 2024].

Weingberg, J. (2017). Statement From Hypatia Board Regarding Tuvel Controversy. [Online]. dailynous. Available at: https://dailynous.com/2017/05/18/statement-hypatia-board-regarding-tuvel-controversy/ [Accessed 14 June 2024].

Weisberg, Y. J., De Young, C. G. and Hirsh, J. B. (2011). Gender differences in personality across the ten aspects of the Big Five. Frontiers in Psychology, 2 (AUG). [Online]. Available at: https://www.frontiersin.org/journals/psychology/articles/10.3389/fpsyg.2011.00178/full [Accessed 14 June 2023]

Whittaker, K. (pseudonym) (2022). The Limits of Identity: Running Tuvel's Argument the Other Way. Journal of Controversial Ideas, 2(2)

Whittle, S. (2010). A brief history of transgender issues. [Online]. The Guardian. Available at: https://www.theguardian.com/lifeandstyle/2010/jun/02/brief-history-transgender-issues [Accessed 14 June 2023].

Wilson, R. A. (Forthcoming2024). Interrogating Incoherence and Prospects for a Trans-Positive Psychiatry. *Australasian Philosophical Review,* 7(3).

Wines, M. and Cramer, M. (2022). 2020 Census Undercounted Hispanic, Black and Native American Residents. [Online]. The New York Times. Available at: https://www.nytimes.com/2022/03/10/us/census-undercounted-population.html [Accessed 25 April 2023].

Witt, C. (2011). The Metaphysics of Gender. Oxford University Press.

World Athletics. (2024a). *Senior 100 Metres Men*. [Online]. World Athletics. Available at: https://worldathletics.org/records/all-time-toplists/sprints/100-metres/all/men/senior?regionType=world&timing=electronic&windReading=regular&page=1&bestResultsOnly=true&firstDay=1900-01-01&lastDay=2024-06-14&maxResultsByCountry=all&eventId=10229630&ageCategory=senior [Accessed 14 June 2024].

World Athletics. (2024b). *Senior 100 Metres Women*. [Online]. World Athletics. Available at: https://worldathletics.org/records/all-time-toplists/sprints/100-metres/all/women/senior?regionType=world&timing=electronic&windReading=regular&page=1&bestResultsOnly=true&firstDay=1900-01-01&lastDay=2024-06-14&maxResultsByCountry=all&eventId=10229509&ageCategory=senior [Accessed 14 June 2024].

World Health Organisation. (2019). International Classification of Diseases Tenth Edition (ICD-10).

World Health Organisation. (2022). International Classification of Diseases Eleventh Edition (ICD-11).

World Health Organisation. (2023). Gender and Health. [Online]. Available at: https://www.who.int/health-topics/gender#tab=tab_1 [Accessed 25 April 2023].

World Health Organisation. Gender incongruence and transgender health in the ICD. [Online]. Available at: https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd [Accessed 20 May 2023].

World Population Review. (2023). Least Racist Countries 2023. [Online]. World Population Review. Available at: https://worldpopulationreview.com/country-rankings/least-racist-countries [Accessed 25 April 2023].

World Rugby. Player Welfare Guidelines. [Online]. Available at: https://www.world.rugby/the-game/player-welfare/guidelines/age-grade [Accessed 14 June 2024a].

World Rugby. Transgender Women Guidelines. [Online]. Available at: https://www.world.rugby/the-game/player-welfare/guidelines/transgender/women [Accessed 14 June 2024b].

WPATH. (2012). Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People. Available at: https://www.tgmeds.org.uk/downloads/SOCv7.pdf [Accessed 10 February 2024]

WPATH. (2021) Mission and Vision. [Online]. Available at: https://wpath.org/about/mission-and-vision/#:~:text=The%20World%20Professional%20Association%20for%20Transgender%20Health%20(WPATH)%20upholds%20our,justice%2C%20equality%2C%20and%20respect. [Accessed 10 February 2025]

Wu, C. (2022). Transgender athlete Lia Thomas' claim transgender athletes are 'not a threat' to women's sports is 'downright insulting'. [Online]. Sky News. Available at: https://www.skynews.com.au/australia-news/sport/transgender-athlete-lia-thomas-claim-transgender-athletes-are-not-a-threat-to-womens-sports-is-downright-insulting/news-story/4956ea4e7325a9df096074076b528c5e [Accessed 25 April 2023].

Zhou, J.-N. et al. (1995). A sex difference in the human brain and its relation to transsexuality. Nature, 378, pp.68–70.