

# What does it mean to have a gender identity?<sup>1</sup>

## Abstract

Claims about gender identity are at the core of heated current philosophical and political debates. Yet, it is unclear what it means to have one. I examine several ways of understanding this concept, in light of features that trans writers and activists seem to attribute to it: The concept should, ideally, make good trans people's claims concerning their own gender identities, the claim that people have privileged access to their gender identities and, possibly the claim that we all have a gender identity. Further, to be helpful with current debates, an account of gender identity should admit that misgendering is a form of serious harm, and that it is permissible for states, and maybe other agents, to require information about people's gender identities.

I conclude that none of the considered accounts meets these criteria, and suggest that we can, and should, pursue the feminist project without it. I also explain why a feminism without gender identity does not exclude trans people and how it is possible to account for the specific harm of misgendering without believing that people have a claim to the recognition of their gender identities. In the absence of a satisfactory answer to the question of gender identity, it is more productive to evaluate each of the trans people's claims to inclusion into particular spaces separately, based on its individual merits.

## 1. A leisurely introduction

This is an inquiry into the questions of what it could mean to have a gender identity, and whether we need the concept of gender identity in order to address questions that are at the core of a trans-inclusive feminist project. Debates about gender identities abound: in private discussions, in mass-media, in the semi-private space of social media, in courts, and in politics, people make substantive claims about their, and others', gender identities. It became common to attribute gender identities to oneself and others, and call people "cisgender" or "transgender". Cis people, we are told, are those whose gender identity matches their sex, and transgender – henceforth "trans" – people are those characterised by a mismatch. Many people declare their pronouns as a way of indicating their gender identities, and it is increasingly frequent for people to be asked to declare their own pronouns. Some institutions require us to indicate our gender identity when we fill in forms<sup>2</sup>. Gender identities are said to have great moral significance: Some philosophers believe that failing to recognise a person's gender identity amounts to significant harm, at least when the person in question is trans.<sup>3</sup> University gender equality officers sometimes go as far as affirming a human

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2 For instance, the Red Cross, following guidance from The Food and Drug Administration. See: <https://www.redcrossblood.org/donate-blood/how-to-donate/eligibility-requirements/lgbtq-donors.html> retrieved on the 14<sup>th</sup> of October 2020.

3 See, for instance, Katherine Jenkins "Amelioration and Inclusion: Gender Identity and the Concept of Woman\*" *Ethics* 126(2):394-421, 2016 and Stephanie Kapusta, "Misgendering and Its Moral Contestability," *Hypatia* 31(3)

right to gender identity.<sup>4</sup> Then, there are disputes about meta-claims about who has the authority to determine gender identities and to decide on the substantive normative issues that are said to hinge on who has what gender identity, most prominently access to exclusionary spaces. One of the most significant ongoing cultural revolutions consists in establishing what trans people are owed by justice; a central, if contested, claim in this context is that each of us is the final authority when it comes to establishing our own gender identity. Getting things wrong about “gender identity” in these public discussions is not a trivial matter: tribunals debate whether or not what people think (and say) about gender identity qualify as philosophical beliefs to be protected by the law, and some find that they don’t<sup>5</sup>.

And yet, we seem to lack a clear, and publicly accepted, understanding of gender identity; what does it mean, exactly, to have one? This paper is born out of the deep puzzlement at my unsuccessful attempts to find an adequate answer to this question. The puzzlement is amplified by the ease with which other speakers seem to apply gender identity terms, confidently identifying themselves and others as either cis or trans.

Following the advice of a trans philosopher<sup>6</sup>, I will start from my own biographical involvement with the question of gender identity. Growing up, I was told that I was female and that, in virtue of this fact, I should conform to a set of norms that govern the life of females, but not the lives of male people. I call such norms, here, “gender norms”, as does a large body of literature in various disciplines. I am using a very wide sense of “norm”, to include explicit and implicit rules and expectations, some of which may unconsciously shape a person’s evaluations, including self-evaluations. More specifically, I was taught that I should be “feminine”, which was supposed to mean many things; I was to observe the norms of femininity in my behaviour, looks, dispositions and emotions, and even in my aspirations and ambitions. Of course, the requirement to be feminine didn’t dictate everything in any of these respects, partly because it was itself open to some interpretation. Apparently, there were different ways to comply with gender norms, and one could display various kinds of femininity: reserved, playful, or cheeky; rather emotional or rather distant and dignified, etc. All these options were supposedly unified by something like an essence of femininity, which nobody could pinpoint, and which remained therefore elusive. Reproaches that I wasn’t feminine enough, as well as praise that I was, left me with lots of downstream questions as

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2016.

4 For instance my own university. A document published by its Gender Equality Officer, titled “The Human Right to Gender Identity” says that “The Central European University is fully committed to the human right to gender identity.”

5 See, for instance, the decision of employment Judge Tayler in *Forstater v CGD Europe & ors* from the 18<sup>th</sup> of December 2019. See: [https://assets.publishing.service.gov.uk/media/5e15e7f8e5274a06b555b8b0/Maya\\_Forstater\\_vs\\_CGD\\_Europe\\_Centre\\_for\\_Global\\_Development\\_and\\_Masood\\_Ahmed\\_-\\_Judgment.pdf](https://assets.publishing.service.gov.uk/media/5e15e7f8e5274a06b555b8b0/Maya_Forstater_vs_CGD_Europe_Centre_for_Global_Development_and_Masood_Ahmed_-_Judgment.pdf) retrieved on the 14<sup>th</sup> of October 2020.

6 Sophie Grace Chappell, in “Le bon Dieu n’est pas comme ça: transgender in theory and in experience”, manuscript.

to what they actually meant. In short, I grew up wondering whether I was feminine enough, wishing to be so, and deliberating about the sort of femininity that was best for me to cultivate.

Now I believe that all that mulling over “femininity” was a waste of time: my job was to learn how to be a morally decent, resourceful and reasonably happy human being, and none of this required acquiring a gender identity, or learning how to be a “woman”. Also, I came to believe that questions about “femininity” were not only confusing, but also confused. Of course, some of the lessons I’ve been taught as part of cultivating my “femininity” were good (sensitivity and expressiveness are virtues) and, as it turned out, suited me. Yet, there was no good reason to be encouraged to follow them under the guise of “femininity”. It was also a mistake to fail to equally encourage other children to follow them because they were supposed to cultivate their “masculinity” instead. And some of the lessons in “masculinity” that I would have gotten, had I been a male child, would have been equally good for me, morally and prudentially, and in no tension with so-called “feminine” qualities. (This is not to deny that some sexual characteristics, or combinations of such characteristics, could encumber the cultivation of some desirable features traditionally thought of as “feminine” or “masculine”. If they do, this is only an instance of the general fact that basic education must attend to children’s specific abilities and inclinations, rather than set different goals for different children, according to aptitude.)

Simone de Beauvoir’s famous slogan that “one is not born, but rather becomes a woman”, was liberating in this respect. I understood her as saying that to be a woman is to have been socially trained in a role – the role constituted by a set of gender norms. I use “woman”, here, by stipulation, as a gender term, to mean the social role that is fitting to occupy if one has female sexual characteristics.<sup>7</sup> I understood de Beauvoir’s slogan as voicing a complaint against the socialisation of some children as “women”. The complaint is that gender roles are shaped by norms that lack justification. I am not implying that *all* gender norms are necessarily unjustified, although those that create and allocate gender roles are (more on this in the next section). The slogan helped me make sense of gender roles as harmful impositions, and of the wrongfulness of socialising children in their demands<sup>8</sup>. To be a feminist, for me, was to respond to such imposition not by seeking a *better* kind of femininity or masculinity, nor by creating *more* than two gender roles, but by trying to do away with gender roles altogether.

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7 In fact, I think that “woman” is sometimes correctly used as a gender term and sometimes as a sex term. In everyday language it tends to be employed as a sex term. (See, for instance, Jennifer Saul, “Philosophical Analysis and Social Kinds: Gender and Race” *Proceedings of the Aristotelian Society Supplementary* 80: 119-44, 2016.) Yet, restricting its use to indicate sexual characteristics would unhelpfully deprive us of a term referring to the gender role imposed on people with female sexual characteristics. Some philosophers believe that “woman” and “men” *should* be used as sex terms. See Alex Byrne, “Are women adult human females?”, *Philosophical Studies* 177: 3783-3803, 2020. I personally doubt that we have enough reason to decide that either use of “woman” is *the* proper one. In any case, for the present purposes, stipulating a meaning is necessary to avoid confusion.

8 Some readers may find it obvious that it is wrongful to impose harmful and unjustified expectations on a child. I elaborate on this in “State neutrality and the dismantling of the gendered division of labour” (in progress).

This ideal requires one to abandon normative expectations about how people should be in virtue of their sexual characteristics, and to overcome the internalisation of gender norms, which may itself survive belief transformation. Since the norms of femininity and masculinity often command behaviours and dispositions that are, as such, desirable (e.g.: “be caring!” “be brave!”), doing away with gender roles will hopefully happen by making such norms universal. In a post-gender world, children will be told that whatever is valuable about conforming to some of the norms that are currently gendered – about, say, sensitivity or courage – is good independently from one’s sexual characteristics. According to my feminist credo, there is no specific way to be a good human being *qua* female, or *qua* male.

This credo seems inadequate to make sense of current debates about trans identities. If “gender identity” meant “gender role” and nothing more, those of us who are critical of role-dictating gender norms should welcome the waning of gender identities. We should hope that one day there will be no more women and men – only people. And we should hope that all talk about “femininity” and “masculinity”, whether “toxic” or reformed, will cease, and be replaced by gender-free discussions about which behaviours and dispositions are likely to promote morally and prudentially good lives. But it is hard to make sense of debates around attributions of gender identities without assuming that “gender identity”, as used in these debates, means something different from, or in addition to, “gender roles”. Many trans writers and activists share the belief that gender norms are unjustified<sup>9</sup>, yet this doesn’t prevent them from thinking that gender identities are worth being affirmed and, presumably, preserved. There must be other senses of “gender identity”, then, operational in the claims advanced by trans activists.

While my main aim here is to gain understanding, this inquiry also matters for practical purposes: Some of the most divisive current disputes concern rules of inclusion and exclusion of trans people in and from spaces that are fully, or partly, segregated: public toilets, changing rooms, prisons, sports, and affirmative action in educational and political organisations. Many participants to these debates seem to assume that settling the question of who is a woman and who is a man, which in turn requires the settling of the question of gender identity, is a first and necessary step towards determining who should have access to which spaces. If no satisfactory concept of “gender identity” can be found, this assumption leads to dead-ends at best, and to heated linguistic polemics at worst.

What concept of “gender identity” could, then, account for the core claims usually advanced in the trans literature? The following features are those which trans writers and activists themselves

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9 There are exceptions: some believe that while the particular *content* of existing gender norms is objectionable, gender norms as such are not unjustified. For instance, Julia Serano, *Whipping Girl: A Transsexual Woman on Sexism and the Scapegoating of Femininity*, Berkley, CA: Seal Press, 2016. In the next section I return to the issue of the justification of gender norms.

seem to deem important. First, the term should vindicate the trans people's identification of their own gender identities; an understanding of "gender identity" which implies that a trans woman is a man would be seriously deficient. Second, related, the concept must be such that it allows for privileged access to one's gender identity. This, I take it, is the best interpretation of the trans activists' claim that self-identification is enough to establish one's gender identity: the claim is not about the content, or definition, of one's gender identity; proper self-identification in this sense is grounded in considerations beyond mere fact declaration. Third, an ideal concept of gender identity is such that we all have one. This seems to be a general, although perhaps not universal, assumption of gender identity talk reflected, for instance, in (official) demands to declare one's gender identity on various forms which provide "woman", "man" and "other" as options but not, as far as I know, "none". It is also reflected in the widespread attribution of cis identities to people who don't identify as trans, and in requests to declare one's pronouns. The next set of criteria concern normative issues. The concept of gender identity at work in trans debates should sit well with two closely related but distinct claims of trans activists: first, that denying a person's gender identity, or misgendering, is a grave harm and, second, that we ought to be treated, and perhaps also seen, as belonging to the gender with which we identify. This is a widely endorsed belief amongst trans activists and supporters. Katherine Jenkins, for instance, writes that: "Failure to respect the gender identifications of trans people is a serious harm, and is conceptually linked to forms of transphobic oppression and even violence."<sup>10</sup> The second part of this claim may be an overstatement; here I work under the more modest assumption that the concept of "gender identity" should be such that people have, on non-instrumental grounds, a claim against others to respect their gender identifications. Finally, in order to make sense of trans people's claim to have their gender identities publicly recognised, and in order for appeals to gender identity to play a role in settling practical debates about rules regulating access to public spaces, it must be permissible for states, and maybe other agents, to require information about one's gender identity.

To specify the meaning of "gender", the next section redraws the sex-gender distinction in a way that should be acceptable even to people who think that "sex" itself is a problematic category; it also explains the difference between justified and unjustified gender norms. The third section explores six different meanings of "gender identity". None of them will turn out to satisfy the above criteria, and hence to support the normative claims of trans activists; I suggest that we eliminate the use of this concept, at least from political processes, and explain how to make sense of the wrong of misgendering without appealing to "gender identity". The fourth section addresses the worries that

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10 In "Amelioration and Inclusion", 396. For this claim, Jenkins is also referencing Talia Mae Bettcher, "Evil Deceivers and Make-Believers: On Transphobic Violence and the Politics of Illusion," *Hypatia* (22): 43–65, 2007. More recently, Elizabeth Barnes advanced the claim that misgendering is a major harm. In "Gender and Gender Terms", *Noûs* 54(3): 704-30, 2020.

it is unfeasible, or undesirable, to abandon the search for a politically operative meaning of “gender identity”, and argues that the feminist project can do without “woman” understood as a gender term. In the absence of a satisfactory answer to the question of gender identity, it is more productive to evaluate each of the practical issues under debate on the basis of its individual merits.

## 2. Sex, gender and norms

Following a long feminist tradition, I work with the sex-gender distinction. The distinction is currently under fire<sup>11</sup>, yet, for reasons that should become clear below, it is indispensable and it *can* be drawn innocuously.

Sex refers to at least four kinds of characteristics: chromosomes, the sort of gametes that one’s body produces, hormonal make-up, and internal and external sexual organs plus, perhaps, secondary sexual characteristics. The traditional view is that there are two sexes, female and male. On different versions of this view, “sex” is about having a Y chromosome or not, or having gone some way down a developmental pathway to producing either large or small gametes, or is a cluster concept involving combinations of sexual characteristics<sup>12</sup>; on any of these accounts, a number of individuals do not display the typical combination of the above-elements. But because a non-negligible number of people are, in this sense, intersex, some suggested – although perhaps tongue-in-cheek<sup>13</sup> – that there are as many as five sexes. How many sexes there are will then depend on the definition of sex in relation to the different elements listed above. Perhaps the traditional, binary definition of “sex” is unhelpful in certain circumstances – maybe we should not always bundle, in the single concept, the sexual characteristics that are usually displayed together, if the result is singling out some people as outliers. This is consistent with thinking that we need bundling for particular purposes, such as medical diagnosis and treatment or data-collection about unfair treatment of individuals that traditional views of sex identify as females.<sup>14</sup> But in many social contexts, where the bundling doesn’t serve any valuable social aim, it may be better to think in terms of (combinations of) sexual characteristics than in terms of sexes.

Further, it is now possible to alter some sexual characteristics through hormonal therapy and surgery. Such alternations, I assume, can be permissible, and some people desire them. Since individuals can permissibly change many of their sexual characteristics, the very existence of “peaks” is a socially contingent fact. Then, perhaps, we should define each (empirically) possible combination of sexual characteristics as a separate sex. Or it may be best to refrain from having the category of “sexes” altogether, and instead talk exclusively about sexual characteristics.

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11 Mari Mikkola, “Feminist Perspectives on Sex and Gender”, *Stanford Encyclopedia of Philosophy* 2017.

12 Kathleen Stock, *Material Girls. Why Reality Matters for Feminism*, London: Fleet, 2021, chapter 2.

13 Anne Fausto-Sterling, “The Five Sexes: Why male and female are not enough” *The Sciences* 33(2): 20-24, 1993, and “The five sexes, revisited”, *The Sciences* 40(4): 18-23, 2000.

14 Stock, *Material Girls*.

There is no need to settle these questions for the present purposes. Whether a person with XY chromosomes and whose body naturally produces spermatozooids, but who has high levels of oestrogen following hormonal therapy and a vagina following sex-reassignment surgery, is male, female or a different sex doesn't matter here<sup>15</sup>. What does, however, matter, is the difference between, on the one hand, unjustified gender norms and, on the other hand, entitlements, liabilities, and duties that are justified partly by appeal to their subject's possession of sexual characteristics. Gender, according to another slogan, is "the social meaning of sex", that is, the sum of norms that govern people's lives depending on their sexual characteristics. A distinction must be drawn between those that are potentially justified and those that aren't.

Some gender norms are explicitly derived, or easily derivable, from more fundamental norms that make no reference to sexual characteristics. For instance, there is a general, if qualified, entitlement to preventive health care and therefore people with a cervix should be given regular smear tests to prevent life-threatening illnesses. Other norms in this category may instead be about special duties – for instance, if you carry a baby to term you acquire duties vis-a-vis the foetus that you could not acquire if you didn't have a uterus and hence could not be pregnant. The duty is grounded in a more general principle about liability. A host of norms regulate social interaction, by generating special entitlements and duties in virtue of how sexual features place us under the incidence of various moral principles. Some such norms, which are part of legislations and conventional morality, are justified, and other norms, that are not in operation, might be justifiable. The ultimate moral grounds for this type of norms has nothing to do with sexual characteristics, yet, if gender is the social meaning of sex, they qualify as gender norms.

However, it is not these norms that people usually have in mind then they talk about "gender norms", but the other category of gender norms, the unjustified ones on which I elaborate below, which I call "*sui generis* gender norms". They do two things: sort people out, on the basis of their sexual characteristics, in two gender roles – "woman" and "man"; and define the content of these roles. Gender roles are comprehensive social roles that define, for their occupants, different virtues and vices, social rewards and sanctions, and set expectations about who should perform which kind of socially useful work. If we were to eradicate all the *sui generis* gender norms, there would be no need for the concept of "gender". Instead of calling the remaining (justified) norms "justified gender norms", we could call them, simply, "norms related to sexual characteristics". Unless specified otherwise, all talk of gender norms, from the next section onwards, refers to the unjustified kind.

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15 For simplicity, I occasionally employ, in this paper, the sex terms "female" and "male" to refer to people who display the full cluster of sexual characteristics traditionally associated with femaleness, respectively maleness; but this is merely for simplicity.

The sense of “gender” that many feminists want to eliminate doesn’t refer to norms which are merely derivative from other moral principles that make no essential reference to sexual characteristics. Instead, a tradition that goes back at least to John Stuart Mill and found its most powerful expression in the work of Susan Moller Okin, is concerned with gender norms that do make essential reference to persons’ sexual characteristics. For this reason, it is apt to call them “*sui generis* gender norms”; they 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, i.e. by conforming to the gender role of womanhood, which is different from being a good male human being, i.e. by conforming to the gender role of manhood. *Sui generis* 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. Complementary, these norms demand men to be protective, self-directed and assertive, good leaders etc. *Sui generis* gender norms require that our judgement of individuals’ virtues and vices be dependent on the social role they occupy and thus making, e.g., lack of physical courage more deserving of contempt in men than in women, and expression of anger more deserving of contempt in women than in men. The hallmark of *sui generis* gender norms is that they judge the goodness of human beings and their behaviours to depend, in part, of their sexual characteristics.

Some of these norms license behaviour that is obviously morally wrong – for instance the so-called “toxic masculinity”, permitting men to display unnecessary and disproportionate aggressiveness. Others, in contrast, mandate morally praiseworthy behaviour – such as nurturing from women or protectiveness from men. And yet others seem to be about morally neutral behaviour like standards of propriety and beauty. A common problem to all traditional *sui generis* gender norms is the double standard they embody. As noted above, some people believe that we should distinguish between more than two sexes; if we did that, and if we were to also adopt *sui generis* gender norms corresponding to more than two sexes, then the norms would embody a multiple standard. We obviously need the sex-gender distinction to make sense of gender norms. We don’t, however, need a view on the correct number of sexes in order to have reason to oppose *sui generis* norms wholesale, and therefore not to want to multiply gender roles.

For starters, it is hard to see what could justify *sui generis* gender norms, other than appeals to religious authority, or (other) metaphysical beliefs. Such religious and metaphysical traditions were, historically, pervasive, and their legacy with respect to gender appears to endure even

amongst people who reject the comprehensive views themselves. Another, obvious reason to reject *sui generis* gender norms is that they are inegalitarian. Part of the feminist project – in philosophy, history, sociology, psychology and economics – has been to uncover the wrongful ways in which women have been, historically, made worse off by these norms: Their access to important opportunities, their freedom from domination, marginalisation and exploitation, and often their very agency, safety and life have been compromised by *sui generis* gender norms. A final reason to reject them concerns the wrong of unnecessarily stunting individuals' development. To see how this reason differs from the concern with equality, consider the fact that the norms in question also unjustifiably detract from *men's* wellbeing, to a lesser extent than in the case of women, but not trivially so. *Sui generis* gender norms impose higher pressure on men to provide financially for their families, higher risk of being sent to courts and jails and to fight (usually unjust) wars, and mean lesser access for them to the goods of family life and more generally to the goods of healthy, enduring, close relationships. These are serious obstacles to men's flourishing. That is, *sui generis* gender norms do not always, and therefore not necessarily, generate a unidirectional system of oppression of women in the service of men's interests. The question, then, is what, if anything, would be objectionable with a set of reformed *sui generis* gender norms, assigning people, based on their sexual characteristics, to social roles whose burdens and rewards are equal, but different. The answer, clearly, cannot be that such norms would be inegalitarian. Instead, they would be contrary to individuals' freedom to develop their talents and aspirations, and thus to pursue a good life, without arbitrary constraints. *Sui generis* gender norms limits people's development for no good reason and, as a result, are wasteful of human flourishing.

A distinction between justified and unjustified gender norms can bring clarity to current debates. Some philosophers are unpersuaded that we should be eliminativists with respect to all gender norms because they think that sexual differentiation is likely to have some justified normative bearing<sup>16</sup>. The best way to make sense of the attractiveness of this position, I propose, is by pointing out the distinction between gender norms derived from principles that make no reference to sexual characteristics, and that can therefore be justified, and *sui generis* gender norms, that are unjustified. It is the latter alone that are the target of gender abolitionism, which, so understood, is difficult to resist.

### 3. Six attempts to understand "gender identity"

All too often "gender" is used as synonymous to "sex", and sometimes "gender identity" is understood as a person's inner sense of her sex. For example, Stonewall, one of the most prominent UK LGBTQ organisations, defines gender identity as "a person's innate sense of their own gender,

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<sup>16</sup> Sally Haslanger, "Gender and Race: (What) Are They? (What) Do We Want Them to Be?", *Nous* 34(1): 31-55, 2000, p.39; Julia Serano (2016),

whether male, female or something else, which may or may not correspond to the sex assigned at birth”<sup>17</sup>. The Human Rights Campaign, another large organisation in the US that militates for LGBTQ equality, writes, on their webpage, that gender identity is “[o]ne’s innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One’s gender identity can be the same or different from their sex assigned at birth”<sup>18</sup>. Similarly, according to a Canadian health organisation, “[g]ender identity means a person’s internal sense of whether they’re male or female, both, or neither.”<sup>19</sup> I put such definitions aside, because they either conflate facts, i.e. sexual characteristics, with norms, i.e. the social meaning of sex, or else depict gender identity as an inner feeling, turning it into a primitive notion, impossible to unpack further. Indeed, inasmuch they do the latter, they make appeals to gender identity easy to dismiss as mystifying, given that many people lack such a feeling and therefore have no way of grasping its meaning<sup>20</sup>. Possibly, one of the six proposals on which I elaborate below, or hybrid meanings that combine several of these, capture the intention behind such definitions in more intelligible ways. (The fifth proposal is a particularly good candidate.)

#### *Gender identity1, as (lack of) conformity with behaviour and dispositions typical of one’s sex*

The first two ways of understanding “gender identity” are firmly anchored in sexual characteristics and make no direct reference to gender norms. One of them, unpromising yet too widespread to ignore, consists in a mere description of one’s behaviours and dispositions in those respects in which people with different sexual characteristics (are believed to) behave differently and have different dispositions. On this view, being cisgender is to display the typical preferences and behaviours of individuals with one’s sexual characteristics. Robin Dembroff calls gender identity1 a version of the “externalist” approach to gender identity.<sup>21</sup>

This view raises many problems. Some feminists are critical of gender identity1 because they think it helps perpetuate the assumption that behavioural differences between people with different sexual characteristics are non-cultural; they see it as a form of “biological determinism”. Perhaps this charge is correct. In any case, gender identity1 lumps together differences that are indeed explained by different sexual characteristics and those that are cultural. But this definition is not operational: how can we know with any certainty how much of the difference between people with different sexual characteristics is due to nurture rather than nature? The epistemic obstacles to

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17 From <https://www.stonewall.org.uk/help-advice/faqs-and-glossary/glossary-terms>, accessed on the 7<sup>th</sup> of June 2021.

18 From <https://www.hrc.org/resources/sexual-orientation-and-gender-identity-terminology-and-definitions>, accessed on the 31<sup>st</sup> of October 2020.

19 From <https://myhealth.alberta.ca/Alberta/Pages/gender-ID-expression-LGBTQ.aspx>, accessed on the 31<sup>st</sup> of October 2020.

20 See Stock, *Material Girls*.

21 In “Beyond Binary: Genderqueer as Critical Gender Kind”, *Philosophers’ Imprint* 20(9) 2020.

answering this question may be principled: as Mill noted<sup>22</sup>, nobody ever lived in a gender-free society.

Even leaving this confusion aside, gender identity<sup>1</sup> is inadequate. Not all trans people display the behaviours typical of people with different sexual characteristics. Further, individuals cannot have privileged access to their gender identity<sup>1</sup>. Even more importantly, it is hard to see how a person's failure to recognise another person's gender identity<sup>1</sup> can be harmful to the latter, rather than merely indicate the former's ignorance of what is typical behavioural difference between different groups of people.

### *Gender identity<sup>2</sup>, as (dis)comfort with one's sexed body*

More plausibly, gender identity could refer to the degree to which one is comfortable with the way in which one's body is sexed. Sophie Grace Chappell, a prominent trans philosopher, believes that longing for a differently sexed body is at the core of what it means to be trans:

“To be a trans woman, as I understand it and as I've experienced it, is to be born with a male body, and to have a deep and enduring wish to have a female body instead. It's not about gender at all; at least the most basic level, it's entirely about biological sex.”<sup>23</sup>

According to another prominent trans philosopher, Talia Mae Bettcher, gender identity<sup>2</sup> is one of the two available understandings of being trans, which she calls the “wrong-body” model.<sup>24</sup>

It is easy to make sense of acceptance of one's sexed body, or longing for a different one. Gender identity<sup>2</sup> affords privileged access to one's own gender identity. It sits well with the view that people have a significant interest in bodies that they can accept, such that one's longing for a different body generates reasons for others, for instance, to support trans people with bodily transitioning by providing material means and social acceptance. But this view also has shortcomings. One is conceptual: it is unclear why this is a good definition of *gender* identity, rather than a sexual aspect of one's identity. The view makes sense of what it is to be *transsexual* rather than *transgender*. Imagine a world with no gender norms: in this world we would not call our feelings of (dis)comfort with our sexed bodies “gendered”. If gender dysphoria is different from sexual dysphoria, we need another concept of gender identity. Second, it is too narrow; it cannot account for cases of self-identified trans people who feel fine with their sexed bodies and have no desire to change them.

The following four attempts to capture the meaning of “gender identity” make direct reference to gender norms.

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22 In *The Subjection of Women*, chapter 1.

23 In Jean Kazez, “Sophie Grace Chappell Talks Sex and Gender”, *Philosopher's Magazine* 14th of August 2020.

24 In “Trapped in the Wrong Theory: Rethinking Trans Oppression and Resistance”, *Signs* 39(2):383-406, 2014, 383.

### *Gender identity3: as assigned gender role*

On my reading of de Beauvoir, to be a woman means to have been raised with a set of norms that govern one's life in virtue of one's sexual characteristics. If so, de Beauvoir uses "woman" as a gender role, to refer to other people's expectations that one conforms to gender norms.

This sense of "gender identity" is widespread in everyday language and philosophical analysis. Mari Mikkola, for instance, describes it, in her reporting of Theodore Bach's account of "woman" like this: "one is a woman because one has the right history: one has undergone the ubiquitous ontogenetic process of gender socialization."<sup>25</sup> One of the most philosophically influential accounts of "woman", proposed by Sally Haslanger, is a moralised variation of gender identity3. According to Haslanger, to be a woman is to have been systematically subordinated in some respects, and targeted for subordination in virtue of one's "observed or imagined bodily features presumed to be evidence of a female's biological role in reproduction"<sup>26</sup>.

Although widespread and philosophically influential, gender identity3 cannot make sense of the distinction between cis and trans nor can it accommodate trans people's own beliefs about their own identities, as Jenkins<sup>27</sup>, for example, has noted. Many, maybe most, trans people have been raised in the set of gender norms meant to apply to individuals with their (native) sexual characteristics, and so, a trans woman, for instance, has not been socialised in the norms of womanhood. This is a fatal flaw of gender identity3 in light of the desideratum, central to the trans movement, of an account that explains why trans women are women in virtue of their gender identity. And, obviously, one cannot be the ultimate authority on one's gender identity3.

Another worry, that applies more generally to conceptions of social identities as social roles, is that gender identity3 does not refer to what the individuals *themselves* want, but to what *others* do to individuals, or expect from them. A mere description of how others treat you is an odd way to understand your (gender) identity.

### *Gender identity4: as aspirational gender role*

One needs, then, an account that resonates with descriptions of gender identity as an "innermost concept of self" and as "a person's internal sense" of who they are, but avoids conflating sex and gender terms. All of the following attempts account for this subjective aspects by tying gender identity to attitudes about norms.

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25 In "Feminist Perspectives". In Bach's own formulation, to be a woman one "must have undergone the ontogenetic processes through which a historical gender system replicates women." In "Gender is a Natural Kind with a Historical Essence", *Ethics* 122: 231–272, 2012, p.271.

26 In "Gender and Race."

27 In "Amelioration and Inclusion."

Gender identity<sup>4</sup> introduces an element of subjective endorsement. It defines gender identity as the gender norms that a person wishes that others applied to them, that is, as one's aspirational gender role. Chappell explains that one way of being a trans woman is "to want a woman's gender role"<sup>28</sup>. Gender identity<sup>4</sup> consists in identification with a social role, but maybe also with others who occupy that role; one of its attractions is that it makes sense of the importance that trans women place on being included in women's spaces and on other women's solidarity with them<sup>29</sup>.

This view appears to make sense of many trans people's testimonies about their gender identity – to be a trans woman, for example, is to want to be seen and treated as a woman. If gender identity is the same as one's aspirational gender role, people are always the ultimate judges of their own gender identity. Gender identity 4 also makes sense of what is to be cis, namely, to wish to occupy the gender role that correspond to one's sexual characteristics.

This last feature indicates a significant drawback of this understanding of gender identity<sup>4</sup>. Many people lack one: Asked what are the gender norms that I would want to be applied to me, the answer is "none". Moreover, if gender roles shouldn't exist, there is at least a presumption against states and other agents requiring people to declare a gender identity<sup>4</sup>.

There is an even more important, related, difficulty with gender identity<sup>4</sup>. It is plausible that people can suffer serious harm when others fail to recognise their aspirational gender roles; when the desire to occupy a gender role is powerful, its frustration can be harmful. Yet, it is far from clear that a person is wronged when others don't comply with that person's desire to be treated according to a particular gender role. To vindicate such a claim one would need an account of why gender roles are legitimate. But if the gender norms, which define gender roles, are unjustified, one cannot have a claim-right to a gender identity<sup>4</sup>. Quite the opposite, we may be under a duty not to treat others as either a woman or a man. When such treatment is applied with consent from the person who has an aspirational gender role, the duty may not be directed, and the person in question may not be wronged by gendered treatment. But consent is insufficient to make the treatment permissible, if holding people to particular sets of unjustified gender norms reinforces the norms and therefore creates negative externalities. If so, then appeals to gender identity<sup>4</sup> cannot explain a duty to treat particular individuals according to particular gender norms. Instead, if we are right to be critical of gender norms, we have a non-directed duty not to do so. Furthermore, states cannot justifiably promote or protect gender identity<sup>4</sup>.

This doesn't mean that appeals to gender identity<sup>4</sup> cannot vindicate *any* claims of trans people concerning their gendered treatment. It would be myopic to ignore that gender norms are salient to most social interactions, and people are, in fact, treated either as women or as men. We ought to attend to people's interest in being protected from the most egregious wrongs that can be

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<sup>28</sup> In "Bon Dieu."

<sup>29</sup> Stock believes this is the best understanding of gender identity. In *Material Girls*.

imposed on them *via* gender norms. Trans individuals, according to gender identity<sup>4</sup>, desire to occupy a different gender role than the one assigned to them on the basis of their (perceived) sexual characteristics. This desire is itself likely to indicate that they are being rendered particularly vulnerable by the gender role that society expects them to occupy. If so, the critic may think, doesn't this consideration speak decisively in favour of accommodating their desire to occupy particular gender roles (perhaps those that would involve the least harm to them)?

This is a very important consideration indeed. However, I think it falls short from justifying a claim to decide oneself which gender role to occupy. Rather, it explains why people whose assignment to a gender role makes them particularly vulnerable have a weightier claim than others *against* being assigned to that gender role. This claim is additional to that, shared by all individuals, against being assigned a gender role, i.e. a gender identity<sup>3</sup>. To illustrate, trans women's desire to occupy the gender role of "woman" is not enough to generate in others a duty to treat them according to the norms of womanhood, since those norms are objectionable; but it can generate a particularly stringent duty in others *not* to hold them to the norms of manhood. In this sense, trans people's contestation of the gender roles assigned to them by society can be a particularly powerful source of social transformation, because, other things equal, they have the strongest claims not to be held hostage to gender roles on grounds of their unique vulnerability to such roles. This account, I think, provides the most plausible interpretation of the thought that misgendering involves wronging, where the wronging consists not in the refusal "to acknowledge an intensely felt aspect of their identity"<sup>30</sup>, but, rather, in the imposition of a gender role that is particularly alien to the person in case.

#### *Gender identity<sup>5</sup>: as internalised gender norms*

Yet another possibility is that gender identity refers to the gender norms that one has internalised, that is, according to which one evaluates oneself. This need not mean that one is also endorsing the norm; one can feel ashamed, or proud, of how one is, against one's better judgement. A proponent of this account is Jenkins, who writes that gender identity is about "experiencing a norm to be relevant to oneself."<sup>31</sup> It may also be the best interpretation of Bettcher's account, who writes that "[b]y gender identity I mean how one conceives of oneself, or feels oneself to be with respect to sex and/or gender categories"<sup>32</sup> Usually we internalise the norms that regulate the gender role we have been socially assigned, but it may be also possible to internalise gender norms without

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30 As Barnes puts it (2020, 720).

31 In "Toward an Account of Gender Identity", *Ergo* 5(27), 2018. She builds on earlier work, where she argues that "S has a gender identity of X iff S's internal 'map' is formed to guide someone classed as a member of X gender through the social or material realities that are, in that context, characteristic of Xs as a class." (Jenkins 2016: 410) The map in question is a map of gender norms (in the same, wide sense of "norm" that I use in this paper.)

32 In "Trans 101", *The Philosophy of Sex. Contemporary Readings*, Seventh Edition, eds. Raja Halwani, Alan Soble, Sarah Hoffman, and Jacob M. Held, Lanham: Rowman and Littlefield, 2017, p.120.

having been explicitly trained into them. Jenkins mentions Julia Serano's guilt for entering the boy's toilets while she was a school child, in spite of having been raised as a male child and, one assumes, explicitly instructed to use boy's toilets.

Gender identity<sup>5</sup> can validate trans people's claims about their own gender identity, and makes each individual the ultimate authority on this matter. It also captures the phenomenological aspect of "identity": to internalise a norm is to have made it part of oneself, respond subjectively to its pull, and perhaps find it difficult to take distance from it.

It *can* be harmful to withhold approval of a person having internalised certain norms, or to deny that person support in acting according to the norms. But it *need* not be so. Note that gender identity<sup>5</sup> refers to internalised gender norms, whether or not they are endorsed by the person who has internalised them. And many gender norms, I take it, are such that people feel shame when they fail to comply with them, even while disowning the norms themselves. You may, for instance, feel ashamed to take a lot of space, even while realising that there is nothing wrong with taking that space. In this case, you will find your shame at breaking the norm that you shouldn't take much space as unfitting. More generally, one can notice how gender norms are shaping one's reactions, and regret this fact. In such cases, there is no harm in other people refusing to see one's internalisation of the norms in question as part of who one really is; to the contrary, when they do so they are more likely rendering a service, by helping one to distance oneself from the norm.

Further, and related, gender identity<sup>5</sup> has a major shortcoming when it comes to the publicity requirement. It is likely nobody's business to ask you to make public information about which gender norms you internalised, even if you endorse them. But when it comes to norms that you have internalised, yet do not endorse, the request to declare them goes against important interests of yours – that is, to be silent about aspects of yourself that you regret. Usually we internalise gender norms as a result of illegitimate social pressure. Often, we continue to comply with them, in spite of our better judgement; they, as it were, turn us in some respects into mere puppets. If gender identity refers to the internalisation of such norms, we are much better off without one. As in the case of aspirational gender roles, the internalisation of particular gender norms can generate special claims, on the side of the person having internalised the norm, against pressure to conform with gender roles at odds with the internalised norm.

#### *Gender identity<sup>6</sup>: as endorsed gender norms*

The last attempt to understand gender identity is as gender norms that one endorses, whether or not one has internalised them – whether or not one reacts with pride when one conforms to them and shame when one breaks them. A full elaboration of gender identity<sup>6</sup> would take further explanation of what it means to endorse a norm: whether, for example, a person endorses a norm

only if that person attempts to act, at least sometimes, according to the norm in question. If so, having the gender identity “woman”, for instance, would require that one tries to play, at least occasionally, the gender role of “woman”, and gender identity<sup>6</sup> would be, in fact, a subcase of gender identity<sup>4</sup>: a gender role to which one aspires for the particular reason that one endorses the norms that define that role. Here I leave this complication aside.

Dembroff, I think, understands “gender identity” along these lines<sup>33</sup>. According to them, we ought to “recognize a new type of gender kind: critical gender kinds, or kinds whose members collectively resist dominant gender ideology”, examples of which are “trans men, trans women, abortion rights activists, butch dykes, drag queens, genderqueers, stay-at-home dads, female powerlifters, tomboys, polyamorous persons.” In my interpretation of Dembroff, consistent with what they say about gender queerness in several places in their article<sup>34</sup>, gender queer people are those who challenge dominant gender norms. The implication is that they endorse non-dominant ones.

Some people lack a gender identity<sup>6</sup>, since they don’t endorse any gender norms; this is the lesser problem with the account. The more serious problem is that, absent justification for (even non-traditional) gender norms, gender identity<sup>6</sup> is subject to the same objections that apply to aspirational and internalised gender roles. Nowhere does Dembroff explain what are the non-dominant gender norms that one endorses *qua* gender queer and why are they justified. In some places they seem to believe that gender queer people are those who reject traditional gender norms and don’t, in fact, endorse any other set of gender norms instead<sup>35</sup>. But this solution leaves entirely unclear how gender queer really can be a gender identity, or that gender queer can be a gender kind. Rather, being gender queer would mean being *devoid* of a gender identity<sup>6</sup>, and hence people who are critical of (all?) gender norms would lack a gender identity<sup>6</sup><sup>36</sup>.

If only it was possible to justify gender norms, whether dominant or not, gender identity<sup>6</sup> would indeed be a very promising concept. But if no such justification is available, having a gender identity<sup>6</sup>, like aspirational or internalised gender roles, cannot ground claims to recognition or requests of disclosure from states or other agents.

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33 In “Beyond Binary.”

34 For instance, at page 8: “being genderqueer is not so much about rejecting femininity and masculinity *de re*, but rather rejecting them as concepts that always are appropriate for interpreting an individual’s behavior or aesthetic.” Further, Dembroff’s proposed understanding of gender queer is “a critical gender kind, such that its members have a felt or desired gender categorization that conflicts with the binary assumption, and on this basis enact collective existential resistance to the binary assumption.” (p. 20) That is – in my reading – gender queer people reject the belief that the only gender roles are “woman” and “man”, because they desire, for themselves, another gender role, and resist, through their actions, the assumption that there are only two gender roles. That amounts to saying – again in my interpretation – that gender queer people endorse gender norms that are non-traditional.

35 They may endorse the meta-norm that gender norms ought to be rejected, which is not itself a gender norm.

36 Indeed, in one place Dembroff writes that “genderqueer does not present a new set of gender norms: it seeks to disrupt existing gender norms” (p. 23) but this is in tension with the repeated talk of “traditional gender norms” and with the invitation, extended to their readers at the end of the article, to end “gender categories as we know them.” (p. 26)

This concludes my search for a concept of gender identity that can help make sense of the trans debates in the requisite way: vindicating trans people’s claims about their identity; making individuals the ultimate authority about their gender identity; explaining why it is harmful for people not to have their identity recognised; and allowing for the permissibility of requirements to make our gender identities public. None of the concepts of gender identity in circulation, examined above, is able to do these things sufficiently well.

There may be better ways of understanding “gender identity” – perhaps hybrid concepts based on the ones I have considered, although these will risk to inherit the flaws of their components. Yet, I cannot think of any; until I become aware of a more promising understanding of “gender identity”, I conclude that we should abandon the concept; at the very least, we should refrain from appealing to it in public debates.

My position does not entail full eliminativism about gender concepts. “Gender norm”, including “internalised gender norm”, is essential to feminist social criticism. “Gender role”, and “gender socialisation” are needed to make sense of our dispositions and behaviours and for identifying the grounds on which people who have been wronged by gender norms can have special claims. It is likely that, when people declare a certain gender identity, they in fact speak about distinct phenomena such as typical or atypical behaviours, sexual dysphoria or lack thereof, assigned or aspirational gender roles, or about internalised or endorsed gender norms. Understood like this, claims about gender identity are not meaningless, but merely misleading. The eliminativism I propose does not deny that each of us has ultimate authority over how we are positioned relative to gender norms and roles. Rather, it points out that, whatever we mean when we talk about gender identities, we lack a claim to others’ validation of our preference – if any – to be treated according to particular gender norms. However, as I explained, eliminativism is compatible with thinking that one can suffer a special wrong when others, contrary to one’s wishes, hold one to particular gender norms. For this reason, trans people have particularly weighty claims to gender neutral treatment.

The quest for a concept of “gender identity” in line with the assumptions and claims of current trans debate cannot be satisfied without abandoning the belief that gender norms are illegitimate; this belief, I assume, is often shared by trans writers and activists. It is also theoretically costlier to abandon than the concept of “gender identity”.

#### 4. Two worries and a proposal

Some readers may find my eliminativist view unacceptable, for it denies that we can appeal to the concept of “gender identity” in order to settle – or even make progress with – issues of trans

people's entitlements. Others, to the contrary, may welcome my conclusion; they may hold an independent (and more general) belief that practical questions about people's competing entitlements, including claims to inclusion, should be decided without appealing to the normative relevance of their identities. If so, an eliminativist account of gender identity can make things easier.

Even readers sympathetic to eliminativism may harbour two worries: that it is infeasible to abandon the search of a proper understanding of "gender identity" and that, all things considered, it is undesirable to do so.

The feasibility worry is that gender is so foundational to our identities that we cannot make sense of the social world without it. Charlotte Witt, for instance, argues that it is not feasible to purge "gender" from the way in which we see the world, because gender roles unify our social identities and are therefore essential to social identities; all other aspects of our social identities, she thinks, are subsidiary<sup>37</sup>. If it is impossible to make sense of the social world without gender roles, then we should improve them and, indeed, Witt believes that we should redefine them in non-oppressive ways. We would also need a better way to allocate individuals to these roles than according to sexual characteristics, which is unfairly coercive to trans people. Then, perhaps, we need a progressive concept of "gender identity" as a legitimate allocation criterion. I don't have a settled view on the question of whether we can purge social ontology of gender roles, but I offer two optimistic thoughts.

One answer to this worry, which is rooted in a feasibility consideration, is that the unifying role of gender is far from obvious as a *general* claim. Rather, it is plausible that there is no unique such unifier, and which aspect of our social identity is most salient is context-dependent. Thus, it is at least imaginable that Ana, a Russian serf and a woman, is primarily a woman to her fellow peasants, a serf to the owners of the land on which she lives, and a Russian to the inhabitants of a remote country whose people never saw Russians but spent a great deal of time curiously imagining them. That is, even if the primary way in which her fellow serfs identify her is "a woman", it is plausible that the most salient thing about Ana in her owners' eyes is that she is a serf (with womanhood and being a Russian merely subsidiary), and that for the inhabitants of the foreign country to which she escapes the essential thing about her identity is that she is a Russian (with womanhood and serfhood less important). If so, gender roles could, after all, be dispensable. Readers who find it hard to imagine that Ana's gender may fade into background in some contexts are invited to consider whether their reaction confuses "gender" with "sexual characteristics". It may, indeed, be very hard to become oblivious to people's overt sexual characteristics; possibly, our receptivity to them is dictated by evolutionary reasons that are difficult, if at all possible, to overturn. What could be easier to overturn is our interpretation of these characteristics through the

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37 *The Metaphysics of Gender*, New York: Oxford University Press, 2011.

prisms of gender norms. Even if it is impossible to overlook sexual characteristics, it might well be possible to purge gender roles from our social ontology.

The second answer is that other identities that some people believed to be essential for organising the perception of the social world have faded, or become marginal, with time. For instance, about two hundred years ago many Europeans took “nationality” to be a, or *the*, central identity category. Here is Joseph de Maistre (admittedly, an extravagant character) on nationality:

“Now, there is no such thing as ‘man’ in this world. In my life I have seen Frenchmen, Italians, Russians, and so on. I even know, thanks to Montesquieu, that one can be Persian. But as for man, I declare I’ve never encountered him.”<sup>38</sup>

Today it is a lot easier to “see” human beings without relying on the category of “nationality”; it is indicative that many of us find it hard to understand de Maistre’s difficulty to perceive individuals in the absence of their national identity. Possibly the same will be true one day of gender identities.

Second, readers may harbour a desirability worry: namely that, without an account of gender identity and, hence, without the possibility of giving a satisfactory (to its aims), and context-independent, answer to the question of who is a woman and who is a man, feminism is unable to solve its boundary problem. “Feminism” is most widely understood as a movement aiming to overcome the oppression of women. For this reason, writers as ideologically opposed as Esa Diaz-Leon and Tomas Bogardus seem to agree that feminists need to settle the woman question<sup>39</sup>. Could eliminativism about “gender identity” be desirable, then? What will become of the feminist project without an ability to determine what is a woman?

Against Diaz-Leon and Bogardus, I propose a definition of “feminism” without appeal to “woman”. The aims of the feminist project, as I understand it, are: (a) to eliminate unjustified gender norms, and (b) to mitigate, or compensate, the disadvantages generated by unjustified gender norms. Neither the first nor the second aim requires consensus on what or who is a woman.

Two reasons speak in favour of adopting this understanding of the feminist project, in addition to its ability to avoid the apparently intractable woman question. For one thing, it is logically entailed by the basic normative commitments of feminism. The alternative definition of feminist – as resistance to women’s oppression – has to answer the upstream question of who, or what, oppresses women. The most plausible answer, I contend, is “gender norms”. Some may want to add an intermediary step and say that it is patriarchy that oppresses women. But what is

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38 In *Considerations on France*, trans. Richard A. Lebrun, New York: Cambridge University Press, 1797/1994, p. xxiii.

39 Diaz-Leon write that “it would be impossible for feminists to specify that class of individuals that feminism is concerned with, assuming that feminism is concerned with the oppression of women.” In “Woman as a Politically Significant Term: A Solution to the Puzzle”, in *Hypatia* 31(2): 245-258, 2016. For the same reason, Bogardus thinks that answering the question of what is a woman is the “demarcation problem” of feminism. In “Some internal problems with revisionary gender concepts”, *Philosophia* 48: 55-75, 2020.

patriarchy, and why is it oppressive? Sooner or later, in order to make sense of their grievance, feminists have to talk about gender norms and their justification or lack thereof.

In addition, my proposed understanding of the feminist project is naturally inclusive. Assuming that virtually nobody escapes gendered socialisation, virtually everybody is shaped by gender norms. Not everybody's interests are *equally* set back by these norms, and some people are also advantaged by them, perhaps all things considered advantaged. But it is at least conceivable that a large majority of people experience net losses. If this last claim can be substantiated – and I think it can – then most people have reason to adopt the feminist project as I see it. But even if the majority of people who are net losers due to the existence of gender norms is not vast, it most certainly includes trans people. A feminism whose main focus of concern is gender norms, rather than gender identity, has a place for all these people.

## 5. Conclusions, some political

Recall de Beauvoir's pivotal claim that one is not born a woman, but becomes one. On my early, liberating reading, it implies that we should strive to stop being women (or men), and be, simply, "people". This might explain why, although a feminist, I was never troubled by the inconclusive debates of what is a woman<sup>40</sup>. The action, it appeared to me, was in the identification, and elimination, of objectionable gender norms. To do so, I proposed here, one must first distinguish between justified and unjustified gender norms. However, the latter norms are not all created equal. Some ought to be eradicated because they prescribe impermissible or at least morally objectionable behaviour. Others prescribe morally desirable, or even required, behaviour and they are only objectionable inasmuch as they are gendered – that is, upholding a double standard. With these norms, the challenge is to de-gender them – to apply them universally – without undermining them. Finally, there are gender norms whose content is morally neutral – perhaps norms of appearance are like this. These, I think, are the most philosophically interesting, since it could be equally desirable to eradicate or universalise them.

Today, much of the action has moved to establishing claims that people, allegedly, have on the basis of their gender identity. I argued that none of the concepts of gender identity in circulation serves this purpose. There are also some practical conclusions to my inquiry. One has reason to meet with principled opposition requests to declare our gender identity or our pronouns, at least unless we are given a clear explanation of what they mean. Is the question about how one behaves, or how one feels about one's sexed body? About the norms that others imposed on one, or about those according to which one would like to be treated? Is it about internalised norms, or about norms that one endorses? None of these questions is obviously apt. But we also have reason, in

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<sup>40</sup> Which are at the core of academic debates about the foundations of feminism. See Mikkola "Feminist Perspectives."

relation to others, not to misgender, or use pronouns different from what these others declare, unless there are overriding reasons to do so. In most cases, the only practical way of doing this will be to simply accept the pronouns that people that people ask us to use, since pronouns must be used. Alternatively, we could adopt a gender-neutral universal pronoun.

Many debates about “gender identity” have been galvanised by very concrete, and urgent, practical issues concerning trans people’s claims to have access to various women’s spaces. Resolving these debates falls under the second heading of the feminist project, that of mitigating, or compensating, the disadvantages generated by unjustified gender norms. One, trans-inclusive, side of the debate hopes that settling the issue of gender identity would also yield a verdict about the legitimacy of these claims. The other side of the debate assumes that practical controversies could be settled by appeal to a set of reasons, having to do with the historical oppression of females, understood as people who display all the sexual characteristics that have been traditionally used to define femaleness. Such reasons, on this view, indicate that “woman” is best understood as a sex term, and at the same time yield a justification for the exclusion of trans women from women’s spaces<sup>41</sup>.

I disagree with both approaches. I think that we can answer these questions without a concept of “gender identity” and without deciding whether “woman” is best understood as a sex or as a gender concept. (We obviously need, for these purposes, the concepts of “sexual characteristic”, “gender norms” and “gender roles”.) Instead, we need to look at each of the urgent practical questions in turn, and judge them in light of the specific arguments that bear on each of them. I illustrate this approach briefly, and without committing to any particular line of reasoning.

For instance, the question of whether trans women ought to be free to compete for political parties’ women’s quotas will primarily depend on the justification for the existence of quotas. On one view, quotas are justified as a way of levelling the playing field, and the playing field is tilted by the fact that gender norms advantage some participants and disadvantage others. If so, and if trans women are disadvantaged by gender norms in the competition for political power only insofar they present, and are typically classified as, women, there is reason not to open these places to trans women who are unlikely to have been classified as such for a sufficiently long period of time. If, alternatively, quotas are justified because people who have been trained in the gender role “woman” have their unique, and valuable, perspective to bring to politics, then trans women should have access to these places only if they have been subjected, for sufficiently extended periods of time, to the gender role “woman”. Finally, if the justification of quotas is to ensure that there are enough role models for women who aspire to become politically active, or, more generally, to ensure that the citizenry is not alienated by the lack of women in visible political positions, then it is possible

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41 Stock, *Material Girls* and Holly Lawford-Smith, *Gender Critical Feminism*, book manuscript.

that a trans woman who has transitioned fulfils this justificatory condition just as well as any other woman.

Another example concerns the division between male and female sports. Assuming that the very division is justified, the subsequent question is what justifies it; the answer to this question should also indicate the criterion for sorting sports people out in two, or more, groups. Most likely, the answer will have to do with the influence of one's hormonal make-up on one's physical properties such as strength and speed, rather than with one's gender identity. And, if so, one may have to start with a comparison between the average trans women's bodily abilities and the average abilities of people whose hormonal make-up has, over the course of their lives, been dominated by oestrogen.

A last example concerns the use of segregated toilets. Perhaps in a world without gender there would be no need for such toilets, but let's assume that in our hyper-gendered one segregated toilets are needed to protect women from violence at the hands of men. One of the claims that I have advanced above, that trans people have a particularly stringent claim *against* being imposed the gender role that corresponds to their (native) sexual characteristics, indicates that they have a particularly stringent claim to the creation of additional, non-segregated toilets. Others may have a duty to help trans people to enjoy the full value of their right by using non-segregated toilets themselves, at least occasionally. But if adding non-segregated toilets is not a real option, considerations of special vulnerability may indicate that trans people ought to be free to use any toilets they wish; it may well be that the risk of violence faced by trans women, if they are required to use men's toilets, is higher than the risk that their use of women's toilets would impose on other women.

The arguments sketched above in very rough brushstrokes are merely illustrative, and it is possible that each of them has fatal flaws. Their only role is to show how the debate can proceed even if participants do not avail themselves of the concept of gender identity.