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Is Gender-Critical Speech Harmful Speech?

9.1 Gender-critical speech

Gender-critical feminists are routinely accused of hate speech, harmful speech, and more recently, transphobic dogwhistles. For example, the Cambridge University Students' Union Women's Campaign website lists a document 'How to spot TERF ideology', which includes the claim 'Terf ideology uses a lot of the same phrases and tropes [as transmisogyny], which often seem innocuous on the surface but are actually being used as dogwhistles for transphobia and transmisogyny. Overall, terf ideology hides itself in feminist language, often claiming to support trans rights while actually working to undermine them.'¹ A guest post at the philosophy blog *Daily Nous* by three anonymous philosophers in 2019 claimed that gender-critical feminists 'like other activists... will denigrate or vilify their opponents, make use of dogwhistles, appeal to people's baser emotions to increase support for their cause, and ignore inconvenient facts', and that their writings 'express demeaning and offensive ideas about trans people' (Weinberg 2019). They go on to identify the terms 'male', 'men', and 'biological male' as transphobic dogwhistles, claiming that these are used in order to demean, denigrate, disrespect, sexualize, objectify, and 'threaten trans people's access to public goods'. A recent article for *Vice* describes the UK Labour party as using a 'TERF dogwhistle' in their manifesto when they promise to protect the Equality Act 2010's exemptions for single-sex spaces (Smith 2019). *Pink News* accused a birth coach of using a 'transphobic dogwhistle' when she objected to Cancer Research UK's campaign directed at 'everyone aged 25–64 with a cervix', denying that she was a 'cervix owner', a 'menstruator', or a 'feeling', and insisting instead 'I am a woman: an adult human female' (Parsons 2019).

Usually, these types of claims are simply asserted. Occasionally, the author will gesture at the harm that the speech is alleged to bring about. Jennifer Saul, for example, emphasizes how marginalized transwomen are, stressing that 'an absolutely key component of this marginalization and discrimination is the denial of trans women's identity as women' (Saul 2020). Katharine Jenkins does something similar, pointing first to the marginalization of trans people—'[i]t will be relevant to my arguments that trans people in general are a severely disadvantaged and

¹ The CUSU Women's Campaign. 'How to spot TERF ideology'. Online at <<https://www.womens.cusu.cam.ac.uk/how-to-spot-terf-ideology/accessed>>, 24th June 2021.

marginalized group in society, suffering oppression and injustice in multiple respects including discriminatory denial of goods such as employment, medical care, and housing; consistently negative portrayals in the media; and particularly high risks of violence' (Jenkins 2016, p. 396)—and then asserting that '[f]ailure to respect the gender identifications of trans people is a serious harm and is conceptually linked to forms of transphobic oppression and even violence' (Jenkins 2016 p. 396; citing Bettcher 2007).

Before we can settle the question of whether gender-critical speech is harmful speech, we need to set the parameters of what counts as gender-critical speech. (Those who have already read Chapter 8 should skip ahead to the next section). There's a difference between speech uttered by any person who claims to be gender-critical or signals affiliation with the gender-critical movement, and speech that asserts core commitments of the gender-critical feminist view. If we're talking about the former, it's plausible that examples of harmful speech abound, as they do in any online community where accountability is low. But that's hardly a surprising or interesting conclusion. The latter is more interesting.

I'll focus on a cluster of views centring on the importance of sex-based rights, frequently asserted by academics, journalists, lawyers, and other professionals who self-describe as gender-critical. There is plenty of reasonable disagreement among gender-critical feminists about other things, but these are commitments that anyone self-describing as gender-critical is likely to have: there are two sexes, male and female; it is impossible to change your sex; sex characteristics cluster into a bimodal distribution and intersex people are not outside of the two main clusters; sex matters politically and women's sex-based rights should be protected; female-only spaces, services, and provisions are important to women and girls and should not be offered on the basis of self-identified sex/gender identity; self-identification, statutorily declared, is an inadequate basis for legal sex; a subjective sense of one's 'identity' does not trump all others' interests in conflict cases; transwomen are male and transmen are female, and if they weren't they wouldn't be trans; gender is not gender identity; sex is not gender identity; gender is sex caste by way of gender norms, explained by or built on top of sex difference; gender (as previously defined) should be abolished; everyone is 'nonbinary' (relative to the previous definition of gender) so no one is; the terms 'female' and 'male' should refer to sex; the terms 'woman' and 'man', 'girl', and 'boy' should refer to either or both of sex and gender (as previously defined); 'lesbian' and 'gay' are sexual orientations, and thus refer to and depend on sex. (This same list of claims appeared in Chapter 8).

Some people who use 'men' as a gender term think gender is gender identity. To them, 'transwomen are men' will be heard as a denial of a transwoman's gender identity. It would only take granting that denying identity is harmful to land on the conclusion that gender-critical speech is harmful speech. That's why it's important to note how gender-critical feminists and their opponents sometimes

talk past each other because of their different concepts of gender. For gender-critical feminists, identity is beside the point. According to the cluster of views just given, transwomen are male, and it's impossible to change sex, and gender is sex caste by way of gender norms, and 'man' is either or both of a sex or a gender term (on these understandings). It follows from these views that all/only male people are men, and so that 'transwomen are men' is true. Still, if such gender-critical claims are reasonably understood as denials of identity, perhaps because gender as identity is the dominant conception of gender and gender-critical feminists do not take sufficient steps to be clear about what they mean, then the phrases 'transwomen are men' and 'transmen are women' may be good candidates for being harmful speech. I'll argue later that a correlate of these claims, namely 'woman: adult human female', is a good candidate for gender-critical speech being harmful speech.

I'll start by considering the claim—less common in the public discussion but of interest in the philosophical discussion—that gender-critical speech involves transphobic figleaves. Then I'll move on to the claim that gender-critical speech involves transphobic dogwhistles.

9.2 Harmful speech: figleaves and dogwhistles

Saul has presented accounts of both figleaves and dogwhistles in the context of racist political speech.

Figleaves. Saul describes racial figleaves as 'utterances that provide just enough cover to give reassurance to voters who are racially resentful but don't wish to see themselves as racist' (Saul 2017, p. 97), made in addition to utterances that are more explicitly racist (p. 103). Racial resentment is a cluster of negative ideas about a racial group that fall short of explicit racism, for example believing that they get 'special favours' (p. 99); that they no longer face much discrimination (Saul 2018, p. 365); that their disadvantage is mainly explained by facts about them, like a poor work ethic (p. 365); that 'they are demanding too much too fast' (p. 365); and that they have been given more than they deserve (p. 365). A classic example is the 'denial figleaf': 'I'm not a racist, but...' (Saul 2017, p. 103).²

² Saul also lists the 'friendship assertion figleaf' ('some of my best friends are black, but...'), the 'mention figleaf' ('what I feel like saying is...'), and one she doesn't name but we could call the 'generics figleaf' ('not all black people, but...') (Saul 2017, p. 104–6). She also toys with the notion of a *human figleaf*, a person from a social group who says something that seems to be undermining of that group's equality (p. 107, fn. 17). Gender-critical transsexuals may be a good example here: in virtue of being trans themselves, audiences will be reluctant to understand their utterances as 'transphobic'. (In fact this is not how things go; gender-critical transsexuals are subject to particular abuse, including the slur 'truscum'). John Turri notes that Saul's discussion of figleaves is left-biased, focusing on 'statements made by conservative politicians, commentators, and their supporters' (Turri 2022, p. 6). Turri attempts a corrective, offering some examples of liberal figleaves including the 'Humpty Dumpty

Most of this is easily transposed from race to trans status, e.g. ‘trans people are demanding too much too fast’, ‘trans people have gotten more than they deserve’, ‘trans people get special favours’, ‘trans people no longer face much discrimination’, and ‘any disadvantage trans people face is mainly explained by facts about them’. There may also be more specific resentments that are specific to trans status. The denial figleaf for trans would be ‘I’m not transphobic, but...’ (this was in fact the title of a prominent blogpost written against gender-critical feminists—see Finlayson et al. 2018).

Acceptance of these claims would be a sign of ‘trans resentment’, falling short of explicit transphobia. Saul follows Tali Mendelberg in thinking there’s a ‘norm of racial equality’, which rules out explicitly racist speech (Saul 2017, p. 99). Is there a ‘norm of trans equality’? If there isn’t, then it doesn’t make sense to try to run the parallel—we could just look directly at explicitly transphobic speech. While a lot of speech is *accused* of transphobia, it’s clear that in progressive circles in many countries today there is a norm of trans equality. Indeed, the chapters in this book are *about* the way the enthusiastic policing of that norm has caused problems for feminism. So ‘trans resentment’ is the phenomenon of people who nominally conform to the norm of trans equality nonetheless having attitudes that are not entirely egalitarian.³

One issue here is that stating ‘trans resentment’ in parallel to race smuggles in the assumption that trans people as a social group are in the same kind of position as disadvantaged racial groups, and that is not at all obvious. As groups, they have very different histories, their disadvantage has a different explanation, and its ongoing form has a different shape (e.g. how and by what/whom it is sustained). This formulation makes it seem like anyone who agrees that ‘trans people have gotten more than they deserve’ has trans resentment, when it is perfectly possible that trans people *have* in fact gotten more than they deserve. (For example, transwomen deserve social equality, but have gotten women’s rights). So it would need to be established independently that all of these claims were indicators of *unjustified* resentment, in order for us to be worried about gender-critical

figleaf’, which stipulatively redefines bigoted words in the mouths of certain utterers (pp. 7–8), the ‘force figleaf’, which reduces the force of a bigoted remark by saying that it’s merely imitating its opponents (p. 9), and the ‘stipulative figleaf’, which denies that an utterance is bigoted by pointing to the lack of power of its utterer (pp. 9–10). His examples, respectively, include ‘#KillAllMen’ when uttered by feminists on Twitter, an Asian American woman posting to social media ‘fuck white women lol’, and the claim that the same Asian American woman couldn’t be bigoted against white people because it’s white people who have been bigoted against Asians in the past (pp. 9–10).

³ While I formulate the norm in terms of equality here so that it has some content, Saul’s formulation of the norm of *racial* equality is left open, simply ‘don’t be racist’, with that allowing different people to plug in their different understandings of what that means (Saul 2017, p. 100). The problem with taking the norm in the trans case to be ‘don’t be transphobic’ is that the gender identity activist community has a very expansive conception of what counts as ‘transphobia’, incompatible with a feminist commitment to the importance of sex and sex-based rights. More on ‘transphobia’ in Section 9.2.1.

utterances that give reassurance to those that are trans resentful but don't wish to see themselves as transphobic. Women resenting their rights being appropriated is hardly unjustified.

Let's assume for the sake of argument that there's a good parallel to be made between racism and transphobia, and racial resentment and trans resentment. In this case, gender-critical speech could be characterized as a 'figleaf' whenever it provided cover to trans resentful people who didn't want to see themselves as transphobic. This kind of speech would be fundamentally denying the moral equality of trans persons, but in a way that is palatable to people who nominally uphold a norm of trans equality. This might be seen as an intrinsic wrong; but Saul herself links racist figleaves to the outcomes of 'corrupt[ing] not just our political discourse but our culture more broadly' (Saul 2017, p. 97); blocking self-understanding (because the figleaf disguises racism that would otherwise be called out; p. 110); and potentially causing racist behaviour, up to the point of contributing to genocidal violence (pp. 101 and 112).

The problem for running the parallel argument is that nothing in the core commitments of gender-critical feminism denies the moral equality of trans persons. There is no denial of humanity, or moral status; no assertions of inferiority, or lesser worth. There is no denial that trans people should be protected from discrimination, or that their social disadvantage matters. What gender-critical feminists deny is that it is possible to change sex, that 'woman' is a subjective identity, and that a theory and movement about sex caste should cede a coherent and useful definition in order to be 'inclusive'. But all of these commitments are perfectly compatible with trans equality. If gender-critical speech doesn't deny moral equality then it doesn't involve transphobic figleaves, and if it doesn't involve transphobic figleaves then it can't be linked to the harmful outcomes of that speech that may exist in parallel cases of racist figleaves. So the figleaves claim is a non-starter.

Dogwhistles. Perhaps we'll get more traction with the claim that gender-critical speech is harmful speech by thinking about gender-critical dogwhistles. Saul writes that dogwhistles 'are a disturbingly important tool of covert political manipulation... one of the most powerful forms of political speech, allowing for people to be manipulated in ways that they would resist if the manipulation was carried out more openly' (Saul 2018, p. 362). A dogwhistle is speech that communicates different things to different audiences, usually one thing to people 'in the know' and another thing to everyone else. The neutral example she gives of this is children's cartoons, which sometimes contain more sophisticated references or jokes for the parents who may be watching along (p. 363). But her main interest is in political dogwhistles, which can be used to manipulate voters.

She distinguishes four types of dogwhistle: overt intentional, covert intentional, overt unintentional, and covert unintentional. A dogwhistle is overt when

its meaning is right there on the surface for those in the know, and covert when it taps into prejudices those in the know have but isn't transparent about doing so. A dogwhistle is intentional when its utterer wants to communicate different things to different audiences, and unintentional when she merely repeats it without understanding that it will do.

Saul takes the most important type to be the overt intentional dogwhistle. She gives two examples. The first is the phrase 'wonder-working power' as used by George W. Bush in concealed communication with Christian fundamentalists. She says it works in two ways, first by being a 'favoured phrase' to refer to the power of Christ, so that fundamentalists will hear it as a religious reference while others will simply hear 'fluffy political boilerplate' (p. 363); second, by signalling that Bush shares in their idiolect, and so is one of them. The second example is Bush's statement of opposition to an outdated legal decision denying citizenship to black persons, as a concealed communication to those on the right that he opposes abortion. This may 'trigger allusions for those in the know', because the decision is so often referenced in discussions about abortion, or may work by conversational implicature—*everyone* opposes that decision, so something else must be being communicated (p. 364).

A *covert* intentional dogwhistle is one that people 'fail to consciously recognize' (p. 366). It is consistent with norms of moral equality, while tapping into resentment. Saul's example is a campaign against a prison furlough programme, which centred on a particular individual who had committed violent crimes while out on furlough. The campaign was on the surface 'only' about preventing crime, but because the individual who perpetrated those crimes was black, it was also covertly racist. Saul notes that the campaign was initially very successful—causing the politician whose programme it was to fall in the opinion polls—but then was accused of racism, and the politician began to recover (p. 367). She thinks this supports the view that the dogwhistle only worked *because* covert, because people are nominally committed to racial equality and so will reject overt racist messaging (see also the experimental work done by Tali Mendelberg (2001) on this point).

What about the *unintentional* types? Saul says 'a crucial fact about the way that dogwhistles do their work in the world is...they can be unintentionally passed on, with identical effects to the original dogwhistle' (Saul 2018, p. 368). Others who are not aware of the dogwhistle can repeat it, and it can keep doing its work. She gives the example of reporters and TV producers covering the campaign against prison furlough, and thus unintentionally disseminating the racist dogwhistle to a much bigger audience. Their coverage functions as a dogwhistle, but they do not intend it to do so, unlike the original campaigners. These can be referred to as 'amplifier dogwhistles' (p. 369). This is a useful concept given that much gender-critical speech happens online and across social media. We might

liken the creators of gender-critical content to the original politicians in Saul's examples, and those who help to disseminate that content online—by liking it, sharing it, commenting on it, or repeating it—to the reporters and TV producers.⁴

Saul thinks dogwhistles are perlocutionary speech acts, 'the acts of making utterances with certain effects' (Saul 2018, p. 377).⁵ Those that are covert rather than overt cannot succeed if the hearer recognizes that a particular effect is intended by the speaker. Dogwhistles can 'pose problems for democracy' (p. 379), either because they undermine the democratic mandate for particular policy positions in virtue of only some voters recognizing their true meaning (see also Goodin and Saward 2005), or because they work to exclude certain perspectives from the democratic debate, or undermine reasonableness (see also Stanley 2015). The dogwhistle 'inner city', functioning to mean *black*, has been found in experimental work to have a significant effect on the answers subjects gave to a question about public spending. The question asked about directing funding towards new prisons, or spending it on anti-poverty projects for crime prevention, and varied between using the words 'violent criminals' and 'violent inner city criminals'. Regardless of subjects' existing racial attitudes, there was no difference in answers in the 'violent criminals' condition, but in the 'inner city' condition, racial conservatives favoured prison spending, racial liberals favoured anti-poverty spending (Saul 2018, p. 368; see also Hurwitz and Peffley 2005).⁶

Saul's inclusion of this empirical evidence is significant for two reasons: one, it supports her claim that dogwhistles are perlocutionary speech acts by identifying specific negative effects; two, it suggests such evidence is necessary. Saul herself allowed that there are non-harmful dogwhistles, e.g. the content for parents in children's television shows. So it's not enough to merely establish that there are gender-critical dogwhistles: we also have to show that there are gender-critical dogwhistles with harmful effects. It is noteworthy that no one, including Saul herself, has provided any empirical evidence for the claim that gender-critical speech has harmful perlocutionary effects.

Saul's discussion was focused on racist dogwhistles. We're interested in (genuinely) transphobic dogwhistles, if there are any. There are many questions to ask. What's the parallel to racism in the case of transphobic dogwhistles? What are the

⁴ There is complexity here about whether sharing/retweeting is 'saying' or merely 'amplifying'. Some seem to understand it as 'saying', an implicit endorsement or repetition of content. Others seem to understand it as 'amplifying' or even merely sharing for comment, sometimes critically. Suppose someone shares/retweets a gender-critical dogwhistle. If that is 'saying' then it may be classed as an overt or covert *intentional* dogwhistle, if it is 'amplifying' then it will be classed as an overt or covert *unintentional* dogwhistle.

⁵ The usual distinctions are between the semantics (what the words mean: locution), the speech act (what is done with the words, e.g. *marrying* two people, or *silencing* someone: illocution), and the downstream effects (the consequences of the words being said: perlocution).

⁶ Saul used 'racial conservatives' and 'racial liberals' to distinguish answers to questions about racial stereotypes and the racial fairness of the justice system (Saul 2018, p. 368).

specific phrases in gender-critical speech that are meant to be dogwhistles, in the same league as ‘inner city’ or ‘wonder-working power’? Are gender-critical feminists supposed to be the engineers of these dogwhistles, corresponding to the conservative politicians who use the racist dogwhistle phrases, or are they supposed to be the amplifiers or otherwise unintentional repeaters of these phrases? If the latter, whose dogwhistles are they, serving what interests? And finally, what are the negative consequences of gender-critical feminists’ alleged transphobic dogwhistles, corresponding to the undermining of democracy by, or the voting practices of, those influenced by racist political dogwhistles? I’ll take each of these questions in turn.

9.2.1 Parallel to racism

In the case of racist dogwhistles, the dogwhistle taps into racial prejudice. What there was in the racial case was a value judgement about the comparative moral worth of people of different races. Most types of prejudice, like homophobia, classism, xenophobia, or ageism, tend to involve both generalizations and value judgements: those people are all [*negative description*]; those people are all [*negative judgement*]. The concept ‘transphobia’ exists, so maybe this gives us what we need.

But we have to be careful here, because this concept has been inflated by activists, to include not just the assignment of negative traits to trans people as a group, but also any instance of a refusal to validate subjective identity claims. You can be accused of transphobia for not using a person’s preferred name or pronouns, for dismissing the claim that sex is a social construct, for denying that single-sex services should be offered on the basis of gender identity, and for insisting that sexual orientation tracks sex, not gender identity. You can be accused of transphobia for thinking that being born and raised female under patriarchy makes a meaningful difference to your experiences as a woman. You can even be accused of transphobia for thinking that laws dealing with pregnancy and breastfeeding, or charities dealing with breast cancer and cervical cancer, should keep using the word ‘woman’ instead of switching to ‘pregnant people’ or ‘people with cervixes.’⁷ If transphobia is going to be like all the other -phobias and -isms, then we need to

⁷ In case it’s not immediately obvious why this *isn’t* transphobic, note that the ‘default male’ has been a longstanding assumption against which women have fought for recognition (and that this assumption has caused real material harm, e.g. in the making of personal protective equipment to fit a standard male body, or the understanding of the symptoms of heart attack coming from the standard male experience of heart attack—for this and many other examples see Criado-Perez 2019). Naming women, acknowledging women’s difference, and advocating for its accommodation, are important feminist projects, which are undermined by the push by gender identity activists to return to gender-neutral language, which will ultimately mean a return to the default male (see also discussion in MacKinnon 1987).

eliminate the inflation and focus on genuine prejudice against trans people as a group.

But then it will need to be shown that gender-critical speech in fact taps into (and in the best case, of overt intentional dogwhistles, *intends to* tap into) genuine prejudice against trans people. Let's return to the examples in the anonymous *Daily Nous* post, claiming that 'male', 'man', and 'biological males' are all transphobic dogwhistles used by gender-critical feminists. These are not value judgements, but statements of fact. There need be no prejudice involved in saying that a transwoman is a 'biological male' or is 'male'; the transwoman *is* in fact both of those things (and many transwomen themselves are perfectly happy to admit this).⁸ There need be no prejudice involved in saying that a transwoman is a 'man', if you think 'man' is synonymous with 'male', or if you think that being male is a necessary and sufficient condition of being a man. Gender-critical feminists generally think one or both of these two things.

Males/men are the *superior* category in the sex hierarchy under patriarchy, not the inferior category, which makes it difficult to see how being referred to as a man can be demeaning or disrespectful. Indeed, calling a man a 'woman' (or a 'girl') is a way to *disrespect* him. Calling a transwoman 'male' or a transman 'female' might be a way to disrespect that person *as an individual* if it is done in the service of no other aim but to insult or offend; but gender-critical feminists don't have that as their aim, their aim is the protection of women's sex-based rights. Going forward, we'll need to look for gender-critical speech that taps into genuine prejudice against, or can be argued to cause real harm to, trans people.

9.2.2 Which phrases?

Let's start with an example that plausibly *does* count as tapping into the prejudices just mentioned, even though it's not an example of core gender-critical speech in the sense circumscribed in Section 9.1.

'*Predators*' and '*paedophiles*'. In August 2019, an email went out to all staff at the University of Melbourne. It was from the Vice-Chancellor, and it read 'I have recently become aware of some highly offensive stickers and posters appearing on campus which vilify transgender and gender diverse people. Campus security have removed the material and made contact with Victoria Police.' As part of the campaigning against the Births, Deaths, and Marriages Registration Amendment

⁸ See e.g. these tweets by high-profile transwoman Blair White, each of which feature a sexualized/revealing picture of White with the comments 'Men, what's stopping you from looking like this?' (August 19th 2020, 3:45 a.m.), and 'This is the ideal male body. You may not like it, but this is what peak performance looks like' (May 8th 2020, 3:16 a.m.). <<https://twitter.com/MsBlairWhite/status/1295778746566184960?s=20>> and <<https://twitter.com/MsBlairWhite/status/1258445512266493953?s=20>>

(BDMRA) Bill 2019 (the bill that proposed moving to self-identification for change of legal sex), someone had put two different posters up in various buildings around the university campuses of Melbourne.⁹

One said in large print ‘COMING SOON! To a toilet with you. Ms #WaxMyBalls’, laid over a picture of Jessica Yaniv,¹⁰ and in smaller print ‘If the births deaths and marriages registration Amendment bill 2019 passes predators like Jessica/ Jonathan Yaniv will be able to use female toilets And it will be illegal to protest’. Another had a picture of Karen White, and said ‘This is Karen White. This 52 year old transgender woman is a convicted paedophile. HE was placed in a female prison and sexually assaulted female inmates. THE BIRTHS DEATHS AND MARRIAGES REGISTRATION AMENDMENT BILL 2019 WILL ALLOW VIOLENT SEX OFFENDERS LIKE WHITE TO SELF IDENTIFY INTO FEMALE PRISONS, SHELTERS, AN [sic] BATHROOMS. THANK A STATE LABOR POLITICIAN TODAY.’

These posters aim to get readers to resist the BDMRA Bill, and they do so by reminding their audience of two of the *worst* transgender people that exist in the public imagination, namely Jessica Yaniv and Karen White. Both Yaniv and White are linked online to paedophilia, Yaniv through widely circulated screenshots of inappropriate comments about pre-pubescent girls, and White through White’s criminal record. This taps right into the ‘sexual deviant’ prejudice,¹¹ and it encourages generalization, along the lines that because we wouldn’t want to share female-only spaces with Yaniv or White, we shouldn’t want to share them with any transwoman. This looks like a classic case of generalizing from ‘one bad apple’ to a whole social group. Imagine if we heard a politician assert that we should disallow immigrants from Bulgaria, for example, on the basis that *one Bulgarian*

⁹ This was reported a couple of years later in Melbourne newspaper *The Age*, in the context of protests against gender-critical research and teaching at the University of Melbourne (Carey 2021).

¹⁰ Yaniv is a Canadian transwoman who took a number of immigrant home-based beauty therapists to court for discrimination when they refused to perform a Brazilian wax (Yaniv has male genitalia)—(see discussion at Murphy 2019, and Slatz 2019).

¹¹ There was a concerted attempt by opposition to the campaign for gay rights to link same-sex attraction in men up with sexual deviancy, in particular paedophilia. Prejudice against gay men often revealed itself through people making this connection. (Although this association gained some credibility through the fact that for a period gay rights campaigners did actually advocate for paedophiles—see discussion in de Castella and Hayden 2014). Whether this association with sexual deviancy is a prejudice is more complicated in the case of transwomen, for two reasons. One is that what is at least an uncommon sexual interest—autogynephilia, the attraction to oneself as a woman—is the cause of at least some transwomen’s identification as women (see e.g. Blanchard 1989; Blanchard 2005; Lawrence 2013; Lawrence 2017; Zucker et al. 2016; and further discussion in Lawford-Smith 2022, pp. 107–9, p. 243 fn. 92, and p. 244 fn. 99). Another is that some transwomen are upfront about being attracted to women’s sexual subordination (e.g. Andrea Long Chu’s notorious claim that sissy porn made her trans—Chu 2019). So the ‘prejudice’ then can’t be the projecting of incorrect ideas about sexual deviancy onto transwomen, but only either *generalizing* from autogynephilic or subordination-attracted transwomen to all transwomen, or considering autogynephilia or subordination-attraction ‘deviant’ rather than ordinary.

man raped one Australian woman. The inference from one rapist to all of his conationals is absurd.

Is it just as absurd in the case of transwomen? Gender-critical feminists think sex matters politically. That means they think *being male* matters. They don't distinguish transwomen from other male people in that regard; they are concerned with male violence, and with male sexual entitlement, and with other socialized male behaviours, and while they don't think that *all men are violent* (sexually entitled, etc.) they think that *we don't know which males are violent* (sexually entitled, etc.) and this gives us precautionary reasons to protect female-only spaces, services, and provisions. The fact that a law is being proposed that would allow *any male person* no matter who he is to self-identify into female-only spaces is a serious threat to those interests. But this point could have been made using a poster featuring a violent male person who wasn't trans.

Given that there are negative stereotypes of transgender people as being predators and/or paedophiles, and given that the case against self-identification for sex could have been made by referring to any male person, the choice of two transwomen to feature on the posters does look to be harmful. Whoever made the posters was probably reasoning that it's transwomen who are *contesting* women's spaces, not other males. But that doesn't change the fact that the point could have been made in a less harmful way. These posters did contain genuine prejudice against trans people. But while these posters were likely speech by a gender-critical *person*, what they say is not part of the core set of gender-critical commitments. So they do not suffice to establish that gender-critical speech is harmful speech.

'*Clownfish*'. In a segment for *Good Morning Britain* about the backlash against J. K. Rowling's gender-critical essay (Rowling 2020), India Willoughby said:

...there's some very oblique terms in that long essay that J. K. Rowling did, I mean there's a reference there to clownfish, now clownfish are amazing, clownfish can actually change sex naturally, incredible! But it's used in certain areas as an insult towards trans people, so on the face of it, I mean there's an innocent reference to clownfish, but J. K. Rowling knows the weight that clownfish carries, yet she used that thing (Good Morning Britain 2020).

While Willoughby doesn't use the word 'dogwhistle', that's what she's describing here—'clownfish' is used *in certain areas*, i.e. among people 'in the know', to communicate particular content. Whether or not this content is as strong as to be 'an insult towards trans people' is debateable, but it is true that the clownfish is well-known and frequently-discussed among gender-critical feminists. This began as part of the social media fight between gender-critical feminists and gender identity activists over whether it's possible for humans to change sex, with some social media users on the gender identity side contributing examples of plants and animals being able to change sex. Gender-critical feminists found this highly

amusing—the obvious response, of course, being *what does the clownfish have to do with us?* From there, ‘clownfish’ became a sort of meme.

When J. K. Rowling writes about clownfish, then, she’s using an idiolect that signals to gender-critical feminists *we are on the same team*, and to gender identity activists that she is with the gender-critical feminists. But it’s not clear if it is an insult. If it is, the content is the fairly mild ‘some gender identity activists are a bit stupid because they think the clownfish has implications for human sex categories’, rather than anything more severe. Perhaps it isn’t a direct insult, but rather an indirect insult, by way of signalling membership in the gender-critical community. But for that to be true, it would have to be established independently that this community has harmful views, so that signalling membership in it is a way of referring to those views. But this is precisely what is at issue.

‘*Adult human female*’.¹² Here’s a better candidate: asserting the dictionary definition of ‘woman’. In 2018, the gender-critical activist Kellie-Jay Keen, better known as Posie Parker from the organization *Standing for Women*, placed a billboard in Liverpool featuring the following text:

woman
wʊmən
noun
adult human female

A man describing himself as ‘an ally of the transgender community’ made a complaint about the billboard which led to its being taken down, saying that the billboard was a ‘symbol that makes transgender people feel unsafe’ (BBC 2018). The definition is printed on T-shirts and stickers that are worn and distributed as part of the gender-critical campaign against self-identification for legal sex status.

This is a great candidate for a gender-critical dogwhistle for several reasons. First, it is likely to operate as covert, at least for many people. It’s the *dictionary definition*—so what’s the problem? Second, those not ‘in the know’ are unlikely to understand its full implications. They may simply see a T-shirt stating an obvious truth.¹³ But ‘woman: adult human female’ or even just ‘#AHF’¹⁴ is a sex-based

¹² A related candidate would have been ‘women don’t have penises’, which appeared on stickers that were widely distributed as part of a gender-critical campaign in the UK (Pidd 2018). But this is surely *less* offensive to transwomen than ‘adult human female’, given that it allows in principle that transsexual women are women, so I will not discuss it separately here.

¹³ A recent article about Sheila Jeffreys, in connection with the publication of her memoir, uses the sentence ‘She has no patience for the idea that depilation—like heels and lipstick and Botox and lesbian pornography—is a legitimate choice made by adult human females and therefore none of her business’ (Overington 2020). This would be grammatically unusual in any other piece, but in an article about Jeffreys, one of the highest profile radical feminists, it functions as a hat tip to radical feminist and gender-critical women.

¹⁴ All of these variations are widely used; I’ll use the shorter version for brevity.

definition of ‘woman’, which includes *all* female people and excludes *all* male people. That means it counts trans men and female nonbinary people as ‘women’, and transwomen and male nonbinary people as *not* women. It *reclaims* the term ‘woman’ for female people, from those feminists and gender identity activists who use it to refer to the gender identities of a mixed sex category of people. #AHF is in tension with gender identity activism.

Whether this is enough to establish that it is a dogwhistle, and an example of harmful speech, depends on two things. One is the perlocutionary effects of the speech, what it causes in the world. I’ll take this up in Section 9.2.4. The other is the relative social power of the speakers. We’re more likely to agree that something is harmful speech when there is a power asymmetry. For example, the film *The Australian Dream* presents the story of Adam Goodes, an indigenous Australian footballer subject to racist abuse throughout his career.¹⁵ A young white girl in the crowd at one of his matches called him an ‘ape’, and Goodes had security remove her from the stadium, which caused the public to turn against him—he was booed at matches for the next several years. As an Aboriginal Australian living in a country with a violent colonial history, no serious attempt at reparations for historical injustice, and ongoing structural, institutional, and individual racism, Goodes was in a subordinate social position *as* indigenous, being slurred by a white Australian. But being insufficiently attuned to this social group relation, what much of the Australian public ‘saw’ was a high-profile footballer targeting a young girl; perhaps being too easily offended by ‘mere words’. There is no question that ‘ape’ is a slur in this context.¹⁶ Is #AHF plausibly like ‘ape’?

The two cases have something in common, which is that there are two ways to see them: in the Goodes case, the first is race (white against black), the second is celebrity/power (AFL player against young fan). In the #AHF case, the first is gender identity (non-trans against trans), the second is sex (female against male). The difference between the two cases is that in the Goodes case, Goodes was *responding to* racial abuse when he had the girl removed from the stadium, and the girl was targeting Goodes directly with racist abuse for no other reason than to insult him. This means the race framing has a stronger claim to being how the incident should be understood. In the #AHF case, women are asserting a specific view of ‘woman’ for feminist purposes, to protect their legal rights, and as a corrective to mainstream feminism which has ceded any possibility of a coherent definition of ‘woman’. At best, their project has negative side effects for trans people. Yet gender identity activists respond as though the only purpose of such feminism could be to exclude trans people—as though #AHF is a direct attack on trans people. So #AHF cannot be considered as the parallel of a direct slur.

¹⁵ ‘The Australian Dream’ (2019). Online at <<https://iview.abc.net.au/show/australian-dream>>

¹⁶ For theories of slurs, see Chapter 7.

But the parallel is helpful, because gender identity activists' response to #AHF is a bit like the Australian public focusing on the celebrity/power dimension of the 'ape' incident. It reveals insufficient awareness of feminist issues, as though the only reason women might have to define themselves as a class is to be unpleasant towards trans people. In focusing on the non-trans/trans dimension of the case, they overlook the significance of the male/female dimension. Men have defined women for thousands of years of male-dominated history;¹⁷ women have literally become what men wanted them to be (see discussion in MacKinnon 1987, p. 59).¹⁸ Women have the moral right to push back on this, to define *themselves*. 'Woman: adult human female' is the definition that makes the most sense to gender-critical women, and gives them what they want for feminist politics, namely a coherent class with a demonstrable history of oppression. There should be a high bar on anyone's attempting to override this self-definition in their own interests. You cannot pretend to respect a woman's right to self-define while simultaneously telling her which definitions are acceptable. And yet this dimension of the issue is seldom acknowledged. No such defence can be offered of a young white Australian's right to yell 'ape' at an indigenous footballer.

For this same reason, the claim that 'woman: adult human female' is harmful speech because it denies transwomen's identities doesn't go through. It relies on *agreement* that 'woman' is a gender term and gender is gender identity, the latter of which, at least, gender-critical feminists deny. Only if it were common ground that woman is a gender term and gender is gender identity, would 'woman: adult human female' constitute a denial of transwomen's identity claims. Gender-critical feminists have nothing to say about trans identity claims, they're interested in sex, which isn't an identity but a material fact. To people who accept gender identity ideology, 'transwomen are male' and 'transwomen are men' might sound like hateful/harmful speech, *because* they sound like denials of trans identity. But this is nothing more than talking past each other, based on using the same words to mean different things. And both sides know this: both use words in their preferred way as part of a political strategy to retain the meaning/bring the words to mean what they want (gender-critical feminists to retain 'female' as a sex term and 'woman' as a sex or gender (as caste) term; gender identity activists to bring 'woman' and in some cases 'female' to refer to gender as identity). If the widespread social understanding was that 'woman' is a gender term and gender is gender identity, then the burden would be on gender-critical feminists to make their meaning clear in order to avoid misunderstanding and possible insult. But it

¹⁷ For a very early discussion of this, see (Pizan [1405] 1999, Part I). Much later, Simone de Beauvoir wrote: 'Humanity is male, and man defines woman, not in herself, but in relation to himself' (Beauvoir [1949] 2011, p. 5).

¹⁸ See also the matriarchal utopia imagined in *Herland*, which is an extended commentary on the extent of women's having been shaped by men (Gilman 1915).

is not. Rather, they are using words in the ordinary way, *refusing to* use them in accordance with a political minority's revisionist project with which they disagree.¹⁹

9.2.3 Whose phrases?

In a recent special issue of *The Sociological Review*, a group of co-authors claimed that gender-critical feminists criticize 'social developments such as LGBTIQ-inclusive school education and positive media representation of trans people', and that they 'argue that such developments result from what they call 'gender ideology'' (Pearce et al. 2020, p. 681). The authors then go on to identify the term 'gender ideology' as originating 'in anti-feminist and anti-trans discourses among right-wing Christians, with the Catholic Church acting as a major nucleating agent' (p. 681). They write that this term has been 'increasingly adopted by far-right organizations and politicians', who 'position gender egalitarianism, sexual liberation and LGBTQ+ rights as an attack on traditional values by 'global elites'' (p. 681). It is not uncommon for detractors to link gender-critical feminism to conservative groups, although the most common form is to simply suggest 'alliances', exploiting left ideological purity in order to discredit gender-critical feminists. But this claim is more dramatic, suggesting that gender-critical feminists are merely disseminating someone else's agenda, in this case the religious right's.

If this were correct then gender-critical feminists would not be the creators of the dogwhistle—at least not in the case of the phrase 'gender ideology'—but mere amplifiers. This would be an unintentional dogwhistle, rather than an intentional one (it is hard to believe that feminists would have any interest in opposing gender egalitarianism, sexual liberation, or LGBTQ+ rights). But whether or not the authors give a fair reconstruction of the history of 'gender ideology', it is much more common for gender-critical feminists to refer to gender *identity* ideology, specifically picking out the worldview of those who advocate for the replacement of sex with gender identity. For example, a search for 'gender identity ideology' at *Feminist Current*, the most popular and prominent radical feminist website, turns up nine articles with the phrase 'gender identity ideology' in the title, three with 'trans ideology', and only one with 'gender ideology'. Jason Stanley defines ideological beliefs as those that are resistant to revision, even when good evidence is presented (Stanley 2015, p. 178). Beliefs about gender identity fit this description, so there's a good reason for feminists to use phrases like 'gender identity ideology', or 'trans ideology'. 'Gender ideology' may be a simple shorthand for these,

¹⁹ See discussion in Section 9.2.4 below of one further phrase, 'gender (identity) ideology'.

although if it *is* a religious-right dogwhistle then it can still do its work despite those who use it not intending it in that way.

9.2.4 Negative effects

As I said above, in the racism examples there are real outcomes that can and have been tracked in experimental work, such as causing people to choose different policies for public spending. What is the parallel in the case of gender-critical speech? I'll discuss three possibilities: counterfactual harm; causal contribution to collective harm; and the incitement of violent men.

Counterfactual harms. When Saul describes gender-critical feminists polemically as 'anti-trans activists', saying we 'fight against the key demands of trans women' and are 'committed to worsening the situation of some of the most marginalized women' (by which she means transwomen), she points immediately to transwomen's marginalization, mentioning suicide attempts, the lack of anti-discrimination laws, and the proportion of anti-LGBTQ hate crimes directed at them (Saul 2020). It is not plausible that gender-critical speech is the direct cause of suicide attempts or hate crimes (it is not incitement to violence or self-harm).²⁰ Saul may be making a counterfactual causal claim, something like, *but for gender-critical feminists, transwomen's demands would be granted* (or, their situation would be better). Or she may be pointing to transwomen's marginalization in order to justify a prioritarian claim, something like *transwomen are the worst-off women, so we should be focusing our efforts on helping them, and gender-critical feminists are failing to do that*. Gender-critical feminists are failing to do something they ought to be doing, and this creates another counterfactual: were they doing it, transwomen would be better off. Both of these interpretations of what Saul is saying give us a 'negative effect' of gender-critical speech, although less direct than we might normally have in mind when we worry about the perlocutionary effects of speech acts.

Are either of these counterfactuals plausible? The prioritarian claim can't get us very far, given that it begs the question. At issue between gender-critical feminists and feminists of some other kinds is *whether* transwomen are women. Gender-critical feminists think they are not. If transwomen are not women, then they cannot be 'some of the most marginalized women'. If it's not true that they're some of the most marginalized women, then it's not true that gender-critical feminists are failing by their own lights as feminists in not helping them. (Escaping this

²⁰ Decisions about suicide are extremely complex and don't have a single cause. Trans communities have disproportionately high rates of autism, mental health issues, and same-sex attraction—which itself correlates with high suicide ideation—all of which may exist *prior to and separate from* the individuals' identification as trans, and in some cases may explain that identification (see also discussion in Lawford-Smith 2022, Chapter 5).

conclusion might also have been achieved by rejecting prioritarianism). Is it true that ‘but for’ gender-critical feminists, transwomen’s demands would be granted, or their situation would be better? That is quite possible. Gender-critical feminists are sometimes the only voices speaking up in opposition to legal changes that are being pitched as good for trans people. But whether fighting against these ‘key demands’ actually explains transwomen being worse off than they otherwise would have been is unclear. That’s because it is perfectly possible for there to be a reasonable compromise between transwomen and women, such that *both* sex and gender identity are legally protected. It is unfair for transwomen to demand *women’s rights* and then for allies like Saul to complain that women are making transwomen worse off by refusing their demands. If they had have simply demanded *trans rights* in the first place, we wouldn’t be in this situation.

Causal contribution to collective harm. There’s another way in which gender-critical speech might be argued to do harm, which is as a causal contributor, rather than a cause. Climate change is caused by many different people’s greenhouse gas emissions, and it’s impossible to pick anyone in particular out as ‘the cause’ of devastation from an extreme weather event, but we can point to everyone who emits greenhouse gases as a causal contributor. Similarly, we might say that transwomen’s marginalization is caused by many different people’s attitudes towards them (e.g. not believing that they are what they say they are), and it’s impossible to pick anyone in particular out as ‘the cause’ of there not being better legal protections, but we can still point to everyone who doesn’t support particular legal reforms as a contributor. In cases like these, it might seem a bit unusual to single out one group of contributors. But just as some people emit a lot and spend a lot of time advocating for high-emissions activities, so too some people work hard to make sure there aren’t particular legal reforms. It doesn’t seem inappropriate to single out those who contribute more than others.

Gender-critical feminists do work hard to make sure particular legal reforms pitched as good for trans people don’t go through. Sex self-identification is one such reform, eliminating gatekeeping requirements on change of legal sex. Conversion therapy and hate speech (vilification) laws are others, the first aimed at preventing the change or suppression of a person’s gender identity, the second aimed at adding gender identity as a protected characteristic against which there can be hate speech (vilification). I have personally campaigned against all three of these legal reforms in my own state: sex self-identification because it undermines single-sex provisions (see also Chapters 4 and 5); prohibitions on conversion therapy (specifically talk therapy for gender identity) because they effectively mandate an ‘affirmation-only’ approach to trans identification which cannot sort out who is genuinely trans; and expanded vilification protections because they are likely to have the effect of suppressing feminist speech in the name of protecting gender identity (enabling gender identity activists to bring complaints against

feminists). Gender-critical feminists are loud about these issues, and they are unique in including leftists that oppose these laws—often the only leftists who do.

The problem with this attempt to establish harm is that the legal reforms being opposed by gender-critical feminists exist in countries where trans people are already legally well-protected, and where the proposed reforms create a genuine conflict of interests with women by encroaching on sex-based rights (or undermining the adequate clinical care of trans-identifying children, or threatening feminist speech). Gender-critical feminists are not opposing laws that protect trans people from housing and employment discrimination, or that secure their access to adequate healthcare. Rather they are opposing laws that they see as going too far in protecting one group at the expense of another. If the proposed laws are unreasonable, promising gains to trans people at the expense of women and girls (and lesbian, gay, and bisexual people), then it cannot fairly be said that in opposing those laws, gender-critical feminists are causal contributors to trans-women's marginalization. It isn't 'marginalization' for an already well-protected group not to have bad law passed.

An even more indirect argument for gender-critical speech being a causal contributor to harm involves linking gender-critical speech in other countries to the situation in the United States. The United Kingdom is frequently acknowledged as having the largest and most active gender-critical movement, but there are also gender-critical groups in Australia, New Zealand, Canada, and other countries too.²¹ Gender-critical feminist speech is largely emanating *from these countries*, where trans protections are extremely good, and rates of violence are extremely low. But perhaps it could be argued that the speech in those countries causes harm to trans people in the United States, where the protections for trans people are significantly worse. Due to social media, the feminist discussion is global, so ideas anywhere can influence ideas everywhere.

While there may be some cultural influence between countries just due to the internet and the free flow of ideas, this is not obviously more or less than for any other issue, and in any case not a sufficient reason for gender-critical feminists to give up advocating for women's rights. What is at stake is important, and what is risked is far from certain. There's no reason to think that women in the United States couldn't take account of the differences in context, making clear that in opposing the conflation of sex with gender identity in the Equality Act, they're not opposing equal anti-discrimination protections etc. for trans people. So this is insufficient to establishing that gender-critical speech causes harm.

Incitement of violent men. Finally, perhaps the things gender-critical feminists say make it into mainstream awareness, say via popular media coverage of the

²¹ The Declaration on Women's Sex-Based Rights has signatories from 119 countries, suggesting that whether or not there are active groups, there are at least gender-critical women in a majority of countries. See <<https://www.womensdeclaration.com/en/>>, 26th June 2021.

dispute between these feminists and gender identity activists, and from there influence the ideas of violent men. Let's return to the posters put up at the University of Melbourne for a moment. Suppose (contra fact) that a newspaper ran a story on this incident and printed a photo of the posters, then some men who saw the article became angry and protective of the women they cared about who, if the BDMRA Bill passed, would then be sharing a bathroom with predators and paedophiles (according to the poster). There is a long tradition of (some) men enacting violence against (other) men in the name of protecting women, most famously in the cases of white men lynching black men for sleeping with white women (see e.g. Crenshaw 1989, p. 158, fn. 49). I have already said that the speech in the poster wasn't core gender-critical speech, but this example helps to illustrate the link from the speech to potential negative impacts. Could core gender-critical speech—particularly that stressing the *safety* issues arising from transwomen's inclusion in women's spaces—feed into protectiveness that men feel for women, and thus be an indirect cause of male violence against transwomen?

Perhaps it could; we need empirical evidence. But violence against transwomen is usually committed by intimate partners, and often as a result of homophobia (the male partner reacting to the transwoman as a 'trap').²² That means the violent man *sees the transwoman as male and feels his attraction to be a threat to his heterosexuality*. This kind of reaction is about male insecurity with sexuality, not about gender-critical feminists triggering his protectiveness toward women. There is also violence towards trans people within the sex industry, but violence against sex workers is rife, so this is not a trans issue in particular, and is not plausibly connected with gender-critical feminism given that it long preceded the emergence of the gender-critical feminist movement.

Psychological harm. Perhaps gender-critical speech does not cause physical harm, whether violence, or the physical impacts created by lack of adequate legal protections (e.g. no recourse for having experienced violence, or inadequate healthcare), but rather causes psychological harm. We should distinguish emotional reactions like distress, grief, fear, and anger from psychological harm, which is something more serious and more sustained, for example anxiety, depression, post-traumatic stress disorder, and panic attacks. As with suicide ideation and suicide attempts, these psychological harms have complex causes which are unlikely to be reducible to the political speech acts of gender-critical feminists. It could be that in a world in which the ideology of gender identity was common ground, there would be a lower incidence of these psychological harms in transgender populations. It is not implausible that someone who feels strongly about being treated in line with their identity may become depressed when

²² There's an entertaining discussion of 'traps' in the ContraPoints video 'Are Traps Gay?' (Wynn 2019).

consistently not treated that way, and when seeing no hope of coming to be treated that way. But gender-critical feminists are far from the only people who reject the ideology of gender identity, and they reject it for good reason, namely that it conflicts with their underlying feminist commitments. (So: probably they don't cause psychological harm; where they do they are at worst causal contributors; and they have an excuse). It is also not clear that there would be less psychological harm in the world where gender identity ideology was common ground, for this would make women's sex-based marginalization inarticulable, and that in turn may lead to psychological harms for a much larger group.

What about emotional reactions? This point should be conceded. Gender-critical speech can cause distress, grief, fear, and anger. Consider a transsexual person, born male but who transitioned medically and surgically at the earliest age possible in their country, who has 'lived as' a woman and been treated by others as a woman for a significant period of time, and whose self-conception is as a woman. It may be deeply distressing to such a person to hear themselves referred to as 'male', or worse, 'a man'. They may sincerely believe that their sex has changed, whether only that they are 'not male' (any more), or that they are (now) 'female'. They may believe that others relate to them as a woman, and gender-critical speech may cause them to question these relations, creating insecurity and self-doubt. Friends and family of trans individuals react to gender-critical speech with outrage precisely because they want to shield their loved ones from these impacts. So if the 'harm' at issue in the claim that 'gender-critical speech is harmful speech' is emotional, then the claim is at least sometimes true. (This may be what is meant by gender identity activists or allies when they claim that gender-critical speech has made trans people 'unsafe'. For a recent example see ABC 2022.)

There are two complexities, however. The first is that the trans community is a large and heterogeneous group. Very few of its members are transsexual, and not all have experienced gender dysphoria. Some have social or political motivations for identifying as trans.²³ It is implausible that having their sex acknowledged will cause distress, grief, fear, anger etc. to all members of this group, and that might even be true for *most* of its members. The second is that if something causes harm without creating any counterbalancing benefit, or if the counterbalancing benefit is frivolous, then we might want to say that the harm should be prevented. That would mean suppressing or silencing gender-critical speech *because* of the harm it does. But gender-critical speech does have a counterbalancing benefit, namely that it allows women to pursue the feminist theory and movement that makes the most sense to them. The freedom of thought, freedom of expression, and freedom of political belief lying behind this speech is clearly not frivolous, but at the heart

²³ On political motivation see e.g. Dembroff (2018); Butler (1990); on social motivation see Littman (2018); Schrier (2020); Marchiano (2017).

of political life. And it is unavoidable: there is no more polite way for gender-critical feminists to say what they need to say that would avoid this harm. Some gender identity activists may be tempted to deny this, and say that feminists can concede the words ‘woman’, ‘female’, ‘mother’, ‘lesbian’, ‘breastfeeding’, etc. without losing the ability to discuss and defend sex-based experiences and sex-based rights. But I do not see how this is possible. The replacements currently on offer fragment women’s issues as though they apply to numerous different groups (as though the ‘cervix-owners’ aren’t the same people as the ‘menstruators’), and obscure sex-based issues (as though it’s ‘people’ who need abortions, making abortion an ‘everyone’ issue, rather than ‘women’, making abortion a women’s issue). Unless and until there is a way for feminism to proceed with the language it needs to articulate its issues, feminists have the right to refuse to concede feminist language to gender identity activists. So there is no case for saying the harm should be prevented. At best, it should be regretted as an unfortunate (and unintended) side effect of feminist speech.

The first three routes to establishing that gender-critical speech causes harm were unsuccessful, and the fourth had only limited success. For gender-critical speech to be harmful in virtue of involving transphobic dogwhistles, it had to be established that the dogwhistles in fact caused harm to trans people. At most, we’ve seen that it causes negative emotional reactions in *some* trans people, and while this is regrettable, it is also unavoidable.

9.3 Conclusion

We’ve considered whether gender-critical speech is harmful in virtue of involving transphobic dogwhistles or ‘trans resentful’ figleaves, and discussed several examples including posters linking transwomen to predators/paedophiles, the reference to ‘clownfish’ as an organism capable of changing sex, the campaign slogan ‘woman: adult human female’, and the phrase ‘gender ideology’. We’ve also considered possible harms that gender-critical speech might be linked to, including a lack of legal protections and the incitement of male violence. Because a dog-whistle is not necessarily harmful, we had to establish whether gender-critical speech involves *transphobic* dogwhistles, and this required looking at whether it can be demonstrated to do harm (physical or psychological). I argued that there is no plausible case for this.

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