

Misgendering and Its Moral Contestability

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In this article, I consider the harms inflicted upon transgender persons through “misgendering,” that is, such deployments of gender terms that diminish transgender persons’ self-respect, limit the discursive resources at their disposal to define their own gender, and cause them microaggressive psychological harms. Such deployments are morally contestable, that is, they can be challenged on ethical or political grounds. Two characterizations of “woman” proposed in the feminist literature are critiqued from this perspective. When we consider what would happen to transgender women upon the broad implementation of these characterizations within transgender women’s social context, we discover that they suffer from two defects: they either exclude at least some transgender women, or else they implicitly foster hierarchies among women, marginalizing transgender women in particular. In conclusion, I claim that the moral contestability of gender-term deployments acts as a stimulus to regularly consider the provisionality and revisability of our deployments of the term “woman.”

In this article I undertake an analysis of the harmful, oppressive, and contestable practice that I call “misgendering.” The focus will be on transgender women, and I take misgendering to mean something broader than simply the use of male pronouns, or of designations associated with being male or with masculinity in referring to transgender women. Here, the notion includes the use of gender terms that exclude transgender women from the category *woman*,¹ or that hierarchize that category in a way that marginalizes transgender women.² One of my main contentions is that oppressive or harmful deployments of gender terms are subject to ethically or politically grounded challenges—that is, are morally contestable—irrespective of the competencies, epistemic or linguistic, of those who deploy them. In particular, I present a more detailed critique of two feminist conceptions of women that misgender transgender women.

Transgender persons, as well as those who do not conform to societal expectations around gendered linguistic usage, appearance, and behaviors, are discriminated against and marginalized (Shelley 2008; Beemyn and Rankin 2011).³ I consider gender conceptions and gender terms from the point of view of the transgender (or trans)

community, with a view to revealing how transgender persons are subject to a linguistic form of moral harm and political oppression. I do not justify this methodological stance in this article. The approach is, I hope, familiar within feminist theory (Hartsock 2003; Haslanger 2012a, 24), and is aptly characterized by Miranda Fricker: “Let us suppose our methodological injunction to be as follows: Whatever you want to understand, try taking a look at it from the point of view of the powerless, those on the losing end of the practice you want to explain” (Fricker 2012, 289). Socially and politically dominant gender categorizations have a real effect on human lives, with transgender people often on the “losing end” of the practice. Adopting the transgender standpoint allows me to develop certain insights about gender-based oppression that are not available and are not even considered by cisgender, that is, nontransgender, feminist theory.

Yet that is not all that is to be said about the methodological perspective I am adopting. Although trans men and other gender-nonconforming persons may be subject to the harms of misgendering, my focus here is on transgender women. Moreover, in several sections of this article, I circumscribe the transgender standpoint further to adopt the point of view of the non-passing transgender woman. In essence, I look within the community of transgender women, and within that community, attempt to pick out a group that is marginalized and discriminated against, perhaps even within that community (Hardie 2006). Being able to pass as a cisgender woman is a type of privilege, and should be viewed as such. In short, the position of the non-passing transgender woman is a kind of sequentially nested standpoint: within a given oppressed group (transgender persons), I focus on the group who call themselves or self-identify in some way as women. Then within that group, I focus on members of a sub-group that is subject to hierarchical marginalization, who are regarded—sometimes within their own community—as “lesser” women.⁴ I do so because it is critically incisive in cases of some uses of the term “woman” to adopt the point of view of transgender minorities-within-minorities, moving as far as practically possible toward the social margins of group membership and identity.⁵ This latter view will become particularly salient when I discuss family-resemblance accounts of the category *woman* in section 3.2.

In the next section I list and describe the principal harms that arise for transgender persons from misgendering. In section 2, I then distinguish and describe extensional and intensional approaches to gender terminology. I argue that both approaches can fail to capture the moral and political claims a transgender woman might have with respect to gender-term deployments. In section 3 I describe in more detail the idea that gender-term deployments can be morally contestable, and develop guidelines for detecting when this might be the case. I proceed to apply the guidelines, along with a suitably developed criterion of (un)acceptability, to some uses and meanings ascribed to the term “woman” in feminist philosophy literature. I conclude by voicing a concern about my approach, and with a more general observation about feminist theorizing in relation to transgender and gender-nonconforming minorities.

1. THE HARMS OF MISGENDERING

Misgendering can cause psychological harm, moral wrongs, and political disadvantage. Let me briefly explain what I mean by these three types of harm, as the assumption of their existence is crucial for what follows. I will summarily refer to these harms with terms such as “moral harms,” “political oppression,” and so on. I will assume that misgendering causes one or more of the following harms:

1.1. PSYCHOLOGICAL HARMS: MICROAGGRESSIONS

A microaggression is characterized as follows: “Microaggressions are the everyday verbal, nonverbal, and environmental slights, snubs, or insults, whether intentional or unintentional, that communicate hostile, derogatory, or negative messages to target persons based solely upon their marginalized group membership” (Sue 2010, 3). Transgender persons are subject to microaggressions (Nordmarken 2014; Nordmarken and Kelly 2014).⁶ Research indicates that microaggressions “may on the surface appear quite harmless, trivial, or be described as ‘small slights,’” but “have a powerful impact upon the psychological well-being of marginalized groups” (Sue 2010, 3). Those subject to them may suffer from chronic health problems, persistent anxiety, fatigue, stress, hypervigilance, anger, fear, depression, shame, and a sense of loneliness. The harm of micro-aggressive misgendering in relation to transgender people is commonplace in many different contexts of social interaction (Nordmarken 2014, 130; Nordmarken and Kelly 2014, 150–51).

1.2. MORAL HARMS: EPISTEMIC INJUSTICES AND THE UNDERMINING OF SELF-RESPECT

Transgender persons are denied the discursive resources to participate in furthering society’s understanding of their own gender and—I would add—of gender more generally. By being persistently classified as a “man” according to particular conceptions and descriptions, a transgender woman is denied participation in shaping those descriptions herself. This is an instance of what Fricker calls hermeneutical marginalization. Fricker proceeds to define hermeneutical injustice as “the injustice of having some significant area of one’s social experience obscured from collective understanding owing to hermeneutical marginalization” (Fricker 2006, 102).

The primary harm that emerges from hermeneutical injustice, according to Fricker, is a situated hermeneutical inequality, that is, “the concrete situation... such that the subject is rendered unable to make communicatively intelligible something which it is particularly in his or her interests to be able to render intelligible” (Fricker 2006, 103). This harm may be tied to an imposed, “authoritative” interpretation of the subject’s experience that constitutes her social identity. At the very least, it contributes to robbing transgender women of the power to express their own senses

of self, and of the opportunity to develop a language and conceptual resources that articulate those senses of self.

Besides injustices of an epistemic nature, misgendering undermines self-respect. By this I mean the worth a person recognizes in her own agency and her own life plans, inasmuch as they are her own (Rawls 1999, 286). Without self-respect, action itself is impeded. This kind of self-respect—distinguished from the self-evaluation involved in self-esteem—can be “undermined by the words or actions of others” (Brake 2013, 66). Because a person’s gender identity can be part of her life struggle, and one of the most central values of who she is, misgendering—especially when persistent—can lead to an erosion of a transgender person’s plans to lead the life she wishes to lead, indeed, to an erosion of pursuing any of her own plans for life.

1.3. POLITICAL HARMS: OPPRESSION AND DOMINATION

If definitions of who a transgender woman is misgender her, so that she is a “man” in the eyes of the law and of the state, then she will be subject to additional burdens and discrimination to which citizens should not be subject, and she may have limited access to goods and services. For example, if a transgender woman cannot legally change the gender marker from “male” to “female” on her driver’s license or her identity card due to legal definitions or administrative interpretations of those terms, she becomes exposed to possible abuse and discrimination, along with the continual burden of explaining herself to medical insurance representatives, police officers, and sundry officials. She may also face discrimination at work and in finding accommodation. Following Iris Marion Young, such political and administrative effects are examples of oppression understood as “the institutional constraint on self-development,” as well as domination, “the institutional constraint on self-determination” (Young 2011, 37).

2. INTENSIONAL AND EXTENSIONAL APPROACHES TO GENDER-TERM DEPLOYMENTS

Imagine Laura. Laura is a transgender woman, say around fifty-five years old. She became increasingly unhappy and struggled emotionally for many years with her gender identity, concerned that a decision to transition would ruin her marriage and destroy her family. Because of high blood pressure and diabetes, her doctors have advised against sex reassignment surgery. She takes hormones but—perhaps due to the fact that she is a “late transitioner”—they do not seem to have much of a feminizing effect on her appearance. She wears female attire and sometimes make-up, but has the physical stature, facial features, and voice that would usually be perceived by most as typically “masculine.” In short, Laura does not “pass” as a woman in most social contexts. Laura will be taken as a hypothetical test-case throughout the analyses that follow. She is a fictional character, but not very different from several transgender persons I know.

Can Laura be included in the category *woman*? To answer this question, we can plausibly adopt two approaches: the first begins with the intension or connotation of the term “woman”; the second takes the extension or denotation (referents) of the term as its starting point. This dual nature of linguistic terms, variously called “comprehension” and “denotation,” “connotation” and “denotation,” “sense” and “reference,” points at a dichotomy between “what a term means and what it denotes” (Fitting 2015). The meaning, sense, or connotation of the term will usually consist of a group of propositions, a description, that individuals must satisfy in order for the term to apply to them. I will call this the intensional approach to the term “woman.”⁷ Alternatively, one can start with the referents of the term, that is, propose an ostensive definition. I will call this an extensional approach to the term “woman.”⁸ When one asks whether the term “woman” applies to Laura or not, both approaches are, in principle, possible. More specifically, it seems intuitive that one might consider the following ways to determine whether Laura is a woman. One might ask,

1. Are there some biological, social, or psychological facts that establish that Laura is a woman? Laura is a woman if she satisfies the relevant propositions that enter some proposed description (compare Mallon 2006, 530–31). The approach is intensional.
2. Is Laura, in general and for the most part, called a “woman” by the competent users of the English language who encounter her? This is a question about the referents of the term “woman” according to a standard of linguistic use. The definition of “woman” is not descriptive but ostensive, and the approach is extensional.

Let us say that the use of a gender term to refer to individuals, or the description associated with a gender term, is a gender-term deployment. In the former case, the deployment will be called extensional; in the latter, it is intensional. With these distinctions in mind, let us look, in turn, at intensional and extensional deployments of “woman” with respect to Laura.

2.1. INTENSIONAL DEPLOYMENTS OF “WOMAN”

We can determine whether Laura satisfies an anatomical description associated with the term “woman” by observing her body. In case of uncertainty or dispute—for example, if she is intersex—we defer to medical experts with specialist knowledge of human physiology, and decide the question according to their more detailed and refined descriptions.⁹ Second, we can determine whether Laura satisfies a social description associated with the term “woman” by observing the social facts about Laura in an analogous way: social position, and social behaviors and attitudes, for example. In case of doubt—for example, in case some of her social positions or social behaviors are difficult to interpret—we would again defer to experts: to sociologists, anthropologists, or social psychologists perhaps, who possess a more refined and better

informed description. Further, Laura might also satisfy a psychological description associated with “woman.” Yet we might worry that Laura’s internal sense of gender is not transparent to herself, or that she has some sort of mental illness, in which case we would defer to the opinion of a psychiatrist or psychologist. Again, it is usually assumed that these experts possess a more sophisticated, scientifically grounded description of psychological states that Laura would need to satisfy to be called a “woman.”

2.1.1. *Problems with Deference to Expert Opinion*

So much seems intuitively plausible. But let us ask some questions about all these descriptions. Some theories of meaning point out that our conceptual content or intentions are often inadequate. For example, semantic externalism—the view that conceptual content is individuated at least partly through our relations to the environment (Haslanger 2012c, 373–75)—claims that the descriptions Laura is taken to need to satisfy—even those of experts—may be incomplete or erroneous. This is why Tyler Burge introduces the distinction between concepts and conceptions, a distinction that captures the idea that language users can talk and think about something using the concept of some *x*, but their articulation of how they understand *x*, their conception of *x*, may be incomplete or erroneous. Examples from the history of science support the view that concepts or “translational meanings” may remain the same, while conceptions or “lexical meanings” can change (Burge 1986, 716; 1993, 316–17). A term—such as “atom,” for example—picks out what we are talking about, despite the imperfections or incompleteness in the way we explicate it as our science advances.

We can thus conclude from the possible “disjunct” between conceptions and concepts that expert opinions may themselves be incomplete, and may even be misguided. Nevertheless, one might claim that deference to experts as regards the meanings of technical terms or terms of art is still normatively appropriate (Williams 1990, 454–55). After all, in the case in which “woman” is understood as a term of art, experts’ conceptions, even though incomplete and subject to revision, are still more adequate than the conceptions articulated by laypeople.

The situation is more complicated with categories regarding gender and sexuality, and this poses problems for the normativity of deferential attitudes where socially and politically important conceptions and terms are at stake. Where expert terms inflict psychological harm or are oppressive, deference to those regarded as experts is inappropriate. For example, many psychiatrists once declared that homosexuality was a mental disorder; that is, they defended a certain pathologizing and denigrating conception of homosexuals. It is when homosexuals themselves got to contest the expert conceptions, and began to mobilize with others around the issue, that change became possible: homosexuality was ultimately removed from the *Diagnostic and Statistical Manual of the American Psychiatric Association*. We can consider another example, more relevant to Laura’s situation. Until recently, the DSM still categorized transgender persons under a condition called GID—Gender Identity Disorder. The underlying psychiatric conception of

gender assumed that a person's subjective sense of gender should align with physical sex. Again, it was when experts began to take into account the experiences, testimonies, and criticisms of transgender persons and their organizations that GID was renamed "Gender Dysphoria" in DSM-V, with revised diagnostic criteria (American Psychiatric Association 2013).¹⁰ Moreover, with human social kinds we often find "looping effects" (Hacking 1995; 1999; Haslanger 2012b, 465–67): those falling under the expert conception can come to influence its content. Such effects may occur without the full awareness of those who interact in shaping conceptions—what one might call "interactive conceptual drift." What I am suggesting is that a more consciously political and concerted influence upon expert conceptions on the part of those classified by them does happen and does effect change. This politically mobilized influence—although it can be to some degree informed by scientifically based critiques—need not be primarily scientific in nature, and can be exerted by laypeople. The point is that its claim is largely ethical or political. Deferring to expert opinion in such cases is not obligatory. On the contrary, contesting such opinion can be ethically recommended.

2.1.2. *What about "Natural-Kind Terms"?*

I claim, then, that deference to expert opinion when expert conceptions of gender are politically oppressive or morally denigrating is unjustified, and can reinforce negative social attitudes toward gender and sexual minorities. Now, someone might concede what I have claimed so far, as long as we treat the expert conceptions of "woman" as limited to a description of social position or subjective psychological states. Yet they may claim that—if "woman" is used as a natural-kind term—my argument is unsound. They may say:

I admit that the gender conceptions of psychiatrists and social scientists are interactive kinds, and more prone to sexist and cissexist bias. And I concede that they are contestable, not just within the scientific community for reasons that are epistemic, but also within the broader community, in which the reasons for contest are moral and political. This certainly problematizes, within an intensional approach, the proposed procedures to find answers to the questions concerning whether Laura is a woman. But, surely, it is hardly contestable that Laura possesses male genitalia, and so is a man—at least in some contexts—so that one can answer the question about whether Laura is a woman in the negative.

To answer the objection, I adopt and adapt some considerations from Jennifer Saul (2012). As she has pointed out, there is something wrong even in this case. One might claim, for example, that for the purposes of an examination for prostate cancer, Laura is a man, that is, she is a man in the context of "testing-for-prostate-cancer." The public health service in her country may issue advice that men forty years of age and over should have their prostates periodically tested. When she goes for such an examination, the doctor may well call her a "man" and use the pronoun "he,"

because he believes Laura satisfies a certain description of what it is to be called a “man” (his approach is intensional). But she will find this use of language offensive and denigrating. Saul notes:

Disagreements over who counts as a woman are simply not to be settled by appeal to the facts of language. They are to be settled by appeal to moral and political principles. There may well be a single right answer about what standards should be applied for determining who satisfies the definition of “woman” in a particular context; but it will be right because it is morally and politically right. (Saul 2012, 204)

Let us look more closely at Saul’s idea. Even limited to this particular context, by calling Laura a “man,” the doctor not only offends her, but he devalues her personal struggle of resistance to oppressive gender norms and to society’s prejudice. It is true that Laura and the doctor have different conceptions of the categories *man* and *woman*, possibly with diverging associated descriptions. The doctor, presumably, is the “expert” in medicine: Laura is not his epistemic peer in this respect. Yet this is not simply a case of epistemic disagreement, but also of ethical disagreement. Laura, in contesting the use of that term to designate her own person, is making an ethical claim, not necessarily a factual claim about her body. It is of moral significance that she be able to contest the doctor’s use.¹¹ There is no “deference condition” as there usually might be when laypeople employ terms of expertise, that is, there is no intention on the part of Laura to use the term “woman” as (medical) experts use it. This is because being a woman for Laura is part of what Talia Mae Bettcher calls “existential self-identity.” For her, the avowal “I am a woman” does not invoke the factual question “What am I, biologically?” but rather involves “the importance of one’s personal history of relatedness to gender, body, and sex. It will also probably involve the significance of the question ‘What does it mean for me to be a woman?’ to one’s interpretation of one’s past and one’s projects for the future” (Bettcher 2009, 112).

There is much more at stake for Laura than there is for the doctor when he uses the term “man” to refer to her: she may experience triggering effects of various sorts, painful memories of rejection, all of this allied to the undermining of her personal identity, as well as a threat to her self-respect. I claim that Laura’s objection to the doctor: “Don’t call me a man,” is not an objection to expert language use as such, but to the denigration of who she regards herself to be, and the denial of her moral claim to be that person.

Given Laura’s input into a dispute over whether she should be called a “man,” the doctor’s stance should be conciliatory: he ought to come to realize that the employment of “man,” “male,” “masculine,” or “he” is much more than a designation of body parts, and is particularly so for Laura. Once the meaning of purportedly natural-kind terms flows over into the ethical, changes in terminology are called for. The doctor should choose to address Laura, and to discuss her case, in other terms. According to his medical knowledge, the meaning of “man” includes possession of a prostate. However, he encounters Laura’s first-person ethical authority that, in this case, overrides his own use of gender terms.

2.2. THE EXTENSIONAL APPROACH TO “WOMAN”

Laura’s visit to the doctor has already touched on normative language use. Linguistic normativity is also relevant to asking competent users of the English language whether they would call Laura a “woman.” In this case, it is the extension of “woman” that is at stake. We appeal to the authority of the relevant linguistic community. But which community might that be? Who are the competent users? Whose use is authoritative? Let us say that Laura is active in a local transgender support group. Within that group—as would be the case in many other similar groups—even when Laura presents in a more “masculine” way, she is unproblematically called “woman” and referred to with the pronoun “she” (Bettcher 2013, 240–41). Yet the members of these support groups are all competent users of the English language. In effect, nonconforming use presupposes “being in the know” of how terms are predominantly used (Williams 1990, 455).

Here, a possible dispute about the extension of the term “woman” is thus not decided by questions of linguistic competence, since Laura and her transgender support group are as linguistically competent as anyone else. Perhaps, then, we should simply follow the prevalent or majoritarian use? But it is morally problematic to claim that the transgender use of the term “woman” is incorrect or deviant, for it will be “incorrect” only with respect to a common and “natural” use that is a mechanism for diminishing Laura’s self-respect and denying her basic rights. One of the justifications of the “common-sense” use would be that transgender persons are using the word “woman” incorrectly, and that they are simply in error, either deluding themselves or deceiving others (Bettcher 2007). Majoritarian use is susceptible to prejudice and bias. It can be a tool to maintain asymmetries of social power, a tyranny of the (linguistic) majority. Once again, ethical or political norms problematize the application of linguistic norms.

3. GENDER-TERM DEPLOYMENTS WITHIN FEMINIST PHILOSOPHY

I have so far argued that oppressive or harmful deployments of gender terms are subject to ethically or politically grounded challenges, irrespective of the competencies, epistemic or linguistic, of those who deploy them. I have, in particular, argued for this claim by considering the misgendering of transgender women. I now wish to move away from everyday, personal, and institutional misgendering of Laura and others like her, and consider gender-term deployments within feminist philosophy. In my analysis I consider two forms of misgendering that are unacceptable with regard to transgender women like Laura: first, exclusion from membership in a gender category *woman*, and, second, marginalization, that is, location at a lower level of hierarchy or graded structure within the category *woman*, or location at its margins.

Now, unless Laura has a particular interest in philosophy, she is unlikely to encounter such deployments in her daily life, and it is safe to say that the psychological or moral harms and political oppression she does face on a daily basis are not of a

theoretically refined, academic kind. So, in talking of misgendering, how am I justified in making the move from a common, everyday type of gender-term deployment to a gender-term deployment within philosophy?

My claim is not that the philosophical accounts of gender that follow are actually oppressive or morally harmful. What I am claiming is that a criterion for deciding their acceptability resides in seeing what would happen to people like Laura if philosophical gender-term deployments were broadly applied at the social and political levels. Acceptable theorizing has a moral or political basis. We can ask about exclusion and marginalization, because of how gender-term deployments would affect Laura if broadly deployed within her social environment. The criterion for unacceptability is expressed counterfactually:

Let x be a philosophical deployment of the gender term “woman.” Then x is unacceptable from a transgender standpoint if x would be an oppressive or harmful gender-term deployment with respect to some group of transgender women when implemented (broadly applied) within society.

By “implementation” I mean common acceptance of a particular understanding or usage of a gender term within the social environment, or the application of that usage or meaning in law or government policy. The counterfactual criterion for unacceptability is relative to a transgender point of view. I do not exclude the possibility that, for some purpose or other, the deployments I critique may be adequate. Neither do I state “from the transgender point of view,” as there are many transgender points of view. For example, certain deployments of “woman” within the philosophical literature that would be harmful or oppressive to some transgender women when broadly implemented, may not be so for genderqueer trans people. Further, my characterization of the criterion presupposes some knowledge of how transgender women actually live within society, which reveals the potential harms of gender-term deployments. Finally, if gender-term deployments are unacceptable, upon broad implementation they would be morally contestable in the sense explained earlier: Laura or others would possess justified ethical or political reasons to challenge them.

With our counterfactual unacceptability criterion in hand, we can now proceed to consider some philosophical deployments of the term “woman,” and see what would happen if they were socially or politically implemented within Laura’s social context.

3.1. EXCLUSION: ALCOFF’S INTENSIONAL DEPLOYMENT OF “WOMAN”

In her account of what it is to be a woman, Linda Alcoff is concerned to maintain the material, “objective basis” for sexed identity. She proposes that women are differentiated from men by a specific “relationship of possibility to biological reproduction, with biological reproduction referring to conceiving, giving birth, and breast-feeding, involving one’s own body” (Alcoff 2006, 172). The possibilities Alcoff is discussing refer to “practices, expectations, and feelings with regard to reproduction” irrespective of their actuality, so that, for example, infertile women, postmenopausal women, as

well as prepubescent girls are included. The particular functions of biological reproduction thus configure females' interpretive horizons because of "the ways in which we are embodied" (176).

The prospects that Laura will be called a "woman" on Alcoff's account are rather poor, but perhaps not completely hopeless. Maybe Laura has always wanted to conceive, give birth, and breast-feed, even as she was fully aware that such things were physically impossible for her. Thus, it would seem that—on Alcoff's account—she is very close to some infertile cisgender females. However, one could conceive of males who have wanted to give birth, but who—unlike Laura—are perfectly happy to be men within society. Perhaps Alcoff's insistence that the relationship of possibility involve one's own body, or the ways in which females are embodied, takes us toward an interpretation that is meant to rule out such cases.

Alcoff associates the possibility of pregnancy, childbirth, nursing, and rape with females' horizons that are carried "throughout childhood and much or all of our adult lives." She is thereby also invoking a notion of female socialization, linked to expectations and practices around female reproduction, centered on the embodiment of the person involved. We should conclude that because Laura has a male embodiment, this type of biology-constrained socialization is not hers. One could perhaps suitably modify and clarify Alcoff's description of satisfaction criteria for being a woman but, as it stands, her intensional deployment of "woman" will exclude Laura. If broadly implemented in Laura's context, Alcoff's intensional deployment would justify continued misgendering of at least some transgender women, causing psychological, moral, and political harm. Such considerations reveal that Alcoff's gender-term deployment is unacceptable from a transgender perspective.¹²

Why does Alcoff place so much emphasis on features of reproductive function? Much feminist theorizing and activism has centered on reproductive rights. Authors such as Alcoff wish to ground their theories in the material embodiment ("material content" [Alcoff 2006, 174]) characterized by gestation, lactation, menstruation, and the like, as well as the experiences of social life that ensue. Alcoff states:

The significance of the division of labor in the process of biological reproduction is not unstable or undecidable all the way down. There is much that is variable about it, and social conditions can make pregnancy a true disability, but it will never have the range of variable significance that eye color, skin color, or height can have. Its objective significance is transformable only by technology. To categorize human beings on the basis of a biological division of labor is thus to recognize an objective type. (Alcoff 2006, 175)

In the face of concerns that my approach simply ignores the biological materiality of reproductive function, let me stress that I do not dispute that the division of reproductive labor has been significant in analyzing "women's" oppression in the past, and will continue to be so in many contexts. It is certainly important to recognize specific biological facts that ground vulnerability and exploitation. However, the crucial question from a transgender perspective is whether the biological differences ought to be

the basis for labeling people as “woman” and “man” in an exclusive, exhaustive way, that is, in all possible contexts, including Laura’s social context. And one can ask, as I do, what harms might emerge for trans people by doing so. Additionally, there are now people claiming to be “men” (transgender men) who give birth. Reproductive rights then cease to straightforwardly be a “women’s issue.” The question is thus not one concerning the biological facts of the matter, but one that regards finding a terminology that inflicts no psychological, moral, or political harms on marginalized individuals.

3.2. INTENSIONALLY DEPLOYED GRADABILITY: EXCLUSION AND MARGINALIZATION

Gradability and rankings emerge in the case of family-resemblance approaches to intensional deployments of “woman.” Here, the “nonpassability” and physical features of transgender women like Laura become particularly salient, since the accounts ostensibly rely on resemblance, and nonpassing, nonoperative transgender women like Laura will presumably exhibit very little resemblance to paradigmatic members of the category *woman*. Indeed, they may possess greater “resemblances” to paradigmatic members of the contrast category *man*.

Several authors have proposed family-resemblance accounts of the concept of *woman* (Stoljar 1995; Hale 1996/2006; Cressida Heyes 2000; Lindemann Nelson 2002; Frye 2011; Garry 2011; Stoljar 2011). Here, I will limit myself to considering John Corvino’s approach (Corvino 2000), since inasmuch as he wishes to take into account the ethical dimension of gender-term deployments, his account might superficially be regarded as similar to my own.¹³

Corvino describes how a collection of properties, such as biological sex, self-conception, sexual orientation, and feminine or masculine presentation, plausibly constitute part of our concept of gender without, however, that concept being reducible to any of them (Corvino 2000, 176). There are no necessary and sufficient conditions for being a woman, but being one involves possessing some determinate number of the cluster of features, or perhaps a few of the more important features. Corvino acknowledges that gender thereby is conceived as a “continuous rather than a discrete property” and people can be “more or less” members of gender categories (177). Family resemblance thus establishes categorical gradability. I will return to this point shortly. For now, let us note that Corvino distinguishes the conceptual issue of which gender someone belongs to, from the ethical issue of what people should be called (179). I understand Corvino to be implying that one might conceivably have a situation in which Laura, for example, is, conceptually speaking, a “man”—or perhaps “intergendered” (179)—but should, nevertheless, be called a “woman” for ethical reasons, for example, for the reasons of moral harm and political oppression that I presented in section 2. So, Corvino seems to be invoking something like a principle of “moral contestability” like my own. But we can see the substantial difference from my own position if we apply the counterfactual unacceptability criterion to Corvino’s gender-term deployments. We could formulate the following gender-term deployment

for Laura or at least some transgender women: “she is really [insert: the family-resemblance description, connoted by “man” or “intergendered”], but due to ethical considerations should be called as if she were [insert: family-resemblance description connoted by “woman”].”

If broadly implemented within societal use or within law and policy, Laura would not be seen as “really” a woman. Calling her a “woman” would be merely a pitying concession to someone who—in the final analysis—has simply got her gender wrong. This will not likely limit the harms I described earlier, particularly the undermining of self-respect. Moreover, the implicit idea behind concessionary gender-term deployment is, ultimately, one of subordination. For in this case, whoever thus decides to call Laura a “woman” does not take Laura’s own testimony seriously. Laura is still potentially subject to hermeneutical injustice, as her credibility in matters of her own gender is denied. Corvino’s account is thus unacceptable.¹⁴

Suppose, on the other hand, that—in a family-resemblance intensional deployment—Laura is not excluded, but possesses a resemblance to other members of the category deemed sufficient for membership in the category *woman*. She will, on most family-resemblance accounts—and certainly on Corvino’s account—find herself at the “margins” of this category: not possessing passing privilege or female sex organs, her “resemblance” is, arguably, of a rather tenuous kind. Although this type of “only just” category membership for some transgender women does not logically imply their social subordination and marginalization, its systematic social and political implementation would create gender-based hierarchies and would, I claim, tend to produce a marginalizing effect. Moreover, on a family-resemblance account, Laura plausibly resembles paradigmatic members of the category *man*. Such an approach can thus intensionally deploy the terms “woman” and “man,” so that Laura is called both. But the deployment of “man” to designate Laura will still have the harmful and oppressive effects I described earlier.¹⁵

4. BUT WHO ARE “WOMEN”?

I have focused on gender terms and their deployments. Some readers might find it strange that I have not touched upon the metaphysical question of whether Laura is a woman, nor on what it is that makes her a woman. To do so, I would have to deploy the gender term “woman” in a more specific way than I have done in this article, invoking intensional or extensional criteria, with the accompanying danger of excluding or marginalizing at least some people. While not denying the importance of the metaphysical question, I have chosen, instead, to look at the harms that gender-term deployments can cause, arguing for Laura’s and others’ moral entitlement to the contestation of certain deployments of “woman.” However this term is deployed, it is ethically and politically desirable to remain critically aware of the moral contestability—and hence the revisability—of many of its deployments.

NOTES

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1. I write a category in italics, the members of the category in standard script, and the terms used to denote the members of a category in quotation marks. Thus, a particular woman is called a “woman” and is a member of the category *woman*.

2. By marginalization I have in mind any description or characterization of the category *woman* that will situate at least some transgender women as borderline cases, or as noncentral cases of women with respect to paradigm members of the category *woman*.

3. I will use “transgender” as an umbrella term encompassing those who in any way contest, question, or reject the gender label assigned to them at birth. I will sometimes interchangeably use the term “gender-nonconforming,” or simply “trans.” (It should be noted that the term trans* is increasingly being used to denote gender-nonconforming persons who locate themselves beyond binary sex or gender categories [Bettcher 2014]). A cisgender person is one who generally accepts the gender label assigned to him or her at birth. Cissexism is based on the (often tacit) assumption that transgender persons should be subordinated to cisgender persons along some axis, either in a systemic way within social and political institutions, or on the interpersonal level.

4. I do not deny that possessing so-called “passing privilege” brings certain specific problems of its own for transgender women, especially if they are not “out” as transgender. I have known some very “passable” transgender women who have struggled with the tensions of living as if they were assigned the gender label “woman” at birth. They experience, for example, the constant threat of being “outed,” as well as dilemmas around getting involved in transgender activism. That said, my position is that, in general, passing transgender women—even if they do not hide that they are transgender—do not experience the misgendering that nonpassing transgender women must put up with.

5. Of course, I might continue this path toward a marginal standpoint by, for example, considering nonpassing transgender women of color. Transgender women of color are more often victims of physical abuse and discrimination than are white transgender women (Beemyn and Rankin 2011, 96). I suspect that misgendering is more common and more malicious in respect to transgender women of color, and probably more often accompanied by physical violence and harassment from authorities, such as the police. I do not accommodate the intersection with race and class in my account. This is certainly a defect of my approach. My hope is that the perspective I present is sufficiently flexible to be modified in the light of other axes of oppression.

6. Transgender persons are, of course, also subject to macroaggressions where the latter are understood as overt—usually physical—aggressions targeting specific groups. In the case of transgender persons, macroaggressions include rape, murder, and other forms of physical violence.

7. One could also call it a descriptivist approach (Mallon 2006, 530).

8. One might compare Sally Haslanger's distinction between conceptual and descriptive inquiries concerning our gender concepts. A conceptual inquiry will investigate our concept of gender by examining our intuitions about various actual and hypothetical cases of what it is to be, for example, a woman, and also by examining definitions or formulations of the concept that we produce upon reflection. The starting point here is the so-called manifest concept of woman. An inquiry is descriptive if it focuses on the extension of the concept. It will pick out the various individuals identified as women and attempt to discover whether the designations track a social kind. The point of arrival of the investigation is the operative concept of woman (Stoljar 2011, 34–35; Haslanger 2012d, 43). The starting points of these respective inquiries are what I call the intensional and extensional approaches.

9. Intersexed persons have experienced—and still can experience—heavily invasive surgeries on the basis of expert opinion, surgeries that have led to serious physical and psychological harms (Karkazis 2008). The intersex movement has campaigned for a halt to compulsory surgeries as a form of “treatment” of intersexed newborns in cases where life-threatening conditions are not present. Medical interventions and pathologizing classifications such as these give us pause for thought about our “deference” to experts, a point I will expand on presently.

10. The detailed and intense discussions over the reform of the diagnosis within the World Professional Association for Transgender Health is documented in the *International Journal of Transgenderism* 12 (1) (2010), 12(2) (2010), and 13(1) (2011). Some transgender organizations, as well as some psychiatrists, were in favor of removing a diagnostic category from the DSM-V altogether. However, doing this would have barred many transgender people from seeking reimbursement from insurers for hormones and surgeries.

11. The situation is a result of what Saul calls “mixed contexts” where two parties have different standards of meaning in mind (Saul 2012, 206).

12. Without going into a detailed analysis, I will simply state my conviction that a similarly critical assessment can be made of Charlotte Witt's discussion of being a woman (Witt 2011). Like Alcoff, Witt gives special importance to reproductive function.

13. I thank an anonymous reviewer for challenging me to clarify how my approach differs from Corvino's.

14. Bettcher rightly notes that, according to family-resemblance accounts of gender, transgender women might be best viewed as “women” for pragmatic or political reasons (Bettcher 2013, 236–38). However, many transgender women's self-identifying claims would not be validated.

15. In her own family-resemblance account, Natalie Stoljar explicitly considers the possibility of gender-category-membership “overlap” (Stoljar 1995, 285). Indeed, the family-resemblance approach may be particularly useful to transgender people who are not harmed or oppressed by gender terms such as “androgynous,” “genderqueer,” or “gender fluid.” To be fair to Corvino, his account is meant to help explain how someone might have been a woman at one stage in life, only to become (more of) a man in a later stage in life (Corvino 2000, 177). Similarly, Jacob Hale promotes his own family-resemblance account of gender because it most accurately describes the borderline status of “dislocated” trans genderqueers (Hale 2009, 54–56). Irrespective, however, of the utility of family-resemblance accounts for describing gender change and borderline gender positions, the

fact remains that such accounts end up misgendering at least some transgender women and would be morally contestable if widely implemented.

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