

Gender Objectivism and the Fight against Gendered Injustice

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Abstract

The idea of gender is one of this century's fiercest intellectual battlegrounds. In this paper, I seek to narrow down my focus towards one major debate surrounding gender: the debate between gender objectivism and gender constructivism. My contention is this: gender objectivism is a more reasonable view than gender constructivism. Moreover, gender constructivism has unjust and dangerous implications, especially towards biological women, a result to which gender objectivism is generally immune. I begin by noting how transgenderism as a product of gender constructivism leads to absurd consequences, is viciously circular and lacks conceptual clarity in defining what a woman is. Then, I assessed the real-life consequences of transgenderism in three areas: women's spheres for recognition such as women's beauty pageants, women's spaces, and women's sports. I argue that evaluating the cogency or lack thereof of transgenderism while also seeing its harmful and dangerous consequences to women provide us with good reasons to prefer gender objectivism over gender constructivism.

Introduction

The idea of gender is one of this century's fiercest intellectual and political battlegrounds. In this paper, I seek to narrow down my focus towards one major debate surrounding gender: the debate between gender objectivism and gender constructivism. My contention is simple: gender objectivism is a more reasonable view than gender

constructivism. Moreover, gender constructivism has unjust and dangerous implications, especially towards biological women, a result to which gender objectivism is generally immune.

In this paper, I am using the word “gender objectivism” to mean that one’s gender is rooted in the objective reality of one’s biological sex.¹ According to this view, one’s gender is feminine if one’s biological sex is female, which is essentially determined by one’s genetic makeup and consequently one’s reproductive system. Likewise, one’s gender is masculine if one’s biological sex is male. In this view, one’s gender is essentially related to one’s sex, and it is not something that is constructed. Meanwhile, I understand gender constructivism to mean the view that gender is not based on an objective reality like biological sex, but is constructed either through sociocultural or subjective means. A classic exposition of gender constructivism is from Judith Butler who describes it as follows: “When the constructed status of gender is theorized as radically independent of sex, gender itself becomes a free-floating artifice, with the consequence that man and masculine might just as easily signify a female body as a male one, and woman and feminine a male body as easily as a female one.”² Of course, there are other nuances and conceptual distinctions among the concepts of gender, sex, sexual orientation, and others,³ but this paper is limited on discussing whether the nature of gender is objectivist or constructivist. Nothing in my argument hinges on the notion of sexual orientation or gender identity.

Many feminist thinkers see gender constructivism as a better alternative to gender objectivism since the former is the way to eradicate social inequalities brought about by sexual distinction. Gender objectivism has often been denigrated by feminists as “exclusionary, incompatible with social and political change, and

¹ Some works refer to this view as gender essentialism. I prefer the view gender objectivism since it is more accurate in that the term ‘gender essentialism’ seems to imply that it is only this view, and not gender constructivism, that recognizes that gender has an essence. But this is not the case since gender essentialism, (what I call here as gender objectivism) and gender constructivism both advance that gender has an essence; they only differ on what the essence of gender is.

² Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1990), 6.

³ I thank an anonymous reviewer for pointing out these distinctions.

reactionary.”⁴ In this paper, I argue the opposite: gender constructivism is what is exclusionary, especially towards biological women. Moreover, it is incompatible with social and political progress, something that first-wave feminism, what Malo calls “feminism of equality,”⁵ has long fought for. This form of feminism aimed at building a relationship between men and women as one of complete moral and legal parity. On the contrary, subsequent forms of feminism of which gender constructivism is one result has, I will argue, led to the disenfranchisement of biological women and to a perpetual threat to their safety. The most pernicious result of gender constructivism is transgenderism, the deleterious social implications of which will be detailed in later sections. As Sheila Jeffreys remarked, “Transgenderism is indeed transgressive, but of women’s rights rather than an oppressive social system.”⁶ With transgenderism being constantly supported in the media and even in law, it is a matter of urgency whether this move supports the political advancement of women’s rights.

Now, what are some reasons to think that gender objectivism is true? One reason is that throughout most of human history, this is the view that people, and many people (outside academia) still currently hold about gender. Even feminist philosophers recognize this traditional view that gender is rooted in biological sex. For instance, Sally Haslanger points out that outside the narrow confines of academia, “‘gender’ has come to function as the polite way to talk about the sexes.”⁷ And Simone de Beauvoir, in her book *The Second Sex*, states that “Woman has ovaries; a uterus...”⁸ and that “...there have always been women. They are women in virtue of their anatomy and physiology.”⁹

⁴ Charlotte Witt, *The Metaphysics of Gender* (Oxford: Oxford University Press, 2011), xii. What is being described here is gender essentialism but it is synonymous with what I am calling gender objectivism.

⁵ Malo, *Transcending Gender Ideology: A Philosophy of Sexual Difference*, 45.

⁶ Sheila Jeffreys, *Gender Hurts: A Feminist Analysis of the Politics of Transgenderism* (New York: Routledge, 2014), 2.

⁷ Sally Haslanger, *Resisting Reality: Social Construction and Social Critique* (Oxford: Oxford University Press, 2012), 221.

⁸ Simone de Beauvoir, *The Second Sex*, translated by H.M. Parshley (New York: Vintage Books, 1956), 15.

⁹ *Ibid.*, 59.

But of course, a mere appeal to tradition is a weak argument. What is important to note is that the traditional social roles ascribed to both men and women are generally rooted in one's basic understanding of biological capacities rooted in sex. For instance, much of society expects men to do most of manual work and especially those that involve intense physical labor, and this is rooted in the idea, which is increasingly being backed up by science, that men have various physical advantages over women.¹⁰ Likewise, women are still expected to do most of childrearing, and this is rooted in the idea that apart from the need to breastfeed the child, mothers are on average perceived to be more emotionally connected and way better caretakers to their offsprings than the fathers.¹¹ Needless to say, this is not to imply that women are not capable of doing manual work nor that men who are fathers cannot or should not help in childrearing. What I simply want to show is that the traditional expectations on men and women have strong basis on biological facts. In fact, these unique differences rooted in biology strengthen the idea that men and women complement each other, so that the gendered roles expected of men and women, and specifically of mothers and fathers, are not without merit.

What about gender constructivism? A central notion governing it is the so-called "sex/gender distinction." In order to construct gender, it is necessary that it be separated from the biologically loaded term that is sex; thus, the necessity for the distinction. For if gender is necessarily rooted in biological realities, then there is nothing about gender that requires social construction. It is however important to note that as Jeffreys has evidently shown, the idea of gender was originally developed by sexologists "to make possible a considerable linguistic and ideological move for the men who were seeking to change sex."¹² This illustrates that historically speaking, the idea of gender is intimately tied up with sex. This furnishes a greater burden of proof for those who would merely assert the sex/gender distinction

¹⁰ Emma N. Hilton and Tommy R. Lundberg, "Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage," in *Sports Medicine* 51 (2021), 199–214.

¹¹ Diane E. Wille, "The 1990s: Gender Differences in Parenting Roles," in *Sex Roles* 33 (1995), 803–17.

¹² Jeffreys, *Gender Hurts: A Feminist Analysis of the Politics of Transgenderism*, 28.

without providing good reason for it, especially given that the distinction is not without its philosophical critics.¹³

An example of the idea of gender constructed through sociocultural means is that of Sally Haslanger, who views gender as constitutively constructed. According to her, gender should be understood by reference to social factors, most especially by reference to unequal social positions.¹⁴ Another form of gender constructivism is the view that gender is constructed through subjective means. According to this view, gender is something that one simply chooses to be: one can be a certain gender by sincere self-identification. The main motivating factor behind this view is to be able to include transwomen in the definition of a woman, or in other words, to be trans-inclusive.¹⁵ By consequence, this means that gender constructivism, as opposed to gender objectivism, is the one most sympathetic to and in direct support of transgenderism. It is clear that many feminists of today are deeply motivated to provide a definition of a woman that includes transwomen. For instance, Katharine Jenkins criticized Sally Haslanger's definition of woman because it excludes transpeople. By 'transpeople', Jenkins means

“all people who identify as a gender other than the one to which they were assigned at birth, which includes trans women (people categorized as male at birth who later come to identify as women), trans men (people categorized as female at birth who later come to identify as men), and nonbinary trans people (people who identify neither as simply men nor as simply women)”.¹⁶

Jenkins' version of gender constructivism takes transgender identities to be valid and foundational. The proposition that “transwomen are

¹³ Tomas Bogardus, “Evaluating Arguments for the Sex/Gender Distinction,” in *Philosophia* 48:3 (2020), 873–92.

¹⁴ Sally Haslanger, “Gender and Race: (What) Are They? (What) Do We Want Them to Be?,” in *Noûs* 34:1 (2000), 37–43.

¹⁵ Talia Mae Bettcher, “Through the Looking Glass: Trans Theory Meets Feminist Philosophy,” in *The Routledge Companion to Feminist Philosophy* (New York: Routledge, 2017), 396.

¹⁶ Katharine Jenkins, “Amelioration and Inclusion: Gender Identity and the Concept of Woman,” in *Ethics* 126:2 (2016), 395–96.

women and transmen are men” are something she takes to be a basic truth that requires no defense.

Now, there are several problems with the form of gender constructivism that takes gender to be one of sincere self-identification. First is that this seems to be highly counter-intuitive and is vulnerable to a destructive dilemma. A property X does not automatically become a part of one’s identity merely because of self-identification. I do not become a certain age simply by mere declaration nor do I become an American in the same way when I am in fact a natural born Filipino. This entails that the proposition “transwomen are women and transmen are men” is *pace* Jenkins, something that requires rigorous defense. She specifically needs to argue how one becomes a certain gender by self-identification in a way that such power of self-identification cannot necessarily apply to race, age or ability. The problem becomes more urgent considering that some philosophers have already argued for so-called transracialism and legal age change, using frameworks that in many ways resemble how philosophers defend gender constructivism through self-identification.¹⁷ One can easily see how such controversial views are opening up new vigorous debates with the criticisms they inspire¹⁸ and the subsequent defense from their

¹⁷ For a defense of transracialism, see the following: Christine Overall, “Transsexualism and ‘Transracialism,’” in *Social Philosophy Today* 20 (2004), 183–93; Rebecca Tuvel, “In Defense of Transracialism,” in *Hypatia* 32:2 (2017), 263–78. For a defense of legal age change, see Joonas Räsänen, “Moral Case for Legal Age Change,” in *Journal of Medical Ethics* 45:7 (2019), 461–64.

¹⁸ For criticisms of transracialism, see the following: Chloë Taylor, “On Intellectual Generosity: A Response to Rebecca Tuvel’s ‘In Defense of Transracialism,’” in *Philosophy Today* 62:1 (2018), 3–10; Lewis Gordon, “Thinking through Rejections and Defenses of Transracialism,” in *Philosophy Today* 62:1 (2018), 11–19; Kris Sealey, “Transracialism and White Allyship: A Response to Rebecca Tuvel,” in *Philosophy Today* 62:1 (2018), 21–29; Sabrina Hom, “(Dis)Engaging with Race Theory: Feminist Philosophy’s Debate on ‘Transracialism’ as a Case Study,” in *Philosophy Today* 62:1 (2018), 31–50; Tina Fernandes Botts, “Race and Method: The Tuvel Affair,” *Philosophy Today* 62:1 (2018), 51–72; Tina Fernandes Botts, “In Black and White: A Hermeneutic Argument against ‘Transracialism,’” in *Res Philosophica* 95:2 (2018), 303–29; Jana Cattien, “Against ‘Transracialism’: Revisiting the Debate,” in *Hypatia* 34:4 (2019), 713–35. For criticisms of legal age change, see the following: Iain Brassington, “What a Drag It Is Getting Old: A Response to Räsänen,” in *Journal of Medical Ethics* 45:7 (2019), 467–68; Toni Saad, “Against the Nihilism of ‘Legal Age Change’: Response to Räsänen,” in *Journal of Medical Ethics* 45:7 (2019), 465–66; William Simkulet, “On Legal Age Change,” in *Journal of Medical Ethics* 45:7 (2019), 469–70.

proponents.¹⁹ More so, there is transableism—the phenomenon of certain physically able people identifying as people with disabilities by amputating or disabling themselves by other means—which while it still lacks a rigorous philosophical exposition and defense in the literature is not completely lacking in political mobilization.²⁰

And so, gender constructivists like Katharine Jenkins are caught in a dilemma: either they bite the bullet and admit that the same arguments that justify gender constructivism through sincere self-identification also apply to transracialism, transableism, and legal age change, which for many people including philosophers is a tough bullet to bite. Race, age and physical ability do not seem to be the kinds of things that one can easily change by sincere self-identification. And if the limit applies to these categories, it would not be a stretch to apply this to gender. The other side of the dilemma is this: argue for gender constructivism through sincere self-identification in ways that their arguments cannot inherently apply to race, ability or age change, something which to my knowledge gender constructivists like Jenkins have not yet successfully attempted to do. The crucial point here is to show how gender is so unlike race, age and ability that sincere self-identification is impotent to change one's race or age or ability but it can easily change one's gender.

Transgenderism and Gendered Injustice

Another and more pressing problem is that including biological males (who may have now identified as trans) in the traditional category of women rooted in biological sex opens up the risk towards some negative social implications. It is a form of gendered invasion in three categories that are traditionally reserved for biological women: spheres for women's recognition, women's spaces and women's sports. Let us turn first on the phenomenon of women's beauty pageants, a social sphere for the unique recognition of women. Women's beauty pageants have long been ordinarily viewed as a way for women to showcase the great and unique aspects

¹⁹ For further defense of transracialism and legal age change respectively, see Rebecca Tuvel, "Racial Transitions and Controversial Positions," in *Philosophy Today* 62: 1 (2018), 73–88; Joonas Räsänen, "Further Defence of Legal Age Change: A Reply to the Critics," in *Journal of Medical Ethics* 45:7 (2019), 471–72.

²⁰ Jeffreys, *Gender Hurts: A Feminist Analysis of the Politics of Transgenderism*, 34–35.

of being a woman: a woman's physical beauty, her grace in movement, her elegance in dresses, her intelligence, her character, among others. However, in recent years, transwomen are passionately intent to join such beauty pageants once reserved for biological women, even if that means using all the legal means necessary.

Let us take the Miss Universe beauty pageants as a paradigm case study for this issue. In their website, the Miss Universe Organization stated their identity as "a global, inclusive organization that celebrates women of all cultures and backgrounds and empowers them to realize their goals through experiences that build self-confidence and create opportunities for success."²¹ They further say that it is an organization "run by women and for women". For an organization that is centered on celebrating womanhood, it is natural to assume that it subscribes to a traditional view of womanhood fundamentally rooted in biology. But last 2012, this assumption has been proven false when Donald Trump, the then owner of the Miss Universe brand, allowed Jenna Talackova, a transwoman, to compete in Miss Universe Canada. And last 2018, the first transwoman in the name of Angela Ponce was able to compete in the Miss Universe representing the country Spain. These current changes open up a number of questions as to what it means to be a woman, and how the Miss Universe, and other beauty pageants, should answer this fundamental question. Based on its current actions, it is evidently clear that the Miss Universe Organization aims to be trans-inclusive, i.e., their definition of a woman is one that necessarily includes transwomen.

This move, however, is deeply problematic for a number of reasons. We have already discussed the problematic association of transgenderism with transracialism, transableism and legal age change, an association that has not been fully dealt with by those who defend transgenderism but not the other controversial identities. Another thing to note is that the goal of defining woman in a way that is trans-inclusive runs into problems of vicious circularity. Consider Talia Mae Bettcher's definition of a woman as sincere self-identification. To be a woman is to sincerely identify oneself as a woman, and since transwomen sincerely identifies as women, they

²¹ "About Miss Universe." In the *Miss Universe Official Website*, <<https://www.missuniverse.com/about>>.

should qualify as one. But this definition does not tell you anything about being a woman unless you already know what it means to identify oneself as a woman. To understand what is meant by “identification as a woman”, one needs to know what is meant by woman to which one is identifying, resulting to a vicious circularity where the term woman becomes either vacuous or empty. As Claude Gratton noted, “When a definition has an explanatory function, one *must* first understand the meaning of its definiens before the definiendum can be defined.”²² But in Bettcher’s definition, part of the definiens—the ‘woman’ part—is the same as the definiendum, which makes it viciously circular, similar to defining charity as possessing the quality of being charitable. If one does not already know what being charitable means, then the definition does not provide any enlightenment as to what charity is. The problem here is what Tomas Bogardus called “the demarcation problem for feminism”: that of defining what it means to be a woman, in light of the rise of trans-inclusive feminism.²³

One may respond by noting that the sincere self-identification of transgender people is a kind of speech-act that transforms one’s identity, in much the same way that one becomes the leader of a group by declaring oneself as the leader of the group. What confers one’s gender identity is the very act of declaring oneself as part of the group ‘women’. But this does not completely solve the demarcation problem, since trans-inclusive feminists still have to explain what it means to be a woman in this case such that by identifying as one, the transwoman becomes possessed of the conditions that makes one a woman. Also, one needs to provide additional reasons why a mere sincere self-identification is enough to qualify one as a woman. A person may declare himself the leader of the group, but this speech-act will only hold and be legitimate if certain conditions are met. Upon hearing the pronouncement, the group may have agreed to make that person be their leader, and the person himself possesses the qualities of what makes one a good leader so his speech-act lives up to certain standards of leadership. But this is not the case with transgender individuals. There is no universal agreement that transwomen should

²² Claude Gratton, “Circular Definitions, Circular Explanations, and Infinite Regresses,” in *Argumentation* 8:3 (1994), 298.

²³ Tomas Bogardus, “Some Internal Problems with Revisionary Gender Concepts,” in *Philosophia* 48:1 (2020), 55.

be considered women. In the case of beauty pageants, two candidates in the Miss Earth-Philippines recently expressed their disapproval on transwomen joining women's beauty pageants.²⁴ Miss El Nido Daena Yapparcon explained that 'pageants celebrate the natural beauty of women and their femininity'. Miss Caloocan Jeremi Nuqui believes that there should be a separate competition for transwomen. Their claims are rooted in the idea that biological women are different from transgender people. Aside from these two public figures, there are a number of feminists who are skeptical of viewing transwomen as women.²⁵ One of the advantages afforded to gender objectivism that is lacking in transgenderism (as an offshoot of gender constructivism) is that the former can point out explicit necessary conditions to becoming a woman, and one of those conditions is being in possession of a female body. Such clarity is absent in transgenderism.

More so, if a mere sincere self-identification is what makes one a woman, then what exactly is special about being a woman? If to be a woman is simply expressed through sincere self-identification, then, aside from the quality of sincere self-identification, the description of 'woman' becomes devoid of content. There is nothing metaphysically special about it. But this seems not to be the case with transgenders. When male-bodied transgenders claim to identify as women, they are expressing their intent to become identified as women viewed in a traditional, biological sense. That is why, they make great efforts to abandon their image as traditional men by removing the physical indicators of biological males, like Adam's apple, big muscles, facial and bodily hairs, and of course, the central male body part, the penis. More so, they create an image of being women in the traditional, biological sense by emphasizing and sometimes artificially adding the body parts commonly, and in some cases necessarily associated with a biological woman, like long hair, big breasts, small hips, and firm buttocks.

²⁴ Viktor [Austria](#), "Vice Ganda: transgender women joining Miss Universe is a 'win-win situation'" in *Freebie MNL* (July 6, 2021), <<https://freebiemnl.com/entertainment/showbiz/vice-ganda-transgender-women-joining-miss-universe-is-a-win-win-situation/>>.

²⁵ Jeffreys, *Gender Hurts: A Feminist Analysis of the Politics of Transgenderism*; Kathleen Stock, *Material Girls: Why Reality Matters for Feminism* (London: Fleet, 2021); Kara Dansky, *The Abolition of Sex: How the "Transgender" Agenda Harms Women and Girls* (New York: Bombardier Books, 2021).

One important note about the identity of transgenders: it may be the case that some transwomen still recognize their biological male identity and act according to that.²⁶ However, the common trend in society is this: many facets of society are being formed, sometimes even pressured, to recognize transgenderism, which is basically rooted in the idea that some men, i.e., transwomen, can become women and some women, i.e., transmen, can become men. In fact, a great number of my examples show that many people, especially those who identify as transgenders, do not really see any difference between being a woman and being a transwoman. I have already mentioned several examples of public policies being put into place where transgenderism is becoming the norm. Thus, the idea that “transwomen are women” is not something held as a minority view by some people but is an ideology that is increasingly trying to hold society captive.

Nobody can deny that a major element in women’s beauty pageants is the emphasis on the woman’s physicality to which biological realities play a central part. The insistence that male-bodied transgenders compete alongside biological women in beauty pageants seems misplaced since such events are designed to recognize biological women in their uniqueness. It is also noteworthy that male-bodied transgenders who have joined women’s beauty pageants made great efforts to look like biological women and remove any physical manifestations of being biological males, a fact that undermines the assumption that gender is determined merely through sincere self-identification and is not predicated on biological facts. While it is to be expected that defenders of gender constructivism through self-identification will naturally sympathize with male-bodied transgenders who think that they deserve to join women’s beauty pageants because they identify themselves as women, these same feminists, in fact anyone who is for women’s empowerment and women’s rights, need also to listen to the voices of biological women who think that the fact of male-bodied transgenders joining such events undermines the uniqueness in being a woman and is one way to cheapen womanhood.

²⁶ I thank an anonymous reviewer for pointing this out.

Just as in the case of women's beauty pageants, a further consequence of the idea that transwomen are women (as espoused by transgenderism) leads to the increasing erasure of women's identity in public life. For instance, just this year, Dr. Rachel Levine, a biological male who identifies as a transwoman, is awarded "Woman of the Year" by USA Today.²⁷ Also, way back 2015, Caitlyn Jenner, a transwoman, is also awarded "Woman of the Year" by Glamour Magazine.²⁸ Of course, from the perspective of transgenderism, there is nothing problematic about transwomen being given awards that are especially designed to recognize women since transwomen are considered women under this view. But as I have so far argued, there are good reasons to think that transgenderism is false, such as how it leads to analogous situations that are mostly considered absurd, or its vicious circularity or its lack of conceptual clarity in defining what a woman is. Given these reasons, such awards given to transwomen that are for women are deeply unjust and disparage the recognition that is supposed to be for women.

Another negative, and even worse, social implication of gender constructivism brought about by transgenderism has to do with biological males invading women's spaces. By women's spaces, I mean "toilets, prisons, women shelters, and women's locker rooms." In this section, I focus on critically examining the arguments given against sex-segregated toilets, and found them wanting. I then apply my arguments in favor of sex-segregated toilets to the issue of transgenders invading other women's spaces, especially emphasizing the issue of safety with regards this issue. Let us now turn to the arguments.

One of the philosophers who discussed the issue of sex-segregated toilets and argued against it is Christine Overall. According to her, the idea "is perpetuated as a ritual practice without much if any

²⁷ Dylan Housman, "Transgender Biden Admin Official Named One of USA Today's 'Women of the Year,'" in *The Daily Caller* (March 15, 2022), <<https://dailycaller.com/2022/03/15/rachel-levine-transgender-woman-of-the-year-usa-today/>>.

²⁸ Will Mendelson, "Caitlyn Jenner at Women of the Year Awards: I Never in a Million Years Thought I'd Be Here," in *US Magazine* (November 10, 2015), <<https://www.usmagazine.com/celebrity-news/news/caitlyn-jenner-at-women-of-the-year-awards-never-thought-id-be-here-20151011/>>.

thought being given to its basis.”²⁹ She then surveyed a host of reasons in favor of sex-segregated toilets, reasons such as cost, and the need for privacy, time, and space to attend to women’s specific needs. For an article like Overall’s, it is to be expected that a treatment of these reasons would necessarily be inadequate, and so future and more sustained discussions of these reasons would be welcome. On the other hand, it is worth noting that a sustained, philosophical defense of sex-segregated spaces such as toilets has been lacking in the literature. As Sheila Jeffreys bemoaned:

“There is scant feminist research or theory on this issue presently, only queer and transgender theory which tends to sideline women’s concerns and the impact that degendering may have on women’s rights. There has been no research on the opinions of women, the constituency for whom women’s toilets were established, or on their possible motivations for preferring the maintenance of segregated toilet provision.”³⁰

In this paper, I’d like to focus on the issue of safety in line with women’s spaces, something which Overall also sees as one reason in favor of sex-segregated toilets. If sex-segregation in certain spaces is justified out of real concern for women’s safety, then it is difficult to override this by other non-safety concerns, such as comfort for transgender people in choosing their own toilets. Interestingly for a feminist like Overall, she does not provide a sustained exploration of safety in line with defending sex-segregated toilets. She merely mentioned that this is a concern by vulnerable groups including “women (whether heterosexual, lesbian, or bisexual), and children, young boys as well as girls,” and “may also include gay men...and individuals who do not fall neatly into categories defined by standard sex and gender categories, such as transsexual persons and transgendered persons.”³¹ Overall did not elaborate on what it means

²⁹ Christine Overall, “Public Toilets: Sex Segregation Revisited,” in *Ethics and the Environment* 12:2 (2007), 76.

³⁰ Sheila Jeffreys, “The Politics of the Toilet: A Feminist Response to the Campaign to ‘Degender’ a Women’s Space,” in *Women’s Studies International Forum* 45 (2014), 42.

³¹ Overall, “Public Toilets: Sex Segregation Revisited,” 82.

to be vulnerable in this context, and what makes these groups of people the most vulnerable; she simply asserts again without elaborating that “the degree of danger varies from one context to another.”³² Then, she immediately proceeded to claim that safety as a ground to justify sex-segregated toilets “is ironic, for such facilities can actually create dangers for women, children, and members of sexual minorities by isolating them.”³³ She then went on to say that the concern for safety can be self-fulfilling in that “the existence of sex-segregated toilets does not protect people from attack but rather exacerbates the causes of attacks.”³⁴ Overall’s assumption here is that “anyone who really wants to engage in sexual assault would probably go into a women’s room anyway.”³⁵ However, what Overall overlooks is that a unique women’s space for hygiene purposes provides a strong deterrent against would-be sexual assailants, since a male sexual assailant entering (or attempting to enter into) a female toilet would automatically raise suspicion for everyone within the vicinity. This important deterrent would be tragically lost without sex-segregated toilets. It is also ironic that Overall claims that sex-segregated toilets exacerbates the causes of attacks without any empirical evidence to back it up, especially when she herself criticized someone who criticized unisex toilets without citing evidence.³⁶ Contrary to Overall’s claims, there have actually been a number of recent cases where we see the unjust and unsafe consequences of removing sex-segregated toilets, especially in relation to the rights and privacy of women.

Last 2016, there was a 33-year old man who entered the women’s restroom, and attacked and choked a girl until she passed out. It happened in a place that bans discrimination based on gender identity in public accommodations, such as restrooms.³⁷ Last 2021, there was an incident of a biological male who entered a women’s

³² Ibid., 82.

³³ Ibid., 82.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid., 79.

³⁷ Valerie Richardson, “Man Who Choked Girl in Women’s Restroom Stokes Alarm over Transgender Access,” in *The Washington Times* (May 14, 2016), <<https://www.washingtontimes.com/news/2016/may/14/man-who-choked-girl-in-womens-restroom-stokes-alar/>>.

restroom in a high school in America, and raped a 15-year old girl.³⁸ Another thing that needs to be dealt with in removing sex-segregated toilets is the issue of voyeurism. Last 2010, a 33-year old man dressed as a woman was caught secretly videotaping females using a department store bathroom.³⁹ Last 2015, there was an incident in a gender-neutral university bathroom where two female students taking a shower were recorded through cellphones by a male student in two separate incidents.⁴⁰ On the same year, a man dressed as a woman was arrested for secretly filming women in a mall bathroom stall.⁴¹

Also, if intimate women's spaces like toilets and locker rooms are removed, there is also the threat of sexual exhibitionism, especially in the case of males showing their intimate body parts to unsuspecting women. In fact, there were already incidents of such nature. Last 2021, an infamous case happened in a spa where a man who identified as transgender allegedly exposed himself to four women and a girl. The man named Darren Merager was eventually found to be a convicted sex offender.⁴² Another incident happened in Evergreen College where a transgender with male genitalia was reported to having repeatedly exposed himself to teenage girls, which prompted uproar from these girls' parents.⁴³ Bear in mind that these are just the incidents that

³⁸ Tony Perkins, "A School Horror Story That Didn't Fit the Narrative," in *Family Research Council* (October 12, 2021), <<https://www.frc.org/updatearticle/20211012/school-horror>>.

³⁹ M. Dilworth, "Palmdale Man Arrested for Videotaping in Women's Bathroom," in *The Antelope Valley Times* (May 14, 2013), <<https://theavtimes.com/2013/05/14/palmdale-man-arrested-for-videotaping-in-womens-bathroom/>>.

⁴⁰ Jessica Chin, "University of Toronto Gender-Neutral Bathrooms Reduced After Voyeurism Reports," in *The Huffington Post Canada* (October 7, 2015), <https://www.huffpost.com/archive/ca/entry/u-of-t-bathrooms-voyeurism_n_8253970>.

⁴¹ NBC Washington, "Man Dressed as Woman Arrested for Spying into Mall Bathroom Stall, Police Say," in *NBC Washington* (November 18, 2015), <<https://www.nbcwashington.com/news/local/man-dressed-as-woman-arrested-for-spying-into-mall-bathroom-stall-police-say/1979766/>>.

⁴² Andy Ngo, "Sex Offending Suspect Claims Transgender Harassment in Wi Spa Case," in *New York Post* (September 2, 2021), <<https://nypost.com/2021/09/02/charges-filed-against-sex-offender-in-wi-spa-casecharges-filed-against-sex-offender-in-notorious-wi-spa-incident/>>.

⁴³ Nina Golgowski, "Parents' Outrage as Transgendered Woman Is Permitted to Use the Women's Locker Room 'Exposing Himself to Little Girls,'" in *The Daily Mail*

were caught and publicized. We can only imagine how many of such abusive incidents were successful and have gone unreported. Needless to say, a gender-neutral bathroom where both males and females can enter provides the opportunity for sexual predators, sexual assailants, and exhibitionists to carry out such acts of harassment, voyeurism, and exhibitionism under the pretense that they are transgenders. When biological men are allowed to enter women's toilets, we need to recognize as Jeffreys pointed out "that some men have a clear interest in the sexual excitements that they can access by violating women's right to human dignity in such places."⁴⁴

Similar tragic stories have occurred in women's prisons. In the state of Washington, male prisoners who claimed to identify as transgenders have raped female inmates, including a developmentally disabled female prisoner who was repeatedly sexually abused for at least a week before the rape was discovered. In this state, any male prisoner can be transferred to a women's prison by simply avowing that they believe themselves to be female and convincing prison officials of their sincerity.⁴⁵ In Canada, due to the so-called Bill C-16, which now prohibits discrimination against gender identity and gender expression, correctional facilities in Canada now accepts male prisoners into women's prisons by a simple affirmation as a woman. Because of this law, male prisoners including a convicted child sex killer have been admitted into women's prisons.⁴⁶ In the UK, a convicted male rapist in the name of Karen White who identified as transgender admitted sexually assaulting women in a female prison.⁴⁷

(November 4, 2012), <<https://www.dailymail.co.uk/news/article-2227562/Colleen-Francis-Outrage-transgendered-woman-permitted-use-college-womens-locker-room-exposing-himself.html>>.

⁴⁴ Jeffreys, "The Politics of the Toilet: A Feminist Response to the Campaign to 'Degender' a Women's Space," 48.

⁴⁵ Jazz Shaw, "'Trans' Inmate Rapes Mentally Disabled Female Prisoner at Washington Prison," in *Hot Air* (November 23, 2021), <<https://hotair.com/jazz-shaw/2021/11/23/trans-inmate-rapes-mentally-disabled-female-prisoner-at-washington-prison-n430998>>.

⁴⁶ Brad Hunter, "'Psychopathic' Child Sex Killer Uses Trans Card," in *The Toronto Sun* (February 1, 2020), <<https://torontosun.com/news/world/hunter-psychopathic-child-sex-killer-uses-trans-card>>.

⁴⁷ Nazia Parveen, "Transgender Prisoner Who Sexually Assaulted Inmates Jailed for Life," in *The Guardian* (October 11, 2018), <<https://www.theguardian.com/uk-news/2018/oct/11/transgender-prisoner-who-sexually-assaulted-inmates-jailed-for-life>>.

All these examples serve to vividly show that the inclusion of transgenders into women's spaces compromise women's rights to privacy and safety, in direct contrast to Overall's assumption that sex-segregated spaces like a women's toilet exacerbate, rather than minimize, these kinds of attacks. It is easy to see why allowing biological men into women's spaces invite this kind of abuse. If merely identifying as a woman or a transgender is enough for one to qualify as a woman or transgender (as in the case of Canada and UK), then this is subject for constant abuse by people who merely want to game the system. Anyone can identify as trans so as to avoid male spaces and be allowed to be in spaces for women, who are generally more physically vulnerable compared to males even if these males happen to identify as trans, a fact that will further be highlighted in our discussion of women's sports. In fact, if a male person identifies as trans and is then allowed to enter into women's spaces, this is not a guarantee that the trans-identifying male person will not caporalize on his physical advantages when in close proximity with women. As several examples have shown, the opposite is sometimes the case.

One may object that my examples are one-sided since they only pertain to safety issues in relation with biological women while I have not mentioned any example where it is transgenders who are at risk in using women's spaces.⁴⁸ Of course, anyone whose physical safety is threatened should be protected, regardless of whether they are male, female or transgender. Now, the reason that I did not mention it is that I am unaware of any such thing happening. Also, the point of my examples is to highlight how biological women are especially vulnerable in their spaces, when they are forced to share those spaces with biological men, even if those men identify as transwomen.

The ideology of transgenderism puts the concerns of trans-identifying individuals as its highest priority but only at the expense of abrogating the real concerns of women for privacy and safety. When in conflict, women's concerns for safety and privacy should trump transgenders' demand for merely satisfying their personal preference for certain spaces. After all, there is no non-arbitrary line that would justify putting the personal preference of transgenders over that of

⁴⁸ I thank an anonymous reviewer for raising this concern.

everyone else. The bottomline is this: there are harmful consequences for upholding transgenderism, harms of which women are generally the victims. Moreover, these harms are more likely to occur under the assumption of gender constructivism (in which transgenderism is one result) than of gender objectivism. Thus, this provides a strong reason to prefer gender objectivism over gender constructivism. Finally, we turn to the issue of women's sports.

The Erasure of Women's Sports

Throughout history, sports especially physically demanding ones have generally been divided into women's and men's division. The thought that underlies the division is straightforward: men have various inherent physical and physiological advantages over women. This assumption is not scientifically unfounded. In a 2000 study conducted by Ian Janssen et al, they found that "men have more SM [skeletal muscle] than women and that these gender differences are greater in the upper body."⁴⁹ Their findings further showed that "men have more appendicular muscle than women" and that "there are gender differences for regional and whole body muscle mass."⁵⁰ An older 1993 study found that "in a population of men and women of similar body mass, men were stronger in the muscles of both the upper and lower limbs, both in absolute units and when expressed in units relative to lean body mass."⁵¹ The finding of the authors also showed that even when both men and women have the same number of muscle fibers, the men in the study still have a greater amount of strength compared to women due primarily to men having larger fibers.⁵² In a recent 2021 study by Emma Hilton and Tommy R. Lundberg, they state that "When comparing athletes who compete directly against one another, such as elite or comparable levels of school-aged athletes, the physiological advantages conferred by biological sex appear, on assessment of performance data, insurmountable."⁵³

⁴⁹ Ian Janssen et al., "Skeletal Muscle Mass and Distribution in 468 Men and Women Aged 18-88 Yr," in *Journal of Applied Physiology* 89:1 (2000), 81.

⁵⁰ *Ibid.*, 85.

⁵¹ A. E. J. Miller et al., "Gender Differences in Strength and Muscle Fiber Characteristics," in *European Journal of Applied Physiology* 66 (1993), 261.

⁵² *Ibid.*, 265.

⁵³ Hilton and Lundberg, "Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage," 200.

Defenders of gender constructivism may propose testosterone suppression in order to balance out the biological advantages of male-bodied transgenders over biological women in sports. This response has drawbacks. For one, if gender is merely a social construct that is achieved through self-identification, why is there a need to manipulate a biological element—in this case testosterone—in order to achieve gender equality? This seems to reveal the assumption that gender is still rooted or inherently connected to biological sex, an assumption that is in direct tension with the claim of gender constructivism. Secondly, testosterone suppression may not be enough to equalize the inherent physiological advantages of males over females. In fact, as the Hilton and Lundberg study concluded in their survey of the medical literature, “superior anthropometric, muscle mass and strength parameters achieved by males at puberty, and underpinning a considerable portion of the male performance advantage over females, are not removed by the current regimen of testosterone suppression permitting participation of transgender women in female sports categories.”⁵⁴

Given these facts, it is clear that the inclusion of male-bodied transgenders in women’s sports is one of the clearest injustices committed against women in our time. Due to the inherent physiological advantages of males over females, male-bodied transgenders competing against biological women is like athletes who are steroid users competing against those who do not use steroids. Some women have learned this the hard way: consider for instance the case of Tamikka Brents, a female, who fought against Fallon Fox, a male-bodied transgender, in an MMA fight. Brents was so overpowered by Fox that Brents ended up having a broken skull.⁵⁵ Similarly, even if there are no physical harms involved, when male-bodied transgenders are included in women’s sports, we see the former consistently dominating. Laurel Hubbard, a male-bodied transgender, is the 2019 Pacific Games weightlifting champion in the

⁵⁴ Hilton and Lundberg, 209.

⁵⁵ Bhavesh Purohit, “When Transgender Fighter Fallon Fox Broke Her Opponent’s Skull in MMA Fight,” in *Sportskeeda* (September 30, 2021), <<https://www.sportskeeda.com/mma/news-when-transgender-fighter-fallon-fox-broke-opponent-s-skull-mma-fight>>.

women's category.⁵⁶ Rachel McKinnon, also a male-bodied transgender, won twice world titles at the Masters Track Cycling World Championships.⁵⁷ Finally, there is the case of Lia Thomas, a male-bodied transgender, who is declared the NCAA Swimming Champion in the 500-yard freestyle category for women last March 2022.⁵⁸

There is nothing mysterious about the fact that many male-bodied transgenders are dominating women's sports. As the scientific studies above confirm, males whether transgender or not have inherent physical and physiological advantages over females. The sad reality is that: if the inclusion of transgenders in women's sports continues, we might see the eventual erasure of women in sports. Biological women are relegated as second-class athletes in a sports category that are originally and deservedly meant for them. It is also worthy of note that the male-bodied transgenders who participated in sports competitions for women have taken the slot that could have been filled in by a woman when the former represented their school, university or country, not to mention the scholarships that could have been enjoyed by women athletes deprived of these slots. All these examples illustrate the morally demoralizing results when gender constructivism is preferred over gender objectivism.

One may object that my general approach in criticizing gender constructivism is overly consequentialist, such that it's lacking in a substantive argument that does not rely on few examples and consequences.⁵⁹ Fair enough – but I'd like to point out why the argument proposed against gender constructivism is inescapably consequentialist. This is because my argument is predicated on how

⁵⁶ Reuters, "Transgender Weightlifter Laurel Hubbard's Gold Medal Sparks Fierce Debate," in *New York Post* (July 30, 2019), <<https://nypost.com/2019/07/30/transgender-weightlifter-laurel-hubbards-gold-medal-sparks-fierce-debate/>>.

⁵⁷ Rebecca Reza, "Transgender Cyclist Rachel McKinnon Wins Second-Straight World Masters Title," in *Bicycling* (October 24, 2019), <<https://www.bicycling.com/news/a29578581/rachel-mckinnon-world-championship-masters-win-transgender-sport-debate/#>>.

⁵⁸ Ewan Palmer, "Lia Thomas Booed After Transgender Swimmer Beats Emma Weyant, Video Shows," in *Newsweek* (March 18, 2022), <<https://www.newsweek.com/transgender-swimmer-lia-thomas-booed-ncaa-1689322>>.

⁵⁹ I thank an anonymous reviewer for raising this concern.

gender constructivism causes actual harms to women. Some arguments may talk about how a certain view *may* be harmful to some categories of people. Others may utilize thought-experiments to show a view *can* be harmful. The strength in my argument is that the harms of gender constructivism are already seen as actual, not hypothetical and these harms are seen as a direct consequence when society upholds transgenderism as an official policy. There may be some arguments against gender constructivism that are not consequentialist but for considerations of space, I do not discuss them here. Also, the reason why I focus on this consequentialist argument is to highlight the urgency of responding to gender constructivism. If women have already been harmed and are continually being harmed by transgenderism, then this means that society should start acting in opposition to this ideology, if we no longer want any women to be harmed by this in the future.

Conclusion

Transgenderism is not merely a school of intellectual thought; it has real-life consequences. As an offshoot of gender constructivism, transgenderism is not a neutral view when it comes to women's rights. It is a political ideology that seeks to replace the common and scientifically founded idea that biology is a necessary component to what makes one a woman, an idea affirmed by gender objectivism. But to deny the role of biology in womanhood in particular and gender in general is to leave women vulnerable to gendered injustice that can be committed or even currently committed by males, as the myriad of examples has shown. If there is one issue to which feminists—or anyone who is concerned for the plight of women—can unite in opposition, it should be the issue of transgenderism. The continual encroachment of transgenders or people claiming to be transgenders in women's beauty pageants, women's spaces, and women's sports constrict the unique spaces designed for the recognition of women's identity and their unique needs.

Such unjust and even harmful encroachments of transgenderism are highly unlikely if gender objectivism is taken as the official policy. But why? This is simply because the policies on sex-segregated spaces like toilets, locker rooms, and prisons are predicated on the idea that men and women have different needs.

Many women prefer their spaces to be free from the presence of men, especially if those spaces are where they perform intimate acts in connection to their physical selves. Spheres for women's recognition, such as beauty pageants, are also rooted in gender objectivism since these events serve to highlight among others, the unique physicality and femininity of being a woman. Finally, gender segregation in sports presupposes gender objectivism, which entails the idea that males and females have various biological differences, and as such males should compete only against males and females should compete only against females.

In conclusion, even if this paper serves as a critique against transgenderism, this is not to say that people are not free to identify as transgenders. It is however a separate question whether our culture should embrace gender constructivism as a sound political ideology. While this paper does not pretend to have settled the question between gender objectivism and gender constructivism, what I have hoped to show is that this debate is one that would continue to shape the culture and as such, one that philosophers should be free to discuss in civil and reasonable ways.

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