

# Doing better in arguments about sex, gender, and trans rights

*Radical feminist and gender-critical philosophers challenge their opponents to avoid some obviously bad argumentative moves*

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We're a group of gender-critical and radical feminist academic philosophers. In our work, some of us argue that women, by definition, are adult human females. On this view, since no trans woman is an adult human female, no trans woman is correctly categorised as a woman. The rest of us are currently agnostic between i) exclusively taking the former position, and ii) also taking a position that says that there is an additional, meaningful sense of 'woman', understood as applying to those who occupy a certain feminine social role, on the basis of perceived membership of the female sex category. Unlike i), ii) entails that a limited number of trans women count as women, in at least one sense. Still, ii) entails that many trans women aren't correctly categorised as women, since many trans women don't occupy a feminine social role on the basis of perceived membership of the female sex category.

Either way, we are all sceptical of the political value of accounts of womanhood that identify it as essentially involving possession of a feminine 'gender identity'. We also all insist that it's politically essential to retain a clear conceptual differentiation between males and females, in order to continue to be able to name and refer to sex-based patterns of oppression, and harmful sociocultural stereotypes about the 'right' ways for males and females respectively to be.

Our aim here is not to summarise our positive arguments for these conclusions. We do this in work elsewhere (see the links from our names, above). Rather, we wish to highlight various fallacies and misrepresentations that we've noticed frequently occurring in discussions of our views. While there have been a number of comment pieces in national media by philosophers challenging gender-critical and radical feminism, we have yet to see in these a compelling argument against our position. Rather than respond to these pieces individually, we would like to highlight some of the common misunderstandings and fallacious arguments that we take to be problematic in these responses. We hope that this will be

helpful in laying the ground for more fruitful discussion from now on. In particular, we would be pleased to hear a) whether we are mistaken in what we take to be fallacious in our opponents' arguments; b) whether we are mistaken in attributing these fallacies and misrepresentations to our opponents; or c) whether there are stronger responses available to the positions we defend.

Our first section covers recurrent fallacious arguments. In a second section, we consider and reject some analogies that have been brought against our position to date, which we consider to be poor. In a final section, we add some questions which we'd like our opponents to answer in future work.

## **Section one: fallacious arguments**

### **1. 'Your position has been historically associated with far right-wing thought, and hence fails'.**

Associating our intellectual position with a far right-wing one, because some far right-wing thinkers would agree with us in some of our conclusions, and insinuating that our position is all the worse because of it, is an [ad hominem](#)[1]. Ad hominem are widely recognised as inappropriate in philosophy. Philosophers don't assess conclusions on their own; they assess conclusions in the context of premises allegedly leading to those conclusions. There are many possible argumentative routes to a single conclusion: some good, some bad. The illegitimacy of one argument, or set of arguments, for a particular conclusion doesn't establish the illegitimacy of every other argument for that conclusion.

Equally: the fact that person shares a conclusion with a far right-wing person could never show, on its own, that the conclusion was false. It is likely that every single person on the planet shares several hundred (true) beliefs with any given far right-wing person.

In brief: this strategy, and any which are structurally like it, is rhetorical guilt-by-association. It has no place in responsible argument.

### **2. 'You are biological essentialists'**

'Biological essentialism' is standardly used in feminist philosophy to refer to a position which thinks that certain cognitive abilities (e.g. emotional intelligence, lack of spatial reasoning), instincts (e.g. maternal instincts, a drive for monogamy), social preferences (e.g. for domesticity, for family life) and dispositions to certain behaviours (e.g. kindness, passivity) are causally produced across a population of human females in virtue of their biological sex category membership.

All of us reject this view as stated, though at least one of us acknowledges the possibility of more minimally described hard-wired sexed behaviours across a population. But in any case: this view has nothing to do with the view that the category of 'woman' is correctly defined as 'adult human female'. Biological essentialism is a position about whether certain traits of women are biologically produced by sex category membership. Womanhood itself is not a genetic 'trait' and no-one on either side of the dispute thinks it is conceivably biologically produced in the way that, arguably, emotional intelligence or maternal instinct is supposed to be. So to call the view that some of us hold 'biological essentialism' is a misnomer. Moreover, it is a misnomer apparently rhetorically designed to draw some of the harsh criticism which appears in progressive circles about biological essentialism, in the true sense, onto the view that women, definitionally, are adult human females.

### **3. 'You want to reduce women to their genitalia, or to womb-possession'.**

None of us hold a view according to which either a woman or a female is defined as such by her current possession of a particular configuration of genitalia, womb, or any other single primary sex characteristic, for that matter. We recognise — of course — that womanhood/ femaleness is compatible with surgical removal or alteration of many morphological primary sex characteristics. We also recognise that

womanhood/femaleness is compatible with Differences of Sexual Development (sometimes known as ‘intersex’ conditions) resulting, from birth, in the absence of, or non-standard presentation of, certain primary sex characteristics.

Several of us endorse a cluster account of femaleness, according to which possession of some vague number of a certain set of endogenously-produced primary sex characteristics — including vagina, ovaries, womb, fallopian tubes, and XX chromosomes — is sufficient for femaleness, though no particular characteristic is necessary or essential. We don’t think even that XX chromosomes are essential for femaleness. According to us, someone with Complete Androgen Insensitivity Syndrome is correctly categorised as female, at least for most non-technical uses of that term. Whether or not this is ultimately right, the main point is that a cluster account is consistent with realism about biological sex categories, and with the claim that those who have **none** of the named primary characteristics in question cannot be correctly categorized as female. In other words, our view still rules out all or nearly all trans women from counting as female, without committing us to an essentialist account of femaleness.

In the light of this, the correct question should be, not ‘Do we ‘reduce’ women to their genitalia, or wombs?’ but ‘Do we ‘reduce’ women to a cluster of primary sex characteristics?’ In this form, the objection rhetorically trades on an ambiguity in the word ‘reduction’. In philosophy, to ‘reduce’ Xs to Ys can mean: to redescribe every sentence about Xs as a sentence about Ys, without informational loss. In this sense, some of us would indeed ‘reduce’ talk of women to talk of females, and equally, would reduce talk of females to talk of those people who possess a cluster of given sex characteristics. But in another usage, to ‘reduce’ women to characteristic X is to say that *X is all that women are good for*, or that *X is women’s only point or function*. Obviously we deny that there is any one thing that women are good for, or that women could ever have only one ‘point’ or ‘function’ (or even a limited few). We are feminists after all! So in this sense, we do not ‘reduce’ women to anything; we merely offer a theory, where, precisely, one of the advantages we perceive in that theory is that it does *not* build in, as a necessary or essential feature, any particular function(s) or value(s) to womanhood or femaleness. Instead, in our view, it offers the possibility of eliminating the functions and values which are currently ascribed to women/females by a misogynist society.

#### **4. ‘You think there is a “right way” to be, as a woman/ lesbian/ mother’ (etc.).**

This trades on an ambiguity between two separate senses of the word ‘right’: *normatively right* versus *descriptively right* (i.e. *descriptively correct*). As such, it’s another rhetorical move. It can quickly and unfairly bring to the reader’s mind a metaphor of our gatekeeping for a special club — ‘**you** can come in, but not **you!**’. It brings to mind the widespread use of harmful sexist stereotypes levelled at women: ‘A *real woman* would be kind and gentle!; “Fat women aren’t real women!; “Women who don’t put out for men are frigid!”. Of course we reject all such sexist stereotypes, as a fundamental tenet of our feminism.

At the risk of repeating ourselves, **we don’t think there is any normatively right way for females or women to be**. We reject societies’ constant attempts to suggest that there is.

On the other hand, we do think there are descriptive facts about what counts as womanhood and femaleness. Generally, then, we deny that to describe or classify something is automatically to express some normative value about that thing. To say that we think there is a definition of femaleness or womanhood is not to say that there is a ‘right way’ for females or women to be, in any normative sense. To say that there is a definition of a table, which distinguishes tables from chairs, is not to say that all tables have to have a polished top or carved legs.

The claim that there is, in principle, a distinction between facts and values is fairly standard for analytic philosophy. It is not unknown in continental philosophy either. We are aware that some of our more Foucauldian- and Butlerian- inspired critics might reject any such distinction, in principle. This is a reasonable disagreement between us, with ramifications much wider than the local sex and gender dispute. What isn’t reasonable, however, is to treat as philosophically naive, idiotic, or bigoted, our

assumption that facts about biological sex, womanhood, or sexuality, can be described without thereby automatically endorsing some norm(s).

## **5. ‘You are transphobic’; or ‘You may not be transphobic but your views are’.**

We don’t accept that a philosophical view is unacceptable, let alone ‘phobic’ of some group, simply because it advocates for something that some members of that group don’t want, or that makes them feel uncomfortable or even highly distressed. We understand transphobia to be, not just the exhibition of upsetting disagreement with some trans people, but rather an attitude of disgust, fear, or revulsion towards trans people because they are trans people. Since, after much reflection, we are confident that our views are not motivated by any such attitude, we don’t accept that our views are ‘transphobic’. Our views are motivated, as most views in political philosophy are, by a belief in the existence of a certain combination of values and facts. The values include the importance we attribute to both female *and* trans rights and interests; the facts include our perception of the likely success, or lack of success, of various proposed means to jointly realise those respective rights and interests. Several trans people with whom we are friends agree with us in our gender-critical or feminist analyses, and we don’t accept they could only do so for self-hating reasons.

## **6. ‘You think all or most trans women are violent against cis women’.**

This is a straw man, and none of us have ever said this, or think it’s true. We don’t think that all or most trans women are violent against “cis” women, and we are happy to say so.

There are two better arguments in this area, which rarely get acknowledged or addressed by our critics. The first is about what, we judge, is likely to happen, over a period of time, in a culture where it becomes increasingly widely known that sex-self-ID (with or without a Gender Recognition Certificate), rather than birth sex, is the determiner of entry/ lack of entry for biological males into woman-only spaces where females undress or sleep, and so are particularly vulnerable. We predict that, in such a culture, social norms which currently stop many predatory men, generally, entering these spaces will be eroded. We also predict that, at the same time, women’s confidence to challenge men in those spaces will be eroded, since there will no longer be any reliable inference to make from physical appearance, to right-of-entry. We see the current use of [posters in some University toilets](#)[2], telling women to accept the presence of males there, as an inadvertent attempt to bring about such a cultural shift, albeit with good intentions. We take seriously the testimony of the many experts working professionally with sexual offenders who describe the persistence and opportunism of these offenders, and we see no reason to be confident that no-one will take this opportunity in future.

That first argument just now was an argument about opportunistic males who, without even pretending to transition in any visible way, may soon be socially permitted to enter women-only spaces where females are vulnerable, nonetheless. The second argument, also rarely addressed by our critics, concerns those who, we predict, would socially transition opportunistically for sinister motives, if the proposed changes to the UK Gender Recognition Act were to go ahead. For the proposed changes advocate for the de-medicalising of the process of acquiring a Gender Recognition Certificate, so that no professional diagnosis of gender dysphoria, or any other psychological assessment, would be required. Additionally, no period of living in one’s preferred gender would be required, so that the process would become purely administrative.

In partial support of our prediction, we note, as presumably somewhat indicative, the already [disproportionately high](#) [3] numbers of male sex offenders socially — though, we hope, not yet legally — transitioning in prison in the UK (in fact, [some of their fellow trans women prisoners share our disquiet here](#) [4]). We note this [peer-reviewed academic study](#) [5], otherwise sympathetic to trans people generally, suggesting that a very small group of people seeking gender reassignment are motivated to do so “as a means by which to increase their intimate contact with children, which they viewed to be more socially acceptable in a female role” (this is a direct quote). We note that safeguards against this and

other sinister entry routes will no longer be in place, should lobbying groups get what they want with respect to the GRA. On these and other empirical grounds not listed here, we therefore predict that the proposed changes would/ will mean a higher proportion of violent offenders in the population of trans women than is currently found there.

This second argument, like the first, is an argument about *the future*: it is founded in what we consider to be a reasonable prediction, based on extrapolation from various currently known empirical facts. In fact, it does not even imply anything about “all or most” trans women in the future, but only some — let alone “all or most” trans women now. Currently, all trans women who have a Gender Recognition Certificate have acquired it through a reasonably safeguarded process.

In this context, any attention we draw publicly to recorded individual aggressive acts by trans women against females should not be understood as somehow implying that all or most trans women are violent. This is not the intended inference. Most of the time, references to such cases are to be understood as constituting limited evidence of the erosion of existing social safeguards for females, where we anticipate that these will break down to a greater extent in future, if self-ID becomes the norm.

Even so, we also argue that both sides of the dispute would be well-served by a serious empirical investigation into whether trans women tend to commit sexual and violent offences at the same rate as biological males, or whether this offending rate lowers on transition (perhaps to the level of biological females, as has been claimed by some of our opponents).

## **7. ‘No true trans woman is ever violent’ (See also: ‘No detransitioned person was ever really trans’)**

Both of these are instances of the ‘No true Scotsman’ fallacy. This move is used to supposedly rebut counterexamples to claims that members of a certain group have (or lack) a particular characteristic. For example (frivolously), given a claim ‘No Scotsman puts sugar on porridge’, and a genuine counterexample ‘Dave is from Scotland and he puts sugar on porridge’, the response would be ‘Ah. But obviously Dave isn’t *really* a Scotsman; no *true* Scotsman puts sugar on porridge’. And so on, for all other counterexamples. This is a fallacy, used to dismiss counterexamples by illegitimately excluding them from the group under consideration.

When discussing questions concerning self-identification, this fallacy is mainly used in two contexts: to reject claims that trans women have committed sexual or violent crimes against women, and to reject the idea that people can cease to be transgender.

First, it is used to reject examples of trans women committing violent or sexual crime in women-only spaces: “that person is not a true trans woman, because a true trans woman would not commit that kind of crime”. If the person in question is in fact a trans woman, this response is clearly fallacious. Furthermore, even if the person does not regard themselves as trans but is a male identifying as a woman to gain access to a female-only space, then that person counts as trans according to the criterion that self-identification as a woman is all that is required to be regarded as a trans woman and to be allowed into women-only spaces.

Second, the No true Scotsman fallacy is used to argue that those who transition and then desist (known as ‘desistors’ or ‘detransitioners’) are not counterexamples to the policy that transition is the best treatment for gender dysphoria. They do so by saying that someone who self-identifies as a woman (say) and then ceases to self-identify as such was never *truly* trans. However, this move is fallacious: the person in question satisfied the criterion of self-identifying as trans and so they were trans *according to that criterion*; this is not a state which can be retrospectively altered to say that they were not in fact trans after all.

## **8. ‘Women get attacked and aggressed in women-only spaces anyway’.**

That women sometimes get attacked in women-only spaces anyway does not mean that women-only spaces don’t protect women to some extent. It is reasonable to think that women would get attacked more often in unisex spaces (actually, there is [already evidence\[6\]](#) that this is the case). This argument is like saying that some women get pregnant from using condoms ‘anyway’, so men don’t need to use them at all.

We also sometimes hear: “Women can just call the police if they are assaulted in the bathroom, and then the assailant will be prosecuted.” This assumes the assailant will be prosecuted, where in fact prosecutions for sexual assault are unreliable. Just as importantly, this response discounts the physical/emotional harm the victim will have, likely for the rest of their life. We consider prosecution of an offender after the fact to be no substitute for prevention of harm to a victim beforehand, and we see women-only spaces as an admittedly imperfect but still very valuable means of prevention.

## **9. ‘The only way to maintain a social norm of sex-separated spaces is via the checking of genitalia’.**

Human beings generally, including children, have the capacity to pick out the biological sex of others from visual appearances alone, most of the time. The capacity to correctly sex other people most of the time is grounded in a cognitive heuristic, and obviously not infallible. This heuristic fails in the case of “passing” trans people and cases of missexing, but overall, these cases are relatively rare. Heuristics like this are fast and don’t appeal to conscious rational deliberation. Human sexing practices are not random or arbitrary: the same people tend to get missexed by many people, for reasons to do with their appearance.

In the light of this fact, it is disingenuous of our critics to suggest that the only means humans have of identifying other people’s sex is by the “checking of genitalia”, and that this is what is needed to maintain sex-separated spaces. If this were true, dating would never get off the ground (and neither would sexism). What, perhaps, the objection means to say, is that there is no way of identifying others’ sexes *with certainty* — but we don’t require certainty in most areas of life, so there’s no need to demand it here, nor could certainty be provided without an illiberal intrusion which we would never condone.

Given the occasional fallibility of our capacity to sex others, arguing for same-sex spaces for females, such as bathrooms, dormitories, and changing rooms, means that sometimes, females in those spaces will be missexed; and sometimes, males in those spaces will not be perceived as such. We see the former as a regrettable cost that has to be balanced against, and is nonetheless smaller than, the greater harms to females, should women-only space effectively become unisex via a policy of self-ID. We see the latter as something that no open society can do anything about, and which it would be illiberal to try to prevent. But our saying this has no consequences for what we should say about the vast majority of cases of trans women, who don’t visually pass, and who therefore easily can be identified as male by nearly all other people. To say that all non-passing trans women should be socially permitted into women-only spaces, as a matter of course, is to invite a problem for women which we discuss in section 6 above: namely, the consequent reduction in women’s ability to confidently exclude *any* male from those spaces.

## **10. ‘Why don’t you want to exclude lesbians from women-only spaces too?’**

Spelled out, this argument seems to be: “If you want to rule out trans women from women-only spaces on the grounds of many of them being female-attracted, then to be consistent, you should argue for the exclusion of lesbians from women-only spaces. But you aren’t arguing for this. Therefore your argument against trans women in women-only spaces must be badly motivated.”

We aren’t arguing for the exclusion of lesbians from women-only spaces, because as far as we know, there is no documented statistical pattern of lesbian violence or aggression towards other females,

whereas there is such a documented pattern of male violence. Even if there were such a pattern of lesbian violence — which, to repeat, there isn't — 'lesbian-free spaces' would be impractical as an imposed social norm, since there's no even roughly reliable way of visually identifying lesbians and differentiating them from non-lesbians. In contrast, we do have a rough-and-ready way of visually identifying males in women-only spaces. It isn't perfect, and will regrettably cause missexing in some cases; but no such system could be perfect, and we consider something as better than nothing.

### **11. 'You need to understand why trans women are angry with you'.**

We think we already understand why (some, not all) trans women are angry with us. We are arguing against the truth of something which some, but not all, trans women believe, and which society encourages them to consider fundamental to their identity. We are also arguing against practical measures to achieve something — ease of legal gender reassignment, and access to women-only spaces — that some, but not all, trans women think is both morally and personally desirable. It can be infuriating and upsetting to find resistance to one's beliefs and desires in the world; especially when it would be a consequence of our being perceived to be right, that they were perceived to be, not just wrong, but also subject to a large misunderstanding about their own identity, and to what they were morally entitled.

What we don't understand is why any trained philosopher thinks this is a good argumentative move against us. Rather, we find it symptomatic of an attitude we find more common in female people than male people, and addressed more commonly to female philosophers than to male ones. It exhorts us to be more empathic, sympathetic, kind, conciliatory (etc.). We think we understand why this gendered expectation tends to be projected onto us but not males, by females but not males. We wonder if our critics do.

### **12. 'You are making violence to trans people more likely by your writing'.**

We repeatedly stress that trans people are in deserving possession of full human rights, including freedom from harm, discrimination, and harassment. We doubt that any actual transphobes are led to a path of violence by reading our relatively esoteric pieces. But in any case, given the care with which we articulate our views in our published writing, we don't consider that we are morally responsible for any radical misreading of our work, which might then cause someone to be violent to a trans person, deplorably. Equally, we consider that failing to speak out about these issues might well make violence to women more likely. We recognise two sets of rights and interests, those of trans women and women, and are determined to foster a public conversation which takes both into account.

### **13. 'Trans rights are not like a pie; no-one gets less pie if trans people have rights'.**

A structurally analogous argument has been influentially used to argue for gay rights, and specifically, the right to gay marriage\*. We agree that human rights are not like a pie: that one group has some rights doesn't mean some other group has fewer rights. All humans have the same basic rights. However, the more relevant point is that, when it comes to discussions about *how to materially realise* a particular group's human rights, the means proposed may be exactly like a pie: giving some social or legal benefit to one group, as a putative means of realising their rights, may precisely result in some serious disadvantage to another affected group, undermining the realisation of *their* rights. We do not think this was, in fact, the case with gay marriage: giving gay people the legal capacity to marry didn't take anything substantial away from straight people. In contrast, for reasons we have given, we *do* think that giving the social and/or legal capacity to male-bodied people to self-identify into woman-only spaces and resources, will take something substantial away from women, given a wider context of misogyny in society. That is precisely our point. We therefore request that society finds some other, better route to realising trans rights, compatible with realising the rights of women to lives free of harm.

\*For a comparison of discourse about gay rights with discourse about trans rights, see [this piece](#)[7] by one of us.

#### **14. ‘Feminists have already had the discussion without you, and established that trans women are women’**

A particular trend within a scholarly body of literature does not establish its truth. We don’t accept that we should automatically defer to a published position, simply because it is published in feminist philosophy — no matter who it is published by, nor what the credentials. Such a norm would be anathema to the discipline of philosophy, as standardly understood by its practitioners, and by us. We reserve the right to return to first principles wherever we see fit, and particularly where we judge that a particular historically influential intellectual trajectory in feminist philosophy has been a mistake. Since we judge that much of the trajectory of recent feminist philosophy has been a mistake, in relation to the question of who counts as a woman and why, it is hardly surprising that we refuse to defer to it.

#### **Section two: bad analogies**

We remind our opponents of standardly observed ‘[commonsense guidelines](#)’[8] for bringing a successful argument from analogy, and in particular the following: “The more differences, the weaker the analogy”; “Structural analogies are stronger than those based on superficial similarities”.

#### **1. ‘In the past, some people used to think black women weren’t real women. These days, some people now think that trans women aren’t real women. But black women are women, and so are trans women’.**

It is reasonable to analyse historical claims that black women weren’t ‘real women’, as invoking an honorific, normative notion of womanhood. Throughout the history of slavery, black women were usually classified unproblematically as biologically female (indeed, they were despicably exploited, precisely for a biologically-derived reproductive capacity). Effectively, the claim that they were not ‘real women’ was, rather, one of two claims. First, it was the claim that black women didn’t exemplify stereotypical sociocultural norms for womanhood: hardly surprising since these sociocultural norms were developed to be applied to white women. On the other, it was the claim that black women weren’t the sort of female white people should be interested in, or care about, or value. That is, it was a move which denied black women full moral personhood in the eyes of white people, and positioned them as undeserving of human rights.

In contrast, the claim that trans women aren’t real women is not about an honorific, normative notion of womanhood (see also point 4. in section 1 above). Our claim is a descriptive claim about category membership. It isn’t the claim that trans women don’t match some stereotypical sociocultural norms of womanhood — as is constantly repeated by us, we think of most or all such norms as harmful, as only contingently associated with womanhood or femaleness, and to be eradicated. (Hence the proposal to define ‘woman’ as ‘adult human female’, thus stripping away those norms traditionally associated with womanhood.) Nor is our claim that trans women don’t have full moral personhood. We emphatically and repeatedly assert that they do, emphasising their full human rights. The analogy therefore fails.

#### **2. ‘Excluding trans women from women-only spaces is like excluding black people from whites-only spaces’.**

First, black people were historically subject to segregation because white people denied their full and equal humanity. Trans women do not have their full and equal humanity denied, or at least not by gender-critical feminists. The question is not whether they are human, but whether they are *female*, and on the basis of being female should be able to access spaces designed to protect the comparatively greater vulnerability of female people. Trans men are female, and so belong in these spaces (if they want them); trans women are male and do not, we argue. No one thinks a man is denied his full and equal humanity

merely because women-only spaces exist, and the same reasoning applies to trans women. Not giving people everything that they desire is not a denial of their humanity.

Second, racial segregation was an exercise of power by a culturally dominant group against a culturally subordinated group. The dominant used their power to keep the subordinate out. Women are not a culturally dominant group; rather, they are a culturally subordinated group. When they act to maintain women-only spaces, we judge that they act to maintain protections that are important in light of their status. At best, trans women are a distinct subordinated group; at worst, trans women are members of the dominant group. At best, exclusion is a lateral move; at worst, it is an 'upwards' move. In neither case is it a 'downwards' move, and so in neither case is it comparable to racial segregation.

### **3. 'Excluding trans women from women-only spaces is like excluding refugees or immigrants from the UK'.**

Refugees and some would-be migrants are desperately vulnerable, and seek to access better life chances by migrating into wealthy countries like the UK. Excluding them, or at least excluding *all* of them, is arguably a callous protection of privilege in the face of severe need. But this only helps to establish that trans women should be admitted into women-only spaces if trans women are appropriate analogues of refugees or desperate would-be migrants. Some say that trans women's motivation for wanting to use women's spaces is safety from the threat of male violence. But if so, the threat could be resolved with third spaces rather than by giving trans women admission into women-only spaces.

For other trans women, it is less about safety and more about identity: because they believe that they *are* women (on the basis of their gender identity), they believe that they *belong* in women's spaces. But as we have suggested already, we argue that women-only spaces are rationalized by sex, not gender identity. Someone's feelings about their identity don't determine their inclusion automatically, and they don't appear to us to trump the legitimate interest that women have in the existence of such spaces.

Furthermore, using the migration argument to justify trans women's inclusion positions women as the dominant group (the analogue of those who currently have British residency or citizenship), and trans women as the vulnerable group. But as we have already said (see this section, point 2. above), we find this positioning to be misleading.

### **4. 'Trans women stand to women as adoptive parents stand to parents'.**

There are different routes to becoming a parent. One is conceiving a child and giving birth, and one is adopting. These are different ways to end up parenting, but both ways involve parenting. It might be that the different experiences involved, e.g. going through the difficulty of the adoption process, or going through the physiological changes involved in a pregnancy and giving birth, give each group a reason to occasionally meet with others like them. But for broader social reasons, we should treat both as parents, and in particular not tolerate any stigma that, for example, adoptive parents *are not real parents*.

We agree with this in the case of parents. But if it is taken to show that being a trans woman is a way of being a woman, we think that it's a poor analogy for trans women (at least to the extent that it begs the question against the gender critical position). Both adoptive parents and biological parents have in common that they *actually have* — or *have had* — *children that they parent*. To accept that trans women are to natal women as adoptive parents are to biological parents suggests then that there is something essential to womanhood that they both share. But this is precisely what is at issue between us and our critics, so that the analogy settles nothing on its own.

Indeed, from the perspective according to which there is nothing more to being a woman than being an adult human female, a more appropriate analogy in the realm of parenting might be between parents (be they adoptive or biological), and people who desperately wish to be parents but for whatever reasons are unable to become such. We can have great sympathy for people in this situation, and certainly may

feel that parents, and indeed society in general, should take care to be sensitive to the plight of people who are childless out of necessity and not out of choice (not, for example, needlessly drawing attention to their childlessness, or mocking or making light of their wish to be parents). But it does not follow from this that we should abandon the provision of services and spaces that exist specifically to meet the needs of parents, even if the existence of such services and spaces can sometimes serve as a painful reminder for those who desperately wish they could have children but cannot.

We consider the foregoing to be sufficient reason to discard the analogy. But even if it wasn't, a further relevant disanalogy, specifically in relation to the issue of trans women's right of entry into women-only spaces, is that in the UK, adoptive parents are subject to lengthy safeguarding checks before adoption can go ahead. The request of our critics with respect to changes to the Gender Recognition Act is that any such analogous safeguarding checks for trans women should be completely discarded.

### **5. 'Arguing that you can't be both a trans woman and a lesbian resembles the historical claim that you can't be both a real woman and a lesbian'.**

Our response here resembles our response to point 1 above (this section). That is: we recognize and deplore the fact that society hasn't tended to see lesbians as 'real women' in a normative sense; as conforming to a normative stereotype of what womanhood should be (in this case: as heterosexual). We recognise that being a homosexual female tends to make one seem deficiently gender-non-conforming in the eyes of a heteronormative society. However, our arguing that a person can't be both a trans woman and a lesbian is not done on the basis of our covertly assenting to some norm or stereotype about womanhood. Rather, our argument that a person can't be both a trans woman and a lesbian is grounded in a claim about descriptive conditions upon the category of lesbians. We argue that, definitionally, a lesbian is a female homosexual. Just as to insist that, definitionally, a woman is an adult human female is not thereby to make a normative claim about the 'right' way for women to be (see point 4, Section 1, above), nor does any normative claim, either about women or about lesbians, follow automatically from our claim that lesbians, definitionally, are female homosexuals.

### **Section three: questions for our opponents**

1. What, metaphysically speaking, is gender identity? What ensures that when *Person 1 identifies as X* and *Person 2 identifies as X* they are identifying as the same thing?
2. Do you think that 'feminine' and 'masculine' gender stereotypes are bad and should be changed and/or reduced? If so, do you also think we should accept an account of 'woman' that ties womanhood to a feeling that the gender stereotypes typically associated with being female apply to oneself? Do you see a tension there? How does this strategy avoid conservatively reinforcing the association of womanhood with femininity?
3. We think that patriarchy is, definitionally, a system which structurally oppresses females, on the basis of their sex. What do you think patriarchy is? If you think patriarchy is not as we've described, do you think there is any system in the world, such as we have just described, whether or not you would call it 'patriarchy'? If yes, do you think the recognition of this system is politically important? If no, on what grounds do you deny the existence of any such system?
4. Do you think facts about male physical development and gendered male socialisation have any causal connection to male violence patterns? If so, do you think this connection generally ceases to operate in the case of late-transitioning trans women? If so, what is your explanation for this fact? Is this an empirical question, in your view?
5. If you think that the existence of people with Differences of Sexual Development (sometimes "disorders of sexual development" or "intersex") shows something about whether trans women are literally women, what is it? Please lay this out clearly, in stages, with no skipping.
6. Do you consider the question of the organisation of public spaces where people get undressed, sleep, or are otherwise vulnerable to aggression: a) a moral question of desert/ rights; or b) a practical question about how best to avoid violence and harm to members of certain groups?

7. Do you think all spaces such as bathrooms, dormitories, hostels, showers, and prisons, should be completely mixed-sex? (i.e. that there should be no spaces from which trans women *and* “cis” men can be excluded, in principle?). If not, explain why “cis” men should be kept out of these spaces but not trans women\*.
  8. If you prefer to advocate for public policy which allows trans women into women-only spaces, rather than advocate for additional, third spaces — on what grounds do you think the former is a preferable option to the latter? Please try to give some consideration to religious women and women who are survivors of male violence in your answer.
- We put “cis” in inverted commas, because many of us do not believe the concept is a well-formed one, for reasons summarised by one of us [here](#)[9].

**Links:**

- [1] <https://www.txstate.edu/philosophy/resources/fallacy-definitions/Ad-Hominem.html>
- [2] <https://www.bbc.co.uk/news/uk-england-bristol-47213433>
- [3] <https://fairplayforwomen.com/transgender-prisoners/>
- [4] <https://twitter.com/RichardJGarside/status/1127859348712112128>
- [5] <https://www.cambridge.org/core/journals/the-psychiatrist/article/gender-reassignment-5-years-of-referrals-in-oxfordshire/6B5F217162ABD9B3189F2EB82787034E/core-reader>
- [6] <https://www.thetimes.co.uk/article/unisex-changing-rooms-put-women-in-danger-8lwbp8kgk>
- [7] <https://janeclarejones.com/2018/09/09/gay-rights-and-trans-rights-a-compare-and-contrast/>
- [8] <https://plato.stanford.edu/entries/reasoning-analogy/#Pla>
- [9] <https://rebeccarc.com/2014/08/04/am-i-cisgender/>