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Sex
Matters

Essays in Gender-Critical Philosophy

Holly Lawford-Smith

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HOLLY LAWFORD-SMITH

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¹ For a list of recent journal articles in philosophy and related disciplines, see <<https://hollylawford-smith.org/gcf-bibliography/>>

Preface

At the time this book goes to press in 2023, there are already thriving grassroots social movements of women reclaiming their sex-based rights in many countries of the world. The most prominent, and most successful, sex-based rights movement is in the United Kingdom, but movements elsewhere are growing in strength. I wrote about how I understand the theory and activism of this movement in my book *Gender-Critical Feminism* (2022). In that book I noted that this movement for sex-based rights, popularly known as gender-critical feminism, has a disagreement with mainstream or socially dominant conceptions of feminism in multiple areas, including about prostitution and pornography, about transgender issues, and about intersectionality. One of my arguments in that book was that while gender-critical feminism is ceaselessly positioned by its detractors as being about trans issues—indeed, as being essentially ‘anti-trans’—gender-critical feminism’s disagreement with gender identity activism (the activism of some members of the trans community and their allies) is actually just an implication of its core commitments to a sex-based feminism, and not its central preoccupation. I predicted that that preoccupation will pass when the urgency of the disagreement passes, hopefully because a reasonable compromise has been reached rather than because women’s interests have simply lost out. I have pursued those three main areas of gender-critical feminism’s disagreement with mainstream feminism into separate work (on intersectionality see Lawford-Smith and Phelan 2022; on prostitution and pornography see Lawford-Smith and Pepper, manuscript; on trans issues see Lawford-Smith 2021 (republished here as Chapter 1), and Hauskeller and Lawford-Smith 2022). In this book I pursue in greater detail what I see as the conflict of interests between gender identity activism and gender-critical feminism, in particular in the areas of disagreement about what gender is, disagreement over access to women-only spaces and (relatedly) to the legal status of being a woman, and disagreement over the status of gender-critical speech (especially where it asserts that core commitments of gender identity activism are false).

Each chapter of this book is an independent essay, so there is no need to read in order, or to read everything. I have organized the chapters into three parts: the first about theory, the second about issues in law and policy, and the third about speech. Most of these chapters are defensive. A newer understanding of gender as identity is displacing the older understanding of gender as caste, to the detriment of radical and gender-critical feminists, for whom gender as caste is a key political concept. Chapters 1 and 2 address competing understandings of gender and

visions for gender-related liberation. Radical and gender-critical feminists have been told that ‘trans women are women!’ and that it is wrong-headed, exclusionary, hateful, or bigoted to deny that, or to deny transwomen entry into women-only spaces. Chapter 3 takes up whether it is wrong-headed to deny it; Chapters 4, 5, and 6 take up whether it is exclusionary, hateful, or bigoted to deny transwomen entry into women-only spaces. Chapter 4 focuses on the question of women-only spaces broadly construed (all/any such spaces), while Chapter 6 focuses on bathrooms in particular. Chapter 5 is about the social and legal means that might be deployed to moderate access to women-only spaces. Finally, radical and gender-critical feminist theory and activism has been accused by its detractors of being hateful and/or harmful, in particular to transgender and nonbinary people. Chapters 8 and 9 take up those accusations directly, working through whether gender-critical speech is plausibly either hate speech, or harmful speech. Chapter 7 takes up the term ‘TERF’, routinely used against radical and gender-critical feminists, and asks whether it counts as a slur.

These chapters do not cover all the interesting points of conflict between gender identity activism and feminism. To cover all of these would require a very big book. In the section on speech, I could have talked about the current practice of replacing sex-specific language with gender-neutral language, and I could have talked about the ethics and politics of neo-pronouns and ‘misgendering.’ In the section on policy, I could have talked about ways of protecting trans and gender-diverse people from discrimination and unequal treatment that don’t infringe on the interests of women and lesbian, gay, and bisexual people, for example legal protection of gender-expression and third spaces. I could have talked more about the harmfulness of medically and surgically transitioning children and adolescents, expanding on my arguments in (Lawford-Smith 2022, Chapter 5). In addition to, or instead of, talking about bathrooms in particular in Chapter 6, I could have talked about women’s prisons (Biggs 2022), or women’s sports (Devine 2021; Pike 2021; Hilton and Lundberg 2021; Pike et al. 2021; Imbrisevic 2022), or women’s drug and alcohol addiction or sexual trauma recovery groups, or women-only hospital wards, or any other of the important women-only spaces. I could have had a section on the ethics of transition, and talked about ‘trans widows’, women whose marriages are ended and children impacted when their husbands transition, or about the balance of interests between those males who wish to transition to live as women, and the women whose feminist politics are best served by a sex-based understanding of what a woman is. In short, there are many interesting things to talk about in this area, and the fact that I chose the things I did should not be taken to suggest that these other topics aren’t equally important. Luckily, more people are managing to publish in this area in the last couple of years,¹ so it is my hope that in the coming years there will be discussion of all these issues.

¹ See the last paragraph of the Acknowledgements for references.

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Some Notes on Language

In this book, 'male' and 'female' will be used in the standard way, to refer to (biological) sex. I take male to be the sex that, all going well, produces small mobile gametes (sperm), and female to be the sex that, all going well, produces large immobile gametes (ova/eggs). 'All going well' here means something like, bracketing certain issues like endometriosis that can create problems for typical reproductive functioning. This is not the only way to understand sex, but I think it is the best way. Some people contest the meaning of 'male' and 'female', and prefer to use them interchangeably with 'man' and 'woman' to refer to one or more of gender identity, gender role, or position in a social hierarchy. I won't be using them in that way, for the primary reason that there are no other sex terms available, and a sex-based feminism needs terms to refer to sex.

I'll try to be as clear as possible throughout the book that the question of which terms we should use to refer to sex and gender is separate from the question of what the correct understandings of sex and gender are. I am assuming an understanding of sex, but one of the things at issue in this book is what the correct understanding of gender is. We could have that argument, and settle it, without settling what the existing sex and/or gender terms should refer to. For example, perhaps the gender-critical feminists are right and gender is a caste system that uses sex to sort people, but it's best to refer to as a woman anyone who feels that the word 'woman' describes them. Or, perhaps the gender identity activists are right and gender is one's subjective sense of oneself in terms of masculinity or femininity (or neither, or both), but it's best to reserve the word 'woman' for those who have been treated in a particular way since birth because of their sex. There might not be enough words for all the things we care about. I am primarily interested in the world, not the words we use to talk about the world, although I am concerned that we have some words rather than no words for that project. For that reason, I'm not assuming in this book that 'woman' means 'adult human female'. I'll be clear in each chapter whether I'm using the terms 'female' and 'woman' interchangeably, or whether I'm considering 'woman' as having alternative meanings.

There's a more subtle disagreement over what 'woman' means that is separate from the issue of whether transwomen are women. That is the issue of whether 'woman' is a success term. Because I'm interested in this book in the differential socialization of the sexes, we'll need a way to refer to a female *as she really is* (or could be), compared to a female person *as she has been made to be*. One way to mark this distinction doesn't involve the word 'woman' at all: we can use 'sex' for the way she really is and 'feminine' for the way she has been made to be (or at

least, has been subject to attempts to make her be). This is one version of a sex/gender distinction in which 'female' tracks sex and 'woman' tracks gender. 'Feminine' is appropriate because it's an adjective; it describes a way that female people can be (made to be). But some feminists instead use 'woman' where I have used 'feminine', so that a female person successfully made feminine becomes a woman. When Simone de Beauvoir said that one is not born, but becomes, woman, this is what she meant.

Even more confusingly, some feminists think sex itself (at least as we currently understand it) is a way that human individuals are made to be, rather than a way they really are, in which case we should just use 'human' or 'person' for her as she really is (or could be), and all/any of 'feminine', 'woman', or 'female', for ways she has been made to be. The extension of each term is the same, picking out female people. But their intensions are different. If 'woman' names the class of people made feminine, and we stop making people feminine, there will be no women. Similarly, if 'female' names the humans made into one of the two socially constructed sex kinds, and we stop socially constructing sexes, there will be no females. I'll try to be clear when we're dealing with an account that uses 'woman' as a success term in this way.

'Transgender' is often used as an umbrella term to include both (binary) trans and nonbinary identities. I find it conceptually unhelpful to use as an umbrella term one of the identities that the umbrella covers, so I'll generally use 'transgender' to mean a male person who identifies as either or both of female/woman, or a female person who identifies as either or both of male/man. (Some gender identity activists prefer to say 'person born male', or 'person assigned male at birth', either because they countenance the possibility of changing sex, or because they use 'male' and 'female' interchangeably with 'man' and 'woman' for current identity. I won't be doing that, because I don't countenance the possibility of changing sex, and because as already noted, we need terms to refer to sex). In one chapter I say 'observed male at birth' or 'observed female at birth', but that is because I'm talking about the option of changing one's legal sex, and this is something that an intersex person, observed as being one sex but in fact another, might want to do. So we need the distinction there between being a sex, and being observed to be a sex (where observation can, occasionally, be mistaken).

'Transwoman', then, refers to a male who identifies as either or both of female/woman, 'transman' refers to a female who identifies as either or both of male/man. There is a political issue about a space in these words, namely, the difference between 'trans woman' and 'transwoman'. The first suggests that 'trans' is a way for someone born male to be a woman, like 'tall' woman or 'angry' woman. (The qualification is necessary, because 'trans' is clearly a way to be a woman, one way or the other. If it's not a way for someone born male to be a woman, then it's a way for someone born female to be a man). The second suggests that 'transwoman' is its own distinct category. Gender identity activists prefer the former, and radical and gender-critical feminists prefer the latter. Both beg the question when

whether transwomen are women is at issue, which it sometimes will be in this book. If the question has to be begged one way or the other, I'll beg it in the direction I think is correct. So I use 'trans women' when quoting or referring to the claims of gender identity activists, and 'transwoman' otherwise.

'Nonbinary' in my usage means a person of either sex who identifies as neither man nor woman, and in some (but not all) cases also as neither male nor female. Sometimes I will need to specify the sex of the nonbinary person, so I will say 'female nonbinary person' or 'male nonbinary person'.

I will often talk in terms of gender identity rather than in terms of being trans, taking gender identity to be the trait or protected attribute of interest that trans people have.

I will occasionally be using 'woman' in a way that is neutral about disagreements over who is included in this category, and in that case when I need to refer to women-by-way-of-femaleness and women-by-way-of-identity I will use 'natal women' to refer to women-by-way-of-femaleness.

Finally, intersex conditions are not at issue in this book (they are mentioned only very briefly in Chapter 5 to make clear that my arguments against change of legal sex on the basis of gender identity are not intended to prevent change of legal sex in cases where an intersex person's sex has been incorrectly recorded). There are a number of plausible ways to understand sex, and most of them have no difficulty in classifying intersex people, and moreover, in classifying intersex people as the sex they understand themselves to be. There are very rare cases where a theory of sex may classify someone as other than they were 'assigned at birth' and/or understand themselves to be. It makes no difference, for my purposes in this book, whether we understand the 'sex' in 'sex-separated spaces' to be the all-going-well production of large or small gametes; progress down a developmental pathway to producing large or small gametes; having a 'Y' chromosome or not; or a homeostatic property cluster of primary sex characteristics (on the last three see Stock 2021). It also wouldn't matter, for my purposes in this book, to add the disjunct 'or assigned ____ (male/female) at birth' every time I mention a sex (so e.g. 'female or assigned female at birth'), to ensure that those with the very rare intersex conditions that would cause a plausible theory of sex to misclassify them by their own lights were included within the appropriate sex category. At issue is *not* whether intersex people assigned female at birth but technically male can use women-only spaces. At issue is males with 'woman' gender identities, and they don't tend to be intersex. Intersex issues are a red herring when it comes to the issues of Chapters 4–6 of this book.

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I
THEORY

1

Ending Sex-Based Oppression

Transitional Pathways¹

1.1 Gender norms

From a radical feminist perspective, gender is a cage.² Or to be more precise, it's two cages. The cages trap people with the biological sex 'male' and 'female' respectively. Those of the male sex are trapped by one set of gender norms—norms of masculinity—and those of the female sex are trapped by another—norms of femininity. Influential feminists have used the metaphor of a cage in connection with gender, including Marilyn Frye in her famous essay 'Oppression', as well as Mary Wollstonecraft and Shulamith Firestone (Frye 1983; Wollstonecraft [1792] 2017, p. 77; Firestone 1970, p. 25).³ The metaphor helps to express that gender is something external, and confining.

Gender—which for the rest of this chapter means gender norms—is social expectations about a person's behaviour applied to their sex. Such expectations constrain the things that people can do and the ways that they can be, from who they date, how they present themselves, the way they move, the way they relate to other persons, the kinds of jobs they have, their passions and pursuits, the sports they play, and so on. For example, the gender norms applied to female people include androphilia (attraction to males), feminine presentation, contained movements, being warm and nurturing toward others, working in care- and people-focused jobs, pursuing e.g. dance or theatre rather than e.g. model-building or astronomy, playing e.g. netball rather than e.g. rugby, and so on.

Gender norms are one kind of social norm. Social norms are marked by the fact that conformity is dependent upon others' expectations. Non-conformity can be expected to bring social sanctions (Bicchieri 2016, pp. 35–40). The cage metaphor is appropriate, because gender norms are heavily policed compared to some other types of social norms. Compare queuing: when you push to the front of a

¹ This essay was first published in *Philosophia* 49 (2021), pp. 1021–42, and is reprinted here (with minor edits) with the permission of the journal.

² The aim of this chapter is not to defend the conception of gender as norms against the alternatives (on which more in Chapter 2), but to use one plausible conception of gender to explore the issue of ending sex-based oppression.

³ Frye would likely resist my application of the metaphor to men, given that men are not oppressed. Individual men, and sub-groups of men, may be oppressed as members of other social groups, but men are not oppressed *as men*.

queue, you may hear some muttering from those behind you; someone may even demand that you go to the back of the line. The social sanctions associated with violations of the queuing norm are minor. When you are a boy who wears girls' clothing, however, you may be harassed, verbally abused, and even physically assaulted.

It would be bad enough if these norms only pushed people into gender roles—the social roles resulting from conformity to gender norms—that were 'equal but different'. But they do more than that. They push people into roles that are unequal. Men dominate, subordinate, and oppress women. Femininity is constructed in a way that legitimates and facilitates sexual violence (MacKinnon 1987, pp. 85–92). Science is wheeled in to justify sex inequality (e.g. talk of sexed brains, or the difference testosterone makes—see discussion in Fine 2010; 2017), and violence and other forms of social policing work to maintain it (Manne 2017).

If genders are cages, then surely we want to let people out. Being less constrained in our choices is something we all have reason to want. Many normative theorists in recent years have emphasized the importance of the capability to do and be many different things (see e.g. Nussbaum 2011; 2000). At the very least, we should want an end to sex-based oppression. While female people are the largest group to benefit from an end to sex-based oppression, other groups benefit too, including gay, lesbian and bisexual people (because the gender norm of heterosexuality disappears); gender non-conforming people (because the gender norms of female people presenting in a feminine way and male people presenting in a masculine way disappears); and trans and nonbinary people (because if there are no gender norms, then there is no 'incongruence' between sexed bodies and gender expressions).⁴ But what is the best route to ending sex-based oppression?

Answering that question is the aim of this chapter. I'll compare four candidate 'transitional pathways'—*from* the world as it actually is *to* a world with substantially less, or no, sex-based oppression—with a view to considering how each relates to the ultimate end of eliminating sex-based oppression. Should we open the doors to the cages, so that people can move freely between them, but leave the cages themselves in place? Should we add more cages? Should we make the cages bigger, so that people have a lot more room to move around inside them? Or should we dismantle the cages, so there are no more gender norms at all?

These are questions in non-ideal theory, about the pathways from the actual world as it is currently, where genders are cages, to the ideal world, whether that is gender abolitionist or merely gender revisionist (for a useful overview of ideal and non-ideal theory, see Valentini 2012). But because ideal worlds include their

⁴ For a critical discussion of 'incongruence' as used in medical definitions of being trans, see (Vincent and Jane, forthcoming), and the collection of commentaries in the same issue of *Australasian Philosophical Review*.

histories, the question of which pathway to take is crucial to establishing which is the ideal world. It also helps to make clear that the gender abolitionist pathway is *high ambition*, leading to liberation for many more people, while the gender revisionist pathways, particularly the nonbinary pathway, are *low ambition*, leading only to minor changes to the status quo.

This discussion should be of interest to radical and gender-critical feminists (and their allies) committed to gender abolitionism; to transgender people (and their allies) committed to revision of the existing gender binary without abolishment; to nonbinary people (and their allies) committed to resisting the gender binary; and indeed to all gender-conforming and gender non-conforming people who have thought about possible tensions between sex-based oppression and identities that depend on the existence of gender norms in some form or other.

1.2 A world without sex-based oppression, and transitional pathways

Let's return to the metaphor of gender as two cages. It's easy enough to imagine ways to make things better. Here are four possibilities, some of which I've already mentioned:

- (1) Open the cage doors
- (2) Add a new cage
- (3) Add escape hatches to the cages
- (4) Make the cages bigger

A world where the cage doors are open would be better, because then at least people would have a choice about which cage to be in. They could choose to move from the one cage to the other, and perhaps even to move freely between them. In the world where gender is two cages but the cage doors are open, sex and femininity/masculinity will have been fully decoupled. At the moment to be female is to be put in the 'feminine' cage; in a world with open cage doors, a female person would get the choice whether to be put in the 'feminine' cage or the 'masculine' cage.

A world where there's an additional cage, which people from either of the two other cages are free to enter, would also be better, because again this would give them a choice about which cage to be in. In principle one could add in any number here, although at a certain point, the question of whether these additional cages are still *gender*, rather than e.g. personality, will emerge. At the moment to be male is to be put in the 'masculine' cage; in a world with a third cage, the male could opt out of the cage of 'masculinity' and into the new cage.

A world where the cages had escape hatches would also be better, because then anyone who wasn't comfortable in the cage they were in could leave it. The difference between (1) and (3) is that (1) would let male people leave the 'masculine' cage and join the 'feminine' cage, let female people leave the 'feminine' cage and join the 'masculine' cage, and in principle let both male and female people go back and forwards between the cages; while (3) would only let female people leave the 'feminine' cage, and masculine people leave the 'masculine' cage. By escaping, they come to be in no cage, rather than the other cage (as in (1)), or a new cage (as in (2)). This gives some people more freedom, and it transforms the status of the cages: if it's viable for everyone to take the escape hatch, and people choose to remain in the cage of their own volition, they are not accurately described as 'trapped' or 'constrained' or 'imprisoned'. The cages become mere options.

A world where the cage doors remain shut but the cages are bigger would also be better, because there would be fewer constraints on the ways that people of a particular sex could be, or the things that people of a particular sex could do. The bigger the cage, the more ways there are of being a man, or a woman. There may be as many ways—or more—of being a man as there are men; as many ways—or more—of being a woman as there are women. If there are many ways to be a woman, but they overlap either not at all, or only in part, with the ways there are to be a man, and *vice versa*, then there's a lot more freedom, but there are still gender norms.

There are versions of (3) and (4) which amount to the same thing: getting rid of the cages entirely. If *everyone* takes the escape hatch then no one is caged, and if it's viable for everyone to take it then some people remain in the cage but are not technically 'caged' (because they are free to leave). If the two cages become so big that they overlap perfectly, then being caged is equivalent to not being caged. (Building a wall around the whole world wouldn't make it a prison). The ways of being a woman would overlap perfectly with the ways of being a man. A world where there are simply no cages would be better than the world where there are two but it's possible for some to escape, *and* the world where there are cages that are bigger (less constraining) than they are now, but still constraining. No cages at all means maximal freedom: male and female people are free to do and be whatever they want to be. The world without cages achieves the radical feminist goal of gender abolitionism (sometimes also called 'gender annihilation') (see e.g. Atkinson 1974, pp. 42–3; Firestone 1970, pp. 184–7; Frye 1983, pp. 35–7; The Feminists [1973]).

So we have four transitional pathways, all of which would take us to a world that is better than the actual world, at least when it comes to sex-based oppression. We don't yet know which of these would be the *best* pathway. So long as the best pathway is accessible to us, we should take it (if it were inaccessible, and we

knew that, then we would be justified in taking another). One way we can start to think about which is the best is by thinking about the tradeoffs each pathway involves compared against the others.

Before I get onto that, let me note emphatically that nothing I say below is intended as a criticism of *current* gender norm-violating (or ‘gender non-conforming’) people. This is a speculative chapter about pathways to a world without sex-based oppression, and its observations depend on substantial numbers of people taking up the proposed strategies. In the actual world, people have their own reasons for violating gender norms, including being gay, being transgender or nonbinary, alleviating gender dysphoria, alleviating discomfort with aspects of one’s physical sex, expressing opposition to gender norms, expressing opposition to ‘the gender binary’ (Dembroff 2018), and self-expression. In addition, some people may simply violate gender norms without any intention.

Most of these reasons would not be undermined by a philosophical discussion concluding that widespread adoption of transgender, third gender, or nonbinary identities is not the best pathway to a world without sex-based oppression. (The political reasons, however, would be undermined.) But all such reasons might be *bolstered* by a philosophical discussion concluding that transgender, third gender, or nonbinary identities are part of the best pathway. (Wouldn’t it be satisfying for a gender identity activist to be able to say to a so-called ‘trans-exclusionary’ radical feminist, ‘I’m doing my part in bringing about the world that *you* want?’)

To translate the metaphorical cages into real strategies for political change, we have: changing between the two genders (‘transgender pathway’); opting into a third (fourth, etc.) gender category (‘third gender pathway’);⁵ opting out of binary gender (‘nonbinary pathway’) without opting into a third gender category; and rejecting gender without repudiating being a female/woman, or male/man (‘gender abolition pathway’). Which of these is the best strategy? Which is the transitional pathway to the *best* world? Here is the list, so we can keep track:

- (1) Open the cage doors → Transgender pathway
- (2) Add a new cage → Third gender pathway
- (3) Add escape hatches to the cages → Nonbinary pathway
- (4) Make the cages bigger → Gender abolition pathway

What are the ‘limit cases’ for each pathway? I’ll assume that for the transgender pathway, it is when half of all female people are subjected to norms of masculinity, and half of all male people are subject to the norms of femininity.⁶ For the

⁵ I’ll use ‘third’ in the rest of the paper, but this should be taken to mean any number of genders greater than two.

⁶ B. R. George and R. A. Briggs (manuscript) make a similar assumption when they explore the ‘liberalization’ of gender categories on trans twin earth: ‘Through all these changes the [gender] roles themselves remain largely intact, but the demographics of the two worlds shift until there is no

third gender pathway it is when there are sufficiently many gender categories that no one feels trapped, and membership in these categories is freely chosen. For the nonbinary pathway, it is when everyone has repudiated being either female/women or male/men, so there are no people left for gender norms to be applied to. For the gender abolition pathway, it is when no one has repudiated being female/women or male/men, and yet gender norms are not applied to anyone. Some people may still choose the behaviours historically associated with their sex, but they would not do so because of gender norms. What we currently describe as gender non-conformity would just be normal variation between persons, and there would be a lot more of it.

The pathways introduced above are not mutually exclusive. In the actual world, they are all in play. But as political strategies to end sex-based oppression, they will be most effective if there is momentum around one in particular. That is because if the non-binary pathway is successful it pulls the rug out from under the transgender pathway; if the transgender pathway is successful it precludes the gender abolition pathway. (Still, in Section 1.3 I will briefly consider hybrid pathways). Each pathway comes with costs, and these costs impact upon different groups.

I think that these differential costs partly explain some of the heat around debates over proposed (and in some cases actual) changes to the recognition of sex/gender under the law, for example the 2018 consultation over the Gender Recognition Act (2004) in the UK, debate over the Human Rights (Gender Identity) Amendment Bill in New Zealand in 2019, and the quiet passing of the Births Deaths and Marriages Registration Amendment Act (2019) in Victoria, Australia, in 2019.⁷ Gender-critical feminists⁸ have argued that there's a tension, brought out by these proposed (and actual) legal changes, between advancing the interests of transgender, third gender, and nonbinary people, on the one hand, and advancing the interests of females/women on the other (Burt 2020; Asteriti and Bull 2020; Murray and Hunter-Blackburn 2019; Stock 2018a; 2018b; Reilly-Cooper 2016a; Lawford-Smith 2019a; 2019b; 2019c). Comparing these differential costs can help in figuring out which is the best pathway, and whether any pathway allows us to escape sex-based oppression entirely.

I'll take them in reverse order, starting with the gender abolition pathway, then moving on to the nonbinary pathway, the third gender pathway, and finally the

correlation at all between gender role and biological sex characteristics. [...] roughly half of all blokes and half of all grrrls possess typically female biology' (George and Briggs, manuscript, p. 18). ('Blokes' is the name they give to the previously male-associated gender category, 'grrrls' to the previously female-associated category).

⁷ The latter, which came into force in May 2020, makes legal sex a matter of statutorily declared belief.

⁸ Gender-critical feminists, following radical feminists, believe in a sex-based analysis of women's oppression; and in contrast to some radical feminists, also take a sex-based approach to her liberation. See further discussion in (Lawford-Smith 2022, Chapter 3).

transgender pathway. The gender abolition pathway is, as its name suggests, gender *abolitionist*, while the nonbinary, third gender, and transgender pathways are merely gender *revisionist*. This means that in assessing them, we have to think not only about what gender *is*, but what gender *should be* (if anything at all).

1.2.1 The gender abolition pathway

Along the gender abolition pathway, *everyone* repudiates their gender, understood as the set of norms they are subject to on the basis of their sex (masculinity for males/men, femininity for females/women). But no one repudiates their sex. No female/woman claims that she is not female/woman, and no male/man claims that he is not male/man. People do whatever they like, which means many women violate the norms of femininity and many men violate the norms of masculinity. This does not require that *everyone* violate *all* such norms. Feminine is a way to be female just as much as it is a way to be male, and the same is true for masculinity. So there will remain some feminine women and some masculine men. But these combinations will not be seen as normative. At the ‘end’ of this pathway, when we map the full spectrum of human behaviour, we will find substantially less clustering according to sex than we see now.

This does not require accepting a ‘blank slate’ view, presuming that in the debate over nature/nurture/nature-via-nurture the correct diagnosis of all sex differences is ‘nurture’. It requires only to say that *whatever* proportion of ‘femininity’ and ‘masculinity’ have been constructed through early childhood socialization, culture, and social sanctions/rewards, *that* will disappear—and the interests previously gendered will be distributed more evenly across the population. This is compatible with there remaining some interests that relate more directly to sex, for example things to do with reproductive function, the specifics of sexed bodies, and sexual orientation/attraction.⁹

So far this is just the familiar feminist distinction between sex and gender,¹⁰ where we get rid of gender by getting rid of sexist assumptions about how persons of one or the other sex should be and what they should do. It is distinctive because of its focus on ways of doing and being, rather than on identity labels. By violating gender norms, it hopes to erode and dismantle those norms, to leave people to be however they would be without them.

Which social groups does the gender abolition pathway involve costs for? Understanding this will allow us to assess the desirability of the pathway on its

⁹ As Marilyn Frye put it: ‘we do not know whether human behaviour patterns would be dimorphic along lines of chromosomal sex if we were not threatened and bullied; nor do we know, if we assume that they would be dimorphous, *what* they would be, that is, *what* constellations of traits and tendencies would fall out along that genetic line’ (Frye 1983, p. 36).

¹⁰ Cf. Bogardus (2020) on whether there really is such a distinction.