

## **Sex and Gender – to be read in conjunction with the 2018 paper written for Nottingham Philosophy Group**

Jim's paper from 2018 is a good introduction to the debate over sex and gender, however it is heavily influenced by Judith Butler and even uses some terms like TERF which are considered as insults by gender-critical feminists. I'm going to try and balance this by explaining some of the views of Kathleen Stock to widen the discussion.

Gender theory began in the 70s and 80s and early work focused on how, as opposed to biological sex, what is understood as masculine or feminine varies enormously between cultures. Some societies had various forms of 3<sup>rd</sup> gender recognition, cementing the view that our ideas about gender are socially constructed.

As Jim notes, some later theorists like Judith Butler argue that even our understanding of sex is socially constructed. This is based on the arguments that:

- 1) There are intersex people who don't fit these categories
- 2) That man and woman are two ends of a continuum
- 3) That we can look at the way man and woman have been defined over time and see that it has been defined in many different ways by different societies. In her recent lecture at Cambridge Butler said that anti-gender rhetoric in popular culture was based on a "refusal to accept that the categories of man and woman shift historically and contextually"

Sex therefore collapses into gender, which is a social construct – behaviours we perform. Butler notes that notions of masculinity and femininity are used to oppress. In Butler's view any binary theory of the sexes must inevitably be 'normative' and therefore 'exclusionary', so we are better off without them at all. They are notions that should be abolished, and we can undermine them by transgressing gender roles and norms through transgressive performance. This also allows new possibilities for self-understanding that undermine bifocalities that limit us. It frees us to examine the complex ways what is called gender is reconfigured and lived in time and assert our right to self-determine these.

Jim comments that some early criticism of Butler were from feminists espousing essentialist views of womanhood. Radical feminists have argued that being a woman is the result of a complex interplay of biological and social factors gained through a woman's lived experience that trans-men simply don't share. Gender theorists have an easy response to this from feminist history however. Black feminists have for example criticised simplistic articulations of womanhood by white feminists that fail to understand the complex and often unique experiences of black women. Can't we simply take the same response for trans-women? Their experiences are equally unique and distinct, but why allow this to exclude them from the category of 'woman'? For social constructivist this underlines the fluidity of these changing categories over time.

Kathleen Stock is a British gender-critical feminist who disputes the social constructivist view of sex held by Butler as well as the narratives and understandings of gender within the trans-activist movement. She embraces a realist epistemology and is opposed to anti-realism at the heart of the Foucault / Butler approach on this. On the matter of biological sex she responds in the following ways:

- 1) The existence of vague and marginal cases is not a reason to discount the gender dichotomy. Marginal cases exist in pretty much every category in biology (e.g. species) but we don't think this is a reason to abandon them.

- 2) Speaking of sex as a continuum is false. A continuum suggests adjacent entities that are only subtly distinguishable from one another, but this is not the case here. Almost everyone is unambiguously definable as male and female at birth with a small number of exceptions.
- 3) Stock disagrees with the whole idea that the Foucauldian method of demonstrating variety within the discursive history of something, does actually undermines its reality. We can do this to any biological or scientific concept, but believing that a varied conceptual history undermines any objective truth of an idea is simply to assume the anti-realism you're trying to demonstrate. It is completely right that concepts of sex differ over time, however some are simply better than others in describing a real difference that exists in the world.

A less extreme position than Butler's may accept biological sex but argue that it doesn't matter in most social contexts. A doctor may need to know for some tests and screening procedures, but that's about it and even then they don't need to know sex per se, but whether you have testes, breasts, etc.

But Stock thinks sex cannot be so easily dismissed and goes on to argue that recognising that we are a sexual dimorphic species is of real importance to us in a number of key respects. The most obvious is the way we reproduce, but it's not the only one. Sexual attraction is something that for most people centres around our physical sexual bodies, not around someone's felt sexual identity. Ignoring physical sex's role in attraction undermines our understanding of what it is to be gay or lesbian. Medicine works differently on male and female bodies – feminists have given a powerful critique of the way an idealisation of health as male physical health ignored this difference for many years to the expense of women. It matters in areas like sport too.

Ultimately Stock argues sex is not an arbitrary construct. Recognising it is important for us helps us in navigating the world and makes a difference in our lives. None of this though means that our sex determines us intellectually or morally.

But couldn't we just take the view that although sex is biological, gender is socially constructed, and so trans people can indeed be whatever sex they feel irrespective of their biological sex? Trans men are indeed men, and they are also biological females. But this claim is incendiary to many trans activists who think identity is ALL that matters. On the other side, gender critical feminists argue that when it comes to policy, for issues like access to female only spaces it's biological sex that matters not gender. If we allow gender to be the defining feature of policy, utilising a definition of gender that is disconnected from biological sex means trans people do get access to women's spaces, women's sports teams, etc.

When it comes to gender, Stock distinguishes four ways the term gender can be used:

- 1) Polite synonym for biological sex
- 2) The social meanings around sex – masculinity and femininity – which is social and changes between cultures
- 3) Manhood or womanhood not connected to biology – an innate inner state/gendered soul.
- 4) Gender identity – the way a person feels about their gender

People engaging in discussions of gender often talk past each other because they use it in different senses. Stock notes that the second meaning is the way gender studies originally talked of gender, which was a social concept and includes how people are perceived socially of being masculine or feminine. By contrast, the modern trans-activist movement focuses on the fourth meaning. In popular trans-activist discourse, this is usually construed as a private mental state rather than a

social role, something that can be secretly true apart from social expression. She notes there is very little evidence for the third understanding.

Gender identity is the sole and decisive criteria for the trans-activist position. Stock identifies four principles of gender identity theory (not that any 1 academic holds all 4 of these – rather they are axioms that are often assumed and drive the debate).

- 1) We all have an important inner state called gender identity
- 2) For some people their inner gender identity fails to match the biological sex assigned to them at birth (trans people)
- 3) Gender identity, not biological sex is what makes you a man or a woman (or neither)
- 4) The existence of trans people generates a moral obligation on all of us to recognise inner identity and not biological sex

Unlike some other gender-critical feminists, Stock does believe that sexual identity exists, at least for some people. It's very strong in trans-people to whom it has an enormous focus in their lives and for some CIS/non-trans people, but in many people it isn't particularly strong and can be virtually non-existent.

More fundamentally, Stock thinks that it is incoherent to talk about gender identity as the thing that makes you a man or a woman. You can't in her view even make sense of gender identity without it referencing some notion of either biological sex or social stereotypes of masculinity and femininity. What is it to identify as a man? What is it that is assigned at birth? Biological sex? The alternative is referencing detached gender stereotypes of maleness and femaleness, but then this isn't in any way liberating – it's patriarchal and an antithesis to the feminist project. She also thinks it's simply at odds with reality – a male bodied person needs to be treated as such when receiving medical treatment regardless of their inner state.

Stock is happy to use the pronouns of choice for trans-people however she thinks this is a politeness granted rather than a right. In her view gender has to be tethered to biological sex and trans-people are engaging in a legal fiction about their sexuality, similar to the way the law treats a corporate entity as an individual. This may sound insulting but Stock thinks fictions can be meaningful and helpful and that there is often a rational point to immersing yourself in fictions. However, Stock argues it is important that we recognise that at some level it is a fiction, particularly at crucial points (like getting medical treatment) and there are times we should not respect it (e.g. male rapists in female prison).

This is all like a red rag to a bull for trans-activists. The trans philosopher Sophie Grace Chappell tweeted " 'Gender Critical' beliefs are worthy of respect in a civilised society. Just like young-earth creationist views are."... and also said the gender critical view is a "legitimate alternative ...no more than anti-semitism is a legitimate alternative to the acceptance of Jewish people".

Stock wants laws to protect trans-people from discrimination and harassment, however she is against the view that trans-people should automatically get access to spaces and all the legislative rights that are offered to people of that natal sex (prison placement, sports team participation, women's' only spaces etc).

She is also concerned that the unquestioning affirmation of people's sexual identities can be very damaging, including to children. The popularity and strength of the trans-activist narrative is providing community, support and unchallenging affirmation of differing sexual identity for anyone who raises it. Yet there are very strong social reasons why, for example, many girls in a patriarchal

context might feel they would rather be a boy or lesbian girls might ask themselves whether they are really 'males' in the wrong bodies. There is a huge online trans community supporting self ID and critical of anyone who doesn't affirm it. There are also interesting statistics that children who are autistic, that have a history of trauma, and those who have been in care are all highly over-represented in the trans community. These should be instant red flags warning that there is something complex going on here, in Stock's view. For example, autistic children typically are more socially awkward and find it hard to fit in, they also tend to see things in black and white terms and more recently substitute with online communities they find easier to navigate. Social media encouraging self-definitions may clearly not be the final word here. Some questioning of gender is a normal teenage experience, particularly for homosexual children. Stock argues there is an element of social contagion going on here where affirmation of trans-identification is fulfilling a wide variety of psychological and social needs, uncritically encouraging some people to transition, by a culture that fears to challenge inner feelings, despite the complex interplay of factors that contribute to our (often temporary) psychological states.

The number of trans-children has increased by over 4,000 percent between 2006 and 2016, it's also flipped between majority males wanted to transition to majority female. Some trans people who have transitioned go on to de-transition (the statistics over de-transition numbers are heavily contested and published research is limited) and in some cases large peer groups of girls in the same schools have come out as trans within weeks of each other. The London clinic which deals with transition has been successfully sued for not challenging a person's initial expression of self-identity and the clinic was recently announced as closing after a damning report. Nevertheless, it's equally important to understand that most trans-people who have transitioned report feeling it has been the correct action that has positively transformed their lives. It's also important to note that it's possible to agree with Stock's philosophical analysis and still disagree with her cost-benefit analysis over what legislative measures strike the right balance between the interests of women and of trans-people.

## **Appendix**

### **Stonewall Definition of Transphobia:**

**Transphobia is** the fear or dislike of someone based on the fact they are trans, including denying their gender identity or refusing to accept it. Transphobia may be targeted at people who are, or who are perceived to be, trans.