Trans Identities and First-Person Authority
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Trans studies constitute part of the coming-to-voice of transpeople, long the theorized and researched objects of sexology, psychiatry, and feminist theory. Sandy Stone's pioneering "The Empire Strikes Back: A Posttranssexual Manifesto" sought the end of monolithic medical and feminist accounts of transsexuality to reveal a multiplicity of trans-authored narratives. My goal is a better understanding of what it is for transpeople to come to this polyvocality. I argue that trans politics ought to proceed with the principle that transpeople have first-person authority (FPA) over their own gender; and I clarify what this means.

I distinguish the practice of gender and sex within mainstream culture and within trans-friendlier subaltern contexts. When (talk about FPA over gender, I do not mean this exists in many of the powerful "worlds" hostile to transpeople. I mean that in various trans-friendlier contexts different cultural practices have emerged that depart from more mainstream ones. In aiming to understand FPA with respect to gender and sex, I seek to provide a framework to describe this real-world shift in cultural practice.

Since I am speaking of mainstream and subaltern practices, I emphasize the cultural dimension in both realms. I take this to mean that gender and sex are woven into forms of life that reflect and regulate interactions. Within such contexts, words have relatively fixed meanings: Persons may not declare themselves teapots and thereby make it so. Nor may they, through sheer force of will, alter the meaning of words within determining cultural contexts. In advocating FPA over gender, I am discussing an already regulated cultural interaction rather than an "anything goes" or "because I say I am" doctrine. My goal is to understand FPA as an ideal for that which already exists in less-than-politically-ideal practice, to help transpeople treat ourselves and each other better, and to offer it to those who also exist and struggle in various subaltern places, who do not know transpeople well but want to form meaningful friendships and political partnerships with (some of) us.

My other aim is to elucidate a particular form of transphobia, which I call the Basic Denial of Authenticity. For example, an FTM who identifies as a "trans man" may find himself represented as "really a woman living as a man." One obvious feature of this denial of authenticity is that transpeople are identified in ways that are contrary to or even hostile to our own self-identifications. But a less frequently discussed feature is that such identifications are generally embedded within discourse about "appearance," "reality," "exposure," "discovery," and "deception." I show that from the perspective of trans-resistant culture, such forms of "reality enforcement" must be seen as deep violations of FPA, executed through sexually abusive techniques.

The chapter has four main parts. First, I examine the phenomenon of FPA; I argue against standard epistemological accounts of FPA in favor of one that emphasizes ethics. Second, I examine mainstream gender and sex practices; I argue that gender presentation communicates genital status and that often gender terms (such as "woman" and "man") are used to circulate information about genital status. In my view, these practices are sexually abusive. Third, I provide an account of (trans-friendlier) subaltern practices in which FPA over gender is instituted; I argue that in these contexts, a person's claim to a particular gender is determined by "existential identity" (that is, by who rather than what one is). Fourth and finally, I show how dominant practices of gender and sex constitute an assault on ethical FPA. Specifically, these practices deploy tactics of sexual abuse to raze the existential identities of transpeople. I conclude by reflecting on some of the political consequences of nontrans feminist theorizing about gender that does not take seriously the relationship between sexual abuse of and the assault on the ethical FPA of transpeople.

First-Person Authority: Epistemology and Ethics

What Is First-Person Authority?

Philosophers take FPA to extend to two selected groups of mental states: (a) fleeting, phenomenal states (such as pains and momentary thoughts), and (b) more durable mental attitudes about something (such as beliefs, fears, and desires). In its most basic (and largely discredited) form, FPA is taken as the "Cartesian" view that first-person awareness about such mental states is both immediate (i.e., basic, not derived or inferred) and incorrigible.

Associated with FPA is the notion of an avowal. Present-tense first-person statements of the type "I am in pain" and "I want to go home" can be made both immediately (i.e., without external evidence) and incorrigibly. Thus, in avowing my wish to go home, I appeal to no evidence (noticing that I keep looking at the clock and tapping my foot); I say, "I wish to go home" without ado.
Much contemporary discussions of FPA take the rejection of this “Cartesian” view as its starting point. Certainly there appear to be (limited) cases in which we make mistakes about phenomenal states. Nonetheless, avowals of such states generally exhibit an immunity that many judgments do not. Consequently, it makes sense to regard the first person as an expert about her phenomenal states, even though she is not absolutely infallible (as a “Cartesian” might have it).

In attitudinal cases, FPA is less strong. A psychoanalyst (or even a close friend) can make an interpretation based on one’s behavior (including one’s pattern of avowing) that one does not hold an attitude which one consistently avows. In reflecting on one’s brother, one may feel no sense of betrayal; one may avow one’s love for and trust of him. Yet based on one’s behavior, a psychoanalyst may come to the correct conclusion that one actually feels betrayed by him.

Though such avowals are not strongly immune to error, it has been thought that the first person is, all things being equal, in a superior epistemic position than a third person and that this is due to the way in which the first person ascribes psychological states to herself. In other words, even though attitudinal avowals are defeasible, the first person is supposed to retain some epistemic authority owing to the modality of first-person knowledge. Recent debate has concerned whether this epistemic advantage is a genuine cognitive achievement or a mere artifact of general ways of speaking (our “grammar” in a suitably Wittgenstenian sense).\footnote{An Argument against Epistemic First-Person Authority}

An Argument against Epistemic First-Person Authority

In my view, FPA over attitudinal states is not constituted by a serious epistemic advantage in the way here supposed; rather, it is ultimately a kind of ethical authority. My argument is based on a dilemma: either epistemic accounts of FPA in attitudinal cases must make a claim about epistemic advantage that is not true a priori, or they must make a weaker epistemic claim and thereby fail to account for the actual phenomenon of FPA.

This alleged epistemic advantage is not supposed to derive merely from the fact that one is in a better position to secure knowledge about oneself (since one is always “around”) but from the peculiarities concerning first-person perspective. In this view, interpretative cases that trump FPA must be exceptions to the rule. Yet this claim seems to me very controversial (if not patently false), given the degree to which denial, self-deception, wishful thinking, and unconscious attitudes are common (and detectable) in society. If I am right about that, it becomes unclear how first-person avowals could have any claim to epistemic authority.

According to some philosophical accounts, a complete failure of first-person knowledge can be ruled out a priori.\footnote{Yet even if true, this is insufficient. Just because people are not chronically unreliable about their attitudes does not mean that they are highly reliable experts. If denial, self-deception, and wishful thinking are fairly common although not the rule, first-person expertise cannot be in play. In short: immunity to systematic fallibility is much weaker than even limited expertise.} One might argue that a person with almost complete failure of first-person knowledge of attitudes could not be a rational agent.\footnote{Yet whether self-deception is fairly common but not the rule is an empirical rather than an a priori matter. So there is no basis for explaining the existence of first-person expertise or even the presumption thereof on an a priori basis. While we can grant that first-person knowledge about one’s attitudes may be different from third-person knowledge, it doesn’t follow that there is anything close to special first-person expertise secured by this modality of knowledge.}

Yet if the epistemic account of first-person authority gives up on the stronger claim that the first person has a kind of expertise, and opts only for immunity to systematic fallibility, then it is no longer capable of explaining the phenomena. There remains something insightful about the “Cartesian” view that such avowals are incorrigible, about the description “authoritative” despite the preceding argument, and this exceeds the weaker view that the first person cannot be proven chronically unreliable. After all, there is a great distance between the avoidance of chronic unreliability and the full weight of authoritative discourse. I elucidate this fact in what follows.

Ethical First-Person Authority

Consider: after being profoundly shaken in therapy by the depth of one’s own denial and failure to grasp the abiding attitudes that have governed one’s life, it is still inappropriate to say when asked “Do you want to go home?” “In my opinion, yes. But I am hardly certain about that.” The answer is humorous; in my view it is “out of order.” One is expected not to merely state an opinion about one’s desire, but to take responsibility for that desire. Were the response expressed with certitude, this wouldn’t help: “Yes. Based on all the evidence, it’s my contention that I do want to go home. Indeed, this hypothesis can be confirmed most conclusively.”\footnote{The problem is not that one does not know what one wants. The problem is partially “grammatical”: one has not answered the question properly. More important, the problem is ethical: one has not “staked a claim” by taking responsibility for a desire. No mere assessment of fact can constitute such an act of taking responsibility.}

Obviously, the sheer fact that the first person cannot be systematically mistaken about their mental attitudes goes no distance in explaining this phenomenon of authority. Indeed, even if the first person did have a complete epistemic advantage, it is not clear that this would explain the phenomenon which seems largely ethical in nature. Given the failure of the epistemic account, and the salience of ethical considerations in case of first-person authority, I argue FPA should be understood strictly as an ethical phenomenon.

The meaning of “avowal” involves two related aspects. First, avowal concerns an acknowledgement as one might take responsibility for one’s feelings. This exceeds mere judgment since it has special ethical force. Second, avowal often has the force of confession where concealment is presumed. Given the privacy of attitudes, it is unsurprising that there be a kind of guarantee involved in first-person avowals.

Now there are at least three related senses in which our attitudes are “private.” First, we can often keep our attitudes to ourselves (if we don’t act on them in public or blurt them out). Second, our attitudes are our “own business.” Finally, our attitudes are private insofar as wrongful disclosure by another constitutes a violation. In
saying this, I mean the way unauthorized disclosure of the contents of one's diary is an invasion of privacy or the capacity to read another's mind may constitute a violation of the right to privacy. So, there are at least two senses in which “privacy” is ethical in nature.13

This ethical privacy derives, in part, from the fact that we are responsible for our attitudes. I do not mean that they are always up to us in the sense that we have rational control over them. I mean one can be faulted for holding inappropriate, false, or irrational attitudes. Given that one is ethically responsible for one’s attitudes, it makes sense that it is up to one to take responsibility for them by publicly avowing them (or not). Given that one can be held responsible for holding false, inappropriate, or irrational attitudes, whether one is “put on-the-line” ought to be one’s decision alone. There are social consequences of avowing an attitude: it generates a social situation in which there will be specific reactions. It sets a chain of events into motion.

If this is correct, there is something to the idea that avowals are not reports of fact or at least not mere reports of fact. Using terms developed by J. L Austin, we can say there are two different kinds of illocutionary acts: the forces involved in first-person and third-person gender ascriptions, respectively, are different.14 In publicly avowing an attitude, the first person has in some sense staked a social claim and certified a view about their mental life on which we can “bank.” In avowing an attitude, one authorizes a view of one’s mental life that is then fit for circulation. This may explain why avowals are taken to constitute such impressive evidence for third-person interpretations.

So the certifying function of a first person avowal is connected to ethical issues of privacy and ownership of one’s own mental attitudes. This, in turn, is obviously connected to issues of autonomy. For example, it is unacceptable to coerce an avowal (where that avowal is taken to carry the same social and moral weight as one freely offered). Consider the domestic violence abuser who extorts the concession that his partner deliberately made the dinner too spicy to spite him.15 The abuser has bullied an avowal where the victim either insincerely concedes or, more disturbing, sincerely recognizes the “truth” of what her victimizer presses. He takes this coerced avowal to stand as a genuine avowal of intention (and guilt). Even if the abuser’s assessment is true, this is irrelevant to the most disturbing aspects of this case. He has secured an avowal through force and consequently taken his own membership? If this is a hard case (I believe it is), then cultural roles (and related
determination vary.21

In analyzing the semantic content of gender terms such as “woman,” a first move is to follow the Oxford English Dictionary’s definition of “woman” as “adult, female, human being.” Here, “female” grounds the concept of woman in physical sex, leaving the exact meaning of “female” unspecified. The term “female,” however, is hard to determine. The OED defines it as “belonging to the sex which bears offspring” (as opposed to “belonging to the sex which begets offspring”). Yet a person who cannot bear offspring can still belong to the female sex. On the basis of what criterion does this person “belong to the sex which generally bears offspring”?

Harold Garfinkel calls the everyday, pre-theoretical conception of sex the natural attitude and those who hold it, normals.17 In this view, there are two naturally mutually exclusive, exhaustive, and invariant sexes, and membership within a sex is determined by genitalia. Presumably, genitalia and other aspects of the reproductive system are taken together without criterial distinction. In reality, however, while features such as genitalia, karyotype, and gonads generally coincide, it is unclear what to do in cases in which the features conflict. Which feature determines sex membership?

Even experts do not agree how to define sex. For example, Joan Roughgarden writes, “among animals that reproduce sexually there is near-universal binary between very small (sperm) and large (egg), so that male and female can be defined biologically as the production of small and large gametes, respectively.”18 Obviously this is a deflationary view, restricting bimatism to gamete size, reducing sex to the sheer production of one or the other gamete. By contrast, genitalia, gonads, and karyotype all contribute to the determination of sex in Anne Fausto-Sterling’s proposal of five sexes.19 So it seems there are hard cases, and no meditation on the concept of “female” will yield a definitive answer.20 Instead, it seems there are different discursive practices (legal, medical, scientific, everyday) in which the criteria for sex determination vary.22

One problem for a definitional account of “woman” is that the term “sex” does not itself seem very easy to define. A second problem is that this definitional account omits the cultural role of woman, and the conceptions and practices related to that role. We can imagine a world where the cultural roles normally assigned on the basis of sex are inverted: females dress “like men,” males dress “like women”; stereotypical traits and behaviors are assigned to each group. Here, it isn’t clear how to apply the terms “man” and “woman.” Does physical sex or cultural role determine category membership? If this is a hard case (I believe it is), then cultural roles (and related

Negotiations of Gender in Dominant Cultural Practices

An Argument against Definitional Accounts of Gender Concepts

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practices and conceptions) must somehow be connected to the semantic content of gender terms like “woman.”

Second, consider adjectives such as “womanly,” “manly,” “girly,” and the like. It seems as if they have cultural traits packed right into their meaning. When somebody says, “Well, no. That’s a bit too girly for me, I’m afraid,” we shouldn’t expect them to be complaining about having to dig ditches. To be sure, one might argue that such adjectives really mean only “like a woman” and “like a girl” (where the current cultural facts are extraneous to the content). However, it does seem that in the case of the world imagined above, the very meaning of the word would have changed, if “girly” should be a good way to describe ditch digging. So it again seems that cultural roles assigned on the basis of sex are part of the semantic content. And this suggests that there is something wrong with this definitional account of gender.

An Argument against Family-Resemblance Accounts of Gender Concepts

One solution to both of these problems is to provide a Wittgensteinian family-resemblance account of gender terms such as “woman” according to which there are no determinable necessary and sufficient conditions for category membership but only multiple, overlapping features of similitude. C. Jacob Hale provides such an analysis, enumerating differently weighted characteristics that include cultural aspects of gender (such as mode of presentation, speech, occupation, leisure). One benefit is the frame for the tension between dominant and resistant conceptions of gender without deflating the significance of resistant conceptions of gender: even if there is only one concept of “woman,” the dispute can concern the different weighting of the various family-resemblance features.

Yet one difficulty with this account is the underestimation of the difference between features taken to determine category membership and other aspects that go into an understanding of what a woman is. While it is true that the latter must have some sort of involvement in semantic content of gender terms, the involvement seems different in kind rather than different in mere degree of weight.

One argument for this is that when the natural attitude prevails, physical sex strictly determines the application of gender terms such as “woman.” While an individual may fail to live up to prevailing cultural role, this will not undermine her status as female. Instead, she will simply be assessed negatively for failure to conform to standards of excellence. In cases in which she fully adopts the cultural role of man, she will be regarded as a woman pretending to be a man. Thus there is not merely a difference in weighting sex and conformity to cultural role. There is a difference in kind of semantic contribution made to category terms: sex determines individual category membership; role, while involved in normative assessments, does not.

Another argument for the centrality of sex is based on the recognition that “adult, human female” is a standard dictionary definition of “woman.” While we can question dictionary definitions, it remains that defining “woman” by appeal to sex is a well-established cultural practice. According to Hale, the view that there is a sharp feature (sex) to distinguish men and women is part of the “natural attitude,” and

his own Wittgensteinian analysis is intended, in part, to point to the inadequacy of that attitude. However, as Hale no doubt recognizes, in many cultural contexts, the meanings of gender terms are partially determined by such practices and attitudes. So an analysis of the meaning of the term within such contexts requires an analysis of the attitudes and related practices.

As a consequence of the preceding arguments, I distinguish between a gender term’s definition and its underlying metaphysical conceptions. By the latter, I mean much of what is captured in family-resemblance style analysis. Robust with cultural content, conceptions are normative accounts of what a woman (or man) is. They include sex characteristics and also features that are purely culturally determined. I recognize multiple conceptions (paradigms or exemplars) per category, as well as considerable variability in metaphysical conception as negotiated in different power-stratified contexts. Thus not all conceptions need to be stereotypical: they can involve opposition to stereotypes.

Yet how should we understand this notion of “definition”? On the face of it, the definition “female, adult, human being really does seem right. Indeed, it seems as perfect a definition as one might have ever wanted. The reason for this is that the concept “woman” has two built in contrasts. It contrasts with man, and it contrasts with girl. Moreover, it’s clear that as a consequence of these two contrasts, it can be used to convey specific information about sex and information about adulthood. Indeed, the OED even lists these contrastive uses. So the only answer I can think of why “woman” has such a nice definition is just this: because “woman” is frequently used to convey information about sex and because it is frequently used to convey information about adulthood, it acquires such explicit contrasts. In other words, it seems to me that the uses must ultimately explain the appearance of a definition, rather than the definition itself explaining the uses.

Gender Presentation Is Genital Representation

As a consequence of the preceding considerations, I move to an account of the gender terms in specific contexts (the illocutionary force, in particular) as central to an analysis of how physical sex is constituted as the defining feature of category membership. My starting point is the Basic Denial of Authenticity. Consider a case in which an MTF is taken to be “really a man disguised as a woman.” This juxtaposition between gender presentation and (presumed) “biological sex” inscribes an appearance or reality contrast. This contrast is the basis for the representation of transpeople as deceivers which figures frequently in cases of transphobic violence and attempts to blame the victim (“He tricked me! I didn’t know that was a really a man!”).

In my view, gender presentation literally signifies physical sex. If it is true that transpeople who “malign” gender presentation with sexed body are deceivers or pretenders, then those who “correctly” align presentation with body tell the truth. Thus, there is a representational relation between gender presentation and sexed body. In previous work, I argued this representational relation is part of a larger nonverbal system of communication that works to facilitate manipulative and rape-excusing heterosexual sexuality, as well as underwriting racial oppression.
In claiming that gender presentation signifies sexed body, I mean it signifies genital status.\textsuperscript{30} I believe genital status has a fundamental role to play in determining physical sex that is not shared by other possible features such as karyotype. I do not deny the role such notions play in more sophisticated discussions of sex or in cultural practices of sex determination. I do affirm that there is a fundamental semantic relationship between gender presentation and genital status not shared with karyotype, and this relationship plays a crucial role in fixing the natural attitude about genitalia.

Clothing serves a “concealing” function. By “hiding” the body, the contrast between clothing and body is immediately implicated in the notions of exposure and revelation. This function is connected to taboos against nudity in public space and the demarcation of certain body parts as private. Yet it is precisely because genitalia are marked off as sexually private that they require available representations in public. If this is correct, the status of genitals as the “truth” flows from their required public concealment (which necessitates public signs).\textsuperscript{31}

Because of the preceding, genital status is distinct from all other features involved in sex or gender attribution: Genitalia are specifically designated “private” and “concealed” by genital-representing clothing in public space.\textsuperscript{32} In this way, genital status as essential determinant cannot be fully separated from constituting the “private reality” of sex, where this “reality” derives force through contrast with gender appearance. In other words, the role of genital status as sex determinant is a function of its being gender referent: “concealed” and signified by gendered attire.\textsuperscript{33} So, it is little wonder that “shocking exposures” of transpeople as “really a so and so” are often so heavily sexualized. Indeed, forced genital exposure is a distinctive form of sexual abuse that occurs frequently in cases of transphobic harassment and even murder.

This illuminates a question that many transpeople have had asked to them in inappropriate situations: “Have you had the surgery?” To a large extent, this is a more polite way of asking about genitalia. No wonder people are curious. They’re used to knowing. This points to how terms like “man” can function as gender presentation. In locutions like “That’s really a man,” the word “man” circulates information about genital status. It occurs in a situation in which the explicit circulation of genital information would be inappropriate.

While genital status is the signified of these terms (i.e., the core information circulated), this signification occurs against the background of social taboo. “Man” and “woman” function as a code or euphemistic replacement for restricted discourse, just as “darn” replaces “damn.” The pragmatic meaning of “man” and “woman” when deployed in these contexts is determined, in part, by social restriction based on the appropriateness of sexual discourse. The categories circulate information about genital status insofar as they function as euphemistic replacements for the restricted discourse.

Indeed, it seems to me that the very salience of sex as definitive with respect to woman and man derives from the underlying practices of circulating genital information through gender terms and gender presentation. While I don’t claim to fully defend the view here, if the centrality of genital status in the natural attitude is determined by its role as the concealed referent of gender presentation, and if the natural attitude (which privileges genital status) is in some way basic to other discourses about sex, then it follows that sex as determinative of woman/man category membership flows from the mundane system by which gender presentation communicates concealed genitalia.

To briefly support the claim that the natural attitude is basic, I observe that since the natural attitude is bound up with everyday sensibilities, and more deeply the very communicative relation between gender presentation and genital status that informs our mundane interactions in the world, it seems inevitable that the natural attitude maintains a “visceral reality” in face of the abstracted discourses that play little role in guiding such interactions. Indeed, given the degree to that legal, medical, and scientific discourses are deployed within restricted professionalized settings, it seems likely that “theoretical” accounts of sex will seem disconnected from “the real world.” Indeed, there may be ways in which the natural attitude can “infect” the more theoretical ones through individuals who adopt sophisticated discourse intellectually, while maintaining the natural attitude at a visceral level; or through “normals” who borrow technical terms in order to support the natural attitude.\textsuperscript{34} It is little surprise that, as Hale argues, specialized discourses generally attempt to maximally preserve aspects of the natural attitude as consistent with their specialized aims.\textsuperscript{35}

**Negotiations of Gender in Resistant Cultural Practices**

If part of the function of clothing is to secure one’s right to privacy, it is unclear why one should not have a right to privacy about one’s genital status. And if we grant that posing questions to strangers like “Do you have a penis?” is harassing, it is unclear why coded questions requesting the same information aren’t likewise. Given this, a case can be made that the system of genital disclosure through gender presentation and gender terms is itself invasive. Given that failures to disclose inevitably lead to condemnation and even violence, systematic disclosures of genital status are culturally mandated. Given the preceding, it follows that this system of forced genital disclosure is sexually abusive.

Trans politics must require that bodily privacy be expanded to include information about genital status. Gender presentation may not be taken to communicate genital status; terms such as “woman” may not be deployed to circulate genital information. This is necessary to undo the mechanisms that construct transpeople as deceivers or pretenders. Consequently, the shift in meaning of gender terms concerns not merely the “pure semantics” of the terms but a shift in force (i.e., the kind of illocutionary act involved in the utterance “I am a woman”). In particular, while metaphysical conceptions of men and women may remain stable, the practice of circulating genital information and the semantic correlate of distinguishing men and women on the basis of sex must be altered.

**What Subcultures?**

In my experience in Los Angeles, there are many subcultures that could be described as “trans.” I move in several communities that intersect in grassroots activism,
Within the moral authority of the first person (in dominant culture), information about genital status but, instead, indicates how persons want to be treated. Individuals’ self-identifications are generally accepted at face value. Often identity terms (transman, genderqueer) do not have well-specified, fixed definitions. While there may be some general background set of related, negotiated conceptions that provide general content to the notions, there is no clear set of criteria that determine range of application.  

When I say these interactions aren’t “politically ideal,” what I have in mind is that even in these subaltern contexts, some interactions continue to reflect mainstream transphobic attitudes. I mention two examples. First, despite the fact that gender presentation isn’t taken to communicate genital status, the importance of genital status has not been abolished. Sometimes transpeople inquire about somebody else’s status inappropriately and freely circulate information without consideration. Second, it is a sad, peculiar fact that some MTFs (who have no difficulty referring to each other with appropriate pronouns) when first learning to interact with FfMs can’t or won’t transfer the practice. Perversely, it takes time and education for this confusion to be rectified.

Private Attitudes, Private Body

Having briefly discussed the resistant contexts I have in mind, I move to examine self-identifying locutions such as “I am a woman” in a trans-friendlier context. In doing so, I understand these locations as inevitably resistant to dominant cultural practice. Suppose that the following question is posed to a trans person: “Are you a man or a woman?” Such a question, in a dominant context, is generally a coded question about genital status. Moreover, since the answer is often already supposed to be known, the question is less an inquiry than a demand that this person be held accountable for concealed genitalia; it is a demand that they “own up.”

There are curious analogies with self-knowledge about attitudes. An acknowledgment is demanded. And people generally know what genitals they have. Since people don’t walk around naked, others do not have sensible access to others’ bodies. And it is really (ethically) up to the individual whether others have access to one’s body in this way. Consequently, the means by which others learn about one’s genital status are indirect (mediated through the communicative function of gender presentation or the circulation of the euphemistically deployed gender terms). So, the anticipated confession (“I am really a man”) is closer to an avowal of one’s mental attitudes than one might have thought. It is a coded avowal of one’s genital status.  

The analogy breaks down since, while direct access to bodily “privates” falls within the moral authority of the first person (in dominant culture), information about genital status does not. While it is up to the first person whether her private thoughts are shared with others, it is not up to her whether her genital status is shared. On the contrary, genital declaration through gender presentation is socially mandated. While an avowal is demanded, it is not an avowal that is connected to FPA. It is analogous to a forced avowal of guilt.

Self-Identity Determines Gender: Some Objections

When the transperson answers “I am a woman,” she cannot be understood to avow concealed genital status. To be sure, this is how “he” will be understood by many. But one who is interested in hearing will recognize that this is not (or at least not merely) a misleading avowal of genital status. It may, instead, be understood as resistant refusal to disclose genital status. The deeper question is: How is it to be understood as more than a refusal? The first thought is that it is an avowal of self-identity. This seems promising since, while genital status is not amenable to the philosophers’ notion of FPA (which applies only to one’s mental attitudes, not one’s physical traits), one’s self-identity is as follows: if self-identity is a set of beliefs about oneself, FPA applies in such cases in a straightforward way. In this view, self-conception provides the criterial basis for category membership.

There are difficulties, however. First, there is a theoretical problem. If believing one is a woman replaces genital status as sole determinant of membership, there are difficulties concerning an account of what it is to believe one is a woman. Is it to believe one possesses the special feature making one a woman? If so, to believe one is a woman is to believe one believes one is a woman. And now we seem to have a circularity or regress.  In practice this means that the criterion is virtually unintelligible.  

There are also problems in providing an accurate account of actual subaltern practices. The account of FPA in terms of self-conception isn’t broad enough to cover cases in which transpeople self-identify for various political reasons rather than on the basis of beliefs about oneself. Somebody might self-identify as a transwoman and yet refuse to self-identify as an MTF, not because she believes she is one and not the other but because she approves of certain political terms and objects to others. Since FPA is culturally recognized in such cases, an account is needed that goes beyond FPA over beliefs about what one is.

Moreover, many transpeople believe that we are men, women, or something else for particular reasons: we have accounts of why we believe what we do. Yet in the account proposed, the only reason for thinking that one is a woman is the fact that one thinks that one is a woman. But why does one think that one is a woman? This connects to a deeper problem: no room is allowed for disputes about the criterion for category membership—it is fixed as self-identity. Yet transpeople do have metaphysical disputes about what makes a woman a woman and a man a man; these disputes don’t always centralize the notion of self-regarding beliefs. So it isn’t clear how stipulating self-conception as determinate of category membership accommodates this phenomenon. On the contrary, it seems that the correct account is one
that fails to provide *any* defining feature of category membership and thus leaves it open for cultural dispute.

**Existential Self-Identity**

To address these concerns, I point to the perplexity a non-trans-friendly person may experience when a transperson (who does not look at all "like a woman") announces she is a woman. One can understand that her conceptions of woman may be roughly similar to one's own. Here, however, concepts like "woman" have become contestable like concepts like "genderqueer." There is a background set of related conceptions of womanhood without any definition that provides necessary and sufficient conditions.

Yet, if she is not avowing genital status, what is she doing and why? Indeed, since gender presentation is no longer taken to communicate genital status, this ignorance does not merely concern what she is doing with words, it concerns all gendered behavior and self-presentation. This suggests that in order to understand, one must with some degree of deference acknowledge the transperson as better positioned to answer such questions.

**Self-identification may not necessarily indicate something deep about the person's self-identity.** It may reflect political choices made for tactical reasons. In general, one does not know in advance what a person's reasons are for self-identifying and gender presenting. Yet an account of the reasons would render intelligible the person's behavior, and reasons for acting are plainly subsumable under FPA. Thus we have the beginning of an account how FPA over gender is conferred.

The background reasons for acting also inform how the success of the self-identification is to be assessed. When somebody engages in the political act of category-claiming, the question whether she has made a true statement isn't germane. Rather, if there is any defeasibility, it concerns whether this action reflects a genuine political commitment. This can be assessed through the conformity between the person's overall intelligibility-conferring narrative with their overall pattern of actions.

Of course, when somebody is self-identifying in order to make a true statement about herself, this is because a particular gender term is taken as part of her identity. Here, I distinguish between metaphysical and existential self-identity. By metaphysical self-identity, I mean a self-conception that answers the question "What am I?" It involves an overall picture of the world (including categories such as men and women) in which one then locates oneself. By existential self-identity, I mean an answer to the question "Who am I?" where this question is taken in a deep sense. Thus, while "Talia Mae Bettcher" is an answer to the trivial question "Who am I," it is not an answer to the profound question "Who am I, really?" The question, when taken in full philosophical significance means: What am I about? What moves me? What do I stand for? What do I care about the most? Unlike metaphysical self-identity, existential self-identity is not a conception of self. Rather, the fact that one holds all of the beliefs that one holds (true or false, self-regarding or not) goes into the set of facts that determines "who one is, really." Much of one's attitudes, values, and commitment go likewise into making this determination. 43 This falls under the reach of FPA.

The contrast between metaphysical and existential identity is reflected in the difference between the questions "What is a woman?" and "What does it mean to be a woman?" In the spirit of the second, there is a way in which a person can truthfully claim "I am a woman" before any sort of transition at all. Similarly, "teacher" and "philosopher" can constitute valid answers to the question "Who am I?" even if one has never been employed as a teacher or a philosopher and, indeed, hasn't spent much time teaching or philosophizing. Perhaps one is an unactualized teacher who has never had the chance to be "who one really is." Admittedly, these issues are deep and may not be perfectly transparent to the first persons themselves. I do not wish to require that deep philosophical reflection is necessary to confer minimal intelligibility on gender self-ascriptions. I do mean that regardless of self-reflection, people are partially guided by what is important to them, which is where existential self-identity is situated.

There are several reasons for employing existential rather than metaphysical self-identity in an explanation of FPA over gender. The latter involves a broad conception of men and women more generally and, consequently, risks running into conflict with the self-conceptions of others. However, it is generally assumed in community interactions that one's self-identity need not be taken to invalidate the self-identity of another, despite a difference in metaphysical views about gender and sex. Existential self-identity involves no such conflict.

Moreover, metaphysical self-identify requires a person's self-identifying claim be false in case they fail to live up to their metaphysical conception or the conception is itself false. For example, if one believes some neurological state makes one a woman and it turns out one lacks this state, it follows one is not a woman. However, it is generally assumed in community interactions that the truth or falsity of a person's self-identifying claim does not stand or fall on such issues. More deeply, metaphysical self-identity places FPA at the wrong level. Whether one conforms to various conceptions of womanhood (which include physical features) is not something open to FPA. One does not, therefore, have FPA over being a woman but only over one's *believing* one is a woman.

Finally, existential rather than metaphysical self-identity illuminates the centrality of reasons in conferring intelligibility on a person's act of self-identifying. One's understanding of what is important is fundamental to one's reasons for acting, and so one's existential self-identity is the anchor of the narrative. While metaphysical narrative can include behavior-governing norms (e.g., I am a woman, I must gender present and self-identify in these ways), it does not explain why these norms should be taken seriously. Only a final appeal to one's existential self-identity can explain this motivation; only an existential self-identity is essentially bound up with reasons for acting. 44

In defending this view, I don't mean transpeople lack metaphysical self-identities. One can certainly believe one is a woman when believing one conforms to some of the related conceptions of womanhood. Indeed, it is difficult to pull apart metaphysical self-identity from beliefs about one's existential identity. After all, the belief one is a woman may be a belief about both what one is and who one is. My claim is that existential self-identity is far more useful in explaining community recognition of
FPA over gender. It is not whether one conforms to the characteristics one takes to be
gender that matters, it is what those beliefs show about "who one is." Understanding
the avowal as a statement grounded in existential self-identity involves understanding
it within the context of other areas of importance for the first person. This will prob-
ably involve the importance of body, and the importance of one’s personal history of
relatedness to gender, body, and sex. It will also probably involve the significance of
the question “What does it mean for me to be a woman?” to one’s interpretation of
one’s past and one’s projects for the future. The claim that one is a woman will be
true in case womanhood is part of “who the person is, really” and false if it is not. The
consequence of this is a person is only a “gender deceiver” on the condition that they
misrepresent “who they are, really” rather than if they refuse to indicate their genital
status. For in this context, gender presentation does not represent anything at all.
Rather, its significance is to be understood within the context of the person’s reasons
for acting and, more specifically, their understanding of who they are.

First-Person Authority Revisited: Knowledge and Power

Situated Knowledge and the Subaltern

In jettisoning practices that connect gender terms to fixed criteria for application,
such terms become more like those used for mental attitudes. Words like “anger” are
defined in terms of object, cause, and effects; synonyms or closely related attitudes
are mentioned. However, there are no clear criteria determining whether a person
has a particular attitude. To be sure, there are behaviors that count as evidence. But
no symptom is so strong that it cannot be trumped by other considerations. Much
depends on a broader understanding of the person (her history of attitudes, her cur-
rent attitudes, etc.). In effect, third-person assessments of mental attitudes (and gen-
der self-identities) are interpretative in nature. For example, one’s self-identification
as woman will fail if one does not do so for political reasons about which one is
serious, or because womanhood is not part of “who one is, really.” Such assessments,
however, are not easily determined. They are a matter of complex interpretation.

So caution is required. A person unfamiliar with trans-friendlier contexts
approaches avowals of identity in extreme ignorance. I say this not merely because
she lacks sufficient acquaintance to provide an interpretation (unlike a close friend)
but, more important, because she lacks the cultural resources to identify evidence
for or against an interpretation. Suppose an MTF has facial hair (stubble) which she
hasn’t bothered to shave in several days. Somebody unfamiliar with MTF realities
may construe this as sloppiness or lack of care. By contrast, somebody acquainted
with the realities of some MTFs will understand she may have had to let her hair
grow out for electrolysis.

In addition, metaphysical conceptions underlying terms such as “woman” place
constraints on what counts as acceptable interpretations. Yet, despite the overlap
between the meaning of gender terms in mainstream and subaltern contexts, there

may be sufficient variation to undermine interpretive capacity. “Woman” cannot be
completely abstracted from other relevant gender terms that are especially salient in
some trans-friendlier contexts, such as “genderqueer,” “FTM,” and “transwoman.”
One who does not have a grasp of these latter concepts cannot have a sufficient grasp
of the semantic content of “woman” and “man” to be able to assess interpretations
of avowed gender.

There is a kind of epistemic authority here. It is not an authority deriving from
the way in which a first person knows certain facts about herself. Rather, there is
sufficient cultural variability between dominant and resistant contexts that one unac-
quainted with resistant context is incapable of interpreting self-identifies. Thus, the
first-person epistemic advantage is one shared by those who are likewise participants
in the culture and speakers of the language. However, to the degree that these con-
texts involve complex intersections of multiple worlds, there is a more systematic
danger of anyone making easy assumptions about expertise in interpreting attitudes
and behavior across worldly intersections. Such presumption risks arrogance that
violates ethical FPA and therefore warrants considerable humility, caution, and atten-
tion even among those who think they know their way around.

Despite this ignorance, many from dominant contexts approach transpeople as if
they themselves were experts. This sense of expertise is based largely on ignorance of
subaltern realities. The expertise concerns only the status of genitalia and its impor-
tance in determining the truth of sex and gender. One way this kind of “expertise”
can be flexed is through exercises of “clocking people” by drawing on morphological
cues (e.g., adam’s apple) to make assessments about genital status (“Hey, that’s really
a man!). Yet such displays of “expertise” are violations of a transperson’s ethical
FPA. In order to show this, I move on to consider analogies between invalidations of
trans identities and invalidations of women’s subjectivity in cases of sexual assault.

First-Person Authority and Rape

To be sure, when a woman’s refusal to have sex is disregarded, this may not seem to
usurp the woman’s first-person authority but an overlooking of her wishes: It is rape.
Yet rape is “justified” in particular ways. And when it is justified by an assessment
of the victim’s attitudes, it is also a violation of FPA. I say this since the ideological
assessment is taken as sufficiently authoritative to justify acting against the avowed
attitudes of the first person.

Consider the myth that “her mouth says no, but her eyes say yes.” One narrative
underlying this view is that no means yes or, more plainly, that a woman’s refusal to
have sex isn’t a real refusal but a coy flirtation. While, thanks to feminist intervention,
this is less pervasive, this myth remains salient. A man who disregards a woman’s
refusal on the basis of this ideology about what women intend to be communicating
may be sufficient variation to undermine interpretive capacity. “Woman” cannot be
completely abstracted from other relevant gender terms that are especially salient in
some trans-friendlier contexts, such as “genderqueer,” “FTM,” and “transwoman.”
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danger of anyone making easy assumptions about expertise in interpreting attitudes
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subaltern realities. The expertise concerns only the status of genitalia and its impor-
tance in determining the truth of sex and gender. One way this kind of “expertise”
can be flexed is through exercises of “clocking people” by drawing on morphological
cues (e.g., adam’s apple) to make assessments about genital status (“Hey, that’s really
a man!). Yet such displays of “expertise” are violations of a transperson’s ethical
FPA. In order to show this, I move on to consider analogies between invalidations of
trans identities and invalidations of women’s subjectivity in cases of sexual assault.
First-Person Authority and the Basic Denial of Authenticity

Let's now consider the denial of trans FPA. Some women are ideologically taken to deliberately communicate sexual interest through the use of playful refusal. Analogously, since gender presentation and gender terms are taken to communicate genital status, one who "misaligns" presentation and description with genital status is viewed as deliberately deceiving.

In both cases, there is no room for genuine avowal. A "no" means "yes," and a "yes" means "yes": it is impossible for a woman to say "no" and mean it. Given the assumptions that people generally intend to use words to communicate according to standard rules, there is no room in the dominant context for her to intend to refuse; a legitimate "no" is not an available to her.

Similarly, gender presentation and gender terms are taken to communicate genital status. This is enforced through violence and other morally objectionable means; persons who do not conform are viewed as liars. This seems inevitable, since if one understands the relationship between gender presentation and genital status (and therefore how others will interpret one's presentation) and one knows one's own genital status, it seems to follow that one intentionally misleads when gender-presenting is in "misalignment" with genital status.

When the intention to deceive isn't attributed because the transperson is "out," s/he is seen as confused about the basic facts. At its most extreme, this amounts to the view that s/he is mentally ill. Transpeople have been historically relegated to objects of investigation, where any capacity to avow has been disabled under the socially recognized authority of the medical scientist. Here no room is allowed for any genuine avowals; speech is taken as mere evidence for the authoritative interpretations of experts.

A less extreme view is that s/he is in some way childlike, clueless about the realities of the world. As a child might approach her mother with a toy stethoscope around her neck and say, "Look, mommy, I am doctor!" s/he, too, a transperson may be seen as confused about the difference between reality and pretense. While playing along, "the adult" knows this person is confusing pretense with reality; she knows something the "child" does not. Thus, a mental attitude is attributed. S/he is taken to confuse pretense with reality (despite the fact that transpeople know full well how they are viewed by others).

Overall, what is annihilated is not merely the resistant refusal to disclose genital status but one's very reasons for acting and possibly the profound significance of gender presentation and self-identification to the transperson herself. There is no room for such reasons or self-identifications in this situation. Instead, the claim "You are really a man" has a similar force to "You want to go home now" insofar as it denies trans reasons for acting. The former seems worse than the latter, however, for at least two reasons. First, "You are really a man" is an abusive claim about genital status. Second, this claim silences a transperson's avowal of existential self-identity. Together, we find utilization of sexual abuse to raze a person's sense of who she is at the deepest level. To the extent that such verbal violations are backed up by physical and sexual assault, they are like the assault on FPA found in cases of sexual and domestic violence.

Moreover, the authoritative force of such verbal violations is supported by the many forms of sociality that govern mainstream contexts. The authority to determine gender flows from the overall cultural conception and organization of gender, quite similar to cases in which avowals of sexual disinterest either have the force of avowing sexual interest or count for nothing. Since these denials of FPA are ideologically driven and institutional in nature, it is little wonder the possibility for trans resistance emerges only within subaltern contexts. Any work for altering practices within dominant contexts amounts to undermining those social practices that preclude our subjectivity there.

Concluding Remarks: Trans and Feminist Theory

Sandy Stone's intention was to end monolithic accounts of transpeople by opening up possibilities of multiple trans-authored stories. In this essay, I attempt to stay true to her vision by articulating what it is for transpeople to come to voice. In elucidating the transformation of the high-risk game of circulating information about genital status to the social conferral of ethical first-person authority on transpeople, I hope to have shown that the basis for such authority resides in the ultimate priority of ethical considerations over metaphysical and epistemological ones.

In addition, this essay yields important results for nontrans theorizing about gender. Deployments of terms such as "woman" and "female" are political acts even within the context of theorizing. To be sure, there are truths about bodies. Yet such truths can be expressed without the notion of sex. And once this notion is deployed within the context of the natural attitude, one has engaged in discourse that depends on the communicative system of genitalia as gender referent. Unsurprisingly, in everyday discourse, "female" and "male" are often used as synonyms for "woman" and "man." While specialized discourses many promise a purer, technically restricted use of terms, the broader context remains salient. Given this inevitable "tarnish," it
is a political question whether using expressions like “physical sex” is wise, unless grounded in practices that afford FPA.

From a trans perspective, deployment of gender and sex terms is highly political, and accounts that reach verdicts about the appropriate (metaphysical or political) deployment of gender categories without attending to trans voices erases trans subjectivities. As I have previously argued, feminist and trans theory and politics are scarcely at odds. So any nontrans feminist theorizing engaged in this erasure would have to ignore the intersections. From a trans perspective, such theorizing would be threatening; the authoritative determination of gender category application only reinstates the contrast between appearance and reality (with politically determined group membership replacing genital status as “reality”). Such theorizing could support the very gender and sex communication system that promotes, facilitates, and justifies violence against women.

As I also hope to have shown, however, there are deep similarities between violations of FPA in sexual violence against women and in denials of trans self-identity claims. One important theme is the connection between intimate (sexual and mental) gender violation and resistant selves. In this essay, therefore, I continue the project of outlining some common ground for antiracist tranf and feminist theorizing, as well as for authentic personal empathy and mutual comprehension.

NOTES

Thanks to Susan Forrest, Ann Garry, Jacob Hale, Maria Karafilis, and Laurie Shrage for their helpful suggestions, criticisms, and insights.


2. Here, MTF refers to individuals assigned male at birth whose gender presentation may be construed female, and FTM refers to individuals assigned female at birth whose gender presentation may be construed male. Transperson applies to FTMs and MTFs alike, as well as some people who present gender not easily intelligible. I do not attribute identity.

3. As I argue, in mainstream contexts the sex–gender contrast involves an abusive system by which the private sexual body is represented through gender presentation, while in trans-friendlier contexts this is not present in the same way or to the same degree. This raises deep worries about uncritical deployments of the concept “sex.” See “Concluding Remarks” in this essay.


5. There are important limitations to my approach. What counts as mainstream or resistant is informed by blended aspects of domination. For example, in analyzing mainstream gender and sex, I focus on English discursive practices. It isn’t obvious to what degree my analysis applies to other languages. More generally, gender and sex practices vary culturally, and the ones that I discuss prevail in the United States. Again, it is not clear how far my analysis extends; at least to the degree to which these practices are exported, a colonial dimension may be attributed to them. And there are contexts involving resistance in one aspect but not another. There are trans-friendlier worlds only friendlier for white transpeople and racially resistant worlds oppressing transpeople of color. As my account fails to fully address such complexity, it is inherently limited.


8. In Richard Moran’s view, epistemic authority is grounded in one’s authorship of attitudes. Attitudes are “up to the agent,” as exemplified by making up one’s mind. In deliberating, one reflects on attitudinal objects rather than the attitudes about them (hence immediacy). The entitlement to knowledge derives from the rational demand that one “be able to make up one’s mind and have it count for something.” Moran’s account has the advantage of answering the problem discussed in the following note (Moran, Authority and Estrangement: An Essay on Self-Knowledge [Princeton: Princeton University Press, 2001]).

9. Crispin Wright defends this position. A more skeptical view maintains there is no self-knowledge at all. “Cartesianism” involves a perceptual model of self-knowledge. If this model is rejected, then a mystery is generated: if avowals are immediate, what could ground them, short of experience?


11. For Wright, people cannot be chronically unreliable in avowing their attitudes owing to the constraints built into the very truth-conditions of psychological ascriptions (ibid.).

12. Moran makes a similar point: it is a demand of rationality that a person be able to state her attitudes as the result of deliberation (Moran, Authority and Estrangement, p. 24).

13. There are cases of avowal that do not seem to involve anything especially “private.” Consider, for example, that one is asked to choose between two items in a catalogue: “Which one do you prefer?” The answer “I prefer this one” does not really seem to involve the confession of something especially private. Indeed, there is a way in which the entire reference to one’s attitudes can be eliminated in the exchange. Nonetheless, it seems to me clear that the issue of autonomy remains important.

14. J. L. Austin, How to Do Things with Words (Cambridge: Harvard University Press, 1962). A locutionary act involves saying something; an illocutionary act of doing something in saying something (e.g., warning); a perlocutionary act of doing something by saying something (e.g., alarming). The latter is determined by the effect caused in a speaker, while the former is determined by convention. The illocutionary act is the force of the locutionary act. I follow Judith Butler’s work in drawing on the work of Austin in gender and queer theory (Judith Butler, “Critically Queer,” in Bodies That Matter: On the Discursive Limits of “Sex” [New York: Routledge, 1993], pp. 222–43). While I do not have the space to provide a contrast between our views, I do offer comments at notes 27, 30, 37, and 44.

15. I owe this example to Susan Forrest.

16. Even in cases in which there is no avowal of private attitudes involved (see note 13), the attempt of a second person to avow on the first person’s behalf would be “ungrammatical” and controlling.
Approach and People

hermaphrodites”), and merms (“male pseudohermaphrodites”). These three, plus male and female, yield five sexes. Her proposal is intended as a political-social intervention through Feminist Practice

Men and Women,”

Sexing the Body: Gender Politics and the Construction of Sexuality

[New York: Basic, 2000]).

19. Anne Fausto-Sterling distinguishes herms (“true hermaphrodites”), herms (“pseudo-hermaphrodites”), and merms (“male pseudohermaphrodites”). These three, plus male and female, yield five sexes. Her proposal is intended as a political-social intervention (Anne Fausto-Sterling, Sexing the Body: Gender Politics and the Construction of Sexuality [New York: Basic, 2000]).


22. Hale provides a related argument (ibid., p. 112).


24. Hale leaves open the possibility that there are multiple concepts of woman.


26. This account is similar to a family-resemblance analysis since there are overlapping features linking different metaphysical conceptions of woman. However, analyses that abstract these features cannot account for the way different features work together in specific conceptions of womanhood to yield normative assessments.

27. Butler starts with the heterosexist conceit that queer presentations of gender (e.g., butch and femme) are imitative of the original (i.e., heterosexuality). I start with the transphobic conceit that transpeople are deceivers or pretenders. The latter doesn’t concern an original or imitation of a contrast between gender appearance and sex reality.

28. Gender presentation means not only gendered attire but also gesture, posture, manner of speech, and socially interactive style. Sexed body means physical characteristics such as genitals, breast tissue, facial and body hair, fat distribution, height, bone width, and so forth. I intend for this distinction to admit of bluriness.


30. For Butler, while gender is taken as expressive of an internal psyche, the unity of the substance is performatively constituted through acts of repetition or citations of gender norms: the subject is the effect rather than the cause of gender. For me, the relationship between gender presentation and genitalia (rather than “the subject”) is communicative (rather than expressive or performative) in nature. Although I do think that the existence of this relationship itself is what constitutes genitalia as the reality of sex, I do not think that gender presentation brings about this status as signifier through repetition.

31. For further discussion, see Bettcher, “Evil Deceivers and Make-Believers.” However, even there my discussion is incomplete. In my view, these issues are deep: they connect in very important ways to the very notion of a person. I do not have space to develop these themes here.

32. Buttocks and female breasts are coded private, so more complexity is required. There are different grounds for privacy besides the sexual one, and there are degrees to which body parts are regarded as private. I do not develop the significance of grounds for privacy (given in background ideology) in this essay. The themes here are connected to the ones mentioned in the preceding note.

33. The split between presentation and genitalia provides a basis for the distinction between sex and gender. This is not to claim that sex is the unconstrained substrate of constructed gender. Rather, the possibility of distinguishing sex and gender is the product of the cultural fact that gender functions as the representation of concealed referent. The denial of a sex/gender distinction needs to admit the possibility that that very sex/gender distinction is part of the social construction.

34. Sometimes “karyotype” is deployed to defend a modified natural attitude where surgically constructed genitalia are artificial and genital status is determined by birth genitalia (Bettcher, “Evil Deceivers and Make-Believers”).


36. I believe there are important lessons here for applications of philosophy of language to trans community contexts, and perhaps for philosophy of language more generally. Since this is not central to my agenda in this essay, I do not further develop these themes here.

37. For Butler, such self-identifying claims performatively constitute oneself as a particular kind of subject (within an identity category). I suggest that such claims can involve other functions such as circulation of genital status.

38. In some cases there might be a disclosure of genital status. Suppose our transperson has had genital reconstruction surgery. Then she may be taking up the standard way of disclosing genital status. Thanks to Susan Forrest for this point.

39. The reason the philosophical notion of FPA concerns mental states is that it primarily concerns epistemology. The view is that a first person can have a special knowledge over her own mental life that does not extend to physical traits. While she might be better acquainted with the latter than anybody else, she does not have a special kind of epistemic access in the same way that she seems to have a special access to some of her own mental states. This special access is captured in the notion of “immediacy” discussed above. However, if my argument that FPA ought to be understood principally as an ethical (rather than an epistemic notion), then there is also a way in which FPA can be expanded to include one’s body as well. In both cases, one has certain personal rights of privacy (over bodily and mental information), and the attempt to deny or undermine these rights constitutes a violation of FPA.


41. I owe this point to Hale. More generally, discussions with him have stimulated and informed my thinking about difficulties related to gender self-conception and the use of gender self-conception in determining gender category membership.

42. This position is similar in spirit to Hale’s suggestion that self-conceptions be put to the side in favor of political and ethical values (C. Jacob Hale, “Tracing a Ghostly Memory in My Throat: Reflections on Pmi Feminist Voice and Agency,” in Men Doing Feminism, ed. T. Digby [New York: Routledge, 1998], pp. 99–129; reprinted as chap. 3 in this volume).

44. For Butler, resistance emerges from the possibility of variation in acts of repetition. She specifically commends the use of gender to make explicit its inherently imitative quality. I see resistance in new trans practices of FPA over gender, which are free from the abusive circulation of genital status.

45. Rae Langton and Jennifer Hornsby defend a related position (Rae Langton, “Speech Acts and Unspeakable Acts,” *Philosophy and Public Affairs* 22, no. 4 [1993], 229–330, Jennifer Hornsby and Rae Langton, “Free Speech and Illocution,” *Legal Theory* 4, no. 1, [1998], 21–37). In their view, pornography silences women by disabling the illocutionary force of a woman’s “no.” An objection is the concern that if there is no genuine refusal, there can be no genuine rape. Another objection is that the Hornsby/Langton position assumes that a genuine refusal requires that the “uptake” of the speaker’s intent on the part of the hearer (Alexander Bird, “Illocutionary Silencing,” *Pacific Philosophical Quarterly* 83 [2002], pp. 1–15). In my view, the issues run deeper than the disabling of refusal: they concern the disabling of a woman’s first-person authority over her own mental states. More correctly, rather than suggesting a “disabling,” I suggest that as a matter of social convention (quite independent of an individual’s interpretation) women’s avowals of sexual disinterest were and are broadly not allowed insofar as the force of “I don’t want to have sex” was and is conventionally taken as a playful act, if anything at all. From this, it does not follow that the daily rapes that constituted normal sex were not real rapes. Rather, they were not rapes within the dominant ideology. This is why I represent the view that “no means no” as political intervention rather than as an observation. This is suggestive of the ways in which “subjects” are “constituted” by cultural practices. I do not pursue the point here.

The issues are deeply bound up with race. To put it crudely, the institution of *no means yes* within a game of flirtation has applied historically to white women more predominantly. Contrast this with racist representation of black women as “Jezebels” (who never say no). To the extent that black women’s “avowals” have historically been disregarded entirely on the basis of an ideology that depersonalizes, there is a more radical denial of first-person authority that is instituted on the basis of a racist ideology. For more, see Patricia Hill Collins, “The Sexual Politics of Black Womanhood,” in *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 2nd ed. (Routledge: New York, 2000), pp. 123–48. In this essay, I have not developed these issues in any depth. They connect in important ways to the connection between privacy of the body and the notion of personhood (alluded to in note 32). This is a much larger topic that needs the full space of an independent article.

46. The analogy with racist depersonalization is clear here.
