

LGBTQ Issues in Philosophy



FALL 2019

VOLUME 19 | NUMBER 1

FROM THE EDITOR

Grayson Hunt

ARTICLES

Amy Marvin

Assumptive Care and Futurebound Care in Trans Literature

Rachel McKinnon

Participation in Sports Is a Human Right, Even for Trans Women

Alice MacLachlan

Conceiving Differently within the Ethics of Assisted Reproduction

BOOK REVIEW

Gayle Salamon: Life and Death of Latisha King: A Critical Phenomenology of Transphobia

Reviewed by Chris Jingchao Ma

CALL FOR PAPERS

BIOS



APA NEWSLETTER ON

LGBTQ Issues in Philosophy

GRAYSON HUNT, EDITOR

VOLUME 19 | NUMBER 1 | FALL 2019

FROM THE EDITOR

Grayson Hunt

UNIVERSITY OF TEXAS AT AUSTIN

This year's *Newsletter on LGBTQ Issues in Philosophy* features three original essays and one book review.

The first essay featured, "Assumptive Care and Futurebound Care in Trans Literature" is written by Dr. Amy Marvin. In it, Marvin adds her name to the list of feminists who have critiqued Carol Gilligan for "mainly centering the voices of white, middle-class women" a move that renders Gilligan's vision of care, an assumptive, "thus participating in the historical suppression of black feminist ideas even while challenging traditional philosophy" (Marvin, citing Patricia Hill Collins). Marvin notes that Gilligan's *In a Different Voice* also excludes trans women as ethical knowers. We should not be surprised at this since, as Marvin notes, "psychologists still tended to link trans people with pathology, as 1982 introduced the misgendering dichotomy between categorizing trans women as 'homosexual' or 'heterosexual males' picked up by later theories of autogynephilia." Gilligan, like many other feminist theorists, failed trans women, and Marvin's essay is no doubt a corrective to this failure. Marvin turns to Maria Lugones's discussion of arrogant perception and world-traveling and then to trans literature, notably Casey Plett's *A Safe Girl to Love* and Ryka Aoki's "To the New World," in order to argue that trans literature offers rich descriptions of the harm of assumptive and the value of futurebound practices of care that emphasize this dynamic of taking away and giving the other space, ultimately demonstrating the harm of assumptive care and the world-making power of future-bound care.

The second and third essays featured offer theorizings of trans and queer existence from the first-person perspective. Dr. Rachel McKinnon's essay, "Participation in Sport is a Human Right, Even for Trans Women," offers readers a defense of transgender athletes' right to sport and a critique of the faulty logic used to undermine the human right to sport for trans and non-binary people. McKinnon notes that the arbiters of sport disputes, the Court of Arbitration for Sport (CAS), ruled in 2015 that there are only two categories of competition (male and female) and that those two categories cover all athletes, meaning that in order to compete, athletes must compete in one of those categories, a move that in effect makes inclusion is sport difficult and often impossible for intersex, non-binary, and transgender people (especially trans women). McKinnon

concludes her article by challenging the "unfair competitive advantage" argument used to disqualify transgender women. Noting that there are already, amongst non-trans women athletes, huge differences in natural physical traits (an obvious example being height), and given the nature of elite sports where competitive advantages are what athletes train for, fairness does not require us to exclude those who have considerable performance advantages.

The final essay, written by Dr. Alice MacLachlan, is also about exclusion. In her essay, she reveals the many ways that queer families are absent from philosophical and bioethical discussions of assisted reproduction. For MacLachlan, the exclusion reveals the narrow approach to moral issues of alternative family-making and assisted reproduction, in part fueled by a heteronormative emphasis on technology, secrecy, and ancestry. MacLachlan argues that discussion of assisted reproduction within philosophy and bioethics tend to focus on four issues, only the first of which directly relates to her queer family's experience. She describes the four issues as "(i) the various rights and responsibilities of all involved insofar as these illuminate the necessary and sufficient conditions for moral parenthood; (ii) the growing role of technology in human reproduction; (iii) the value and significance of genetic ties, and knowledge of/access to one's genetic ancestors; and (iv) the ethics of secrecy and deception around someone's origins." MacLachlan notes that tendencies within bioethical and philosophical discussions of assisted reproduction (noting, as an example, David Velleman's work on the topic) has a normalizing effect that elides many queer families who are uniquely and differently situated compared to "bionormative parents (each of whom has a genetic relationship to the child) and adoptive parents (neither of whom does) and even step co-parents (they enter their child's life at different times while we became parents together)." MacLachlan demonstrates how paying attention to queer family narratives places collaboration at the center of creating a family.

In her timely review of Gayle Salamon's *Life and Death of Latisha King: A Critical Phenomenology of Transphobia*, Chris Jongchao Ma offers readers an overview of the 2018 monograph, identifies some of its key strengths, and asks questions provoked by Salamon's phenomenology of transphobia. The strength of Salamon's critical phenomenology is found in part in its capacity to reveal how a life may only emerge in a shared world, one which Ma notes is hostile to trans people of color. Referring to Merleau-Ponty's concept of horizon and Salamon's analysis of collaborative meaning, Ma notes how transphobic power relations extinguished Latisha's meaning as a transgirl. The concept of horizon, Ma says, "allows us to understand

the detrimental effects that power relations can have: my meanings may be canceled, may not be able to emerge, and other meanings might be read into me, against me, as 'power can delegitimize other horizons, can render them as untrue, invisible, or unthinkable'" (Ma quoting Salamon, 92). One question that I found particularly fruitful and necessary comes at the end of her review: "What role does the de-racialization of King play in the courtroom and in media, in relation to her non-existent transgender identity?" How has trans identity been racialized or white-washed in the US?

ARTICLES

Assumptive Care and Futurebound Care in Trans Literature

Amy Marvin
UNIVERSITY OF OREGON

INTRODUCTION: DIFFERENT VOICES, TRANS VOICES

Carol Gilligan's *In a Different Voice* critiques Lawrence Kohlberg's stages of moral development for universalizing the moral development of men and boys, arguing that Kohlberg casts women and girls as morally immature in comparison to a masculine telos toward justice.¹ In contrast, Gilligan centers the moral development of women and girls on their own terms, defending an ethics of care. An ethic of care, Gilligan describes, involves "seeing a world comprised of relationships rather than of people standing alone, [and] a world that coheres through human connection rather than through systems of rules."² Gilligan thus establishes a broad range for an ethics of care: "the vision that self and other will be treated as of equal worth, that despite differences in power, things will be fair; the vision that everyone will be responded to and included, that no one will be left alone or hurt."³ This emphasis on connection rather than an ethics of disconnected individualism is part of the broad tapestry from which feminist care ethics has been woven. Feminist care ethics does not necessarily entail giving up justice and autonomy, but it does take seriously the challenge that a relational view of the self poses to traditional philosophical theories that solely focus on an individual, disconnected moral agent while bracketing out human dependency, interdependency, and social ties.⁴

Though Gilligan's *In a Different Voice* strives to center ethical perspectives erased by traditional philosophical work, its project of care risks continuing to center some ethical voices over others. First, the project of care ethics risks circumscribing its understanding of care by ignoring differences among women, including race and class, that may result in different understandings and practices of care.⁵ For example, in *Black Feminist Thought* Patricia Hill Collins critiques Gilligan's project for mainly centering the voices of white, middle-class women, thus participating in the historical suppression of black feminist ideas even while challenging traditional philosophy.⁶ Second, this bias

within feminist care ethics risks obscuring the ways that rhetorics of care can be wielded as tools of oppression and imperialism. For example, Uma Narayan argues that rhetoric about care over dependents has functioned ideologically in combination with racism and imperialism to justify colonization, taking the form of "paternalistic caring."⁷ Despite Gilligan's emphasis on different voices, it is thus important to pay attention to which voices continue to be excluded from the ethical fold, as well as how these exclusions might obscure insidious deployments of care.

Among the women not included by Gilligan's work are trans women, and I begin this essay focusing on Gilligan rather than other care ethicists to consider the broader history of trans women's exclusion from ethical knowledge. The same year that Gilligan published *In a Different Voice* to center women and girls as ethical knowers, psychologists still tended to link trans people with pathology, as 1982 introduced the misgendering dichotomy between categorizing trans women as "homosexual" or "heterosexual males" picked up by later theories of autogynephilia.⁸

Feminist philosophy fared little better with taking trans women seriously as knowers during this period, indicated by Marilyn Frye's afterthought describing trans women as mindless robots in her otherwise excellent 1983 book *The Politics of Reality*. Frye argues that under a phallographic scheme subordinating women to men, women are not considered to have an authoritative, distinct point of view or manner of perception, instead "assumed to be robots hooked up to the senses of men," ultimately lacking a distinct soul or the ability to see beyond their appointed task of service and submission.⁹ Because women are in fact seers and authors of perception,¹⁰ technological advances in "male to female transsexual reconstruction"¹¹ aim to replace the threatening real women that men depend upon by "constructing actual robots" in the form of trans women.¹² While non-trans lesbians rise against this conceptual order as "women-seers,"¹³ trans women are framed by Frye as the true robotic replacement, internalizing male norms and continuing to serve men without wielding the potentially disruptive capabilities for perception, a point of view, and a soul beyond submission. Frye thus frames trans women as the realization of men's designs for women under patriarchy, mindless servile robots without ethical agency who do not question their subordination and are fundamentally questionable as knowers, let alone seers. During the time period Gilligan began to center the ethical lives of non-trans women and girls, trans women's ethical lives were largely obscured by discourses of pathology or placation, reduced to a figure of perversion, piteousness, or Stepfordism beyond ethical agency.

In this essay, I depart from this historical exclusion of trans women's ethical insights from care ethics by focusing on trans literature as a source of knowledge expressed by trans women about care. Specifically, I discuss short stories by Casey Plett and Ryka Aoki as sources of knowledge about assumptive and futurebound practices of care. I begin by arguing that the work of Maria Lugones considers the spatial dimensions of love and that this suggests that care involves giving space to another on their own terms. I then turn to Plett's story "Other Women" to unpack

assumptive care as a short-circuited form of caring in which a relationship to the other on their own terms is closed off by transphobic assumptions. I contrast this with Plett's story "Winning," which describes a futurebound care in which another's space is kept open, permitting action that allows them to flourish on their own terms. After this, I discuss Aoki's "To the New World" as an engagement with both racist assumptive care and futurebound care aimed at self-care. I conclude that these stories provide a rich space for considering trans ethical knowledge about care.

LOVE, CARE, AND SPACE

Before turning to stories in trans literature, I find it useful to philosophically justify the relationship between care and giving another space that I discuss throughout this essay.¹⁴ In "Playfulness, 'World'-Travelling, and Loving Perception" Lugones suggests a relationship between love and space through her emphasis on "worlds" when contrasting arrogant perception and loving perception. Lugones begins by discussing arrogant perception as a failure of identification with another and a failure of love.¹⁵ For Lugones, arrogant perception is not only directed towards women by men, but can also happen among women. Specifically, Lugones reflects on her arrogant perception towards her own mother after she was raised to treat her as a servant and "could not welcome her world," as well as the arrogant perception directed by many white women towards women of color.¹⁶ Lugones writes, "there is a complex failure of love in the failure to identify with another woman, the failure to see oneself in other women who are quite different from oneself."¹⁷ This failure of arrogant, walled-off perception towards another is not always immediately obvious to the perceiver, even though it can result in abuse towards others.¹⁸

Loving perception among women involves being aware of connection rather than the isolated, disconnected compartment of arrogant perception. Lugones emphasizes, "I am incomplete and unreal without other women. I am profoundly dependent on others without having to be their subordinate, their slave, their servant."¹⁹ Loving another requires being able to perceive their world as distinct from one's own but also as connected, including the ability to perceive one's own actions and their meaning from the positionality of another person. Lugones argues, "We are fully dependent on each other for the possibility of being understood and without this understanding we are not intelligible, we do not make sense, we are not solid, visible, integrated; we are lacking."²⁰ Loving perception thus requires an awareness of a shared space across different positionalities, refusing to level over the other like one would a servant, but also acknowledging a space of connection across different "worlds," defined as a multitude of situated positions one might inhabit, see from, or be seen from.²¹

The vantage point of arrogant perception, which Lugones describes as a way of being taught to love that is not love,²² involves an inability to allocate any space to another outside the perspective from which they are seen. The other is locked into an arrogant perceiver's perspective to the extent that Lugones associates this way of relating to another with abuse, with the example of "using, taking for

granted, and demanding her [mother's] services in a far reaching way that . . . left her little of herself to herself."²³ In this way arrogant perception may involve a restriction of space taken in both relational and material senses, denying the other a space to be seen or physically inhabit space on their own terms. In contrast, loving perception gives another more space to be understood from their distinct perspective. This way of viewing another does not constrict, but instead opens possibilities for difference, involving a practice of traveling to another's world that allows someone to not only "understand *what it is to be them*" [emphasis hers] but also opens up a space for the traveler to consider themselves from a different perspective.²⁴ Loving or arrogant perceptions are thus tied to the amount of space given to another on their own terms, acknowledging their distinct but connected living perspective and positionality.

Lugones's discussion of perception and world-traveling, while not explicitly about care, nonetheless suggests that care may also have its own spatial character. Lugones's work has been described as a reflection on the receptivity required for the "cared-for" to be heard by the "one-caring,"²⁵ and Maurice Hamington sees in Lugones's "World-Travelling" essay a relationship between the openness of world-traveling, the expansion of understanding, and the cultivation of "caring performances."²⁶ Lugones's work also shares an affinity with Gilligan's emphasis that an ethics of care focuses on connection, relationality, interdependence, and inclusion in the context of relationships. Lugones's work is thus helpful for considering feminist care ethics in relation to the space taken away from or given to another. I will argue in the following sections that trans literature offers rich descriptions of assumptive and futurebound practices of care that emphasize this dynamic of taking away and giving the other space.

ASSUMPTIVE CARE

In *A Safe Girl to Love*, Casey Plett provides several stories about trans women protagonists that include rich topographies of care, including the opening story, "Other Women," where Plett provides insight into traumatic forms of care imposed by cis (non-trans) friends and relatives. "Other Women" follows the main character, Sophie, as she ventures home to Winnipeg for the holidays after transitioning. Focused on Sophie's perspective, the story highlights how Sophie's cis friends' and family's skewed vision renders their practices of care assumptive and damaging.

At the beginning of the story, Sophie's relationship with her mother and extended family may seem promising. The first family member Sophie interacts with is her mother, Lenora, who seems friendly towards Sophie, even though we are informed that their relationship was strained after Sophie came out as trans. Sophie recounts, "It was hard after that. She stopped signing her e-mails 'Love, Mom.' Stopped going out in public with me. Those were rough months,"²⁷ and they only started talking again after Sophie moved away.²⁸ Additionally, Sophie's grandparents seem jovial, offering handshakes, hugs, food, and coffee.²⁹ After Sophie's initial visit with her grandparents, her mother is optimistic, saying, "It's nice they haven't called you by your old name, don't you think?"³⁰ It thus initially seems that

Sophie may be able to maintain some bonds of care with her family.

Sophie's interactions with family quickly reveal their tenuousness. Already Lenora had asked Sophie what she would wear to church on Christmas, and seemed uneasy about Sophie's plan to wear a dress. When asked if this was okay, Sophie's mother responded, "Well, I don't think your clothes will be a problem, no."³¹ Implicit in this response is the sense that it is Sophie herself as a trans woman wearing a dress to church who is the problem, and Sophie ends up sitting alone during the service at her mother's suggestion.³² Sophie's family may be "tolerant," but there is a rift between their worlds.

This rift is exposed during Christmas dinner. While Sophie's grandfather is dispensing blessings through prayer, he offers one to Sophie under her deadname,³³ saying, "We are especially thankful you saw fit to guide up from America our grandson, Leon."³⁴ Instead of accepting this misgendering blessing, Sophie interrupts by saying, "No," which is responded to by a sharp intake of breath by her grandmother and her mother stressing "hey now" in a quiet, angry voice. It is all downhill from here, with Sophie's apology to her grandfather met with a frown and a "well," and Sophie finds a note in her coat pocket from *Proverbs* 3:5-6 written in her grandmother's script: "*Trust in the Lord with all your heart and lean not on your own understanding; in all your ways acknowledge him, and he will make your paths straight.*"³⁵

Here, I suggest, the novel does show Sophie being responded to by a practice of care, highlighting specific forms of care that may emerge when cis people try to care for trans relatives. One might be tempted here to say that these moments are in fact *not* care for Sophie, and instead constitute an ethical failure due to an absence of care. Drawing from Lugones's understanding of love, care, and space discussed in the previous section, Sophie's family directs a form of care towards her that is contrary to her own self-understanding, and the ways Sophie navigates her position in the world. In wanting to sit separately from Sophie during church, or praying for Sophie under her deadname, Sophie is *not* acknowledged as a complex person with a rich inner (and outer) life, except insofar as she is abjected or forced into silence about the ways she lives her life and understands herself. The letters and prayers offered to Sophie are thus only offered in ways that annihilate her life as a trans woman, denying her the space to live on her own terms due to a failure of maintaining fair, inclusive connections and, ultimately, care.

However, there is also reason to suggest that Plett's story provides knowledge not only about care's absence, but also about the transformation of care through the insidious nuances of transphobia as it conditions everyday relationships. For cis people living in a transphobic society, the horizon of caring practices may be restricted to the smallest gestures of accommodation. As evidenced by Lenore's optimism about Sophie not getting entirely reduced to her deadname, such a meager form of tolerance may be taken as indeed an attempt to care for Sophie, and for some cis people may even be experienced

with difficulty and hence as an effort for inclusion. Lenore interprets moments when Sophie is not misgendered, deadnamed, or barred out of her grandparents' home altogether as *landmark* moments of care and inclusion, without recognizing the more insidious topography of care practiced in these cis familial spaces. This is care as mediocre tolerance, exhibiting a facile pride in its receptivity to a trans other while unknowingly stripping their world away. Likewise, Sophie's grandmother, given her religious background, may see her note as a crucial intervention to bring her child back into the fold of family life and its relationship to the sacred. This care is unable to grant or even fathom that Sophie might have her own world, restricting her space during the entire encounter through its transphobic terms. The problem may not be that Sophie's family isn't caring, but rather that their caring *sucks*. In this case, transphobia may restrict our relationships to others through their assumptions about who we are and should be, including loved ones privy to our most vulnerable moments. In a transphobic society, even well-intentioned people can obliterate us with their care.

Sophie's friend Megan, who she frequently turns to for support, provides another example of assumptive care. Initially, Megan seems like someone who cares about Sophie. We are informed that Megan is the first person Sophie came out to as trans, to which she responded with encouraging words: "One day everyone will call you Sophie. And I'm going to be so fucking proud of you when they do."³⁶ Additionally, Sophie often spends time at Megan's place as a moment of respite from uncomfortable scenes with her family,³⁷ and Megan seems accepting and open about Sophie's transition when they are reunited at the beginning of the story.³⁸ Megan also portrays herself as supportive in relation to Sophie's friends who were angered upon hearing of Sophie's transition, reassuring Sophie with "I told [them] that if anybody gave you shit tonight that I would fucking murder them."³⁹ Megan thus seems like someone who might have a relationship of care with Sophie that does not involve projecting cis assumptions that restrict her vision of who Sophie might be and what caring for a trans woman friend might look like.

Megan's practice of assumptive care with Sophie is revealed in one of the worst violations of Sophie's autonomy and understanding of herself in the story. After attending a party where Sophie had to deal with a transphobic friend from her past, drank lots of alcohol, and fell over onto the sidewalk,⁴⁰ Megan drives Sophie back to her place. Megan and Sophie become intimate,⁴¹ but Megan is distraught when Sophie's parts no longer behave the way they used to. Sophie explains, "and then I didn't want her touching that part of me, I hated how she talked about it. Like if my dick didn't seem happy then I couldn't be . . . I wanted to lift her off of me and say *my penis isn't me.*"⁴² Despite Sophie's forceful nos, Megan proceeds to give her oral sex, violating consent and causing Sophie to experience intense dysphoria about her body.⁴³ After Sophie tells Megan to stop two more times, she finally ceases but also expresses anger at Sophie. Sophie recounts, "she looked up, furious. No, she said. I'm sorry, don't worry, I won't *bother* you again tonight. She looked like she was about to cry."⁴⁴

As Talia Bettcher emphasizes, denials of trans people's authenticity frequently share an affinity with sexual violence,⁴⁵ and Megan's refusal to stop also signals a refusal to grant Sophie the space for authenticity over her body and what it means for her. The temporality of their sex is restricted to expectations about cis bodies, culminating in Megan's tears of frustration when she interprets Sophie's "NO" as a slight. While Megan may think of herself as trying to care for Sophie, the wounded anger she expresses indicates that Megan does not understand her care was actually a violation, and her warped care is used in the service of violence through assumptions about sex, trans women's bodies, and caring intimacy. Through this assumptive care, what began with Megan tenderly reassuring Sophie, "You're so soft . . . you're so fuckin' pretty"⁴⁶ escalates into a violation of consent and an angry silence. Megan's earlier "tough love" of telling Sophie to stop being a dick is not unrelated to her inability to see Sophie as other than a dick in the context of sex, combined with the violence of her unwillingness to listen and stop.

"Other Women" thus indicates that practices of care by cis relatives and friends can often be a trauma and a terror rather than a straightforwardly benign force of inclusion and attention to particularity. The assumptions that cis people have about their trans family, friends, and lovers may find their way into their practices of care, and this assumptive care constitutes a real ethical failure. Assumptive care takes up the other's space by refusing to grant them a world, instead practicing care from the totalizing perspective of the perceiver in a way that can cause harm and violence. Through assumptive care, encounters with the other are restricted to predetermined assumptions without creating an open space through which they can respond or change the situation to better fit their terms. Plett's story thus provides knowledge about care when it is circumscribed by the assumptions of the person practicing care, ultimately short-circuiting because it is unable to escape expectations and truly connect to the other with their complex, lived positionality and needs.

FUTUREBOUND CARE

In addition to knowledge about ethical failures, trans literature also provides knowledge about rich ethical moments, such as those found in futurebound care. To draw out futurebound care, I will focus on Plett's story "Winning," which considers care between a trans mother and a trans daughter who returns to her hometown. The relationship between Zoe (daughter) and Sandy (mother) is frequently fraught, like many mother-daughter relationships. When Zoe came out to Sandy as trans on the phone, for example, Sandy responded with "oh no" and said she needed "a few weeks on this,"⁴⁷ after which Zoe didn't hear from Sandy again for months.⁴⁸ Sandy has also slapped Zoe before, and at one point digs her nails into Zoe's thighs to get her attention about trans women needing to dress cautiously.⁴⁹ It turns out that a trans daughter having a trans mother is not always easy, much like cis daughters having cis mothers, and Sandy often seems to be coming from a place of trauma when caring for Zoe. At one point Zoe wonders "if it was possible to love so fully, as Sandy had, unless you had been cut off at some point from that love yourself."⁵⁰

Nonetheless, Sandy also cares for Zoe, and Zoe cares for Sandy. Zoe was initially hesitant about staying with her mother again after living in New York City, but notes that they were able to generally "re-learn some good parent-kid relationship things."⁵¹ Sandy also makes gestures of care towards Zoe, for example, insisting that Zoe takes a nap to cure a hangover and take up time she could be using to help Sandy pack.⁵² The story may indicate tensions between mother and daughter, but it also emphasizes their attempts to maintain caring and attentive ties to each other.

This complex care allows Sandy's care to become futurebound. Earlier in the story, Zoe hears that while she was away her friend from high school, Frankie, lost her father, became pregnant, adopted her kid out, and got into cocaine.⁵³ Frankie holds a special place for Zoe because she provided her care and help with planning to transition. Plett writes, "Frankie once had looked at Zoe and cupped her chin and said God, you're beautiful. She was never exasperated with Zoe's tics. . . . She'd only taken care of Zoe, sisterly and lovingly."⁵⁴ Uncertain of Frankie's fate, Zoe texts her twice to ask if she needs anything but receives no response.⁵⁵ The subject of homelessness frequently appears in the text, including news of "student-bro types" shooting homeless people with BB guns⁵⁶ and the story takes place in the cold, dark part of the year.⁵⁷ At one point, Zoe spots a homeless woman who she thinks might be Frankie but she (unconvincingly) concludes "*it probably wasn't her.*"⁵⁸

Towards the end of the story, Sandy expresses a moment of here-I-care-and-can-do-no-other in response to Frankie's uncertain situation. When Sandy asks Zoe if she has seen Frankie yet, Zoe fills her in on what she had heard so far.⁵⁹ Sandy responds, "So you're telling me . . . that one of your old friends who no longer has parents and just had a baby who she had to give up is possibly on the streets right now and possibly has problems with serious fucking drugs and all you did was text her."⁶⁰ Zoe's two text messages, Sandy suggests, are an inadequate attempt at care. In anger, Sandy calls for ethical commitment and action, as she continues, "None of you get it around here! You don't know what friendship means! No, it could never mean life and death, could it? Humans aren't fucking games where you just try your best! . . . why am I about to waste time yelling. Let's get in the car."⁶¹ Sandy calls for the kind of care that results in action, and seeks to help Frankie when she is most vulnerable and isolated instead leaving her to the fate of abstract text message requests. As Eva Kittay stresses, one does not truly care unless they act.⁶²

Through Sandy's call to action, taking the form of hopping in the car with Zoe and trying to find Frankie, care becomes futurebound. Already, Frankie had been a source of futurebound care, providing Zoe with the help she needed to eventually actualize transition. Sandy's call to care, likewise, does not abandon Frankie to the rumors that she is alone and on the street, but instead cares *enough* for the situation to be otherwise. Futurebound care, as found in Plett's story, is that which makes living with and for another possible in the most radical sense, both envisioning and ethically committing towards a better possible future world. The other is not only given room for their perspective to

be centered on their own terms, but also the space they need is further opened such that the other's perspective can be granted a possible future of survival and growth. In contrast, assumptive care might project a future for the other, but its ameliorative potential remains limited by the transphobic horizons influencing the person practicing care while its potential for abuse and violence is enhanced. Futurebound care, in contrast to the closed character of assumptive care, invites a structure of open, ethical world-making with others.

Returning to Lugones, futurebound care not only avoids the trap of walling oneself off from the other, but also goes beyond just giving another person space by taking real action so the other can live and grow on their own terms. Care becomes connected amelioration, realizing the other's needs by taking the actions required to bring them to a more empowered space, while also avoiding the potential trap of projecting distorted self-imposed goals onto the other and getting trapped in assumptive care. The story ends before Zoe and Sandy are able to reach Frankie, and active listening beyond Sandy's initial call to action would be required for her futurebound care to not lapse into assumptive care, as would happen if Sandy merely assumed she already knows everything Frankie needs. Nevertheless, Sandy's call to get in the car is itself a moment of futurebound care that, if sustained, could potentially result in a reconnection with Frankie and a better realization of her needs and goals.

ASSUMPTIVE CARE IN ITS (RACIST, TRANSPHOBIC) FEMINIST DIMENSIONS

Thus far I have looked at Plett's stories "Other Women" and "Winning" as sources for knowledge about care. Assumptive care, as seen in "Other Women," is bound by the closed structure of transphobia, and hence easily results in a leveling over of trans experience and a violent denial of consent. Futurebound care, in contrast, involves an ethical action that opens up a space for the other to have a future more on their own terms.

We might leave my initial analysis of care in trans literature with the false idea that assumptive care and futurebound care are primarily related to one's trans status and not also about intersections between trans status and other crucial aspects of trans people's lives such as class and race. Tethering insights about assumptive and futurebound care to trans status alone would be a mistake, and erase the experiences of trans people across difference. I will thus expand my analysis by centering ethical knowledge from Ryka Aoki's story "To the New World," arguing that her story highlights assumptive care and futurebound care as shaped by trans status, race, and immigration, while distinctly linking futurebound care with self-care.

Aoki's "To the New World" describes Millie Wong's visit to a farmer's market in Los Angeles to pick up food for her grandmother's birthday dinner.⁶³ Though Millie's grandmother passed away, Millie sees the occasion as a way to maintain family ties after separating herself immediately after transitioning.⁶⁴ Here, Aoki focuses on race and gender in the context of Millie's everyday life as an Asian American trans woman. In the marketplace Millie

relates her study of other women's patterns of walking and speech with her immigrant family studying the TV and radio to lose their accents.⁶⁵ Studying the people around her also allows Millie to hear "snippets of conversation that convey gender, ethnicity, even social standing."⁶⁶ Millie is thus attentive to the social location of the people around her, and the way this informs even the smallest inflections in the language they use. The marketplace is a place where Millie both watches and is watched, and she soon runs into the other main living character of the story, who is the primary source of assumptive care.

The trap of assumptive care is set for Millie when she happens upon a loaf of sweet bread. Millie links the food back to her grandmother, with the narrator informing us, "Her grandmother had loved that sort of bread, especially towards the end when she couldn't chew very well . . . [Millie] remembered pulling off small bits of steamed bun and feeding them to her grandmother with fragrant, lukewarm tea."⁶⁷ Based on memory, the bread thus seems like a clear choice for celebrating her grandmother's birthday, and Millie prepares to purchase it.⁶⁸

Here we meet Millie's feminist friend, Sierra. Millie is blocked by Sierra's booming voice from buying her bread, as Sierra scolds her for "supporting the dairy industry."⁶⁹ While standing against the dairy industry may seem generally principled, Sierra's stances on food often link to her racist assumptive care. The reader is informed that Millie met Sierra while she was loudly decrying Fuji apples as excessively sweet. When Sierra expressed intrigue for Sierra's powerful voice, Sierra responded with a generalization about Asian women, comparing them to "those little *beep beep* horns on a Prius."⁷⁰ Sierra's actions throughout the story indicate that she makes generalizations about Asian women and Asian cultures frequently.⁷¹ When Sierra reads Millie as a cis Asian American woman, Sierra's assumptions about Asian women fuels her "advocacy" towards Millie as she insists Millie needs to "sound like you *mean* it!"⁷² Sierra is thus attempting to encourage Millie to find her voice even as she sweepingly casts the voices of Asian women as silent. Millie is skeptical of Sierra's generalizations, thinking that "she knew some pretty obnoxious Asian women," but stays silent nonetheless in the face of Sierra's call to loudness in an attempt to forge a friendship.⁷³

In this context, Sierra's words toward Millie take the form of care by one woman to another, as Sierra seems to genuinely believe that Millie as an Asian American woman could benefit from the (loud) stores of knowledge she has to offer. However, Sierra's care is also already assumptive, shaped by racist assumptions about Asian women as meek. Sierra is thus attempting to include Millie and foster a relationship with her, but only based on assumptions that harken back to controlling images of Asian women as passive.⁷⁴ Sierra's racist assumptions have restricted the horizon of care that she practices towards Millie, short-circuiting any relationship they might have via a racist white feminist perspective about what care towards Asian and Asian American women should look like.

Once Millie comes out to Sierra as a trans woman, Sierra's silencing call to speech transforms into an injunction that

Millie find her subordinate place in relation to Sierra and her view of feminism or else risk an exhibition of male privilege.⁷⁵ This shifts Sierra's conceptualization of Millie from "possible dating material" to "younger brother-sister".⁷⁶ Though Sierra does not see Millie as having "male energy," the omnipresent specter of "male privilege" heightens Sierra's already racist patronizing care towards Millie, informing Sierra's attempts to instruct Millie on "what it meant to be a socially and politically responsible woman."⁷⁷

In this context, though Sierra's care has shifted in response to Millie's trans status, it is also simultaneously based on (1) assuming that Millie has the same experience growing up as white cis men, (2) homogenizing Asian cultures, and (3) generally lacking a sense of awareness about race in conversations with Millie. For example, at one point Sierra "helpfully" informs Millie, "You can't go out alone at night, or walk into any old sports bar without fear anymore, you know!" Sierra's patronizing tone strikes Millie as odd in the context of growing up as an Asian American person, as she remembers being taught to avoid spaces frequented by "large groups of white men,"⁷⁸ indicating Sierra is oblivious of distinctions between Millie's experience and experiences of white men. Additionally, Sierra frequently homogenizes Asian cultures, and once responded to Millie by asserting, "men are men: Chinese men and Japanese men both abused women, like those women in World War II. Oh that was Korea? Whatever. It's all the same oppression."⁷⁹ This homogenizing move is also used to simultaneously exoticize Millie and dismiss her for being trans, showing Sierra's cluelessness about race and trans issues. When Sierra starts telling Millie of a Japanese Zen garden/spa that opened about two hours away, she clarifies that it is a space set up for cis women, saying, "You know, *women* women—but I thought you might appreciate the Zen part, being Asian and all. Very feng shui."⁸⁰ Here Sierra, who decries the possibility of Millie ever taking up space, is more than willing to take up all the space and time she wants through her racist assumptions.

It is in this context that Sierra's criticism of Millie's bread choice stands out as particularly imposing. Sierra's insistence that Millie not exhibit any male privilege and behave as a proper feminist is linked with her commitments to ways of eating food. Criticizing Millie's choice of bread, Sierra brings together racism and non-sequiturs, explaining,

Patriarchy is patriarchy. Do you know that dairy cows end up in McDonald's hamburgers? They're genetically engineered to produce milk. . . . It's worse than what happens to beef cattle. . . . I mean, it's like the Tibetan women—they have nothing but their stories and weaving, but the men in the Chinese government want to take that away from them too.⁸¹

Millie is aware that Sierra's logical connections are baffling, but she holds back to avoid "accusations of male privilege, and, in this case, of possible connections with the Chinese government."⁸² Generally, Sierra has impressed upon Millie that proper feminists are proper dieticians, and that eating properly could help Millie distance herself

from her insurmountable sin of a vaguely defined "male privilege." The narrator provides a window into Millie's reflection on feminist dieting: "She really was sad that she had been born with male privilege, and maybe by being vegan, in some way she could be closer to the woman she wanted to be. A caring woman. A strong woman. A vegan woman."⁸³ Millie is aware of both Sierra's wild connections and her racist assumptions, but Sierra has nonetheless influenced how Millie wants to be seen by others. However, this also entails that Millie must not purchase the bread for her grandmother to prove to Sierra that she is not tainted by male privilege, and Millie leaves the bread behind.⁸⁴ It is thus an imposing white feminism that links Millie picking up bread for her grandmother with a risk of demonization and misgendering through Sierra's racist, simplistic notion of male privilege. Sierra's assumptive care, taking up the mantle of feminism, is ultimately informed by racism and transphobia.

Emi Koyama has argued that contentions between anti-trans feminists and trans feminists have often involved a centering of whiteness that displaces women of color (including trans women of color). In response to controversies over trans inclusion, Koyama asserts that the prioritization of women's oppression above all other forms of oppression in radical feminism leads to the "assumption that the privilege transsexual women are perceived to have (i.e., male privilege) can be viewed as far more dangerous to others than any other privileges (i.e., being white, middle-class, etc.)."⁸⁵ Koyama's analysis thus parallels Sierra's confusing insistence on homogenizing oppression into patriarchy and linking Millie with male privilege, even when these connections lack cogency.

Aoki's story thus depicts a nuanced intersection between racism and transphobia in the context of assumptive care. Though Sierra may be attempting to care for Millie, her racist and transphobic brand of feminism short-circuits all of her attempts, and she is effectively unable to interact with Millie on her own terms. Fittingly, Sierra is totally unaware of why Millie is at the marketplace to begin with, or even that Millie's grandmother is not alive, brushing Millie off and exiting the conversation as abruptly as she entered (albeit by offering a hug).⁸⁶ At this moment Millie refocuses on her grandmother, and it is here that the story transitions from knowledge of assumptive care to a vision of futurebound care as it intersects with Asian American experience, experiences of immigration, and trans experience.

FUTUREBOUND CARE AND SELF-CARE

Though Sierra is the main living non-protagonist in the story, Millie's grandmother persists through death as the key figure to whom Millie turns. Lamenting that she did not pick up the bread upon her return home, Millie's thoughts turn from Sierra's booming voice to thinking about her grandmother.⁸⁷ Having abandoned the sweet bread, yet unconvinced that scrawny parsnips and tomatoes would do justice for her grandmother's birthday dinner, Millie digs around her freezer and finds two pork buns. This is coincidental because Millie had just thought about a time her grandmother reminisced about traveling to the US from Vietnam while she and Millie were in a grocery store searching for steamed pork buns, although the

narrator assures us, “The two pork buns she found there weren’t from providence; they were from being Asian and having a freezer full of ethnic food.”⁸⁸ Now Millie’s food dilemma escalates beyond sweet bread: Should she honor her grandmother by eating meat and go against not only veganism but also vegetarianism? Here, Millie chooses her grandmother over Sierra: “She paused, full of trepidation about backsliding to meat, about oppression and male privilege and Sierra. But, with Grandma’s picture looking right at her, she put the buns in the microwave.”⁸⁹ The shadow of Sierra’s assumptive white feminist care is temporarily dispersed by the more important meeting between magnetron and meat within the microwave.

The food having dispelled Sierra’s hold on space, Millie reflects on an affinity she feels with her grandmother based on a shared lived experience between being an Asian American immigrant woman and being an Asian American trans woman. Eating the steaming pork bun, Millie recalls telling her grandmother she was brave to leave Vietnam for the United States, to which her grandmother responded with laughter. Her grandmother responded, “Brave? No, not brave. You do because you have to. Oh, you give things up, but maybe find new things, too.”⁹⁰ Engaged by steamed meat and memory, Millie feels “a new connection” between herself, her grandmother, and her family, seeing “her own life and identity, for the first time, as an immigrant.”⁹¹ Connecting her own transition to her grandmother’s immigration, Millie reflects on the unexpected aspects of her life as an Asian American trans woman: “She thought about Sierra, and about her other friends, too: gay, queer, trans, Goths, poets—friends who sometimes she just didn’t understand, but who really meant well. *Oh, you give things up but maybe you find new things, too.*”⁹² The time Millie spends with her grandmother thus points her toward a shared trajectory of travel, immigration, and looking toward the future. It is here where Millie offers the toast that forms the title of the story: “*To the New World!*”⁹³

Through these dynamics, Aoki provides knowledge about three aspects of futurebound care. First, futurebound care is present in Millie caring for her grandmother. In suspending Sierra’s demand and preparing the kind of food that her grandmother would prefer, Millie conjures up vivid memories that create an open space for her grandmother to live on and engage with Millie’s world. Second, in opening up this space of care, Millie is also allowing her grandmother to care for her. The memories of her grandmother provide Millie with an open outlook towards her future and the possibilities it might hold for her new world. Third, through these two dynamics, futurebound care also becomes a means of self-care. By maintaining a relationship to her grandmother, Millie is also providing the care she needs to continue onwards in light of her transition. Aoki thus not only highlights intersections between race, trans experience, and immigration in the context of futurebound care, but also elucidates a complex framework in which the care of another is entwined with self-care. Futurebound care, like assumptive care, is inflected by our social position and our dynamic ties with others. This futurebound care even includes a place for Sierra. After offering the toast to the new world sustained by her grandmother, Millie thinks again of Sierra and the

care Millie might offer to her, noting that “Sierra seemed like she needed to talk” and could use some education about trans men.⁹⁴ Millie’s practice of futurebound care thus includes an open space for Sierra too, booming voice and all.

CONCLUSION: TRANS LITERATURE AND TRANS KNOWLEDGE

In this essay, I argued that looking at trans literature can provide knowledge about care ethics in its spatial dimensions. Specifically, I have drawn out insights about assumptive and futurebound care, which close or open another’s space, time, world, and future. To explain this, I looked at Casey Plett’s and Ryka Aoki’s short stories as a source of knowledge about care as it is short-circuited by transphobia and racism, or enabled by giving the other space beyond assumptions and taking action to help them flourish. I believe the rich discussions of care that I have been able to develop from just three stories in trans literature is evidence not only that trans women are complex ethical knowers, but also that trans literature is a helpful companion to trans philosophy and feminist philosophy more broadly. While I hope to revisit the field of trans literature more critically in future essays to discuss the political economy of its production, which itself can manifest in a short-circuited care, I appreciate that the reader cared enough to follow along as I explored some of the dimensions that has made trans literature vital for me over the past few years.

NOTES

1. C. Gilligan, *In a Different Voice: Psychological Theory and Women’s Development*, 18.
2. *Ibid.*, 29.
3. *Ibid.*, 63.
4. J. Keller, “Autonomy, Relationality, and Feminist Ethics,” 153-54.
5. J. Keller and E. Kittay, “Feminist Ethics of Care,” 544.
6. P. H. Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 8.
7. U. Narayan, “Colonialism and Its Others: Considerations on Rights and Care Discourses,” 135.
8. K. Freund et al., “Two Types of Cross-Gender Identity,” 8.
9. M. Frye, *The Politics of Reality: Essays in Feminist Theory*, 86-87, 88.
10. *Ibid.*, 86.
11. *Ibid.*, 85.
12. *Ibid.*, 89, 92, fn. 6.
13. *Ibid.*, 92.
14. Discussing assumptive care and futurebound care in the context of Lugones was suggested to me by Talia Bettcher.
15. M. Lugones, “Playfulness, ‘World’-Travelling, and Loving Perception,” 4.
16. *Ibid.*, 6-7.
17. *Ibid.*, 7.
18. *Ibid.*, 6.
19. *Ibid.*, 8.
20. *Ibid.*
21. *Ibid.*, 9-10.

22. Ibid., 7.
23. Ibid., 5.
24. Ibid., 17; emphasis hers.
25. V. Dalmiya, "Why Should a Knower Care?," 42.
26. M. Hamington, "Care Ethics and Engaging Intersectional Difference through the Body," 88.
27. C. Plett, *A Safe Girl to Love*, 11.
28. Ibid., 11-12.
29. Ibid., 13.
30. Ibid., 14.
31. Ibid., 20.
32. Ibid., 13.
33. A "deadname" refers to a trans person's previous name that is no longer used.
34. Plett, *A Safe Girl to Love*, 18.
35. Ibid.; emphasis hers.
36. Ibid., 29.
37. Ibid., 2, 19.
38. Ibid., 2-3.
39. Ibid., 19.
40. Ibid., 21-23.
41. Ibid., 25.
42. Ibid., 26.
43. Ibid., 27.
44. Ibid.
45. T. Bettcher, "Trans Identities and First-Person Authority," 114.
46. Plett, *A Safe Girl to Love*, 25.
47. Ibid., 207.
48. Ibid., 208.
49. Ibid., 211.
50. Ibid., 201.
51. Ibid., 188.
52. Ibid., 205.
53. Ibid., 191, 193-94.
54. Ibid., 195.
55. Ibid., 201.
56. Ibid., 191.
57. Ibid., 183-84, 189.
58. Ibid., 212.
59. Ibid., 222.
60. Ibid., 223.
61. Ibid.
62. E. Kittay, "The Body as the Place of Care."
63. R. Aoki, "To the New World," 55.
64. Ibid., 54.
65. Ibid., 55.
66. Ibid.
67. Ibid., 55-56.
68. Ibid., 55.
69. Ibid., 57.
70. Ibid., 56.
71. Ibid., 56-57.
72. Ibid., 56.
73. Ibid., 56.
74. Cf. Y. L. Espiritu, *Asian American Women and Men: Labor, Laws, and Love*, 107.
75. Aoki, "To the New World," 56-57.
76. Ibid.
77. Ibid., 57.
78. Ibid.
79. Ibid., 58.
80. Ibid.
81. Ibid., 57.
82. Ibid., 58.
83. Ibid., 57.
84. Ibid., 59.
85. E. Koyama, "Whose Feminism Is It Anyway?," 701.
86. Aoki, "To the New World," 59.
87. Ibid., 60.
88. Ibid.
89. Ibid.
90. Ibid., 61.
91. Ibid., 61-62.
92. Ibid., 62; emphasis hers.
93. Ibid.
94. Ibid., 62.

REFERENCES

Aoki, Ryka. "To the New World." In *The Collection: Short Fiction from the Transgender Vanguard*. Edited by Tom Léger and Riley MacLeod, 53-62. New York: Topside Press, 2012.

Bettcher, Talia. "Trans Identities and First-Person Authority." In *You've Changed: Sex Reassignment and Personal Identity*. Edited by Laurie Shrage, 98-120. New York: Oxford University Press, 2009.

Collins, Patricia Hill. *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*. 2nd ed. New York: Routledge, 2009.

Dalmiya, Vrinda. "Why Should a Knower Care?" *Hypatia* 17, no. 1 (Winter 2002): 34-52.

Espiritu, Yen Le. *Asian American Women and Men: Labor, Laws, and Love*. 2nd ed. New York: Rowman and Littlefield, 2008.

Freund, Kurt, Betty Steiner, and Samuel Chan. "Two Types of Cross-Gender Identity." *Archives of Sexual Behavior* 11, no. 1 (1982): 49-63.

Frye, Marilyn. *The Politics of Reality: Essays in Feminist Theory*. Trumansburg, NY: Crossing Press, 1983.

Gilligan, Carol. *In a Different Voice: Psychological Theory and Women's Development*. Cambridge, MA: Harvard University Press, 1982.

Hamington, Maurice. "Care Ethics and Engaging Intersectional Difference through the Body." *Critical Philosophy of Race* 3, no. 1 (2015): 79-100.

Keller, Jean. "Autonomy, Relationality, and Feminist Ethics." *Hypatia* 12, no. 2 (Spring 1997): 152-64.

Keller, Jean, and Eva Kittay. "Feminist Ethics of Care." In *The Routledge Companion to Feminist Philosophy*. Edited by Ann Garry, Serene J. Khader, and Alison Stone, 540-55. New York: Routledge, 2017.

Kittay, Eva. "The Body as the Place of Care." Presentation for the Association for Feminist Ethics and Social Theory (FEAST) Conference. Tucson, AZ. October 20, 2013.

Koyama, Emi. "Whose Feminism Is It Anyway?" In *The Transgender Studies Reader*. Edited by Susan Stryker and Stephen Whittle, 698–705. New York: Routledge, 2006.

Lugones, Maria. "Playfulness, 'World'-Travelling, and Loving Perception." *Hypatia* 2, no. 2 (Summer 1987): 3–19.

Narayan, Uma. "Colonialism and Its Others: Considerations on Rights and Care Discourses." *Hypatia* 10, no. 2 (Spring 1995): 133–40.

Plett, Casey. *A Safe Girl to Love*. New York: Topside Press, 2014.

Participation in Sport Is a Human Right, Even for Trans Women

Rachel McKinnon
COLLEGE OF CHARLESTON

I never wanted to be an "activist" for athlete rights. Truly, I just wanted to race my bike and see how far I could advance in the sport I love. So far, this has led to a UCI Masters Track Cycling World Championship in 2018. I still have Olympic aspirations. It's certainly hard enough to achieve such lofty goals, but it's a lot harder when people are actively doing everything they can to ban you from competing, even when you're following every rule under the strictest of scrutiny. They still call me a "cheater" just for existing.

There are a lot of arguments being bandied about on whether it's fair for trans women to compete in women's sport. What is often lost in the shuffle is that there are trans men athletes and non-binary athletes. "Where are the successful trans men athletes?" I've read that more times than I can count. But the most commercially successful trans athletes have been trans men: Chris Mosier had a NIKE television ad campaign run during the 2016 Rio Olympics; Patricio Manuel has had a feature in *Rolling Stone* magazine.

Mack Beggs, a trans male wrestler who rose to fame for being forced to wrestle in the high school girls' category, is all too often used as an example of what's wrong with trans women in sport. He's now happily wrestling on the men's team in college. Amazingly, people irrationally opposed to trans women in sport think that he's a trans woman. Trans men are often celebrated, but then forgotten. They are vanished from the social imagination, since they don't serve the dominant narrative that only focuses on trans women in sport. In some cases, like with Beggs, they're used as pawns against trans women, in contortionist twists of what can at best be loosely called "logic."

And while trans men at least receive some media coverage and accolades for their "bravery"—which is itself an entirely other problem, rooted in misogyny and sexism—non-binary athletes are left out completely. Sport itself is often not structured to include non-binary people. If one isn't easily categorized into the binary man/woman, where should one compete? Many rules require an athlete to choose one, and then can't change their mind for four years.

And this binaristic structure of sport comes from on high, from the International Olympic Committee (IOC) and the arms-length arbiter of sport disputes, the Court of

Arbitration for Sport (CAS). In a landmark 2015 CAS decision about intersex female runner Dutee Chand, CAS's decision reads in part, "there are only two categories of competition: male and female. These categories are together intended to cover *all* athletes who wish to participate in competitive athletics." Sport's institutional structure is such that all Olympic-eligible sports must at least abide by IOC policy. In this case, athletes wishing to compete in the Olympics may only do so in either the "male" or "female" categories.

Common "understanding" is that there is at least some rigid distinction between sex and gender. So one might question why I'm slipping between using man/woman or boy/girl, which are often understood as "gender" terms, and male/female, which are often understood as "sex" terms. The reason is twofold. First, sport does not make any distinction between "sex" and "gender": they are used interchangeably. In the aforementioned CAS case, the paragraph following the aforementioned quote reads in part, "A rule that prevents some women from competing at all . . . is antithetical to the fundamental principle of Olympism that 'Every individual must have the possibility of practising sport, without discrimination of any kind'."

Second, governments do not make any distinction between "sex" and "gender," at least not typically. While trans people are not universally able to secure legal recognition of their (transitioned) sex, they are able in many countries. The USA, Canada, UK, Australia, Germany, and a long list of other countries have practices of allowing trans people to change the sex designation on their legal documents, including their birth certificates. In Canada, for example, a trans woman can be *legally recognized* as "female." There is no legal distinction between being "female" and "a woman." Of course, different governments require different things of trans people to acquire this legal recognition, and there can be differences at the federal and state/provincial levels.

There are many examples. Consider the language of the UK 2004 Gender Recognition Act:

Where a full gender recognition certificate is issued to a person, the person's gender becomes for all purposes the acquired gender (so that, if the acquired gender is the male gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman).

Note the use of "male gender" and "the person's sex becomes that of a man." The "gender" and "sex" terms are used in combination and interchangeably. Legal identification documents only list "Male" or "Female" or their abbreviations "M" or "F." One's passport doesn't say "Woman" or "Man." The idea that either sport or "female-only" social spaces such as bathrooms are segregated on the basis of sex and not gender, leaning on a rigid distinction between sex and gender, is simply not the case.

It's simply the case that *sport* and *governments* do not make a rigid distinction between sex and gender. Why does this matter, though? Some people who oppose trans women's

inclusion in sport are increasingly, begrudgingly willing to grant that trans women are *women* in terms of gender, but remain steadfast in their denial that trans women are not *female* in terms of sex. The idea is that we segregate sport on the basis of sex and so, begrudgingly, while trans women may be women, they are not *female* and thereby shouldn't be permitted into female-only sports categories.

My point here is to call attention to the lack of any such distinction in organized sport—including at the Olympic and Commonwealth levels—or in governments. So those who seek to argue for trans women's exclusion on the grounds that they (wrongly) think that sport is segregated on the basis of sex are, well, totally wrong.

But it gets worse for them. Prior to 1999, and in practice before the Atlanta 1996 Olympic Games, the IOC had various "sex verification" policies to determine whether an athlete was male or female, irrespective of their legal sex. However, this only ever applied to those seeking to compete in the women's category. We never scrutinize men and those competing in the men's category. Women's sport is the "protected" category. And in the early days, an athlete thought to be too masculine—which was differentially applied to women of color, since norms of femininity were set by white women's femininity—would be required to appear before a panel who would inspect her genitals. Anything other than a (white) normative vulva was deemed sufficient evidence that the athlete was not "really" a woman, and so would be excluded from competition.

Eventually, genital inspection was deemed to be insufficient, so the IOC introduced the practice of chromosomal testing. Specifically, they applied the Barr Body test, which (by "failing") merely tests for the existence of a Y sex chromosome. The presence of a Y chromosome constituted a "failure" of the test, and the female athlete would be deemed ineligible and barred from competition (with women). Over time, as scientific understanding of the prevalence of intersex conditions increased, test cases increased. Humans are not sexually dimorphic, meaning that people fall neatly into "XX" (female) and "XY" (male).

Humans are bimodally distributed around XX and XY configurations, but there are many other possibilities including XXY, XYY, XO (a null chromosome), and others. Moreover, some XX people have Congenital Adrenal Hyperplasia (CAH), which causes much higher production of testosterone, typically leading the person to develop phenotypically male. Conversely, some XY people have Complete Androgen Insensitivity Syndrome (CAIS) where while their body produces "typical" male levels of testosterone, their testosterone receptors are *insensitive* to the hormone, and this typically leads the person to develop phenotypically female.

Recognizing this, the IOC last engaged in chromosomal testing of athletes in the Atlanta 1996 Olympics, and formally banned the practice in 1999. Since then, and noted explicitly in the 2015 CAS decision, all sex verification policies are banned. Sport organizations are no longer in the business of determining whether an athlete is male or female. Instead, the CAS panel notes, "The distinction

between male and female is a matter of legal recognition" whereby "whether a person is female is a matter of law."

All Olympic-eligible sports are thereby required to respect an athlete's legally recognized sex. If a trans woman's identification documents say "female," *then she is really female*. Those who oppose trans women's inclusion in sport typically say that trans women are not "really" female, but they have no legal standing. They can scream "but biology" all they like: it doesn't change the facts. Sport takes an athlete's legally recognized sex. In many jurisdictions, trans women are legally female.

To reiterate, the first line of "argument" from those who oppose trans women's inclusion in women's sport is that sport isn't about gender, it's about sex. And while they may begrudgingly grant that a trans woman is a *woman*, they deny that she is *female*. But sport and governments make no such sex/gender distinction.

The second line of argument is that trans women are not "really" female, and thereby should be excluded from "female" sport. But sport—from the IOC down and all sports under the auspices of CAS—must respect an athlete's legally recognized sex: they may not have their own sex verification policies. And since trans women can be legally recognized as female, they are *really female for the purposes of sport*.

In my reading of things over the years, these are the primary arguments of those opposing trans women's inclusion in women's sport. And neither argument holds any water. More recently, some have become at least a little responsive to their losing this battle and have transitioned into what is now the most prevalent argument used against trans women's inclusion in sport: alleged performance advantages.

But I want to explain why this is largely irrelevant. Trans athletes' rights to compete are not contingent on showing that there isn't a competitive advantage. Additionally, because proving a negative is literally impossible, people who oppose trans women's inclusion can forever demand "more study" and the need for "more evidence" before they'll relent. But that day will never come, for they'll continue to manufacture potential sources of evidence even in the absence of any scientific evidence suggesting such a thing exists. My favorite so far is the claim that trans women have "muscle memory," by which these people mean that trans women's muscles "remember" pre-transition endogenous testosterone. This isn't a thing. They're making this up.

What does matter is the human rights framework. Some balk at the idea that sport is a human right. Others frame this "debate" about trans women in sport as pitting trans women's rights against (cis) women's rights in a kind of conflict of rights. But I'm here to tell you that there is no conflict of rights.

Sport is a human right. After a preamble, the IOC's Olympic Charter lists seven Fundamental Principles of Olympism. The fourth begins with, "The practice of sport is a human right."

That's the first full sentence. And they mean competitive sport: the IOC is only concerned with competitive sport. There is no right to *win* in sport; there is no right to *make a team selection* in sport. The right is to participate and try to win, to try to make the team, to strive for your best in the Olympic spirit, of mutual understanding, and of fair play.

(Cis) women do not have a right to exclude women they don't like or don't feel comfortable with. Sport and society has a long history of excluding women of color, often trading on these same claims of alleged competitive advantage or not feeling "safe." But these are not rights. Thus, extending the right for (trans) women to compete in sport with other women is *not* in conflict with other rights. We can't make up rights and claim a conflict. Rights are socially constructed but institutionally enshrined, often in law or policy. These alleged rights that people claim are in conflict with trans women's inclusion in sport don't exist in any institutional or legal sense.

Suppose that you're now convinced that participation in (competitive) sport is a human right. And suppose that you're now convinced that trans women are legally female, and thereby belong in women's sport. You might still object to trans women's inclusion on the basis of some notion of "fairness" and alleged unfair competitive advantages that you think trans women enjoy.

This is why the human rights framing is what controls the issue, not whatever scientific evidence we may want to argue over, allowing us to distract from the core issue. The IOC is an *international* organization, as is CAS. When they speak of "human right(s)," this puts us into the realm of international human rights law and principles. Two frameworks are often invoked: the United Nations [Universal Declaration of Human Rights](#) and the European Court of Human Rights [European Convention on Human Rights](#). CAS and the IOC are situated in Switzerland, which falls under both.

Both frameworks require the elimination of discrimination against women on the basis of sex (or gender; remember, these are interchangeable). This isn't to say that discrimination is never justifiable. "Discrimination" can be a neutral term, simply referring to the distinguishing between different groups or categories. In common use, "discrimination" refers only to the unjustified, unethical, or illegal forms of discrimination. But international human rights frameworks include provisions for when we can justify what is otherwise discriminatory.

There's a four-fold test. First, the policy must be in service of a worthy social goal. We have prisons and override the right to freedom of movement, partly on the grounds that doing so is in service of the worthy social goal of "promoting public safety." We can argue about whether this is *effective*, but the first test is merely to ensure that policies are in service of a worthy social goal. In sport, policies are in service of the worthy social goal of *fairness*.

Second, the policy must be *necessary* for the promotion of the worthy social goal. If we can achieve the worthy social goal without infringing upon human rights, then we must.

We can only potentially be justified in overriding human rights if doing so is necessary for promoting a worthy social goal. Arguably, the death penalty is not necessary for promoting public safety, and thus arguably fails this second test.

For our purposes, one issue is whether excluding trans women from women's sport is *necessary* for promoting fairness in competition. More on that below.

Third, the policy must be *effective* at promoting the worthy social goal. Even if a discriminatory policy might be judged necessary for promoting a worthy social goal, if it isn't effective at doing so, then it fails to be justified. A primary justification for the death penalty is to deter other crime. Arguably, evidence suggests that the death penalty is not effective at such deterrence. And since there are other methods capable of preventing someone from reoffending, the death penalty is neither necessary nor effective, and so is not justified.

For our purposes, another issue is whether excluding trans women from women's sport is *effective* at promoting fairness in competition. More on that below.

Finally, the benefit from promoting the worthy social goal must be *proportional* to the harm caused to the group or individuals discriminated against by the policy. Generally, policies that discriminate against already vulnerable or stigmatized social groups, even if they are necessary and effective in service of a worthy social goal, will fail to be sufficiently proportional. Appeal to the small size of a group will not suffice, either: the proportionality test is not a utilitarian calculus whereby a large group can benefit greatly at the expense of a few.

For our purposes, another issue is whether the harm to trans women caused by excluding them from women's sport is *proportional* to any proposed benefit to (cis) women. More on that below.

In an unprecedented move, the UN Human Rights Council released a statement calling on the UN High Commissioner for Human Rights to look into discriminatory policies in sport, including restrictions on endogenous testosterone in women, calling out the International Association of Athletics Federations (IAAF) by name. The statement reads in part:

Expresses concern that discriminatory regulations, rules and practices that may require women and girl athletes with differences of sex development, androgen sensitivity and levels of testosterone to medically reduce their blood testosterone levels contravene international human rights norms and standards, including the right to equality and nondiscrimination, the right to the highest attainable standard of physical and mental health, the right to sexual and reproductive health, the right to work and to the enjoyment of just and favorable conditions of work, the right to privacy, the right to freedom from torture and other cruel, inhuman or degrading treatment and harmful

practices, and full respect for the dignity, bodily integrity and bodily autonomy of the person.

The statement also explicitly refers to the aforementioned international human rights framework:

Noting with concern also that the eligibility regulations for the female classification published by the International Association of Athletics Federations that came into effect on 1 November 2018 are not compatible with international human rights norms and standards, including the rights of women with differences of sex development, and concerned at the absence of legitimate and justifiable evidence for the regulations to the extent that they may not be reasonable and objective, and that there is no clear relationship of proportionality between the aim of the regulations and the proposed measures and their impact.

What's most crucial about sport being a human right is that the *default* position is inclusion. The default is not "Exclude trans women until we have more evidence about there not being a competitive advantage." Rather, the default must be "Include trans women unless we have sufficient evidence to justify discrimination in an international human rights framework.

This is why the human rights framework controls this "debate." The practice of sport is a human right (IOC Charter), sex is a matter of legal recognition (CAS), and trans women can be legally recognized as female. Therefore, trans women have a human right to participate in competitive sport as women.

Trans women don't have to justify our inclusion. The burden of argument is entirely on those who seek to exclude us. And, as I'll briefly prove, that burden has not yet been met, and is unlikely ever to be met.¹

In order for excluding a group of people based on an alleged competitive advantage, as noted just now, such a policy would need to be in service of a worthy social goal, necessary and effective at promoting that goal, and the benefit to society is proportional to the harm caused by the policy. Trans-exclusionary policies fail on every measure except that the policies are at least plausibly in service of the worthy social goal of "fairness in competition."

How much advantage do trans women have in sport? I'm here to say *it doesn't matter*. It really doesn't. Let's assume for the sake of argument that there is an inherently biological cause of the gender performance gap where we see an approximately 10–12 percent difference between peak (cis) men's performances and peak (cis) women's performances. Let's just assume this, even though I think it's false. Let's also assume for the sake of argument that trans women are physiologically coextensive with cis men. Let's also just assume this, even though I think it's false.

My point here is *even if we assume this*, and we assume that trans women are physiologically the same as cis men, this is not enough to justify the exclusion of trans women from women's sport.

Some will recoil: but isn't this why we have men's and women's sport? Don't we sex-segregate sport *because* men are stronger and faster? No, I don't think so. I don't think the history of sex segregation and banning women from sport (back to ancient Greek Olympic Games) is because men are stronger: women were banned outright. Prior to the 1984 Olympic Games, there was no women's marathon event. Prior to the 1972 Olympic Games, there was no women's event in the 1500m or any event longer than 800m. Women weren't allowed into the Boston Marathon when, in 1967, Kathrine Switzer broke the rules to participate.

In the 1992 Olympics, the sports shooting competition was not sex-segregated (just like equestrian still is). A Chinese woman, Zhang Shan, won the gold medal. In the following 1996 Olympics, the IOC sex-segregated the event and *didn't offer a women's category*. The defending gold medalist was thus banned from competition. The current women's chess world champion was not permitted to compete for the men's world championship. Billiards, darts, bowling, and a long list of other sports are sex-segregated with no plausible physiological explanation.

None of these policies are or were because there's an alleged fundamental biological advantage that men have over women. This isn't *why*, historically, sport is sex-segregated. Sport both reflects and leads social attitudes. Societies the world over were and continue to be sex-segregated, relegating women to second-class status. Post hoc rationalizations abound, but simple sexism explains why we sex-segregate sport. We should have no illusion otherwise.

However, this is all irrelevant. My point, again, is that *even if we grant* that (cis) men are inherently stronger than (cis) women, *and we grant* that trans women are physiologically co-extensive with cis men, excluding trans women is not justified in an international human rights framework.

Why is this? Because claims like "men are stronger than women" are, strictly speaking, false. There are many women who are stronger than many men. These claims, instead, are either: the *average* man is stronger (taller/faster/etc.) than the *average* woman; or the *best* man is stronger (taller/faster/etc.) than the *best* woman. At present, these latter claims are true. But both elide the massive ranges within men and women. The shortest, weakest, slowest man is often the same as the shortest, weakest, and slowest woman.

Elite women athletes are considerably stronger than the *average* cis man, and certainly the *average* trans woman. The average height of the 2016 Rio Olympics women's high jump podium was 6'1.7". The tenth place woman in the final is 5'5"; the gold medalist is 6'3.6" and was the tallest in the competition. The global average height for men is around 5'9". Moreover, height is not uniformly distributed around the world. The average Dutch woman is 5'6.5", whereas the average Indonesian woman is 4'10".

We permit *huge* differences in natural physical traits within sport and call that "fair." So *even if* we say that the average trans woman is 4" taller than the average cis

woman, we already permit much larger height differences within women's sport and call it fair. This is true for any natural physical trait one selects, including endogenous testosterone. And while there's no evidence of a relationship between endogenous (internal, natural) testosterone and performance, my point is that *even if there were*, it's insufficient to justify excluding trans women.

We demonstrably permit competitive advantages within women's sport that are far greater than 10–12 percent. "Fairness" does not require that no athlete have a competitive advantage over her competitor. In fact, that's the entire purpose of training, coaching, equipment, nutrition, and so on. And fairness does not require us to exclude those who have considerable performance advantages.

So where does this leave us? The "fairness" claim is that trans women are like cis men, and cis men have a 10–12 percent performance advantage over women. If we simply assume that this is true, it's not enough to justify excluding trans women. Such a policy, while in service of the worthy social goal of fairness in competition, is not necessary for fairness: we permit even larger advantages within women's sport. It also thereby can't be effective. It's failed two of the *required* tests to justify a discriminatory policy under an international human rights framework.

And, finally, trans women are a heavily stigmatized and marginalized group, particularly trans women of color, and particularly trans women of color from the global south. And since the benefits to society of discriminatory policies that further harm an already marginalized, stigmatized group tend not to be proportional, excluding trans women also fails the proportionality test.

Excluding trans women is not justified under an international human rights framework, under which the participation in sport as a human right is subsumed. And given the comparably huge competitive advantages within (cis) women's sport we permit under fairness, I think that it's unlikely (to impossible) that any new evidence will ever change this. The default is inclusion, not exclusion. We don't need "more study" or "more evidence" in order to decide to grant what is everyone's human right: the right to participate in competitive sport.

So the scientific evidence is irrelevant. No competitive advantage that could ever be found to be attributed to trans women will be enough for an exclusionary policy to be both necessary and effective at promoting fairness in sport, given the massive competitive advantages we already permit in women's sport. The human rights argument is the one that controls this "debate."

And there *is no debate*.

NOTES

1. For an in-depth treatment of this argument, see Rachel McKinnon and Aryn Conrad, "Including Trans Women Athletes in Competitive Sport: Analyzing the Science, Law, and Principles and Policies of Fairness in Competition," forthcoming. Available at <https://bit.ly/2Hbeavr>.

Conceiving Differently within the Ethics of Assisted Reproduction

Alice MacLachlan

YORK UNIVERSITY

"Some parents who choose to conceive using gametes from others do so outside a clinic (e.g. a couple may use sperm provided by a friend). In such arrangements, intending parent/s may be exposing themselves to health risks and uncertainties regarding legal parenting rights and responsibilities. Little is known of these families and therefore this chapter will focus on those who conceive in a clinic."¹

– Lucy Blake, Martin Richards, and Susan Golombok, "The Families of Assisted Reproduction and Adoption"

Over the last few years, I've had various professional reasons to dive deeper into academic debates on the ethics of alternative family-making and assisted reproduction. I always do so with intellectual curiosity, significant personal investment, and no small degree of trepidation: it's hard not to search anxiously for myself across the pages, wondering what kind of verdict will be given about *my* family and my choices.

Almost always, the short answer is—pretty much none. As the quotation above illustrates, my family is both conspicuously absent and also fairly consistently referenced *precisely in order to flag our irrelevance* in discussions of assisted reproduction and sperm donation—we are alluded to as a possibility, cautioned as a risk, then dismissed as unruly data. Sometimes, given what ethicists have to say about the families they *do* discuss, this is a relief; at other times it leaves me with a pang of invisibility. But, over time, I've started to notice that academic silence around known gamete donation² doesn't just have an emotional effect (on me) but, more generally, a rhetorical one—I believe conversations about the ethics of family-making are shaped by the forms of family-making that are taken into account. And this has led me to wonder: what gets left out along with my family? And how might these conversations change if we were included?

My wife, Amy, and I are mothers of two daughters, Emmylou and Martha, aged six years and eighteen months, respectively. I carried both children; they were conceived with my eggs and with sperm from a friend of ours, outside of a clinic and without the use of other fertility treatments. My wife legally adopted Emmylou through a step-parent adoption in 2013. Then, in 2016, we were part of a successful legal battle to change family law in Ontario so that she could be recognized on Martha's birth certificate in 2017 without subsequent adoption.³ While the donor has legally waived all parental rights and responsibilities (first through a legal contract pre-conception, then the step-parent adoption, and finally under the new family law), he and his family are dear friends of ours; they care about our

kids just as we care about theirs. In many ways, I consider them family. They are part of the extended network of kin—whether through blood, choice, or happy accident—that my kids and their mothers are astoundingly lucky to have surrounding us.

Much as I might like to think of my family as unique, our story isn't. Lots of queer parents turn to friends and kin when building their family—we belong to more than one fairly large Facebook group organized around families with known gamete donors, and stories like ours are mundane enough to have featured as a plot point in various TV shows and movies. So why don't we figure in these academic debates? One easy answer is that the relevant ethical issues, for the most part, don't apply—or don't apply as directly—to our families.⁴ Philosophical and bioethical discussions of assisted reproduction tend to focus on four issues: (i) the various rights and responsibilities of all involved insofar as these illuminate the necessary and sufficient conditions for moral parenthood; (ii) the growing role of technology in human reproduction; (iii) the value and significance of genetic ties, and of knowledge of/access to one's genetic ancestors; and (iv) the ethics of secrecy and deception around someone's origins.

These are undoubtedly significant issues—but only the first touches directly on my family's experience. My wife and I came to parenthood together but through slightly different routes, meaning that I am sometimes described as the genetic-gestational mother and she, the social mother. This asymmetry distinguishes us from bionormative parents (each of whom has a genetic relationship to their child) and adoptive parents (neither of whom does) and even step co-parents; they enter their child's life at different times while we became parents together. Our asymmetrical, wholly shared parenthood provides an interesting case for debates about what fixes moral parenthood: that is, the particular rights and responsibilities towards a child we attribute to and only to their parents. At least some, though not all, variations of a leading (causal) theory of parenthood would shift my wife's standing to our sperm donor, for instance.⁵ From my perspective, this a pretty damning knock against such theories—but that is a question for another day. Moreover, since neither of our parental statuses is contested (by the donor, the state, or our children—so long as we don't count things said in the heat of piano practice), the ethical question feels relatively inert, in our case.

The other three issues are even less salient to us. As far as (ii), technological intervention, is concerned, we set out to conceive with the assistance of a \$.99 drugstore syringe (an artifact no more advanced than a broken condom). I've heard of folks using a known donor who employ nothing more than a spoon or the (now infamous) turkey baster. And as for (iii), the significance of genetic ties, the most impassioned arguments *against* gamete donation in the realm of philosophy are made by J. David Velleman, who focuses on the importance of *knowing* and *relating* to one's genetic relatives for human development and flourishing; the assumption is that donor-conceived people simply can't have this. Without the chance to observe (genetic) family resemblances and hear (genetic) family stories,

Velleman's argument goes, the donor-conceived individual grows up not knowing—or not entirely knowing—who *they* really are and, further, lacks the resources to make proper sense of what they do learn about themselves.⁶ While I am not persuaded by Velleman's arguments, it is also true that they don't apply as forcefully to my children, who do know their donor, his parents, and his children (their genetic half-siblings) and who have had and will have opportunities—should they desire them—to hunt for resemblances and affinities, points of difference and of overlap, within the context of ongoing caring relationships.

Velleman himself would likely say his arguments *do* apply to my family, as he notes that “the reasons for concluding that children should have access to information about their biological parents support the stronger conclusion that, all things being equal, children should be raised by their biological parents.”⁷ But he presents his case as an exhaustive disjunction—access to information or full parenthood—that ignores my family's existence. There is a vast difference between “having access to information” about a donor (e.g. health history, a photo, list of interests and aptitudes) and growing up with them as a well-known, beloved adult and family friend, within a personal relationship that has developed over time.⁸ It's not clear why having a genetic parent be one's legal guardian and default caregiver should be required to cultivate the kind of relationship Velleman describes as necessary for personal development—and Velleman never provides an argument for why it does. Again, this is not to endorse his overall argument *against* gamete donation; merely to note that its rhetorical power depends on the erasure of my family's reality.

And finally, there is much to be said about (iv): the ethics of secrecy around gamete donation, and the shock of discovering that one's social parent is not one's genetic parent after assuming, or being explicitly told, that they were. Certainly, secrets can be painful and deception even more so—even when they are an understandable and perhaps necessary choice for particular families in particular circumstances.⁹ I have spent some time on the We Are Donor-Conceived website (www.wearedonorconceived.com) and have been profoundly moved by the very heartbreaking testimony provided there.¹⁰ But, again, these moral quandaries are less relevant to queer families who use donor conception—whether with a known, open, or anonymous donor—where secrecy is less common. After all, even if same-sex parents use anonymous donor-conception, it's generally known that *some* donor, surrogate, or bio-parent was involved, and the default approach between queer parents and their children is *more* rather than less openness about conception.¹¹ In many cases, like ours, ‘queerspawn’ kids grow up knowing the mechanics and the meaning of how they came to be—as soon as or even before they can fully grasp both—told as a story of love and collaboration.¹²

But here's where I want to challenge the rhetorical framework at play. Instead of justifying our invisibility by pointing out our irrelevance, we could ask: How might academic understandings of what is or isn't ethically significant when it comes to non-traditional family-making *change*, if we took into account the wider variety of ways

that non-traditional families are made? And so, I find myself asking: if I were to develop the ethics of collaborative reproduction by starting with my own family's story, for example, what might emerge or transform about this field?

Put simply: I think we complicate things.

Academic research tends to characterize non-normative family-making in terms of *absence* or *lack*: lack of the father or the mother or appropriate reproductive organs or authentically genetic ancestors or significant genetic information. Bionormative families are taken to have something that other families lack—a particular parent, or set of histories, or genetic web—and implicitly become the model for completion, even wholeness. And, then, it's still easier for "lacking" to slide subtly into "less than."

Yet our experience has been one of abundance, not absence. Our children have their own family in us and our families of origin, and yet another family that is not theirs but with whom they have a special genetic connection, and the chance to explore what that means to them and to their genetic half-siblings, who also have a stake in its significance. In fact, my children also have something that children of bionormative families *lack*; the opportunity to experience and learn about themselves through genetic family resemblances and resonances *and* those that are not the dictates of coded genes, but which emerge solely out of and reflect the work of an ongoing loving relationship. When our eldest daughter (born and raised in Toronto) was young, about half the words that came out of her mouth were shaped by my wife and my in-laws' Newfoundland accent. She carries traces of it to this day, along with her love of superheroes, reading and drawing comics, DIY carpentry, and jokes repeated ad nauseum—all of which she gets from my wife. She loves to categorize and annotate our family's samenesses and differences; she and I have long hair and wear dresses, but the baby and my wife do not. Her sister and I like kicking a soccer ball around while she and her mama would rather draw. All three of them are right-handed and have blue eyes; I'm a brown-eyed lefty. The girls like Baby Shark on repeat, while Amy and I have our limits. Someday, as she grows up, Emmylou will start to map her own categories onto their wider social meanings: masculine vs. feminine, athlete vs. artist, adult vs. child. My hope is, our abundant family configuration will give her the puzzle pieces to attach her own meanings to family vs. genes, and to resist messages like Velleman's, that tell her whatever she sees of herself in me and my family of origin—or indeed, in our donor and his—must *necessarily* be more authentic and meaningful for her identity than the panoply she shares with Amy, with her Nana, or with her Grandpa and Nanny Sue.

In fact, children from exactly the kinds of families that the researchers in the epigraph avoid may be in a uniquely well-placed position to better understand the significance of genealogy vs. family than most of us. My children will experience what it is like to be loved by a social-genetic parent, a purely social parent, and—in another capacity—to be cared about by a genetic parent. Children in other overlooked *abundant* configurations (e.g., three-parent families,¹³ poly families, sets of partners co-parenting

together, and beyond) will have still richer comparative understandings of what various caregivers and histories bring to their own story and identity as they grow up. Moreover, this understanding is less likely to be shaped by the cultural message of *absence*—with the implication that the goods of social parenting are there to compensate for the loss of biological, genetic goods.¹⁴ In fact, I suspect the unique and distinct goods of purely social parents will only become visible when they are not framed as compensation for a prior or deeper loss.

I don't raise these cases to add a top layer to the hierarchy of bionormativity, as it were. My intention is not to argue that more parent-permutations necessarily means better parenting, or that some families "win" at family-making through sheer numbers alone. But we do put the lie to the idea that bionormative families have something other families *lack*—and in doing so, draw attention to the rhetoric of bionormativity that frames itself as wholeness vs. incompleteness. What I am calling "abundant" non-normative family configurations are not necessarily richer or more conducive to human flourishing than bio-mom-and-dad families, any more than bio-mom-and-dad families are necessarily richer or more conducive to human flourishing than single-parent families, blended families, non-parent caregiver families, or those families created through anonymous gamete donation, surrogacy, or adoption. Sadly, both social and biological parents can fail our children. Instead, shifting the picture to include a variety of configurations—smaller and larger, original and blended, social and/or biological—destabilizes the idea of that there is a single "whole" family, which alone has the potential to provide exactly those goods that growing humans need. Indeed, some of the relevant goods may not even be identifiable within current framings. Once we refuse the rhetorical move of starting from a disjunction (whole vs. lacking, default vs. compensatory, bionormative vs. less-than) we open ourselves up to a possible plurality of family goods and good families—and thus, put ourselves in a better position to do the finer-grained work of understanding what goes wrong and why, when families fail or harm.

In other words, I think including families like ours offers up different paradigms for understanding and answering the central ethical questions of family-making. It may also draw attention to new, undertheorized ethical themes. When I reflect back on our experiences, the salient ethical issues were not secrecy or technology, who was or wasn't a true parent, but the murkier and yet more familiar ethics of collaboration and dependency, and the relationship between risk and trust within collaborative endeavors: whether it was safer to house risk in the institutional protections of state and clinic or privately through interpersonal goodwill; how the asymmetry of our collaborative enterprise reacted to hurdles and disappointment, even miscarriage; how we navigated our differing attitudes to privacy and disclosure; how to think and talk about our family in relation to others who are more or less closer to the bio-norm, in ways that celebrate our configuration without disparaging others (something that has been a struggle, even in the course of this essay).

No one can reproduce entirely on their own, unless they're an amoeba, but our collaboration was larger than many. Beyond the donor were his wife and their children, who regularly hosted us as we were trying to conceive—and then there were lawyer friends who reviewed the contract and adoption for us, queer friends who offered detailed insemination advice, family members who gave us their frequent flyer miles, visiting grandmothers who offered sweet and surprisingly non-awkward encouragement, friends whom we called on to cat-sit, colleagues who covered classes, the family doctor who taught me to track my fertility cycles, and so on, and so on. In our case, it didn't just take a village to raise a child; it took a village to make one. Emmylou and Martha were conceived with a thousand tiny acts of kindness, and several large and significant ones. Paying attention to stories like ours centres the reality of *collaboration*—not technology or secrecy or ancestry—at the heart of what it is to make a family.

ACKNOWLEDGMENTS

For a short piece, this has received a lot of assistance. I'm grateful to Carolyn McLeod and Françoise Baylis, whose work in this area first introduced me to the debate; to Olivia Schuman, Daniel Groll, and Michael Montess, whose conversation and writing have shaped my thinking on the topic; to Deborah Finding, Amy Noseworthy, and Susanne Sreedhar for their comments on earlier drafts, and to Grayson Hunt for giving this essay a home. Finally, I'm grateful to Amy, Emmylou, and Martha for letting me do philosophy about them.

NOTES

1. Found in *Family-Making: New Ethical Challenges*, ed. Françoise Baylis and Carolyn McLeod (Oxford, 2014), 69.
2. Some quick terminology: known donors are personal family or friends; open-identity donors are strangers, connected through a clinic or sperm bank, who agree to share personal information.
3. Alice MacLachlan and Amy Noseworthy, "By Ignoring Parental Rights, Ontario Puts Our Daughter's Welfare at Risk," *The Globe and Mail*, June 2 2016. <https://www.theglobeandmail.com/opinion/by-ignoring-parental-rights-ontario-puts-our-daughters-welfare-at-risk/article30244298/> (accessed May 27, 2019).
4. And of course, when it comes to descriptive empirical research, we're less easy to track—since our family-making doesn't necessarily require a fertility clinic, we can't always be found on client lists or through donor registries. But my focus here is normative debates about parenthood and assisted reproduction in applied ethics, which don't rely as heavily on empirical data.
5. For a compelling argument for why causal theories of parenthood do not need to draw this conclusion, see Lindsey Porter, "Why and How to Prefer a Causal Theory of Parenthood," *Journal of Social Philosophy* 45, no. 2 (2014): 182–202.
6. J. David Velleman, "Family History," *Philosophical Papers* 34, no. 3 (2005): 357–78.
7. *Ibid.*, 362 fn.
8. Indeed, there are multiple degrees of knowledge between access to a donor-profile and a lifelong personal connection to one's donor that may also be more or less conducive to personal development. For a fascinating discussion of the epistemology of various donor arrangements and the sense of "know" in question when philosophers discuss the need to know, see Olivia Schuman, "What Kind of Interests Does the 'Right to Know' Protect?" (unpublished).
9. The activist in me can't help but note that a culture which prizes bionormativity and implicitly downgrades other families to second-best may bear some responsibility for why parents choose to keep donation secret.
10. While the voices of donor-conceived individuals online largely express dissatisfaction at anonymous donor-conception, their views are not monolithic. This testimony is taken from another

website, anonymous.org: "I have never met my donor 'father,' and I have no desire to do so. I do not see this lack of contact with my biological father as something missing in my life, and I have no hurt at the fact of my creation. What does cause me hurt, however, is the idea, constantly repeated by small numbers of donor-conceived children, and in popular media representations of the issue, that there must be something wrong with your life if you do not know your biological father." <https://anonymous.org/i-have-never-met-my-donor-father-and-i-have-no-desire-to-do-so/>. I first read this quote in a chapter draft of Daniel Groll's book, *The Need to Know* (forthcoming).

11. I want to be careful in my language here. I mean to indicate that this is the case for cisgender same-sex parents, and not all same-sex parents are cisgender. Donor conception and/or surrogacy is also typically assumed for same-sex parents where one parent is trans, since the possibility of normative conception may not be available (or, if it is, be widely known to be available). Different-sex couples where one parent is trans and one is cis may not face the default assumption that they used a donor, and in this case they are more like cisgender different-sex parents, who face the moral choice whether to be open about donor conception from the start, or not.
12. For those who are interested, I highly recommend the children's picture book *What Makes a Baby*, by Cory Silverberg and Fiona Smyth (Triangle Square Press, 2013) as a resource for such storytelling.
13. See, for example, this public radio story about a married couple and their asexual best friend who decided to parent together: <https://www.wbur.org/hereandnow/2017/11/06/three-parent-family> (accessed May 27, 2019).
14. Which is not to say they won't face other cultural hurdles—no one likes to be different in grade school.

BOOK REVIEW

Life and Death of Latisha King: A Critical Phenomenology of Transphobia

Gayle Salamon (New York University Press, 2018). 192 pp. Hard cover \$89.00, ISBN 9781479849215; paperback \$24.00, ISBN 9781479892525.

Reviewed by Chris Jingchao Ma
VILLANOVA UNIVERSITY

On February 13, 2008, fifteen-year-old Latisha King at E.O. Green Junior High School in Oxnard, California, was shot by her fellow student, fourteen-year-old Brandon McInerney. Latisha King, previously known as Larry King, had identified and come out as a gay boy and was routinely bullied for wearing high heels and makeup. Her acquaintances and other people in the courtroom and in most media coverage (including the current Wikipedia page on "The Murder of Larry King") refer to her as Larry and use the pronoun "he." On the day of her murder, King had just announced her new name as Latisha. After she made the announcement and typed it on a computer screen, King was shot twice by McInerney and died two days later. Gayle Salamon's new book *Life and Death of Latisha King: A Critical Phenomenology of Transphobia* (2018) is a unique philosophical project that presents a detailed study of the courtroom hearings of this case. Instead of examining the actions of the crime or before the crime, Salamon examines the things said in court about Latisha King and especially about her gender identity, in order to reveal the transphobic understanding of gender held by everyone in court, not only McInerney. This trial is particularly relevant to philosophical

inquiries of gender identity and embodiment because much of the debate hinges on what gender is and whether King's gender expression is an aggression in itself. If King's gender expression can be established as an aggression, then McInerney's action of manslaughter is a reactionary attack, a provoked murder, or even a self-defense taken too far. With her analysis of the court hearings, Salamon shows how transgender identity is weaponized, that is, how transgender expression is seen as an aggression and an attack towards cisgender heterosexual people. Transphobic understanding of gender is fundamentally contradictory and incoherent: it unevenly and retrospectively attributes volition and intention to queer and trans subjects; they are found guilty of committing a gender identity and hence deserve retribution. We find this recurring thesis throughout this book: "queer or trans gender becomes a target of homophobic and transphobic aggression through first being read as itself constituting an act of aggression" (10). Latisha King's gender is understood as her voluntary choice and action and an *extra* demand on others to look at her and to acknowledge her; yet at the same time, her non-conforming gender is denied any legitimacy or recognition. "Violence against Latisha, daily teasing and name calling, shoving her into the lockers as she passed by, was part of the normative fabric of the school," and these everyday instances that deny her existence happened long before McInerney's final action (156). The daily transphobic violence of bullying is made invisible, while Latisha King is made constantly visible as the cause of this violence.

For readers interested in phenomenology, this book offers a discussion and an application of the method of critical phenomenology. Salamon refers to Lisa Guenther and Werner Marx for critical phenomenology and phenomenology as ethics. Following Guenther's emphasis on both first-person experience and transcendental *intersubjectivity*, Salamon hopes to elucidate with phenomenology that the subject is enmeshed in the world which "is constituted by and appears as a result of certain conditions" (17). The phenomenological method requires us to withhold our daily rapid judgments and to actively withhold what we already know about this world in which we are enmeshed. For this specific project and for these kinds of projects, that is, philosophical inquiries that stem from social justice and ethical concerns, Salamon suggests that phenomenology can be helpful as a method of unknowing: "to revise or undo knowledge that I already have, perhaps to question the epistemological regime that brought that knowing about in the first place" (149). As Marx suggests, phenomenology does not simply describe our experience but aims at revealing a structural whole of our experience so that it can remind us of human mortality and sociality. In this way, phenomenology is not only a descriptive method, but can also be an ethical one.

For readers interested in trans philosophy, queer theory, feminist philosophy, and philosophical discussion of gender and self, this book weaves theoretical discussions with a fine-grained analysis of a court hearing where the definition of gender is of utmost legal and political importance. The opening statement of the trial, notes Salamon, defines gender as sex and describes King's sex as male, yet King's anatomy is never brought up in court,

exposing that the language used in court is inadequate to understand King's identity (115). For the majority of the court hearing, King's "gender" is described, presented, and imitated through gestures, mimes, and an exhibition of objects. These reenactments and scrutinization of an absent person's gender allows Salamon to examine the meaning of gender as gestures in this case and in the broader societal imaginary. Salamon first points out that King's gendered expression ("feminine") is often read together with her sexual orientation ("gay"). Although in our lived experience these two aspects are often intertwined and inseparable, here, the conceptual conflation is dangerous as it "encourages people to look at gender expression as an act, and often as an aggressive act, akin to a sexual advance or even a sexual assault" (30). Following Gail Weiss and Maurice Merleau-Ponty, Salamon examines gender as a gestural phenomenon and gestures as "a bodily means of communication" (31). She argues that embodied gestures have a style that is not reduced to biology nor completely within our voluntary control. However, King's gender, here epitomized by her gendered style of walking, is read as her willful action of defiance and hence aggression, while cisgender gestures are not read as voluntary and merely taken for granted as natural. "In contrast, then, with the cisgendered boys and girls against whom she was compared, Latisha's gender was seen as a choice, as a behavior over which she had control, and also construed as something over which she refused to exert control" (32). Consequently, Salamon argues, if one believes that transgender subjects make the conscious choice of performing their gender, it follows that this conscious performance makes a social demand because a voluntary act is seen as an act *upon* others. Hence, King's gender expression is seen as a demand for response, or in the words of her teachers: she demands attention. Salamon notes, "whereas normative gender identity, in this logic, asks nothing and demands nothing of others—it is, in effect, non-social—trans gender is understood as a provocation to the extent that it is a shared social project" (30).

To understand transgender as voluntary and demanding allows cisgender people to mask their desire to look and to accuse the trans queer subjects as the cause of their discomfort—"it's not that I wanted to look at her; she made me." Subsequently, queer and trans subjects are understood to be responsible for the everyday verbal and gestural harassment. In fact, the daily bullying happening to King does not register as harassment to the teachers, while she, by putting on lip gloss, is seen as the threat to her own safety in this logic (37). Adding the dismissed factor of race back into the picture (Latisha King was mixed race and identified as Black, while McInerney held white supremacist beliefs, but racist hate crime was ruled out as a possibility in the case), Salamon compares this case to the beating of Rodney King in that in both cases, an aggression is retrospectively read into the queer bodies, trans bodies, and black bodies as "fantasies of aggression projected onto a victim" (90).

In the second half of the book, Salamon takes a turn of perspective and discusses gender as an object of perception. As embodied gestures, gender entails a

bodily way of communicating some meanings between subjects. Another recurring theme throughout the book is a discussion of this collaborative meaning in our shared world. Drawing on Edmund Husserl and Merleau-Ponty, Salamon argues that we live “a lifeworld that is social, in which the engendering and interpretation of meaning is a relational activity” (92). The “I” only emerges in a context of a horizon shared with other embodied subjects. In another place, she argues that the “I” does not constitute the world from its subjective position—which would be the Cartesian cogito that Merleau-Ponty refutes—but perceives the world in which it lives (125). In this shared world, therefore, my meaning is better understood as a collaborative project. This, however, does not guarantee the optimal equality in collaboration. On the contrary, the concept of horizon allows us to understand the detrimental effects that power relations can have: my meanings may be canceled, may not be able to emerge, and other meanings might be read into me, against me, as “power can delegitimize other horizons, can render them as untrue, invisible, or unthinkable” (92).

Latisha King, like many queer and trans individuals, was unable to emerge as intelligible or possible. As a “boy” who wears “girls’ clothes” and makeup (Salamon points to how we assign a gender to certain clothing items and then fear their power of making that gender come true), King cannot be reconciled with the rest of students who wear their “correct” gender-related attire and enjoy their “correct” gender-related activities. She thus stands out from the everyday, mundane anonymity. The concept of anonymity, for Alfred Schütz, is “the fabric from which daily life is woven” (112). The shared social fabric allows us to live in the everyday life flow, but it is a protection from which King is denied: “she was unable to retreat into anonymity and thus unable to inhabit the shared and reciprocal life of those around her” (117). Standing out from the daily fabric, King therefore stands outside of common sense—the epistemic equivalent of anonymity—and fails to be intelligible. One of her teachers describes seeing her first as a well-dressed girl talking to her friends, “then I saw it’s Larry.” Salamon identifies here a Husserlian moment of retroactive crossing-out: the object perceived at first—Latisha being a well-dressed girl—is crossed out as it is unintelligible and therefore non-existent when the proper “Larry” is seen. This, Salamon argues, is the everyday violence “to void or cancel her existence” and to deny her life, and this happened long before the final shooting (156).

This book is particularly relevant and urgent today. As Salamon notes in the coda of the book, we currently see in our news that transgender people are portrayed by transphobic politicians as deceivers, liars, and purposeful sexual harassers in women’s bathrooms and transphobic politicians claim that cisgender women’s privacy and safety must be defended by exposing and endangering trans women, as if trans women pose the true danger to cisgender women. At the same time, we also see trans-exclusionary feminist authors and lesbian activists denouncing trans people because they are seen as imitations of the “real” gendered experience, no matter how hard they “try.” It is therefore crucial to parse out the relation between gender identity, sexual activity, sexual attraction, and subjective will. To contextualize her argument, Salamon acknowledges

that there are multiple ways to conceive the relation between these concepts, and that other philosophers, such as Talia Mae Bettcher, have thought of gender identity and sexual attraction as inevitably connected. Bettcher poses the theory of “erotic structuralism” where she argues that “a gendered eroticization of self” is an indispensable component as we think of sexual attraction. Salamon argues that the crisp distinction drawn in this book is a response to the way in which these concepts are mobilized in transphobic discourses, and especially the case study here.

Reading this book may invite us to think with Salamon and further ask these questions: We have seen the legal and political mobilization of the concepts of gender identity and sexual orientation, how can we think about the conceptual genealogy of these terms and their political valence? In other words, why are these terms mobilized and transphobic discourses produced now? Another set of questions concerns King’s racial identity, dismissed as irrelevant early on in the legal procedures. How can we use critical phenomenology to think about black femininity, black masculinity, and black transness, which are often deemed as protruding, excessive, and aggressive? As C. Riley Snorton points out, “‘gender,’ under captivity, refers not to a binary system of classification but rather to what Spillers describes as a ‘territory of cultural and political maneuver’” (12). What role does the de-racialization of King play in the courtroom and in media, in relation to her non-existent transgender identity?

Readers interested in critical phenomenology would find in this book an excellent exemplar and a resource to think with. Written with a clarity fit for readers who are not experts in phenomenology, this book would offer immense insight and inspiration for readers interested in trans, queer, feminist theory and politics.

REFERENCES

- Bettcher, Talia Mae. “When Selves Have Sex: What the Phenomenology of Trans Sexuality Can Teach Us About Sexual Orientation.” *Journal of Homosexuality* 61, no. 5 (2014): 605–20.
- Salamon, Gayle. *The Life and Death of Latisha King: A Critical Phenomenology of Transphobia*. NYU Press, 2018.
- Snorton, C. Riley. *Black on Both Sides: A Racial History of Trans Identity*. Minneapolis London: University of Minnesota Press, 2017.

CALL FOR PAPERS

The APA Newsletter on LGBTQ Issues in Philosophy invites members to submit papers, book reviews, and professional notes for publication in the **fall 2020** edition. Submissions can address issues in the areas of lesbian, gay, bisexual, trans, gender, and sexuality studies, as well as issues of concern for LGBTQ people in the profession. The newsletter seeks quality paper submissions for review. Reviews and notes should address recent books, current events, or emerging trends. Members who give papers at APA divisional meetings, in particular, are encouraged to submit their work.

DEADLINE

The deadline for submission of manuscripts for the fall edition is May 1, 2020.

FORMAT

Papers should be in the range of 5,000–6,000 words. Reviews and Notes should be in the range of 1,000–2,000 words. All submissions must use endnotes and should be prepared for anonymous review.

CONTACT

Submit all manuscripts electronically (MS Word), and direct inquiries to Grayson Hunt, Editor, APA Newsletter on LGBTQ Issues in Philosophy, graysonhunt@austin.utexas.edu.

BIOS

Dr. Amy Marvin received her PhD in philosophy from the University of Oregon in March 2019, where she focused on feminist philosophy and did organizing work for trans philosophy. You can see what she is currently up to on Twitter at @amyrmav.

Dr. Rachel McKinnon is an associate professor of philosophy at the College of Charleston in South Carolina. In addition to her work in epistemology, philosophy of language, and feminist philosophy, she is an expert on trans athlete rights and barriers that trans athletes face while competing. In 2018 she became the first ever openly trans woman to win a world championship in an Olympic sport, winning the UCI Masters Track Cycling Championships sprint event for women 35–44. She continues to be an academic, activist, and athlete promoting fairness and inclusion in sport.

Dr. Alice MacLachlan is associate professor of philosophy at York University (Toronto, Canada), where she directs the graduate program in philosophy. She writes and teaches in moral, political, and feminist philosophy, focusing on philosophical issues arising in the aftermath of conflict. She has also worked in LGBTQ philosophy on topics ranging from the ethics of coming out to the changing nature of family. Her recent publications include “Fiduciary Duties and the Ethics of Public Apology” (*Journal of Applied Philosophy* 2018), “‘Trust Me, I’m Sorry:’ The Paradox of Public Apology” (*Monist* 2015), “Gender and the Public Apology” (*Transitional Justice Review* 2013), and “Closet Doors and Stage Lights: On the Goods of Out” (*Social Theory and Practice* 2012). She is co-editor of *Feminist Philosophy Quarterly*.

Chris Jingchao Ma is a doctoral candidate in the Philosophy Department at Villanova University. Her dissertation research brings psychoanalysis and phenomenology together to offer a social and dynamic understanding of gender identity, sexuality, and the gendered body.

Dr. Grayson Hunt is the associate director of LGBTQ studies at the University of Texas at Austin. He completed his PhD in philosophy at the New School for Social Research in 2013. He specializes in transgender studies, queer theory, and continental philosophy. His work has been published in *New Nietzsche Studies*, *The Journal of Speculative Philosophy*, and *Hypatia Reviews Online*. He teaches Introduction to LGBTQ Studies and Transgender Feminisms at UT.