Gender without Gender Identity: Identity-based Views of Gender and the Problem of Cognitive Disability
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What gender are you? And in virtue of what are you a member of that gender? These questions are questions of gender categorization. And, for better or worse, such questions are increasingly at the core of many contemporary debates about gender, both within philosophy and in public discourse more broadly.

When considering questions of gender categorization, growing efforts are being made to highlight the importance of gender identity. Philosophical theories of gender have more traditionally focused on gender role - the social norms, obligations, and positions that others impose on you based on what they take your gender to be. But the experiences of trans, non-binary, and gender nonconforming people have shown that an exclusive focus on gender role is inadequate for theorizing the complexity of gender. We also need to consider a person’s own experience of their relationship to gender categories and gender norms. Two people, for example, might both be perceived as relatively androgynous women, but while one thinks of herself as a gender-nonconforming woman the other thinks of themself as genderqueer. And this difference in gender self-identification is not merely a difference in personal feeling. An androgynous woman and a genderqueer person - even if they are treated similarly by others - will often experience and navigate gender norms and roles quite differently, and this difference matters to a full understanding of gender.

In what follows, I am by no means attempting to dispute that gender identity is an important aspect of gender categorization (and gender more broadly). Rather, I’m going to argue that, in the process of giving long overdue attention to gender identity, it’s important that we don’t swing the pendulum too far the other way. It’s become increasingly common, in both public and philosophical explanations of gender, to claim that gender identity uniquely determines one’s gender. That is, it’s become increasingly common to say that gender categorization is solely a matter of gender self-identification. And that claim, I’ll argue, is too strong. While gender identity obviously matters to gender, it shouldn’t be taken to be the sole determinant of gender.
My argument for this is straightforward: if we say that gender categorization is determined by gender self-identification, then many cognitively disabled people won’t have genders (and, more strongly, they won’t be capable of having a gender). I’m going to argue that this result is unacceptable. And I think the reasons why it is unacceptable show us interesting things, both about what’s required for a successful theory of gender and about how cognitively disabled people are often marginalized in philosophical discussions.

1. Gender Categorization

Many contemporary debates about gender are, at least in part, questions about gender categorization. I take gender categorization to be the social practice of saying which particular individuals belong to which particular gender categories (such as man, woman, genderqueer, agender, etc) in which particular contexts. To engage in this practice we of course often face a range of further complex questions - questions of which gender categories there are, which features determine gender category membership, and which features (if any) the membership of a particular gender have in common, and so on.

Philosophers differ on how to best interpret the practice of gender categorization. For some, it’s a question of how we define and apply our gender terms, such that gender categories are taken to be the extensions of our ordinary language gender terms.¹ For some, it’s primarily an issue of membership in socially constructed kinds.² For some, it’s a more overly political question of how we can use gender classification to promote justice.³ In what follows, I’m not going to take a view on any of those complicated issues.

Regardless of how you interpret them, it’s hard to deny that issues of gender categorization are both politically and philosophically important. How people deserve to be treated, which people can access which spaces, which people have a right to particular legal protections, and so on - these questions all typically involve issues of gender categorization. Moreover, if we want to understand the harms of misgendering⁴, we have to have some way of saying what it is to correctly apply gender. That is, we have to have

¹ Saul, Diaz Leon
² Haslanger, Sveinsdottir
³ Jenkins, Dembroff
⁴ Kapusta
some kind of explanation of how gender categorization should be carried out in order to explain why and how it’s sometimes carried out *incorrectly*. And so, in what follows, I’m going to proceed with the basic idea that gender categorization is the practice of assigning individuals to gender categories in a context - and that this practice is both philosophically and politically important - while trying not to take a view on whether this practice should be construed in primarily political, metaphysical, or semantic terms.

2. Gender and Gender Identity

I’m going to start with a basic assumption: gender identity matters to gender categorization. Akira is a gender-nonconforming person who is often read, due to her clothing choices and the physique that results from her bodybuilding as a man. But she identifies as a woman. Julia also identifies as a woman, but she has male physiology and has been unable to access and afford various medical transition procedures she would like to undergo. As a result, even thought she dresses in feminine-coded ways and uses female pronouns, she is typically seen by others as man. Blair is sometimes seen by others as a woman, sometimes as a man, but identifies as non-binary - neither a man nor a woman. To adequately understand gender for each of these people, we need to talk about gender identity. And, more strongly, to talk about gender categorization in each case, we need to appeal to (and defer to) gender self-identification.

Gender self-identification is especially important in cases like these, because they show the extent to which other factors - sex characteristics, social role, the perceptions of others - aren’t always sufficient for gender categorization. We might say that Akira is a woman because she has female sex characteristics, even though she often isn’t seen by others as female. But Julia doesn’t have female sex characteristics, nor is she generally taken to have them, and it seems like we ought to say that she’s a woman too - there shouldn’t be a financial bar on who gets to be a woman (or who gets to be ‘really’ trans). Likewise, Blair might both have female characteristics and often be seen as female, but we shouldn’t thereby say they’re a woman, given that doing so would both misdescribe her experience of gender and disrespect her preferred gender categorization. Misgendering someone - that is, ascribing to them a gender other than the one they take themselves to have - is often both politically and morally harmful.\(^5\) And to avoid misgendering, we have to take seriously - and typically *defer to* - a person’s own gender self-identification.

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\(^5\) See especially Stephanie Kapusta’s extended discussion in [CITE], and Bettcher [CITE]
There’s a rich philosophical literature arguing for the importance of gender self-identification, but I’m not going to discuss those arguments here. In what follows, I’m simply going to assume its importance. That is, I’m simply going to assume that gender self-identification matters to gender categorization and that gender self-identification is typically something we should defer to and treat as authoritative when considering questions of gender categorization.

Once we assume that gender identity matters to gender categorization, however, there’s a further question of to what extent gender identity determines (or is even constitutive of) gender categorization. Deferring to gender self-identification typically involves taking sincere gender self-identification as a sufficient condition for gender categorization. Someone can be an x even if they don’t dress or act like we expect xs to act, even if others don’t typically interpret them as an x, and so on - provided that they sincerely self-identify as x. And so to allow for this variation in social role, appearance, behavior, etc, we need to say that sincere self-identification as x is at least sufficient for being categorized as an x.

But this, of course, leaves open a wide range of options for how strong the connection between gender self-identification and gender categorization is. There might be other aspects of gender which are also sufficient conditions for gender categorization. Or there might be a family of gender-related features, none of which are individually sufficient (or necessary) for gender categorization but which, when had together, are jointly sufficient. And so on. The possibilities are many and varied.

But despite this multiplicity of options, it’s increasingly common to see a particularly strong view taken: the view that gender self-identification is both sufficient and necessary for gender categorization. Perhaps one reason for the popularity of this view is that other aspects of gender - gender expression, gendered social role, etc - can vary among people with the same gender categorization. Someone can be non-binary even if others don’t generally perceive them as non-binary, someone can be a woman even if they have a very masculine gender presentation, and so on. And if we say that all these other aspects of gender can vary within a specific gender categorization, a simple solution to the question of gender categorization is that one is a member of some gender x if and only if one identifies as x.

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6 See especially Dembroff [cite], Bettcher [cite], Stryker [cite], Jenkins [cite]
And so perhaps it’s simple considerations of parsimony that lead to the view that self-identification is both sufficient and necessary for gender categorization. Treating self-identification as a sufficient condition for categorization typically involves a commitment to the idea that many other aspects of gender-expression, social role, etc.—aren’t sufficient for gender categorization, since someone can have the gender expression or social role we typically associate with x, but self-identify as y. And so, once we’ve made self-identification a sufficient condition, an easy solution to the resulting puzzles we face is to treat self-identification as the single necessary and sufficient condition for gender categorization.

It’s not all that surprising, then, that such claims are increasingly made in popular discourse around gender. The feminist educational organization Our Bodies, Our Selves, for example, in their explanation of the sex/gender distinction, states that “Gender is often understood to refer to gender identity, meaning your internal sense of yourself as female, male, or other.” Likewise, Teen Health Source explains that “[g]ender isn’t about whether you were born with a penis* or vagina*, but how you feel about yourself.” Similarly, the psychology education and training organization Praxis, in their primer on sex and gender, says that “Gender isn’t ‘what’s between your legs,’ it’s ‘what’s between your ears.’ In other words, gender is how you think and feel about yourself, and how you behave or express yourself in the world.” And the National Center for Transgender Equality stipulates that their preferred practice is to use “both the adjectives ‘male’ and ‘female’ and the nouns ‘man’ and ‘woman’ to refer to a person’s gender identity.”

Likewise, contemporary philosophical accounts of gender commonly endorse the idea that gender self-identification is a necessary and sufficient condition for gender categorization. Susan Stryker famously says, for example, that “a woman. . .is one who says she is - and then does what that means’ (where ‘does what that means’ is determined by a person’s own sense of preferred gender expression, rather than a correspondence to any particular social norms or roles.) In a similar vein, Talia Bettcher has argued for a ‘sincere self-identification’ view of gender, according to which a person’s sincere willingness to self-identify as a member of a particular gender is the sole determinate of

10 https://transequality.org/issues/resources/understanding-transgender-people-the-basics
11 ‘Desubjugated Knowledges: An Introduction to Transgender Studies’, p. 10
whether they are a member of that gender. Likewise, R.A. Briggs and B.R. George argue explicitly that the norm of making gender ‘consensual’ requires that sincere self-identification be taken as both a necessary and sufficient condition for gender categorization. And while Katharine Jenkins maintains that gender can usefully be understood both as a type of self-identification and as a type of social class, she argues that we should reserve our gender terms like ‘woman’, ‘genderqueer’, etc for all and only those people who self-identify as women, as genderqueer, etc.

Let’s call such views identity-based views of gender categorization. In what follows, I’m going to argue that we should reject identity-based views. While gender identity matters to gender categorization, it’s not the only thing that matters. To be very clear, in making this argument I’m only targeting views that say that self-identification is both necessary and sufficient for gender categorization. There’s lots of conceptual terrain - a lot of it currently unoccupied, unfortunately - for views of gender categorization which embrace the sufficiency condition but deny the necessity condition. And it’s the necessity condition alone that’s the target of my criticisms here.

3. The Basics of the Problem

The striking thing about identity-based views of gender categorization is that they put a cognitive requirement on gender membership. One must sincerely identify as gender x in order to be classed as gender x. Sincerely identifying as gender x is a complex cognitive act. It requires awareness of various social norms and roles (and, moreover an awareness of them as gendered), the ability to articulate one’s own relationship to those norms and roles, and so on. But many cognitively disabled people have little or no access to language. Many tend not to understand social norms, much less to identify those norms as specifically gendered. And many lack the type of social and interpersonal awareness to be able to make judgements about their own ‘sense of gender’.

This won’t, of course, be the case for all cognitively disabled people, and it’s important to acknowledge that there is a wide range of cognitive and social experiences that fall within

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12 Bettcher, ‘Trans Identities and First-Person Authority’; ‘Trans Women and the Meaning of ‘Woman”

13 Briggs and George, [manuscript]

14 Jenkins, ‘Amelioration and Inclusion’
the broad heading ‘cognitive disability’. In what follows, I don’t mean to paint all
cognitively disabled people with the same broad brush, or to assume that all cognitively
disabled are incapable of having sincere self-identification about gender. One only needs
to look, for example, at the vibrant drag culture among some people with Downs
Syndrome to see how richly some people with cognitive disabilities experience gender
via self-expression and self-identification.\textsuperscript{15}

But the wide range of cognitive disability - and the specific ways in which cognitive
disability can affect social understanding and social reasoning - make it plausible that
many cognitively disabled people simply don’t have this type of highly developed sense
of their own relationship to gender. For example, consider how Eva Kittay describes her
daughter, Sesha:

I prefer to tell you about Sesha in terms that any mother wants to speak of her
child - that is, with pride in the special and singular abilities that we cherish. Had I
begun to speak of her as I would have preferred — to tell you of her ability to
light up any room with her smile the warmth of her kisses, the fastness of her
embrace, her boundless enjoyment of the sensuous feel of water, and perhaps
most of all her abiding and profound appreciation of music — one might
reasonably have asked: So why is Sesha not speaking for herself?

Sesha’s inability to speak (and so to speak ‘for herself’) is but a synecdoche for
all that she is unable to do: feed herself, dress herself toilet herself, walk, talk,
read, write, draw, say Mama or Papa. When asked about my daughter, I want to
tell people that she is a beautiful, loving, joyful \textit{woman}. But then people ask me
‘And what does she do? Does she have any children?’ So I have to tell them what
she cannot be, given her profound cognitive limitations. . .The positive set of
responses is truer to who she is. Knowing her capabilities, one gets a glimpse into
the richness of her life and the remarkable quality of her very being. Nonetheless,
the limitations shape her life and the life of her family, so we all must address
them (p. 6, emphasis added)\textsuperscript{16}

In what follows, I’m primarily concerned with people like Sesha. As I’ll argue, I think
Kittay’s categorization of Sesha as a woman is both politically and morally important.
And the worry I’m raising is that views which make self-identification a necessary
condition on gender categorization have the result that we can’t categorize people like
Sesha as women (or men, or etc.)

\textsuperscript{15}See especially the Mashable documentary ‘Born to Dance’: https://mashable.com/video/
drag-syndrome-downs-syndrome-drag-artists/?
fbclid=IwAR3bzYEUXxfRZG9hINQNYP7qmacQrj4eJ11smlmEDCiPvLiaie-oq2FZq4is

For example, on Talia Bettcher’s view, identifying as some gender x involves a willingness to sincerely assert that one is x, where sincere assertion is what she calls an ‘existential’ form of self-identification - a sense that being x is a central part of one’s own self-conception in a way that shapes how one lives, acts, and wants to be viewed by others. But many cognitively disabled people do not have access to language, and are not able to make statements such as ‘I am a woman/man/non-binary person’. Likewise, many cognitively disabled people cannot plausibly form complex opinions about the gendered ways in which they want to be viewed by others, how they want to ‘live’ their gender, or the extent to which a particular type of gendered expression is central to their lives. Again, such thoughts require a sophisticated type of social reasoning - an awareness of gender norms qua gender norms and a strong sense of one’s own relationship to those norms - that will not be possible for many cognitively disabled people.

On Katherine Jenkins’ view, identifying as x involves having an internal ‘map’ - a way of viewing and navigating the world - that is formed based in response to the social norms and roles we associate with being x. But again, many cognitively disabled people have very little awareness of or interest in social norms, but less a sense of how those norms shape the way they navigate the world. In many cases, cognitively disabled people simply navigate the world quite differently that cognitively typical people, regardless of gender. And they often are unable to engage in the kind of complex social reasoning that identifies as social norm, further identifies that norm as gendered, views that norm as applying to themselves, and then views their behavior as shaped by that norm. That’s a highly developed pattern of social reasoning, and it’s the kind of thing that will simply be unavailable to many cognitively disabled people.

And finally, while Jennifer McKittrick does not endorse what I’ve called an ‘identity-based’ view of gender, she does give an account of gender identity, so that view is worth rehearsing in considering the relationship between cognitive capacity and philosophical theories of gender identity. On McKittrick’s view, identifying as some gender x involves a complex cluster of dispositions to behave in ways associated with being x - including saying that you are x if asked, adopting gender expressions associated with x, using pronouns associated with x, and so on. Again, though, many cognitively disabled will not to able to say what gender they are if asked, or to tell you what their pronouns are (or, for that matter, to know what a pronoun is). And, more specifically to McKittrick’s view, many cognitively disabled people are not disposed to behave in ways we associate with being a woman/a man/a non-binary person simply because they are not disposed to behave in ways we associate with much of anything. That is, their behavior is often
socially very atypical, and not what we would classify as traditionally gendered. Likewise, much of the behavior we associate with being some gender x involves choices of gender expression. But for many cognitively disabled people, these choices - what to wear, what name to use, how to style hair, etc - are made, of necessity, by their caregivers and are not a personal expression of their own relationship to gender norms.

While the theories of gender identity given by philosophers vary markedly, what unifies them all is their cognitive complexity. They all construe gender self-identification as a matter of relatively sophisticated social reasoning and understanding of oneself in relation to social norms. And for many cognitively disabled people, that type of social reasoning is simply unavailable.17

And so the problem is simply this: if having a gender requires complex cognitive actions, then many cognitively disabled people will not have genders. In many cases, cognitive disability will make it the case that a person is simply not capable of the level of cognitive sophistication that is required for sincere self-identification as a member of a particular gender. This is, of course, a familiar problem for views which place a cognitive requirement on a significant social status or kind membership. Views of moral significance or justice which hinge on cognitive capacity, for example, have a well-rehearsed difficulty with accommodating cognitive disability.18

Unsurprisingly, then, if you make having a gender contingent on cognitive actions - and if you require that gender be consensual - you will face an analogous problem. Many

17 It’s important to note, in making this point, that the sense of ‘gender identity’ intended in these kinds of discussions differs somewhat from the sense of ‘gender identity’ that’s often used by psychologists. The latter typically emerges in early childhood, and is associated with, e.g., being aware of physical differences between boys and girls, being aware of the difference between ‘boy’ things (toys, colors, etc) and ‘girl’ things, being able to label themselves as a boy or a girl, etc. The idea of sincere self-identification is something more developed and specific. For example, you might learn as a young child to say ‘I am a girl’, but realize over time that this response was imposed on you and doesn’t, on reflection, accurately reflect your developed sense of your own gender. You could then truly say that, although as a child you said you were a girl, you didn’t truly or sincerely identify as a girl. A two-year old child’s ability to say ‘I’m a girl’ might count as the emergence of a gender identity in some contexts, but it’s not the ‘sincere self-identification’ intended in by identity-based views of gender. And so even for cognitively disabled people who can understand questions such as ‘are you a girl?’, and respond to those questions with spoken language, it’s not at all obvious that they have the sense of gender identity that’s involved in these debates. And again, not all cognitively disabled people will even be able to understand a question like ‘are you a girl?’, much less something like ‘do you think that a female gender identity authentically represents your own internally felt sense of your gender?’

18 See especially Kittay (2005) ‘At the Margins of Moral Personhood’
cognitively disabled people cannot consent - in the standard understanding of ‘consent’ as a type of sophisticated cognitive agreement - to having a gender. And many cognitive disabled people are simply incapable of the kind of complex social reasoning involved in sincere self-identification. The more we make gender a matter of (relatively sophisticated) self-understanding and social contract, the more we exclude cognitively disabled people from having genders.

4. Is this really a problem? (Yes)

Let’s grant for the sake of argument that many cognitively disabled people do not have the kind of sincere self-identification with a gender that identity-based views require. Is this really a problem for identity-based views? A defender of such views might object that describing this as a problem, rather than merely an interesting consequence, is assuming that genders are more important than they really are. After all, many people report themselves as being frustrated by gender and wishing they could be free of it. And many others happily report that they themselves have no gender - the self-identify as agender.

Perhaps cognitively disabled people are also agender. This isn’t a bad thing. Not having a gender is a perfectly good way to be, and freedom from gender is perhaps, rather than a way in which cognitively disabled people are better off, rather than a way in which they are marginalized.

Let’s first consider the question of whether cognitively disabled people can be - unobjectionably - described as agender. Agender people typically say of themselves that they have no gender. That is, they say that none of our gender categories correctly apply to them. Might cognitively disabled people be genderless in the same way? I don’t think so.

When people identify as agender, they are making a specific claim about their own felt relationship to gender categories. Let’s leave aside the sticky question of whether ‘agender’ is itself a gender category. The salient point here is that, in claiming to be agender, people are making a statement about how gender categories apply to them. Imagine that gender categories are options on a survey. If you sincerely self-identify as a woman, you check the box ‘woman’ on the survey. If you sincerely self-identify as genderqueer, you check ‘genderqueer’. And so on. If you sincerely self-identify as agender, on this analogy, you check ‘none of the above’.
Agender people might be, by their own self-conception, genderless, but this self-description is nevertheless a claim about their relationship to gender. They are making a descriptive claim about how they feel gender categories (don’t/shouldn’t) apply to them. To say that an agender person is genderless is not the same thing as saying that the computer I’m typing this on is genderless, even if both claims are true. An agender person has a cognitive and phenomenological relationship to gender - it’s just that the way they describe this relationship is that our extant gender categories don’t apply to them. Your being agender is thus compatible with your gender categorization being something you endorse. We’ve asked you what gender categories you think should apply to you, and you’ve answered ‘none, thanks’.

Identify-based views of gender also typically maintain that one’s gender can be fluid and change across time. You might sincerely identify as agender now, but your sense of gender might change across your lifespan. If, in the future, you decide that you are instead genderqueer, then at that point you’ll be genderqueer. And it’s not that you were secretly genderqueer all along. It’s that, on this view of gender, people get to decide for themselves, in reference to their own experience of gender. And in the process of deciding for yourself, you might make different decisions at different times.

Contrast, then, the case of cognitive disability. In making cognitive requirements for gender, we’re not merely say that many cognitively disabled people are genderless. We’re saying that they are not capable of having gender. If gender is or requires sincere self-identification, then many cognitively disabled people are genderless, not in virtue of their felt relationship to gender, but in virtue of their cognitive limitations. We’re saying, in effect, that they’re not the kind of people who can have gender. In that sense, their being genderless is more like my computer’s being genderless than a self-identified agender person’s being genderless.

To press this point, consider the way in which we typically speak about non-human animals. My dog has a sex, but not a gender. It’s normal for me to say he’s male, but it would be weird to say he’s a man. Likewise, my dog doesn’t have a gender identity, and I don’t worry whether I’m misgendering him when I tell him he’s a good boy, despite his inability to inform me of his pronoun preferences. In saying that cognitively disabled people cannot have a gender because of their cognitive differences, we would in effect be saying that, when it comes to gender, they are more like non-human animals. And this is, of course, directly analogous to ways in which views that make moral status, justice, etc
dependent on cognitive ability equate cognitively disabled people with non-human animals.¹⁹

Let’s now consider the question of whether denying that many cognitively disabled people have genders - or more strongly, denying that they are capable of having gender - is a bad theoretical result. If we say that cognitively disabled people aren’t persons, or lack moral status, or can’t be members of social communities, or etc, there are clear negative upshots. And I’m going to assume that this gives us good reason to object to such views. But what about saying that cognitively disabled people don’t (and can’t) have genders? Is this really a bad result?

I think that it is. My argument for this will proceed in two sections. First, I’ll argue that a view of gender which denies that many cognitively disabled people have genders is descriptively inadequate as a theory of gender. Second, I’ll argue that denying gender to cognitively disabled people further marginalizes them, even if we grant that freedom from gender assignments might sometimes be a good thing.

Let’s begin with descriptive adequacy: I don’t think that we can fully theorize gender and gendered oppression without including the distinctive ways in which cognitively disabled people experience the world in a way strongly shaped by gender. I’m going to focus, in what follows, on the experiences of cognitively disabled women, but it’s important to note that the oppression experienced by cognitively disabled men also needs to be understood as gendered. Cognitively disabled men, for example, are among the groups most likely to be killed by police, for reasons directly at the intersection of their gender and their disability.²⁰ But in the subsequent discussion, I want to highlight the experiences of cognitively disabled women. And specifically, I want to argue that we cannot fully understand the coercion and violence experienced by women without recognizing that cognitively disabled women face oppression as women. Cognitively

¹⁹ Kittay, ‘At the Margins’. Thinking that this is a problem if, of course, perfectly consistent with thinking that we are often far too dismissive of the moral status of non-human animals, and far too quick to see any comparison with non-human animals as an insult or slight to moral worth.

disabled women are among the people most vulnerable to sexual abuse and rape. They are sterilized without their consent. They are routinely denied access to information about sexuality and birth control. They are even, on occasion, subjected to extensive medical procedures that will prevent the development of a typical adult female body.

Moreover, this kind of treatment isn’t explained simply by how we treat people with cognitive disability. A substantial body of research suggests that there are striking gender differences in the treatment of cognitively disabled people. All cognitively disabled people are at increased risk of sexual abuse, but cognitively disabled women are especially vulnerable. Forced sterilization has been a common practice for cognitively disabled women, but not for cognitively disabled men. Caregivers are, in general, very reluctant to provide information about sex and reproductive health to cognitively disabled

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people, but this tendency is more pronounced for cognitively disabled women.\textsuperscript{27} And so on.

In general, the bodies of cognitively disabled women are more likely to be abused and violated. And they’re more likely to be abused and violated in a way that’s directly related to their female sex - their reproductive organs are removed, they are raped, the idea that they might have sexual needs and desires is rarely acknowledged. Obviously, this type of social coercion - especially as it relates to women’s sexuality and reproductive capacities - is not unique to cognitively disabled women. But what is distinctive about the experience of cognitively disabled women is the way in which such social coercion becomes both amplified and normalized when the women in question have less social autonomy and less ability to understand what is being done to them.

Policies that allow or enforce the sterilization of cognitively disabled people, for example, have both historically and presently been targeted almost exclusively at women. While such policies are often gender-neutral in their framing, women are sterilized at far higher rates than men. (In contrast, cognitively disabled men are more likely to be given drugs to suppress their sexual desire, but the sexual desires of cognitively disabled women are rarely acknowledged.) These practices of sterilization are, in many cases, not justified by grounds of medical necessity, and are more likely to reflect parent or caregiver attitudes than any specific needs of the individual. And the women who are sterilized are rarely involved in or informed about the decision, even when they have the cognitive capacity to understand at least some of the issues at stake. Moreover, invasive and painful procedures like hysterectomy are often justified over simpler procedures on the grounds that stopping or preventing menstruation would be a convenience.

If we examine the history - as well as the current reality - of the treatment of cognitively disabled women, it becomes clear that they face oppression in a way that is significantly gendered. Cognitively disabled women are oppressed as women. And acknowledging this is key to both understanding their experiences, and to understanding the full spectrum of control and violence targeted at women.

It might, of course, be objected that in saying the above I am begging the question. Without doubt, cognitively disabled females face oppression that is specifically

influenced by and targeted at the fact that they are female. But to say that cognitively disabled females are cognitively disabled women, and thus that the oppression they face is part of the oppression women face, is to assume exactly what is up for debate.

Arguing about the descriptive adequacy of theories of gender is tricky, because it’s often unclear what, exactly, a theory of gender is supposed to explain. If I offer a theory of material objects that fails to explain (even in a revisionary way) what ordinary things like tables and chairs are, that theory is pretty clearly descriptively inadequate. With gender, it’s more complicated, and there are probably no desiderata for a theory of gender that are completely uncontroversial. Moreover, in many cases theories of gender are attempts to give what Sally Haslanger has called an ‘ameliorative’ analysis of gender, rather than a purely descriptive analysis of gender. That is, in theorizing gender we’re often describing how we think we should understand gender, rather than describing gender as it currently functions in most contexts.

There is probably no single thing that gender really is. If we give the rough gloss that gender is ‘the social significance of sex’, then that can vary - sex-related features have different social significance in a church in rural Alabama than they do in a queer nightclub in San Francisco. And there’s probably no one analysis that can explain all the different ways in which sex-related features (and our perception of those features) can play an important social role. Moreover, part of what we’re doing, when we’re discussing the social significance of sex-related features, is comparing different ways of understanding their social significance and asking which is best.

Within this context, it’s can be hard to make claims of descriptive (in)adequacy. It’s even harder when we consider that not everyone who faces oppression in virtue of having a female body is a woman - trans men, for example, often face oppression and violence directly related to their female sex characteristics. Nor is the expectation that one occupies a female-typical social role a sufficient condition for being a woman, given that trans men and nonbinary people are often expected to occupy such roles.

Importantly, though, in the case of cognitively disabled women we can’t explain the complexity of their gendered experience simply by saying that they are expected to occupy a female-typical social role or that they face oppression in virtue of having female bodies. Although there are gendered differences in, for example, the kinds of jobs that cognitively disabled people who are able to work typically undertake [CITE], it’s not the case that all or most cognitively disabled women are expected to occupy female-typical social roles. And that’s simply because cognitively disabled people very often are not
expected to (and do not) occupy typical social roles at all, female or otherwise. (And, more strongly, they are also expected not to occupy female-typical social roles like mother or caregiver, precisely because of their cognitive disability.) Likewise, it’s inadequate to say merely that cognitively disabled women face oppression targeted at the female body. Consider, for example, the recent case of a cognitively disabled woman who was ordered to terminate a pregnancy by a UK court, against both her and her caregiver’s wishes. This was not merely a state-ordered violation of a female body. The view taken by the court was that she was not capable, despite her wishes, of being a mother. Moreover, part of the motivation for this ruling was a failure to respect the wishes of her caregiver - her own mother - because the court viewed her caregiver as unequipped to care for a baby in addition to her disabled adult daughter. (So, again, it was a judgement about appropriate motherhood.) And judgements about what makes a good or fit mother aren’t fully explained by social views about the female body.28

It’s for these kinds of reasons that I think we can only understand the experiences of cognitively disabled women if we recognize them as women. And likewise, we can only understand the full range of women’s distinctive social experiences if we include cognitively disabled women. The person told she cannot be a mother because she’s cognitively disabled is experiencing the norms we place on women to be ‘good mothers’ just as much as the person told she’s being selfish if she pursues a career while having children. The person who undergoes a hysterectomy without even being told about the procedure is experiencing the way we remove women from choices about their own bodies just as much as the person told she can’t have birth control because it will encourage her to sleep around. And so on.

Thus, I think a good case can be made that any view which excludes cognitively disabled people from gender is descriptively inadequate. If gender is supposed to be, roughly, the social significance of sex, then cognitively disabled people need to be a part of what we talk about when we talk about gender. And any theory that denies that they have genders has, in my view, an impoverished understanding of the complex social significances of sex.

The case for saying that cognitively disabled people have genders, though, is stronger than a simple claim about descriptive adequacy. Recall that many philosophical analyses of gender are considering, at least in part, the ameliorative question of how we should or

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28 I especially recommend, on this topic, Harold Brawell’s essay ‘Love and Other Disabilities’, about his own experience of being raised by a cognitively disabled mother. https://www.tabletmag.com/jewish-arts-and-culture/286923/love-and-other-disabilities
ought to understand gender. And specific appeal is sometimes made to this type of ameliorative approach in order to justify the claim that we should understand gender as - or at least reserve gender terminology for - a type of self-identification. But the experiences of cognitively disabled people show that the ameliorative question - the question of what a better or more just understanding of gender might be - isn’t settled simply by appeal to gender self-identification.

To press this point, let me now turn to the second part of my argument. Views of gender which deny that cognitively disabled people have genders are not merely descriptively inadequate - they are also harmful. And so, if we’re considering questions like ‘what is gender?’ Or ‘what determines gender categorization?’ from an ameliorative angle, we have particular reason to oppose views that make gender categorization entirely a matter of self-identification. I’m going to argue that denying gender to cognitively disabled people harms them in two main ways: it makes it harder for us to understand the gendered aspects of their experiences and it contributes to their social marginalization.

As I’ve already discussed, cognitively disabled women face unique - and uniquely gendered - types of violence and oppression. And I think that fully understanding these experiences requires understanding that cognitively disabled women are women. We don’t, for example, have a good grasp of why cognitively disabled women are so much more likely to be sterilized or sexually abused than cognitively disabled men until we consider gender. But the point here extends beyond understanding the gendered dimensions of oppression. As Kelley Johnson and Rannveig Traustadottir note in their landmark book, *Women with Intellectual Disabilities: Finding a Place in the World*: “Sometimes the needs and wants of women with intellectual disabilities are not known by those around them because other people do not see them as women.” In the extensive work they have done with cognitively disabled women, Johnson and Traustadottir chronicle the complex ways in which these women’s experiences are shaped by their gender, and the complex ways in which those gendered experiences are often obscured. As they rightly point out, feminist discussions of gender have routinely struggled with with intersectionality. In ignoring the experiences of women of color, working class women, women from various cultural backgrounds, and so on, they have failed to fully theorize gender. And, crucially, the experiences of women with cognitive disabilities have been among those most at the margins of feminist discourse. This leads, inadvertently though still harmfully, to work which fails to take into account the distinctive experiences of cognitively disabled women (and their caregivers, who also tend to be women). Eva Kittay argues, for example, that feminist work has (in many cases, rightly) valorized the

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29 Bettcher, Jenkins
idea of independence for women - financial independence, legal independence, and so on. But it doing this, it risks devaluing the lives of people for whom independence is not an option, as well as the caregiving work (the ‘labor of dependence’) undertaken by so many women. It also, Kittay argues, obscures the ways in which none of us are truly independent - we all rely on the care and labor of others, much of it invisible - and the ways in which dependencies, within a caregiving relationship, can be valuable.  

As Johnson and Traustadottir eloquently put the problem:

If we believe that feminist analysis and theory should include all the diversity of women’s lives and experiences, it is important to examine why women with intellectual disabilities remain so marginal in the discussions of feminists. . .The key factor here may be that these writers theorize from their personal experience to develop insights into what it means to be a woman. . .For women who have intellectual disabilities such theorizing has been more problematic. . .Some women are not able to explore or convey their experiences [of gender] at all because of the nature of their disabilities, and others find it difficult to do so. Further, the intellectual and academic communities have not been accepting of women with intellectual disabilities, and developmental impairment is more likely to restrict the possibilities of expressing experiences in a way that the gatekeepers of what is ‘proper’ find acceptable.

Contemporary discussions of gender have - rightly - begun to pay more attention to gender identity. And they often note - again, rightly - that a failure discuss gender identity when discussing gender as a social category has been a way in which the experiences of trans, agender, and gender non-conforming people have been obscured. But correcting this lapse is a pendulum that can swing too far. If we make gender identity the sole determinant of gender membership or the sole reference of gender terminology, we commit exactly the same error - we prioritize the way some people experience gender over the way that others do.

It’s common, for example, in popular discussions about gender to read statements like this: ‘Everyone—transgender or not—has a gender identity. Most people never think about what their gender identity is because it matches their sex at birth.’ But again, on

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30 See especially her *Love’s Labor*

31 Jenkins, ‘Gender Identity’

32 Taken from the FAQ of the Trans Equality website: https://transequality.org/issues/resources/frequently-asked-questions-about-transgender-people
most any plausible understanding of gender identity, it just isn’t true that everyone has a gender identity. Cognitively disabled people are people too.

This brings me to the second major way in which denying gender to cognitively disabled people is harmful - the way in which it alienates or ‘others’ them from cognitively typical people. Someone might object to what I’ve said so far as follows. Yes, denying gender to (many) cognitively disabled people does make them different from most cognitively typical people. But it doesn’t follow that this difference is in any way bad. After all, gender is an oppressive social system, and freedom from it is something many people desire and work towards. Kate Bornstein famously likens gender to a cult - something that indoctrinates us and something we need to free ourselves from. If we take this approach to gender, what’s so bad about saying that some people are lucky enough to be excluded from it entirely?

While tempting, I think this line of reasoning is too quick. Although we might argue that gender is something that we ultimately want to get rid of, there’s no denying that, in the present world we actually inhabit, gender is deeply socially significant. If it wasn’t, misgendering wouldn’t be a big deal, gender identity wouldn’t be an ‘existential’ type of self-identification, gender non-conformity wouldn’t be punished, and so on. And when considering whether it’s harmful to say that cognitively disabled people are incapable of having gender, we have to consider this reality as it is.

Gender matters, given the way the world is. And to say that someone is incapable of having gender is to say that they differ in very deep and significant ways from almost all other people. We already have a tendency to view cognitively disabled people as almost sub-human. In saying that they do not and cannot have genders (again, in much the same way we say that non-human animals do not and cannot have genders) we only further their distance from the rest of us. And that distance is striking - and hard to justify - given the multiple ways in which cognitively disabled people’s experiences are quite obviously gendered.

5. Consensual genders, unknown genders

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33 Borstein, Gender Trouble

34 Crary
Briggs and George (manuscript) endorse the view that self-identification should determine gender. They state that ‘[r]ecognized membership in categories like woman and man should be adjudicated based on the communicated wishes of the person being gendered, not the perceptions and projections of outsiders.’ But they add that:

it’s worth noting explicitly that the activist ‘party line’ is not that nonverbal infants (or people who have otherwise never communicated a gender self-identification) have no gender, but only that their membership in gender categories is unknown.35

In a similar vein, Kate Bornstein writes:

The first question we usually ask new parents is: “Is it a boy or a girl?” There is a great answer to that one going around: “We don’t know; it hasn’t told us yet.”

Following this line of thought, could the solution to the problem I’m pressing here simply be that cognitively disabled people have genders, but we just don’t know what they are?

I don’t think this is a viable answer to the problem I’ve raised for two main reasons. First, saying that cognitively disabled people have genders that are simply unknown to us looks inconsistent with much of what identity-based views say about gender and gender categorization. And secondly, this proposed solution is inadequate. We don’t just need to be able to say that cognitively disabled people have some gender or other, we need to be able to say specifically of cognitively disabled women that they are women.

Let’s first address the question of whether this response is genuinely available to an identity-based view of gender categorization. By their own lights, I don’t think identity-based views can say that cognitively disabled people have genders, but that we don’t (and can’t) know what they are. That’s because such views typically say that gender self-identification is the only thing that determines gender categorization, and that one can’t be a member of a given gender without self-identifying as a member of that gender. And again, based on most any of the proposed theories of what gender identity is, many cognitively disabled people simply won’t have this robust type of gender self-identification. And so they will lack the feature which solely determines gender categorization. Given this, it doesn’t make sense to say that they have unknown genders. If they lack the feature that it takes to be a member of a gender, then they lack gender. Again, the analogy to non-human animals is both apt and troubling. It’s not that my dog has a gender that I’m unable to know. It’s that he doesn’t have a gender, and I can easily

35 Briggs and George (manuscript), p. 8
know this. If we set cognitive criteria for gender membership, the same will be true of many cognitively disabled people.

And this brings me to the deeper problem with this line of response. It is deeply troubling to suggest that we don’t know what gender cognitively disabled people are. Cognitively disabled women are women. Their experience of the world is shaped by this fact, and, as Johnson Traustadottir forcibly argue, we have often failed to understand those experiences because we so often fail to recognize them as women. Mari Mikkola has recently argued [CITE] that issues of gender categorization are largely unimportant for feminist work - we don’t need to settle exactly who counts as a woman in order to promote justice for women. But I think that the experiences of cognitively disabled women show the limitations of this kind of response. We often fail to fully recognize cognitively disabled women as women - we see them as infant-like, or as genderless. And this has materially contributed to a failure to adequately understand and address the specifically gendered realities they face. Most studies of cognitively disabled people, for example, fail to mark or segregate data based on gender, often obscuring significant gender differences in how cognitively disabled people experience the world. [CITE] And campaigns to counter violence against women or the coercive control of women’s bodies often fail to include cognitively disabled women, even though they are amongst the people most at risk of such violence and coercion. Advocates for cognitively disabled women - those who spend time with them and love them and learn about their lives - are often adamant that recognizing them as women and including them within feminist discourse about women is vital. Given all of this, it seems unmotivated - indeed, it seems patently false - to insist that we don’t know whether they are women because they can’t tell us.

This leads us to the broader issue of whether gender can ever be appropriately applied to those who don’t choose or endorse it. Briggs and George, for example, don’t think that gender self-identification wholly determines gender categorization, but they argue that our norms for gender categorization should be based on the idea of consensual gender. The norm of consensual gender maintains that one should never ascribe gender to another person without their normatively valid consent. And this, of course, has repercussions for who we ascribe gender to and in what circumstances. As Briggs and George put it:

The view is that communicated sincere self-identification is necessary and sufficient to justify ascription of category membership or non-membership. A commitment to consensual gendering is first and foremost a claim about our political responsibilities with respect to our labeling practices, but it is in principle
possible for the resulting pattern of membership and non-membership ascriptions to be wholly accurate (p. 8-9)

As I hope is clear by now, I think a norm like this is helpful and appropriate in many contexts, but not in all of them. Although a well-intentioned corrective, I think it fails as a general norm, and the experiences of cognitively disabled people can help to show why. It’s important to realize that ascribing gender to someone without their consent can be harmful. But likewise, failing or refusing to assign gender to someone can also be harmful. And when we are considering the experiences of cognitively disabled people, the issue of consent becomes complicated. Both ascribing and withholding gender ascription are normatively significant, and for many cognitively disabled people neither will be consensual. That is, gender can never be fully consensual for everyone. Withholding a gender ascription from someone is a way of applying gender norms to them just as much as assigning a gender ascription is, and some cognitively disabled people cannot voice their consent to either option. What I’ve tried to argue is that making gender ascriptions - saying that cognitively disabled women are women and cognitively disabled men are men - is less harmful than withholding them. But the key point here is that neither option is, in many cases, consensual in the standard sense. Simply withholding gender ascription in cases where a person cannot voice a sincere self-identification doesn’t make gender fully consensual.

This is, of course, compatible with thinking that our ultimate goal for the future should be to ascribe gender only when a person asks for it. But this involves making it the case that gender is less socially important - and less pervasive - than it currently is. And, as I argued above, that may be the world we should aim for, but it isn’t the world we currently inhabit. The present, actual social significance of gender means that withholding gender ascription isn’t always liberation, and can even be a way of harming people.

6. Summing up

I’ve tried to argue that the experiences of cognitively disabled people are gendered in a way that makes it morally and politically important for us to recognize them as women and men. And if this is right, it means that we cannot treat sincere self-identification as

36 There’s a complex debate, for example, about whether cognitively disabled people can consent to sex, and whether giving cognitively disabled people access to sex is permissible if and only if they can offer morally valid sexual consent (in the terms we generally frame consent). [CITE]
the sole determinant of gender classification, or the sole criteria for gender ascription. In saying this, I’m not attempting to dispute the importance of gender self-identification, or to discourage norms which give such self-identification a central role. Rather, I’m simply arguing that in correcting the lack of attention we’ve often given self-identification, it’s important that we don’t over-correct. Self-identification matters to gender categorization, but other things matter too.

We are, of course, then left with the question of what determines gender categorization. And I don’t have any good or specific answers to that question. I’m arguing that it shouldn’t only be self-identification, but I haven’t offered a positive theory beyond that. But I think Julia Serano’s suggestion is apt here:

Instead of saying that all gender is this or all gender is that, let's recognize that the word gender has scores of meaning built into it. It's an amalgamation of bodies, identities, and life experiences, subconscious urges, sensations, and behaviors, some of which develop organically, and others which are shaped by language and culture. Instead of saying that gender is any one single thing, let's start describing it as a holistic experience. [Gender Outlaws]

There is probably no single thing that gender is, and probably no single way of ascribing gender that is correct for everyone in all cases. When we’re considering things like gender categorization and the application of gender terms, I think Stephanie Kapusta is right when she urges that ‘however [these terms are] deployed, it is ethically and politically desirable to remain critically aware of the moral contestability—and hence the revisability—of many of [their] deployments.’ And that’s what this paper has been an attempt to do. However we deploy gender categorization, it’s important that we don’t forget the experiences of cognitively disabled people, and don’t obscure or erase them simply because they are less salient to us.

\[37\] Kapusta (2018), p. 514