

Tracing Erasures and Imagining Other-wise: Theorizing Toward an Intersectional
Trans/Feminist Politics of Coalition

by

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B.A., University of Victoria, 2004

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ABSTRACT

Debates between feminists and trans people are often narrowly framed in terms of inclusion and authenticity, or by questions about the extent to which trans identities challenge or reinforce normative conceptions of sex and gender. The terms of these engagements promote essentialist understandings of identity, difference, and community, and neglect to register the heterogeneity and differential locations of both women and trans people. This thesis examines several contemporary sites of contestation between and among feminist and trans scholars with specific attention to the unspoken assumptions and practices of erasure that shape and constrain these critical 'border wars', making certain kinds of subjects and conversations central, while rendering others peripheral, out of the question, or even impossible. Applying an intersectional trans/feminist analysis to the conceptual structure and discursive contours they assume, I investigate how such struggles, and our positions within them, might be deconstructed and reconceptualized in ways that disrupt dominant Self/Other relations and, in turn, make new political understandings and alliances possible.

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Introduction

The tensions ignited or brought to the surface by debates over inclusion, identity, and borders can be powerful enough to unite political communities previously imagined as separate or competing. These same battles can also fragment or shatter seemingly cohesive and homogenous groups of people. More often, however, ‘border wars’ – confrontations over ideological, political, or material territory – seem to intensify and reproduce already existing notions of sameness and difference by mobilizing Us/Them dichotomies. After all, as Gloria Anzaldúa has written, “borders are set up to define the places that are safe and unsafe, to distinguish *us* from *them*.”¹ When these dividing lines are challenged or crossed, definitions of self and other, home and elsewhere, familiar and alien are thrown into question. The sense of safety that a seemingly impermeable and determinate boundary once imparted is overridden by threat, indeterminacy, and an impulse to reconsolidate and defend against intrusion.

This thesis explores several contemporary sites of contestation over boundaries of inclusion, authenticity, and political responsibility between and within feminist and trans² communities. Applying an intersectional trans/feminist³ analysis to the conceptual

¹ Gloria Anzaldúa, *Borderlands/La Frontera* (San Francisco: Aunt Lute Books, 1987), 25.

² In this paper, ‘trans’ is used to refer to a wide range of expressions, practices, and/or identities that cross or otherwise transgress dominant, enforced conceptions of sex, gender, and sexuality. ‘Trans’ includes transsexuals, transgenders, genderqueers, pangenders, third-genders, and a host of other sex/gender outlaws who may identify wholly or partially with trans identity – for example, intersex people, cross-dressers, or drag queens and kings. In this sense, ‘trans’ describes a diverse and heterogeneous group of people who share the condition of living or loving in ways that defy conventional understandings of the ‘natural’ connection between male bodies and masculinity, or female bodies and femininity. I use ‘transsexual’ or ‘transgender’ where I am addressing issues and experiences specific to those who identify as such, or where an author self-identifies as one or the other for political reasons.

³ I use the terms ‘trans/feminist’, ‘transfeminist’ or ‘transfeminism’ not to reference any one particular or established feminist politics or body of work, but instead to describe innovative activist and scholarly practices of integrating feminist and trans analyses within social justice theory/activism. The

structure, discursive contours, and political implications they assume, I query how such struggles and our positions within them might be deconstructed and reconceptualized in ways that disrupt dominant Self/Other relations and, in turn, make new political understandings and alliances possible. In particular, this project strives to make visible some of the ways in which dominant state ideologies, discourses, and practices of regulation – which function to naturalize difference and perpetuate the illusion of fixed and clear boundaries – are internalized and reproduced within certain feminist and trans movements for social change. By affording specific attention to the unspoken assumptions and erasures that underpin recent ‘border wars’ between and within feminist and trans communities, I try to uncover and imagine alternative sites or strategies for convergence, conversation, and coalition among marginalized people.

Over the last decade or so, trans identities and issues have gained a greater degree of voice and visibility within the context of contemporary critical theory. Academic and community-based feminisms present a significant site in which trans issues have received an increasing amount of scholarly and political attention. Articles by trans scholars and non-trans feminists addressing issues related to trans people are now beginning to appear with some frequency in feminist journals and anthologies, as well as on some women’s studies course syllabi. Non-trans feminist thinkers are becoming more familiar with the struggles and experiences of trans people, and several have turned to trans identities in their own work as an instructive context for examining gender and transformation.

Indeed, engaging with transgender and transsexual identities has helped to take feminist

forward slash in ‘trans/feminism’ or ‘trans/feminist’ acts in a number of capacities simultaneously: first, it acts as an acknowledgement of the historical and political specificities of being a trans person or a non-trans woman; second, it signals the uneasiness and hostility that continue to mark relations between certain trans and feminist communities; and finally, it serves as a reminder that there is a border space between – a space where subjectivities who are both, neither, and more struggle to be whole.

and queer theorizing around embodiment, subjectivity, and the social construction of gender in new and productive directions.

The intermingling of trans and feminist politics, however, has often been marked by tension, mistrust, and disillusionment. Trans studies and activism have prompted a re-emergence of several pivotal crises in the history of feminist thought. By exposing the subject of mainstream feminisms as one constructed according to essentialist conceptions of sex and sexual difference, trans theory and activism have brought key critical impasses around issues of identity, difference, and how gendered oppression is understood into new focus.

Nowhere are the volatile relations incited by these challenges more evident than in recent legal, theoretical, and ethical battles over the issue of trans inclusion – that is, the question of whether, or which, trans people should be allowed to participate in women-only or feminist organizations, spaces, and politics. Gaining in momentum and intensity since the 1990s, these debates are today furiously unfolding between the covers of academic journals and feminist newsletters, on internet blogspots and websites, in board meetings and classrooms, on the street, and over kitchen and coffee tables. The category of woman, the political grounds and proper subjects of feminism, and how communities and histories of resistance are constructed, claimed or narrated represent major points of contestation in the context of these discussions around inclusion.

Trans scholars are certainly not the first to challenge hegemonic North American feminisms with respect to how the category of women is constructed. For many decades now, diverse groups of marginalized feminists – women of colour, indigenous women, poor and working-class women, disabled women, and queers – have directed a

tremendous amount of work and energy toward critiquing the ways in which white middle-class feminist theory erases and dismisses their lived realities. These analyses expose liberal and radical feminist discourses of ‘universal sisterhood’ as an exercise of cultural imperialism, wherein privileged feminists define ‘women’ in their own image and represent their particular struggles and interests as those of all women.⁴ The idea that all women suffer equally under patriarchy, and are therefore natural allies or sisters in the battle against sexist oppression, obscures both the profound impact of racism and poverty in women’s lives, and the ways in which women are agents in the oppression of other women.

A major innovation to come out of these critiques was the understanding that systems of oppression are interlocking and interwoven. Since the 1970s, feminists of colour have emphasized that race, class, and sexuality, among other factors, shape and inform how gender and gendered oppression are experienced – just as gender informs the ways in which other aspects of identity and forms of subordination are experienced. In 1977, for example, members of the Combahee River Collective wrote a statement outlining their politics and vision of Black feminism. In part, the statement was a response to mainstream white feminisms, which prioritized gender, or patriarchy, as the central site of women’s oppression and political mobilization, often to the exclusion of

⁴ This critique and related arguments have been made in the work of many anti-racist feminists over the last several decades. A few important examples include: Audre Lorde, “An Open Letter to Mary Daly,” *Sister Outsider: Essays and Speeches* (Berkeley: The Crossing Press, 1984); Chandra Mohanty, “Under Western Eyes: Feminist Scholarship and Colonial Discourses,” *Third World Women and the Politics of Feminism*, eds. Chandra Talpade Mohanty, Ann Russo, and Lourdes Torres (Indianapolis: Indiana University Press, 1991); Norma Alarcón, “The Theoretical Subject(s) of *This Bridge Called My Back* and Anglo-American Feminism,” *The Second Wave: A Reader in Feminist Theory*, ed. Linda J. Nicholson (New York: Routledge, 1997); and Uma Narayan, “Essence of Culture and a Sense of History: A Feminist Critique of Cultural Essentialism,” *Decentering the Center: Philosophy for a Multicultural, Postcolonial, and Feminist World*, eds. Uma Narayan and Sandra Harding (Bloomington: Indiana University Press, 2000).

other forms of oppression. In contrast to this approach, the Combahee River Collective were “actively committed to struggling against racial, sexual, heterosexual, and class oppression”; indeed, one of their main tasks was to develop an “integrated analysis and practice based upon the fact that the major systems of oppression are interlocking.”⁵ The importance and urgency of such a project was immediately apparent to the Combahee River Collective members, for whom “the synthesis of these oppressions create[d] the conditions of [their] lives.”⁶ Intersectionality, or feminist intersectional analysis, is a methodological approach grounded in this conceptualization of systems of power as highly interrelated. Significantly, it arose out of the concrete, day-to-day experiences of Black and other marginalized women, who bore the effects of multiple oppressions and refused to compromise their identities by separating out or focusing solely on one aspect of it.

Another important contribution of the critiques and analyses of marginalized feminists mobilizing in the 1970s and ‘80s was the concept of identity politics. As stated by the Combahee River Collective, identity politics describes the idea that “the most profound and potentially most radical politics come directly out of our own identity, as opposed to working to end somebody else’s oppression.”⁷ For the collective, this meant articulating a Black feminist politics capable of addressing the varied and specific issues that affect the lives of Black and other women colour. Intersectional identity politics, in this instance, was a concrete necessity motivated by the awareness that “no other

⁵ Combahee River Collective, “The Combahee River Collective Statement,” *Home Girls, A Black Feminist Anthology*, ed. Barbara Smith, (New York: Kitchen Table: Women of Color Press, 1983), 272.

⁶ *Ibid.*, 272.

⁷ *Ibid.*, 275.

ostensibly progressive movement has ever considered [Black women's] specific oppression as a priority or worked seriously for the ending of that oppression.”⁸

Crucially, while it asserts the significance of mobilizing and theorizing from a particular political positionality, identity politics, as imagined by the Combahee River Collective and other radical women of colour, does not mean organizing around a singular issue and ignoring others. Instead, this particular theorization of identity politics focuses on the historical and material conditions that shape people's lives, and begins with the recognition that sexism, racism, classism, and other forms of oppression work in concert, producing identities that are complex and multiple. In contrast to essentialist identity politics, then, this approach to political mobilization does not advocate an understanding of identity as singular, discrete, pre-given, or fixed and, in fact, rejects biological determinism.⁹ Rather than appealing to shared biology as a natural or self-evident basis for political solidarity, marginalized feminists have emphasized “the way we think about race, class, and gender – the political links we choose to make among and between struggles.”¹⁰ In this sense, such a politics of identity stands in opposition to feminist approaches that isolate gender inequality or patriarchy as the most pressing issue in women's lives, and contests feminist thinking that would suggest, “all of us are women so you are all included and we are all equal.”¹¹

Many other communities of marginalized feminists developed and organized around similar understandings of identity politics and intersectionality. In doing so, they

⁸ Ibid., 275.

⁹ Ibid., 277.

¹⁰ Chandra Talpade Mohanty, *Feminism Without Borders: Decolonizing Theory, Practicing Solidarity* (Durham: Duke University Press, 2003), 46.

¹¹ Gloria Anzaldúa, as cited in Karin Ikas, “An Interview with Gloria Anzaldúa,” *Borderlands/La Frontera* (San Francisco: Aunt Lute Books, 2nd edition, 1999), 231.

not only waged powerful critiques of hegemonic feminisms, they also visibilized and strengthened diverse feminist histories, movements, and visions of liberation that had been erased or trivialized by white middle-class constructions of ‘the women’s movement’. In 1981, the groundbreaking anthology, *This Bridge Called My Back: Writings by Radical Women of Color*, edited by Gloria Anzaldúa and Cherrie Moraga, brought together the work of anti-racist feminists writing within and across a wide range of cultural and political contexts like no other published feminist anthology in North America had done before.¹² The book, in which multiple histories, political issues, and strategies of resistance find expression, represents a powerful repudiation of mainstream white feminism’s assertion of universal sisterhood based on a common experience as women living under patriarchy.

In an interview with Karin Ikas, Anzaldúa explains that the idea for *This Bridge Called My Back* came directly out of her experiences of being silenced and invisibilized by the whiteness of both academia and certain feminist spaces. Speaking of a mostly white feminist writing group that she was involved with, Anzaldúa reflects, “They thought that all women were oppressed in the same way, and they tried to force me to accept their image of me and my experiences ... Therefore, one of the messages of *This Bridge Called My Back* is that gender is not the only oppression.”¹³ *This Bridge Called My Back* asserts a resistance to the assimilationist tendencies of mainstream feminism through the refusal of its editors and contributors to be silent, accept a singular version of feminism, or peripheralize issues of colonialism, race, class, and sexuality in their politics.

¹² Gloria Anzaldúa and Cherrie Moraga, eds., *This Bridge Called My Back: Writings by Radical Women of Color* (Watertown, Massachusetts: Persephone Press, 1981).

¹³ Karin Ikas, “An Interview with Gloria Anzaldúa,” *Borderlands/La Frontera*, 230-231.

The Combahee River Collective Statement, *This Bridge Called My Back*, and the extensive critical work on racism, heterosexism, classism, and intersectionality that followed or coincided with these publications, trace a long history of tension, discord, and resistance between marginal and privileged feminists. Far from having a destructive or negative impact on feminist thought and politics, however, the instability and anxiety incited by challenges to the subject of feminism can be seen as productive forces that stimulate more rigorous and nuanced analyses and, thus, as forces that desire engagement and reflection, not resolution.¹⁴ Anti-racist, anti-capitalist, transnational, and queer critiques of the whiteness and exclusivity of mainstream North American feminisms have helped to shatter the façade of a unified and harmonious women’s movement, and also the idea that feminist thought and activism originated in white, colonizing nations. By elucidating how gender is socially-constructed in relation to multiple systems of privilege and subordination, feminist thinkers such as Audre Lorde, Gloria Anzaldúa, Chandra Mohanty, Jacqui Alexander, Patricia Hill Collins, and Uma Narayan, among many others, have drawn attention to the profound inequalities that exist among women. These writers have offered more complex understandings of identity and oppression, giving voice to political contexts and dynamics that are erased from view when analyzed through the lens of oppositional dichotomies or essentialist thinking. As a result of these struggles, questions around how identities and communities are claimed and defined, the implications of understanding systems of domination as deeply interrelated, and how to build solidarity across difference ethically are being raised and grappled with by feminist scholars working across a wide range of disciplines and contexts.

¹⁴ Bobby Noble, “Sons of the Movement: Feminism, Female Masculinity, and Female To Male (FTM) Transsexuals,” *Atlantis* 29.1 (Fall/Winter 2004), 21-22.

The relatively recent emergence of trans studies has brought some of these issues into new focus, reinvigorating debates over the boundaries of ‘woman’ and the subject of feminism, as well as the limitations, more generally, of existing categories of identification. While feminist engagement with transsexuality is not a new phenomenon – the work of radical feminists Mary Daly and Janice Raymond in the late 1970s includes discussion of transsexuals – the increasing voice and visibility of trans activist and scholarly movements for social justice has intensified pressure on feminists to articulate positions and policies with respect to trans inclusion and transphobia, and to contemplate the relations between trans and feminist politics. Trans scholarship and activism, especially in the past couple of decades, have posed a number of innovative challenges to taken-for-granted ideas about the correlation between sex, gender and sexuality. Gender, for example, is often presumed to follow naturally from sex such that males and masculinity, or females and femininity, are thought to be essentially connected. Sex is assumed to be binary and fixed – an assumption that still pervades feminist scholarship, even as feminists have transformed how gender relations are understood. Trans scholars, however, have powerfully disputed any self-evident or essential connection between sex and gender. The work of Sandy Stone, Leslie Feinberg, Kate Bornstein, Judith Halberstam, Jason Cromwell, Henry Rubin, and Susan Stryker, among others, has elucidated that sex and gender are embodied and lived out in much more diverse, mutable and complex ways than conventional models suggest.¹⁵ Trans people inhabit and

¹⁵ Some prominent texts include: Sandy Stone, “The Empire Strikes Back: A Post-Transsexual Manifesto,” in *Body Guards: The Cultural Politics of Gender Ambiguity*, eds. Julia Epstein and Kristina Straub (New York: Routledge, 1991); Kate Bornstein, *Gender Outlaw: On Men, Women, and the Rest of Us* (New York: Vintage Books, 1994); Leslie Feinberg, *Transgender Warriors: Making History from Joan of Arc to Dennis Rodman* (Boston: Beacon Press, 1996); Riki Ann Wilchins, *Read My Lips: Sexual Subversion and the End of Gender* (Ithaca, NY: Firebrand Books, 1997); Judith Halberstam, *Female Masculinity* (Durham: Duke University Press, 1998); Jason Cromwell, *Transmen and FTMS: Identities,*

imagine bodies and identities that confound binary conceptions of male/female, masculine/feminine, and heterosexual/homosexual, which imply a finite set of identificatory possibilities. The dominant investment in sex as a biologically ordained, objectively determinable, and fixed aspect of identity is undermined by trans people who change sex, or for whom sex changes.

Non-trans feminists have responded to these interventions in markedly different ways, and from a variety of theoretical and political perspectives. However, most of the non-trans feminist literature that addresses trans people frames the central issue or inquiry as one or more of three related questions: Should trans people be included within feminist and women-only spaces and organizations? Do the political visions and goals of trans movements do more to enrich or to impede feminist political work against oppression? Do trans people and politics represent a radical challenge to existing power structures – particularly to the binary sex/gender system – or do trans politics conform to normative ideas about gender, ultimately reinforcing gendered relations of power?

Some feminists, such as Sheila Jeffreys, Karla Mantilla, and Bernice Hausman, have followed or expanded on the radical feminist positions articulated in Janice Raymond's influential text, *The Transsexual Empire*,¹⁶ arguing that transsexuality is a phenomenon manufactured, by and large, by the male-dominated disciplines of medicine

Bodies, Genders and Sexualities (Urbana: University of Illinois Press, 1999); Henry Rubin, *Self-Made Men: Identity and Embodiment among Transsexual Men* (Nashville: Vanderbilt University Press, 2003); and Susan Stryker, "My Words to Victor Frankenstein above the Village of Chamounix: Performing Transgender Rage," in *The Transgender Studies Reader*, eds. Susan Stryker and Stephen Whittle (New York: Routledge, 2006), 244-256.

¹⁶ Janice Raymond, *The Transsexual Empire: The Making of the She-Male* (Boston: Beacon Press, 1979).

and science.¹⁷ These feminists contend that the construction of transsexuality is steeped in misogyny and sexism, and that it actually serves to maintain normative gender relations of male dominance and female subordination. Jeffreys, for example, states that “transsexualism opposes feminism by maintaining and reinforcing false and constructed notions of correct femininity and masculinity.”¹⁸ According to Jeffreys, transsexuals take on or emulate stereotypical versions of femininity and masculinity in order to pass – that is, they exaggerate typically feminine or masculine gender traits in order to compensate for the ways that their own bodies might defy or depart from conventional ideas about male and female sex characteristics. In so doing, Jeffreys claims, transsexuals participate in and reproduce a set of unequal gender relations built on ideas about natural sex differences. By this view, transsexual and transgender politics are regressive, and there are few, if any, points of alliance to be found between trans and feminist movements; indeed, trans politics are posited as a conservative force that feminists must resist.

Radical feminist activists, such as members of the collective that runs Vancouver Rape Relief Society, or the organizers of the Michigan Womyn’s Music Festival and their supporters, draw on these and similar perspectives in order to argue that trans people (most often trans women, but increasingly trans men as well) pose a threat to the strength and safety found in women-only spaces and organizing. Discussing the issue of trans inclusion in relation to the Michigan Womyn’s Music Festival, Karla Mantilla has described trans politics as “a viper to our movement which is now out to destroy what

¹⁷ Sheila Jeffreys, “Transgender Activism: A Lesbian Feminist Perspective,” *Journal of Lesbian Studies* 1.3/4 (1997), 55-74; Jeffreys, *Unpacking Queer Politics: A Lesbian Feminist Perspective* (Cambridge: Polity Press, 2003); Karla Mantilla, “Men in Ewes’ Clothing: The Stealth Politics of the Transgender Movement,” originally published in *off our backs* (April 2000), available on Rape Relief’s website, www.rapereliefshelter.bc.ca/issues/menewes.html. Accessed Nov. 28, 2007; Bernice Hausman, “Recent Transgender Theory,” *Feminist Studies* 27 (Summer 2001), 465-90; Bernice Hausman, *Changing Sex: Transsexualism, Technology, and the Idea of Gender* (Durham, NC: Duke University Press, 1995).

¹⁸ Jeffreys, “Transgender Activism,” 56-57.

precious little women's space we have managed to eke out."¹⁹ Furthermore, trans issues are thought to represent a costly diversion of feminist energy and attention away from much more pressing and significant matters. As Mantilla asserted, "somehow we have a movement whereby men's interests have found a clever way to siphon off lesbian and feminist energies into a liberal agenda of identity politics, individual freedom, and inclusion which make us forget altogether about challenging patriarchy."²⁰ According to these views, feminist and women-only organizations should not, and should not be compelled to, be inclusive of trans people.

Against these positions, trans activists have argued that, in order to justify the exclusion of trans women, anti-trans feminists rely on essentialist conceptions of 'woman' and/or 'female' – namely, the notion that women are born women, or that only women who have lived under patriarchal oppression for their entire lives are woman enough. Trans activists point out how such a position replicates the imposition of sameness, and the attendant denial of disparities between women, critiqued extensively by women of colour and other marginalized feminists.²¹ There are significant differences between all women, and trans feminists contend that the difference of transsexuality should not be used to exclude trans women from the category of women.²² Instead, trans women should be recognized as women who are just as entitled to participate in women-only feminist events and organizations as any other women. As organizers of Camp

¹⁹ Mantilla, "Men in Ewes' Clothing," quotation in section entitled 'What's So Bad about Inclusion?', www.rapereliefshelter.bc.ca/issues/menewes.html.

²⁰ Ibid.

²¹ See, for example, Emi Koyama, "Whose Feminism is it Anyway? The Unspoken Racism of the Trans Inclusion Debate," Emi Koyama's website, www.eminism.org/readings/pdf-rdg/whose-feminism.pdf (2000). Accessed December 7, 2007.

²² Viviane Namaste and Georgia Sitara, "Inclusive Pedagogy in the Women's Studies Classroom: Teaching the Kimberly Nixon Case," in Viviane Namaste, *Sex Change, Social Change: Reflections on Identity, Institutions, and Imperialism* (Toronto: Women's Press, 2005), 66.

Trans explain, for example, “when members of a group feel their discomfort with a marginalized sub-group outweighs the rights of others to exist in the same space, they are acting from an unfair sense of entitlement, regardless of their own marginalized status or oppression.”²³ While it has been met with hostile backlash by some feminists, the vigilant activism of trans women against their exclusion from women-only feminist spaces and organizations has confronted mainstream feminists – particularly radical lesbian feminists – with a refigured set of challenges around how the category of woman and feminist politics are defined, and who decides.

Other non-trans feminist theorists and activists have taken up the questions and issues posed by trans studies and activism in ways that differ profoundly from radical and anti-trans feminist positions. The work of Judith Butler, Patricia Elliot, Eleanor MacDonald, and Cressida Heyes, among others, suggests that the increasing visibility of trans people and the emergence of transgender studies presents an important opportunity for feminists to reflect further, or in new ways, on a variety of political issues.²⁴ Far from dismissing trans people as a diversion to feminism, this scholarship advocates for a more complex understanding of sex, gender, and power, and greater self-reflexivity on the part of feminists. “Given that many trans people identify with feminism or seek allies in the feminist community,” Elliot argues, “non-trans feminists need to inform ourselves about

²³ Camp Trans is an education and advocacy group that protests the exclusion of trans women from women-only spaces. Each year, Camp Trans sets up outside of the Michigan Womyn’s Music Festival, holding workshops and providing educational materials to promote awareness of trans issues and to show resistance to the festival’s anti-trans policies. Quotation from the Camp Trans website, <http://www.camp-trans.org/pages/whatwedo.html>, section entitled “Frequently Asked Questions and Objections.” Accessed January 25, 2009.

²⁴ Judith Butler, *Undoing Gender* (New York: Routledge, 2004); Patricia Elliot, “Who Gets to Be a Woman?: Feminist Politics and the Question of Trans-Inclusion,” *Atlantis* 29.1 (Fall/Winter 2004), 13-20; Eleanor MacDonald, “Critical Identities: Rethinking Feminism Through Transgender Politics,” *Atlantis* 23, special issue on “Sexualities and Feminisms” (Fall 1998), 3-12; Cressida Heyes, “Reading Transgender, Rethinking Women’s Studies,” *NWSA Journal* 12.2 (2000), 170-180.

their needs and goals, and to engage both theoretically and practically with ideas and institutions that oppress them.”²⁵ Interrogating some of the assumptions and conceptual frameworks that underlie anti-trans positions, these feminists have worked toward the critical task of exposing some of the silences and unspoken points of reference that organize feminist arguments against inclusion, and the construction of trans people as gender conformists.

Even as some feminists have taken up trans identities and issues in relatively open and supportive ways, however, the scope of engagement is often limited to questions of trans inclusion or explorations of the potential usefulness, for feminist theory, of analyzing trans identity. Trans scholars such as Viviane Namaste and Henry Rubin argue that a preoccupation with issues of inclusion, identity, and the subversion of sex/gender norms – by feminist theorists and high-profile trans scholars alike – prioritizes the political interests of a select group of trans people, while obscuring the issues and experiences of a whole range of others. Namaste, for instance, points out that overthrowing the sex/gender system, or subverting gender norms, is not the first thing on many trans people’s minds. She contends that such a focus actually impedes an institutional analysis of the material and social conditions in which trans lives are lived.²⁶ While queer and postmodern feminists are keen to probe transgender and transsexual identity for insights into how the binary sex/gender system is internalized or disrupted,

²⁵ Elliot, “Who Gets to be a Woman?,” 17.

²⁶ Viviane Namaste, *Sex Change, Social Change: Reflections on Identity, Institutions, and Imperialism*, 22-23.

Namaste argues, they rarely address concrete issues that arise in the day-to-day lives of marginalized trans people.²⁷

Both Namaste and Rubin examine the implications of how queer and feminist theorists interested in deconstructing sex/gender norms and relations sometimes impose their own conceptual frameworks onto the study of trans embodiment and subjectivity. An effect of this tendency is the celebration of forms of trans subjectivity that are judged to be non-normative and revolutionary, and an implicit critique or rejection of trans identities that are interpreted as too normative. According to Rubin, this is a process of appropriation – non-trans scholars analyze trans lives according to systems of valuation and meaning that do not reflect those of the trans people they study, and towards ends that do not necessarily benefit trans communities. In addition, trans people are examined as if the rules of sex and gender shape, reveal themselves in, or should matter to trans people more than anyone else. Rubin explains that, “Somehow these critics think that because we ‘know the rules’ we should be the vanguard in charge of breaking them.”²⁸ Passing transsexuals, and trans people who do not express the goal of challenging the binary gender system, are treated with a sort of disdain by scholars who seek to deconstruct and destabilize sex/gender categories - “it disappoints them,” reflects Rubin, “that we have not made this connection between our knowledge and their project.”²⁹ Such scholarship imposes the double standard of expecting trans people not only to grasp

²⁷ Viviane Namaste, “‘Tragic Misreadings’: Queer Theory's Erasure of Transgender Subjectivity,” in *Queer Studies: A Lesbian, Gay, Bisexual and Transgender Anthology*, eds. Brett Beemyn and Mickey Eliason (New York: NYUP, 1996), 183.

²⁸ Henry Rubin, “Phenomenology as Method in Trans Studies,” *GLQ* 4. 2 (June 1998), 273.

²⁹ *Ibid.*

the urgency of transforming the dominant sex/gender order, but to make it their life project in ways that non-trans people are excused from doing.

My thesis argues that an examination of these various ‘border wars’ – both between feminist and trans activists around inclusion, and between differently-positioned trans groups about the proper subject of trans politics – has much to contribute to contemporary critical scholarship on self/other relations, which aims to trouble identity-based politics that rely on essentialist conceptions of sex/gender. My work contends that discourses of authenticity, along with particular kinds of essentialism with regard to identity and community, figure (albeit differently) in current debates both among trans and between trans and feminist scholars/activists. Applying and building on the critiques of marginal and transfeminists, I will elucidate how such discourses operate, within the context of these most visibilized political confrontations, to reinscribe dominant notions of identity and difference. I argue that such conceptual frameworks negatively impact on our potential for theorizing intersectionally, and our possibilities for coalescing across multiple sites of difference.

My thesis further argues that the framing of trans and trans-feminist conversations about inclusion and identity also impacts on the very possibilities for making sense of, or reading, the varied and particular histories shared among or between trans and feminist communities. Trans-feminist relations are constructed and come to be understood in certain ways – and not others – through the specific genealogies and kinds of subjects privileged by the terms of our engagements. In turn, particular histories, relations and political contexts situate engagements between trans people and feminists within complex configurations of power. What is at stake, then, in rethinking the terms of current debates

around identity and inclusion is the critical potential that lies in self-consciously tracing the histories of erasure that condition and make possible such debates as they are currently configured in order to imagine and articulate trans/feminist histories, and futures, Other-wise.

In order to do so, my thesis employs a range of methodological approaches, including feminist intersectional analysis, discourse analysis, and transnational feminist analysis. The combination of these frameworks facilitates interdisciplinary research that aims to challenge the construction of certain issues, identities, and bodies of scholarship as separate, unrelated, or mutually disinterested, as well as to speak to multiple audiences simultaneously. Judith Halberstam refers to such an approach as a "scavenger methodology," because it "uses different methods to collect and produce information on subjects who have been deliberately or accidentally excluded from traditional studies of human behaviour."³⁰

Discourse analysis enables and encourages an investigation of how lives and relations are structured through, but also resist, dominant versions of truth and possibility. Taking critical theory and public debate as particular forms of discourse, I examine a variety of feminist and trans texts, legal cases, and contexts of activism that flag prominent sites of contestation between and within feminist and trans communities. Instead of engaging these debates as an opportunity to weigh in on one side or the other, I examine how engagement itself is framed for multiply-situated subjects – I ask, for example, what kinds of positions or questions are made possible by the terms of debate as they materialize through complex power relations? What or who is peripheralized through prevailing characterizations of the problem, or of the solution? Which issues or

³⁰ Judith Halberstam, *Female Masculinity*, 13.

voices are displaced by telling a story, or tracing a set of histories, without attending to the political implications of how that story is told?

Michel Foucault describes such a methodology, which investigates how selves and subjects are constituted through discourse – understood as the linguistic and institutional frameworks that delimit or condition possibility – as a genealogical method of inquiry. Whereas scientific and social-scientific methodologies tend to presume a ready-made subject, a genealogical or discourse analysis approach, instead, asks how subjects come into being through a nexus of power relations, and across what Foucault calls “dense transfer point[s]” of power.³¹ In some ways, I posit the particular exchanges among trans scholars, or between feminist and trans activists, that I engage here as constitutive of precisely such discursively productive moments, albeit across different marginalities. In bringing particular critical texts and interventions into dialogue with each other, I ask how these debates have been productive of trans identity, how they have shifted understandings of trans political projects, or what kinds of limits they draw around notions of both trans and feminist community.

In the context of my thesis, applying intersectional and transnational feminist analyses has involved attending to how identities and communities are socially-constructed and situated within multiple, interwoven, and dynamic systems of social hierarchy and oppression. Intersectional approaches resist the idea that the meanings and operation of gender, race, class, sexuality, and other socially-constructed categories of difference can be separated out and analyzed independently. While emphasizing the importance of social location and positionality, such a framework challenges the construction of identities and communities in monolithic or essentialist terms. It further

³¹ Michel Foucault, *History of Sexuality* (New York: Vintage Books, 1990), 103.

provides a means of listening and accounting for the silences, disjunctures, and erasures that shape a particular discourse.

Transnational feminist analyses situate sexual, racial, gender, and class relations within global movements of power and capital. Contextualizing local histories and sites of struggle within ongoing legacies of colonization and imperialism, transnational feminisms examine the role of the nation-state in organizing differences and exclusions in order to consolidate power on a global scale. Transnational feminist analyses have shown that nationalist discourses and discourses of gender are deeply coordinated in the work of disciplining bodies according to state interests, and in organizing state power and prerogatives according to gender ideologies. The strategies and insights provided by intersectional and transnational feminist analyses are invaluable to the work of this thesis, which aims to destabilize and shift discussions about inclusion and authenticity in order to unsettle a singularized category of trans identity and to provide new possibilities for understanding our selves and our selves in relation to others.

Finally, each of these methodological approaches compels a recognition of my own positionality as a knowledge-producer, and a continuous process of self-reflexivity around how my own assumptions and locations of privilege inform which debates I choose to enter or initiate, and how I go about doing so – which is, I think, a crucial aspect of any project that hopes to foster dialogue, coalition, and accountability across borders.

The three chapters of my thesis follow what Mohanty refers to as a ‘spiral structure’, moving “in and out of similar queries, but at many different levels.”³² Using the case as a concrete local context of contestation between and among trans and feminist

³² Mohanty, *Feminism Without Borders*, 13.

communities, Chapter 1 examines the legal dispute between Kimberly Nixon and Vancouver Rape Relief Society over the issue of trans women's inclusion within a women-only feminist-run organization. While much of the literature written about the case has focused on the question of whether trans women are real women, or whether including transsexuals opens the door for men to join women-only organizations, I investigate the dialogues and issues that may be displaced or obscured by an uncritical acceptance of such questions as the only or most important ones. Drawing on the work of marginal and trans feminists, I analyze the Kimberly Nixon case for the absences, silences, and compromises that structure radical and lesbian feminist arguments against trans inclusion and politics. I argue that the framing of such debates entails a variety of political and historical erasures that set costly limits on how and which voices may enter into the discussion, the kinds of stories that can be told, and the possibilities for theorizing both power and resistance in ways that reject naturalized conceptions of identity and difference.

The heterogeneity of trans communities and the multitude of political issues that trans people confront and engage in are rarely conveyed in arguments over trans inclusion in women's spaces. While the issue of inclusion has been centralized within recent exchanges between feminists and trans activists, a range of other discussions and debates are taking place within trans studies and among differently-situated trans communities. Chapter 2 explores recent tensions within trans studies and activism through an engagement with the work of Viviane Namaste and other trans scholars. In her 2005 book, *Sex Change, Social Change: Reflections on Identity, Institutions, and Imperialism*, Namaste argues that a limited focus on identity and the liberating potential

of sex/gender transgression renders the most popular and publicized discussions of trans issues largely irrelevant to the lives of marginalized trans people. Urging scholars and activists to develop analyses attuned to the institutional and material dimensions of trans lives, Namaste foregrounds and cultivates a critical awareness of what remains invisibilized within ‘transgender’. Chapter 2 elaborates on these important and timely challenges, but also critiques Namaste’s work with respect to the lived realities and specificities that are diminished or disregarded in order to accomplish certain arguments. In the spirit of constructive critical dialogue, I contest particular aspects of *Sex Change*, *Social Change* in order to elucidate how discourses of authenticity and essentialist identity politics also profoundly shape what we can and can not know about trans people and, indeed, who counts as a legitimate trans subject. I argue that drawing more restrictive boundaries around categories of ‘transgender’ or ‘transsexual’ does not facilitate, but obstructs, a more rigorous and complex analysis of how power is exercised on, within, and by multiply-situated and diverse trans communities.

In Chapter 3, I investigate some of the ways that discourses of authenticity, and the self/other relations reproduced therein, are mobilized by imperial nation-states as a means to legitimate vastly inequitable relations both within and outside national boundaries. I suggest that the move to reconsolidate and fortify categories of ‘woman’ or ‘trans’ in the face of ‘outside’ threats does not simply parallel, but internalizes and participates in, state ideologies and discourses of national identity deployed in an effort to consolidate national borders against dangerous or untrustworthy Others. Bringing together the analyses of trans and transnational feminists, I situate discourses and processes of state and institutional regulation as a key arena where national identity is

reproduced as white, male, middle-class, heterosexual, non-trans, etc. through the management and discipline of bodies that cross. As such, however, I suggest that that nationalism, citizenship, and the state are potentially rich sites for beginning to think transgender and transnational, and a range of other marginalities, alongside and through each other, against the grain of dominant understandings and impositions of difference/sameness and distance/proximity.

Chapter 1 – Tracing Erasures, Contesting Terms: A Critical Analysis of Trans Inclusion and Radical Feminist Politics in the Kimberly Nixon Case

Over the last decade or so, feminist activists and scholars have directed a significant amount of attention to transgender identities, and to examining the relationship between feminist and transgender politics. Feminists working from a variety of analytical frameworks and representing diverse political interests have begun to identify and engage with some of the difficult questions that trans people and politics pose with respect to social categories of sex and gender, and how identity is understood more generally. Within these discussions, the issue of trans inclusion, as well as the degree to which feminist and trans politics may be reconciled, has been a central focus. The legal case between Kimberly Nixon and Vancouver Rape Relief Society is one of many recent examples of how trans activist pressure is compelling organizers of women's space and services to answer a number of questions about who counts as a woman, what makes women a natural peer group or identifiable community, what constitutes women's safety, and who decides. This chapter critically examines the anti-trans radical feminist arguments presented in the context of this case by asking: what are the histories and conditions that produce or give rise to debates over trans inclusion – and, crucially, how might we trace the politics and practices of erasure that make certain kinds of conversations and certain kinds of subjects possible within such a debate, while rendering others insignificant, non-existent, or even impossible? The questions, terms, and discourses that direct a particular debate do not arise naturally or objectively. Instead,

they take shape through power and are guided, differentially, by the political interests, analytical approaches, and conceptual frameworks of the individuals and communities invested in the issues at stake. I argue that interrogating the underlying notions of identity and difference and relations of power that shape political dialogues within and among marginalized communities is a crucial part of beginning to define and develop relationships that disrupt dominant models of understanding our selves in relation to others.

In 1995, Kimberly Nixon was denied the opportunity to train and participate as a volunteer peer counselor with Vancouver Rape Relief Society and Women's Shelter (Rape Relief) on account of her being a transsexual woman. Rape Relief is a collectively-run women-only crisis service, which provides a 24 hour crisis line and a transition house for women who have suffered abuse or assault. Nixon, herself a survivor of sexual assault, passed the initial pre-screening process for prospective volunteers, agreed to the unifying principles of the organization, and was accepted into the training program. However, when she attended the first training session, Nixon was taken aside by the facilitator, who suspected her of being a trans woman. When asked, Nixon confirmed her transsexual status – she was then told that she could not participate in the training program, and was asked to leave.³³

Arguing that Rape Relief's refusal to accept her as a potential volunteer constituted discrimination on the basis of sex, Nixon filed a human rights complaint. In

³³ barbara findlay, "Real Women," *UBC Law Review* 36.1 (Winter 2003): 57-76, available on barbara findlay's website, www.barbarafindlay.com/. Accessed Nov. 28, 2007; Vancouver Rape Relief, "Chronology of Events in Nixon vs. Vancouver Rape Relief," www.rapereliefshelter.bc.ca/issues/knixon_chronology.html, n.d. Accessed Nov. 28, 2007; Viviane Namaste and Georgia Sitara, "Inclusive Pedagogy in the Women's Studies Classroom: Teaching the Kimberly Nixon Case," in Namaste, *Sex Change, Social Change*, 60-81.

the province of British Columbia, complaints of discrimination are initially investigated by the BC Human Rights Commission (BCHRC), which determines whether there is sufficient grounds for the complaint. Where a reasonable basis for the complaint is found, it is referred to the BC Human Rights Tribunal (BCHRT) to be heard. In Nixon's case, the Commission did find sufficient grounds, and the matter was sent to a tribunal. Rape Relief disputed the Commission's decision, and requested a judicial review. Upon review, the court upheld the decision of the BCHRC. The BC Human Rights Tribunal on Nixon's case took place between December 2000 and February 2001. Early in 2002, the Tribunal ruled in Nixon's favour, and awarded her \$7500 for injury to dignity. However, Rape Relief successfully appealed the Tribunal's decision in the BC Supreme Court, and the initial ruling in Nixon's favour was set aside. Nixon then appealed to the BC Court of Appeal in 2005, but the ruling of the BC Supreme Court was upheld. In 2007, the Supreme Court of Canada refused Nixon's request to appeal the judgment of the BC Court of Appeal, effectively ending the twelve year legal battle in favour of Rape Relief.³⁴

While over the course of the legal proceedings, Rape Relief made several different arguments to defend its decision to exclude transsexual women, an appeal to freedom of association under Section 41 of the Human Rights Code (s. 41) proved to be the most critical aspect of its defense. S. 41 gives disadvantaged groups working toward social change the right to exclude people who do not share in the group's characteristics or social condition. It allows non-profit organizations, which have as a primary objective the promotion of the interests or welfare of an identifiable group of people characterized by a common sex or political belief, to grant preference to members of that group without

³⁴ Ibid.

contravening the Code. However, there must be a ‘rational connection’ between the preference given and the organization’s work or purpose. Rape Relief argued that its primary purpose is to promote the welfare of those “who share the common political belief that women’s oppression is a social order in which men by birth rule women, and should be addressed by organizing among people who have suffered such oppression from birth.”³⁵ Rape Relief argued that life-long experience of being treated as female, or the life-long experience of women’s subordination, is a necessary requirement for membership in their organization.³⁶ Being a non-transsexual woman, Rape Relief maintained, is integral to the effective provision of support and counseling to women in crisis, as an ambiguously-gendered person or one with masculine characteristics might be threatening to women who have been affected by male violence and are seeking help from a peer counselor. Rape Relief contended that it had a *bona fide* justification for excluding transsexual women, and further insisted that it should be exempt from a complaint of discrimination on the basis of sex under s. 41.

During the Human Rights Tribunal on the case, the tribunal refused Rape Relief’s argument that they had a *bona fide* justification for excluding Nixon. The tribunal did not dispute that the organization’s goals – for example, the goal of providing a safe environment for women victims of male violence to receive support and peer counseling – are rationally connected to the work of Rape Relief. The tribunal also accepted that Rape Relief adopted the standard for exclusion in good faith; that is, that Rape Relief honestly held the political beliefs that they claimed to, and genuinely believed that the

³⁵ Vancouver Rape Relief, “Nixon v. Vancouver Rape Relief Society pending before the Human Rights Tribunal” (January 2002), www.rapereliefshelter.bc.ca/issues/knixon_outline.html. Accessed Nov. 28, 2007.

³⁶ *Ibid.*

inclusion of transsexual women would compromise or obstruct the organization's purpose. However, in order to prove a *bona fide* justification for exclusion, the organization or employer must show that the standard is reasonably necessary for accomplishing its purpose – it must demonstrate that it is impossible to accommodate individual or group differences without experiencing undue hardship.³⁷ From the tribunal's perspective, Rape Relief could not demonstrate that this was the case; Rape Relief had made no reasonable effort to accommodate Nixon, provided no evidence that transsexual women could not be accommodated, and neglected to assess her potential on an individual basis, excluding her simply because she is a transsexual woman.³⁸ As tribunal chairperson Heather MacNaughton wrote in the decision:

Rape Relief failed to establish that it made even the slightest gesture towards finding a way of including Ms. Nixon in the training program. For example, it did not ask Ms. Nixon to step aside from the training program while it considered other options at a collective meeting. It did not consider whether their methods of providing services could be adapted to accommodate Ms. Nixon. It did not consider exploring with Ms. Nixon what, if any, suggestions she might have had for dealing with clients who may have been uncomfortable with her history. They gave no thought as to how she could be accommodated and led no evidence to demonstrate that they made efforts towards her inclusion. The only step they took was to preclude her from participation. In the words of their expert psychiatrist Dr. Pacey, 'sometimes transgendered women may be appropriate as peer counselors'. That would suggest that a blanket rule excluding all transgendered women is not appropriate and that some individual assessment of skills is necessary.³⁹

MacNaughton further noted that other women-only organizations in British Columbia that provide support to women victims of assault have successfully accommodated and/or integrated transgender and transsexual women. For these reasons, the tribunal concluded

³⁷ Heather MacNaughton, *Nixon v. Vancouver Rape Relief Society*, 2002 BCHRT 1, S 196 and 197, available on The BC Human Rights Tribunal website, www.bchrt.bc.ca/decisions/2002/pdf/nixon_v_vancouver_rape_relief_society_2002_bchrt_1.pdf. Accessed Nov. 28, 2007.

³⁸ findlay, "Real Women," 23.

³⁹ MacNaughton, *Nixon v. Vancouver Rape Relief Society*, 2002 BCHRT 1, S 204.

that Rape Relief did not have a *bona fide* justification for excluding Nixon, and thus their actions could be considered discriminatory under the Code.

The issue of whether Rape Relief could be exempted from a complaint of discrimination under s. 41 thus became the critical focus of the tribunal. The main question up for debate here was “whether Rape Relief has as ‘a primary purpose’ the promotion of the interests and welfare of an identifiable group characterized by a common sex as well as a common political belief.”⁴⁰ While the tribunal did not dispute that the political beliefs articulated by members of the Rape Relief collective inform the manner in which they perform their work, it did dispute the primary purpose of the organization as it had been articulated by Rape Relief. In the tribunal’s decision, McNaughton stated:

Rape Relief is not, and has never been, an organization that has as its primary purpose the promotion of women with a shared life experience, or the promotion of the interests of women who have never experienced male privilege ... Rape Relief is an organization that has as a primary purpose the promotion of the interests of all women in responding to male oppression and violence. There was no evidence before me that there is, in fact, a shared life experience that is common to all non-transsexual women, and Rape Relief called no evidence to show that it requires its volunteers, or its clients, to have such a common experience.⁴¹

Furthermore, evidence provided by Rape Relief indicated that, on more than one occasion, services had been provided to transsexual or transgender women. For all of these reasons, the tribunal dismissed Rape Relief’s argument that the organization had, as a primary purpose, the promotion of the welfare of women who shared their political beliefs and who had always been treated as female. Rape Relief was thus denied exemption under s. 41; they were ordered to cease contravention of the Code, and to pay

⁴⁰ Ibid., S 209.

⁴¹ Ibid., S 221-222.

\$7,500 in damages to compensate for the injury to dignity, feelings, and self-respect that Nixon suffered as a result of the discrimination.

The legal interpretation and application of s. 41 also formed a key focus of the subsequent judicial review by the BC Supreme Court, in which the decision of the BCHRT was set aside. Among other things, Rape Relief petitioned to have the BCHRT's decision quashed on the grounds that "the Tribunal erred in holding that Rape Relief did not have a primary purpose of providing services to women in the political sense understood by Rape Relief."⁴² In his review of the Tribunal's decision with respect to whether Rape Relief was entitled to exemption under s. 41, Justice E.R.A. Edwards argued that the tribunal had incorrectly interpreted the leading case on Section 41, *Re Caldwell and Stuart*, [1984] 2 S.C.R. 603 (*Caldwell*). "By interpreting s. 41 as requiring Rape Relief to prove its primary purpose was the promotion of the interests of women 'who met their political definition of what it means to be a woman'," stated Justice Edwards, the Tribunal "gave s. 41 a restrictive interpretation inconsistent with that of the Supreme Court of Canada in *Caldwell*."⁴³ In *Caldwell*, the Supreme Court of Canada found that, because s. 41 is a rights-granting provision, it should not be subject to the same restrictive interpretation that legislative provisions placing constraints on rights usually are. According to Justice Edwards, a proper application of *Caldwell* would not compel Rape Relief to prove that it has the promotion of the interests and welfare of women who share their political beliefs, and who have the life-long experience of being treated as nothing other than female, as its primary purpose:

⁴² *Vancouver Rape Relief Society v. Nixon et al.*, 2003 BCSC 1936, S 1, available on the Courts of British Columbia website, www.courts.gov.bc.ca/jdb-txt/sc/03/19/2003bcsc1936.htm. Accessed Nov. 28, 2007.

⁴³ *Ibid.*, S 115.

Rape Relief was not required to prove its primary purpose was the promotion of the interests of persons who were ‘woman enough’ to meet its ‘political definition’ of women as persons who had lived their entire lives as females in order to employ only persons who met that definition as peer counselor trainees. This is because it had the *bona fide* belief that employment of only such persons benefited its clients from the ‘identifiable group’, women (however defined), by protecting them from the possible trauma of dealing with persons its female clients, already traumatized by male violence, might perceive as male and therefore threatening or at least ‘not woman enough’ and therefore unwelcome confidantes.

... Just as the school in *Caldwell* did not have to prove its insistence that Catholic teachers adhere to Catholic dogma would actually benefit students from its identifiable group of Catholics with a better Catholic education ... so Rape Relief did not have to prove that exclusion of male to female transsexuals from its peer counselor training program would actually benefit its clients with a better or less traumatic counseling experience, any more than it had to prove its clients would benefit from the exclusion of men.⁴⁴

On the basis of these considerations and arguments, Justice Edwards found the BCHRT’s conclusion that s. 41 of the Code did not permit Rape Relief to exclude Nixon unreasonable. The BC Court of Appeal upheld this decision, agreeing with Justice Edwards’ reference to and interpretation of *Caldwell* with respect to s. 41.

Rape Relief and their supporters have hailed the outcome of this case as a tremendous victory for women, for women-only organizing, and for all equality-seeking groups. In related press releases and articles posted on Rape Relief’s website, the decision with respect to s. 41 is presented as a vital affirmation of the right of Rape Relief and other equality-seeking organizations to define their membership, and as protecting the right to women-only space and political organizing. As collective member Lee Lakeman has described Rape Relief’s legal battle with Nixon, “this is a test case in which we are defending the human right to women-only space.”⁴⁵ In the most basic sense, the

⁴⁴ Ibid., S 118-119.

⁴⁵ Lee Lakeman, as cited in “Vancouver Rape Relief and Women’s Shelter expresses serious concern about Human Rights Tribunal Decision,” press release, 18 January 2002, available on Vancouver

victory has been interpreted as affirming the right of Rape Relief to exist through an acknowledgement of the political terms in which Rape Relief understands itself as an organization. However, for Rape Relief, winning the case is also significant in that it offers protection against challenges to their definition of ‘woman’, and helps to preserve the autonomy of (non-trans) women’s groups, as well as the right of equality-seeking groups to define their membership and organize amongst themselves for social change. Rape Relief suggests that their success has already enabled at least two other organizations “to defend themselves from attacks to their group integrity.”⁴⁶ For all these reasons, Rape Relief believes that they have achieved something worth celebrating.

However, the case was also described as a heavy burden for the collective to bear. Rape Relief and their lawyers have presented the legal battle as a costly and taxing – even “silly” and “unnecessary” – distraction from the ‘real work’ of the organization.⁴⁷ Linda Gerty, a member of the Rape Relief collective, has maintained that, “It has cost us dearly; financially ... and in time and energy that would have been better directed towards ending male violence against women; not to mention accusations of ‘transphobia’ and narrow mindedness.”⁴⁸ In the opinion of Gwendoline Allison, a lawyer for Rape Relief, the case should never have gone to the courts; it should have been obvious from the start that the actions of the training facilitators were appropriate, respectful, and justified –

Rape Relief’s website, www.rapereliefshelter.bc.ca/issues/knixon_prJan1802.html. Accessed December 3, 2007.

⁴⁶ Lee Lakeman, “Sustaining Our Resistance to Male Violence,” *Canadian Women’s Studies* 25.1/2 (Winter/Spring 2006), 131.

⁴⁷ Gwendoline Allison, “Legal Firm, Bull, Housser & Tupper celebrates the anti-violence work of Vancouver Rape Relief and Women’s Shelter,” reception address, 9 September 2005, available on Vancouver Rape Relief’s website, www.rapereliefshelter.bc.ca/issues/knixon_bht-ga_reception.html. Accessed December 3, 2007.

⁴⁸ Linda Gerty, “Legal Firm, Bull, Housser & Tupper celebrates the anti-violence work of Vancouver Rape Relief and Women’s Shelter.” reception address, 9 September 2005, available on Vancouver Rape Relief’s website, www.rapereliefshelter.bc.ca/issues/knixon_bht-lg_reception.html. Accessed December 3, 2007.

Nixon had not been born and raised as a girl and woman, and was therefore ineligible to train as a peer counselor for Rape Relief. The situation became complicated, Allison implies, because Nixon could not accept these terms and insisted on filing a human rights complaint.

Indeed, Rape Relief and their lawyers, among others, suggest that Nixon's complaint of discrimination is to blame for all the hardship and costs that Rape Relief has had to endure as a result of the court cases. In a timeline of events posted on Rape Relief's website, it is explained that, upon hearing of the human rights complaint, the collective was "sorry to have offended Kimberly Nixon and quickly tried to make amends." The collective offered a written and in-person apology, and offered Nixon \$500 to acknowledge her 'hurt feelings' – Nixon, however, "rejected these offers."⁴⁹ Even though Rape Relief tried to avoid legal proceedings and negotiate a solution, said Allison, "Kimberly Nixon was determined to have her day in court, regardless of the expense to Rape Relief; regardless of the cost to the women who seek the services of Rape Relief."⁵⁰ Considering these costs, the "long and arduous" legal proceedings, and the "vitriol expressed toward Rape Relief," Allison has remarked, the collective made a "courageous decision to defend their organization, and all girls and women should be grateful that they have."⁵¹

But should all girls and women be grateful for the political strategies and legal actions taken by Rape Relief, and the court rulings that ensued? What about trans

⁴⁹ Vancouver Rape Relief, "Chronology of events in Kimberly Nixon vs. Vancouver Rape Relief Society," www.rapereliefshelter.bc.ca/issues/knixon_chronology.html (January 2002). Accessed December 3, 2007.

⁵⁰ Allison, "Legal Firm, Bull, Housser & Tupper celebrates the anti-violence work of Vancouver Rape Relief and Women's Shelter," www.rapereliefshelter.bc.ca/issues/knixon_bht-ga_reception.html. Accessed December 3, 2007.

⁵¹ Ibid.

women? What about women allies, partners, daughters, and sisters of trans women? What about trans women who have been subject to male violence, and need to access the services of crisis centres and transition houses for women? Indeed, the case may say something very different to these women – for example, that trans women do not, in fact, qualify or count as women; that they do not deserve the same opportunities, respect, and dignity of women who were assigned female at birth; that they do not have what it takes to participate in women’s political organizations devoted to challenging sexist oppression and supporting women victims of violence; and/or that their experience is not deemed a part of, potentially valuable to, or welcome within, feminist politics. What about masculine-identified and/or butch women? How do the radical feminist politics espoused by Rape Relief bear on trans men and other gender-variant people, many of whom have strong ties and commitments to feminist communities and activism? Finally, what about other marginalized women and girls, whose experience and differences are minimized or erased by Rape Relief’s essentialist construction of women? What are the political implications of Rape Relief’s position, and at whose expense does their ‘success’ come?

In some ways, many of these questions are irrelevant to Rape Relief and their supporters; after all, what turned into a long and involved series of court cases should have been a non-issue, according to Rape Relief’s lawyers and spokeswomen. Instead of viewing Nixon’s human rights complaint, and the events that gave rise to it, as providing a potentially constructive opportunity for self-reflection and dialogue on difficult questions about identity, political boundaries, and how power operates among and within marginalized communities, Rape Relief dismissed the case as a silly distraction from the real work that they do. Constructing it as such not only trivializes Nixon’s complaint of

discrimination, and the issue of trans inclusion more generally, but also implies that Rape Relief had nothing to learn from the debates that ensued.

No political movement or theory, however, is singular, complete, or beyond refinement – in the interest of remaining as ethical, effective, and relevant as possible, feminist and other social justice movements need to engage in a continual process of self-reflexivity and to take responsibility for the practical effects of their actions. Indeed, in order to avoid reproducing patterns of domination that pervade the larger social contexts in which activism takes place, it seems vital for political movements to evaluate how the changes they seek will impact on differentially-located subjects. What sorts of compromises are required or made in order to achieve certain political goals, and who will bear the cost of these compromises? How might strategies directed toward social change, or the changes effected, be co-opted by the state or other dominant factions for conservative purposes? Rape Relief hails their legal success against Nixon as a victory for all equality-seeking groups, and for all girls and women, but a close examination of the case suggests that the positions and strategies Rape Relief relied on – drawn from and supported by a wider body of radical and popular feminist discourse – have serious repercussions for marginalized women and feminists, as well as for trans people.

Based on the arguments that Rape Relief advanced in court, as well as on the various articles pertaining to trans inclusion posted on Rape Relief's website, it is clear that trans women are not considered real women from a radical feminist point of view. Rape Relief has been explicit about trans women falling outside of their definition of women, arguing in court that trans women cannot properly belong to the category of woman because they have not lived their entire lives as girls or women and lack the

lifelong experience of women's oppression. According to Rape Relief, women assigned female at birth and socialized as girls and women share a common experience of women's subordination under patriarchy, which forms an essential bond between them despite their differences. "We don't all share exactly the same experiences," noted Lakeman, "but there is a predictable constellation for most of us made of genetics, biology, and social-political conditions, recognizable to us, so that even the exceptions confirm the norms."⁵² Being treated as a girl or women for one's entire life is posited as a necessary condition for inclusion within the category of woman, and is thought to serve as a key basis for political organizing among women against male violence and women's subordination. According to Lakeman, "without that shared experience of our circumstances as girls and women," trans women like Nixon are incapable of providing peer counseling to women victims of male violence and participating in the consciousness-raising and group advocacy work that the organization undertakes.⁵³ Consequently, trans women are rendered outside the bounds of womanhood, and outside of women's organizing and feminist activism around issues of male violence and domination.

Rape Relief's definition of woman and women's experience relies on a number of problematic assumptions and erasures. The contention that those assigned female at birth and raised as girls and women share a common experience of oppression fails to consider the vast differences and inequalities that exist between women. Such a position assumes that the meaning of gender, and the experience of gender oppression, is uniform, pre-given, and unchanging across time and space. Factors such as race, class, sexuality,

⁵² Lakeman, "Sustaining Our Resistance to Male Violence," 130.

⁵³ Ibid., 129.

nation, citizenship, and ability, however, play a critical role in shaping women's identities, social conditions, and experience of gendered oppression. For some women, discrimination and subordination along other axes of identity can be just as or more salient and urgently felt than the effects of sexism. Moreover, for women who are multiply-marginalized, it may be impossible to identify one form of oppression over another as the most significant in a given situation.

Rape Relief's position that all non-trans women "have suffered the same basic life-long conditions,"⁵⁴ ignores a rich and extensive body of scholarship by marginalized feminists, which has been concerned, in part, with exposing the tendency of white, western, middle-class women to represent their own particular political interests and experience as those of all women.⁵⁵ Marginalized feminists have taken mainstream western feminisms to task for prioritizing gender over other sites of analysis, arguing that a singular preoccupation with gender makes questions of race and class peripheral to the presumably more pressing concerns of women's liberation movements. Despite a stated commitment to anti-racism and anti-poverty, Rape Relief continues to talk about women

⁵⁴ Ibid.

⁵⁵ Feminist thinkers such as Gloria Anzaldúa, Cherríe Moraga, Audre Lorde, Chandra Mohanty, Lee Maracle, Adrienne Rich, and Dorothy Allison, among many others, have critiqued and helped to destabilize the notion of a global sisterhood of women. Drawing attention to some of the profound ways in which colonialism, racism, classism and other forms of domination structure relations between women, these scholars have argued that understanding gender as the sole or primary site of women's oppression is only possible for women who occupy privileged positions with respect to race, class, and sexuality. See for example, Adrienne Rich, "Compulsory Heterosexuality and Lesbian Existence," *Signs: Journal of Women in Culture and Society* 5 (Summer 1980), 631-660; *This Bridge Called My Back: Writings by Radical Women of Color*, eds. Gloria Anzaldúa and Cherríe Moraga (Watertown, Massachusetts: Persephone Press, 1981); Audre Lorde, *Sister Outsider* (New York: Crossing Press, 1984); Gloria Anzaldúa, *Borderlands/La Frontera: The New Mestiza* (San Francisco: Aunt Lute Books, 1987); Chandra Mohanty, "Under Western Eyes: Feminist Scholarship and Colonial Discourses," in *Third World Women and the Politics of Feminism*, eds. Chandra Talpade Mohanty, Ann Russo, and Lourdes Torres (Bloomington: Indiana University Press, 1991), 51-80; Dorothy Allison, *Two or Three Things I Know for Sure* (New York: Dutton, 1995); and Lee Maracle, *I Am Woman: A Native Perspective on Sociology and Feminism* (Vancouver: Press Gang Publishers, 1996).

as a unified and homogenous group, suggesting that all women are oppressed by all men in the same way. Interrogating the assumptions at work in radical feminist positions against trans inclusion at the Michigan Womyn's Music Festival, Emi Koyama reflects that, "Obviously, many lesbian-feminists – the same people who continue to resist transsexual people's inclusion in 'women's' communities – have not learned anything from the vast contributions of women of color, working class women, women with disabilities, etc."⁵⁶ Koyama argues that "most if not all rationales for excluding transsexual women are not only transphobic, but also racist"; for, it is only at the cost of downplaying or denying the ongoing effects of colonialism, and the forces of racism and classism, that an essential sameness, similarity, or sisterhood among women – drawn from a common lifelong experience of women's subordination – can be asserted.⁵⁷ The implications of such a political strategy for women who must confront and resist multiple forms of domination, including many of the women that Rape Relief provides services to, cannot be underestimated.

The importance, for Rape Relief, of defining woman in the terms that it does is that such a definition absolutely excludes trans women from the category and denies them any legitimate claim to the shared lifelong experience of women that Rape Relief suggests is essential to providing the peer-based counseling and support that it does. Other women are not excluded in this way because their differences are deemed less important than their similarities, and less significant than the difference of transsexuality. Viviane Namaste and Georgia Sitara suggest that this exception with respect to

⁵⁶ Emi Koyama, "Whose Feminism is it Anyway? The Unspoken Racism of the Trans Inclusion Debate," Emi Koyama's website, www.eminism.org/readings/pdf-rdg/whose-feminism.pdf (2000), section III, n.p. Accessed December 7, 2007.

⁵⁷ Ibid.

transsexual women highlights the reductive conception of violence mobilized by Rape Relief's position. Rape Relief's "implicit appeal to a 'sisterhood'," they argue, "... effectively requires that violence be understood primarily in terms of gender – which is to say, the violence of men against women."⁵⁸ Rape Relief is explicit about its view of violence in these terms, stating in its submission to the courts that "it's men who are attacking women and women as a group need to resist."⁵⁹ As Namaste and Sitara identify, this position "establishes an immediate connection amongst women as victims of male violence."⁶⁰ For Rape Relief, this connection between women is thought to provide the raw material for the consciousness-raising and peer-based counseling that they do. By virtue of having "suffered the same basic life-long conditions," said Lakeman, non-trans women "can understand the assaults and resistance in the same way."⁶¹ Trans women, having not had this lifelong experience, are not properly women and therefore lack the sort of understanding and empathy needed to establish trust and rapport with clients. Under Rape Relief's singularized notion of violence, any and all non-trans women are deemed essentially capable of doing crisis intervention and anti-violence work with other women, while all trans women are deemed essentially incapable.

The experiences and skills that trans women might have to offer anti-violence work are overlooked or rendered inconsequential by Rape Relief's position. Another implication, though, is the implicit suggestion that differences between women, and

⁵⁸ Namaste and Sitara, "Inclusive Pedagogy in the Women's Studies Classroom," 68.

⁵⁹ Vancouver Rape Relief, "Rape Relief's Summary of Key Evidence by Issue," Section 8, presented January 24-26, 2001, Vancouver Rape Relief's website, www.rapereliefshelter.bc.ca/issues/knixon_summary.html. Accessed December 3, 2007.

⁶⁰ Namaste and Sitara, "Inclusive Pedagogy in the Women's Studies Classroom," 67.

⁶¹ Lakeman, "Sustaining Our Resistance to Male Violence," 129.

between their experiences of violence, are not significant enough to warrant the requirement that service providers have the experience, understanding, and/or knowledge needed to address the specificities and complexities of violence as it intersects, for example, with racism, classism, and/or sexuality. Namaste and Sitara draw attention to this shortcoming, rightly pointing out that, “Establishing meaningful rapport and trust with [multiply-situated] clients is hampered when white women hold racist assumptions about Native women, when women do not respect the work of prostitution . . . , or when middle-class women do not accept that some women use drugs intravenously.”⁶² Significantly, a general understanding of violence as enacted on women by men ignores the reality of the violences enacted by women against other women. Such a framework invisibilizes the ways that women actively participate in the subordination and exploitation of other women. Understandings of gender oppression and violence that fail to take differences, inequalities, and violence between women into account enable privileged women to maintain a position of innocence and non-involvement with respect to racism, classism, and other forms of violent oppression, including transphobia. In the context of an organization that provides crisis and transition services to women victims of violence and abuse, such a reductive concept of violence is particularly disconcerting, as it raises questions about how the specificities of violence within multiple and complex communities might be addressed.

Explaining violence and oppression solely or primarily in terms of gender lays the groundwork for Rape Relief to assert the safety of women-only spaces, and to position trans women’s presence or inclusion as a threat to these spaces. One does not have to look very far to realize the centrality of this discourse of threat within Rape Relief’s

⁶² Namaste and Sitara, “Inclusive Pedagogy in the Women’s Studies Classroom,” 67.

arguments and the wider body of radical feminist thought that informs them. The title of Lee Lakeman's article, 'Sustaining Our Resistance to Male Violence: Attacks on Women's Organizing ...', presents the Nixon case as an assault that, like other forms of male violence, Rape Relief must resist. On the organization's website, articles pertaining to the Nixon case are grouped under the heading 'Feminists protect the idea of a women-only space', similarly implying that the Nixon cases constitutes an attack on women's right to organize amongst themselves. According to Lakeman, the "the case remains a threat to women's groups"⁶³ – a sentiment that is echoed by Allison, who describes it as a "challenge to the very right of Rape Relief to exist," and cautions that "Kimberly Nixon remains a threat to women's organizations."⁶⁴ Both Allison and Lakeman are careful to remind readers that other women-only organizations have crumbled in the wake of debates over trans inclusion. Strikingly, what began as a desire on Nixon's part to work alongside and for other women in a supportive role has been artfully transformed by radical feminist rhetoric into a malicious attack designed to derail politicized women's organizations.

The discourses of threat and attack deployed by Rape Relief supporters in reference to Nixon and her legal challenge against Rape Relief is informed by a longer history of radical feminist thinking in relation to transsexuality, sex reassignment, and trans politics. The often decidedly hostile positions that radical feminists take on these issues are reflected in the many articles and newspaper editorials included alongside Rape Relief's case summaries and press releases. In several of these pieces, trans women are blatantly mocked and dismissed as men who pretend to be women, and trans politics are

⁶³ Lakeman, "Sustaining Our Resistance to Male Violence," 131.

⁶⁴ Allison, "Legal Firm, Bull, Housser & Tupper celebrates the anti-violence work of Vancouver Rape Relief and Women's Shelter," www.rapereliefshelter.bc.ca/issues/knixon_bht-ga_reception.html, n.p.

represented as a danger to women-only space, lesbianism, and/or feminism. Karla Mantilla, for instance, argues that trans people are “wreaking havoc among lesbians, liberals and other so called progressives”; the situation is so serious, she says, that she is “unwilling to fudge even a little on how dangerous it is to feminism and women.”⁶⁵ The title of Mantilla’s article, “Men in Ewes’ Clothing,” recalls the popular expression ‘a wolf in sheep’s clothing’, and invokes themes of deception and predation as means to understand the relation of trans women to feminism. The idea is that trans women are not women, but rather men, whose desires to be included within women’s movements are deceitful and malign.

What makes trans women so dangerous to feminism and women’s spaces? Mantilla and other authors suggest that trans identities ultimately reinforce existing power structures by conforming to, or imitating, normative gender roles. Jeffreys, for instance, argues that transsexuality is “dangerous politically to women’s chances of freedom as it maintains the idea of gender dichotomy which forms the very foundation of male supremacy.”⁶⁶ Mindelle Jacobs exclaims of Nixon, “she can stomp up and down in her over-sized high heels insisting she’s a woman all she wants but some rape victims just might not buy it.”⁶⁷ Germaine Greer, also featured on Rape Relief’s website, shares this view that transsexual women will always be men, regardless of how they choose to identify. She, too, understands transsexuality and sex reassignment as “profoundly conservative in that it reinforces sharply contrasting gender roles by shaping individuals

⁶⁵ Mantilla, “Men in Ewes’ Clothing,” Vancouver Rape Relief website, www.rapereliefshelter.bc.ca/issues/menewes.html, introductory section, n.p.

⁶⁶ Jeffreys, “Transgender Activism: A Lesbian Feminist Perspective,” 70.

⁶⁷ Mindelle Jacobs, “Should Transsexual Counsel Rape Victims?” *Edmonton Sun*, 17 December 2000, available on Vancouver Rape Relief’s website, www.rapereliefshelter.bc.ca/issues/knixonedsun17.html. Accessed December 10, 2007.

to fit them.”⁶⁸ This wider body of radical feminist thought powerfully informs Rape Relief’s position with respect to the Nixon case, and helps lend support to Rape Relief’s self-presentation as the staunch and courageous defenders of women’s space against attacks to ‘group integrity’ launched by ‘men in ewes’ clothing’. Through these discourses, trans and feminist movements are constructed as oppositional – the political interests and rights of trans and feminist communities are presented as competing and irreconcilable. The moral of the story is that feminists must resist the ‘stealth’ politics of trans movements, and oppose trans inclusion, if they are to preserve the autonomy of women-only organizations, or, indeed, the very right of women’s groups to exist.

For Rape Relief, deploying such discourses was not only important in terms of garnering wider feminist support, it was a critically necessary part of establishing the ‘rational connection’ between their work or purpose and the exclusion of trans women that a s. 41 exemption requires. Rape Relief argued that the presence of someone who had once been a man, or who exhibited male physical characteristics, would seriously compromise the safe and trusting environment that Rape Relief strived to provide for its clients. Lakeman submitted that “even deep voices, male insignia like baseball caps and boots can make women nervous”; she added that women told Rape Relief that “they did not want to guess at the door whether or not this was a man.”⁶⁹ Women specifically seek out the women-only services provided by Rape Relief, Lakeman argued, precisely to ensure that they are greeted by someone who is unambiguously female.

⁶⁸ Germaine Greer, *The Whole Woman* (London: Anchor – a division of Transworld Publishers, 2000), 81-2, excerpt available on Vancouver Rape Relief’s website, www.rapereliefshelter.bc.ca/issues/#womenonly. Accessed December 10, 2007.

⁶⁹ Lakeman, “Sustaining Our Resistance to Male Violence,” 129.

These arguments lead the BC Court of Appeal to rule that Rape Relief has the right to prefer to train and organize only women who have always been treated as female, because this preference is ‘rationally connected’ to the work of the organization. In coming to this conclusion the court also tacitly accepted a number of harmful assumptions that carry the heaviest consequences for marginalized women and trans people.

One of these assumptions is that women-only spaces *are* safe and comfortable. Racialized and/or poor women may experience something quite the opposite of a feeling of safety and comfort in women-only spaces where most of the women are white and middle-class. Rape Relief’s uncritical appeal to the safety of women-only spaces follows from its understanding of violence and oppression as the domination of men by women, and the inability of this framework to adequately address violence and inequalities between women. As Koyama points out, it is only as a result of singularized notions of power and oppression “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.”⁷⁰ The parameters of safety and comfort for some women – the absence of male bodies or the presence of women-born women only, for example – are presumed to define safety and comfort for all women. Indeed, the silent referent within appeals to the safety of women is most often white, middle-class, and able-bodied women. Astutely attuned to this, Koyama argues that, “Even the argument that ‘the presence of a penis would trigger the women’ is flawed because it neglects the fact that white skin is just as

⁷⁰ Koyama, “Whose Feminism is it Anyway? The Unspoken Racism of the Trans Inclusion Debate,” section II, n.p.

much a reminder of violence as a penis.”⁷¹ Again, Rape Relief’s position overlooks practically significant differences between women, and refuses to grapple with the pervasiveness and complexity of other forms of oppression. Particular groups of women demand entitlement to safety and autonomy, whilst failing to acknowledge how these privileges are purchased at the expense of a variety of Others. Such erasures are not outside, but a part, of how relations of white supremacy and class oppression are naturalized and reproduced.

Another significant and related implication of the case has to do with Rape Relief’s suggestion that the exclusive involvement of women who have always been treated as female is vital to fostering a safe and trusting environment for clients. An immediate question is: what woman has never been treated as anything but female? Moreover, what precisely does it mean to be treated as female? Do not the meanings, values, roles and political significance of femaleness shift over time and social context? As Lakeman explained it, it is crucial for volunteers to be unambiguous in their gender presentation as women in order to avoid causing confusion or distress to clients. Rape Relief’s criteria, however, theoretically exclude all kinds of women in addition to trans women – certainly these criteria seem to exclude women who were/are tomboys, butch and otherwise gender-variant subjects, perhaps even women with short hair, deep voices or strong builds.

Taking this analysis further, though, the question of who delineates the boundaries of acceptable, unambiguous embodiments of womanhood is a critical one. In the context of a colonial nation-state like Canada, it is constructive to ask which bodies have been and continue to be denied a legitimate claim to womanhood? Which women’s

⁷¹ Ibid, section III.

bodies have been consistently disregarded or punished by the law for refusing to be a proper or recognizable woman? These questions point to the fact that an insistence on excluding trans women because they may not be neatly recognized or fully accepted as women, given prevailing ideas about what women look, sound, and behave like, is one that actually protects and reinforces these ideas at the expense of trans and other women – subjects who, historically, have sometimes been treated as less than human. In a predominantly white western context, normative modes of gender recognition are thoroughly imbued with colonial, racist and classist ideologies. To be a woman is to be white, middle-class, gendered feminine, able-bodied, etc. Diverse groups of women have therefore been excluded from the category of women – not just by the state, or by men, but also by privileged women who have very specific notions about femaleness, womanhood and femininity. As a result of failing to meet dominant standards of respectable femininity, Indigenous, Third World, racialized, disabled, working-class, homeless, butch, trans, and intersex women, as well as women prisoners, substance users, and sex workers, have historically – and continue to be – relegated to the margins of both womanhood and subjecthood. Systemic and severe forms of exclusion and violence are regularly legitimated by constructions of certain groups of women as deviant, threatening, foreign, backward, uneducated, immoral, and/or perverted. Rape Relief claims to be inclusive of all non-trans women, and implies that differences between ‘real’ women would not undermine safety or trust the way that the presence of trans women would. However, in order to argue for the ‘rationale’ exclusion of trans women, Rape Relief quietly bypasses the violent histories that have been enacted through recourse to

discourses and arguments similar to their own, and, in this way, is complicit with dominant modes of recognition and subjecthood.

When the Nixon case is examined closely – with attention to the notions of identity, conceptions of power and oppression, and the erasures of particular histories and voices that give shape to the central arguments – what is hailed as a victory for all women and equality-seekers is revealed to protect the safety of only certain privileged groups of women, and to come at the expense of a variety of marginalized others. In arguing against the inclusion of trans women, Rape Relief and their supporters rely on an understanding of trans identity as singular, and of trans communities as internally homogenous. There is hardly any attempt to contextualize trans lives and politics through an analysis of power as complex, shifting and organized along multiple axes of identification. From the outset, the terms of debate – for instance, the question of should women-only feminist organizations include trans women – also assume and position trans communities as separate and distinct from feminist communities, when actually these movements have developed in direct and indirect conversation with each other; indeed, these interactions and conversations unfold within and on particular bodies. As trans scholar Bobby Noble has provocatively asserted, trans men and other trans people are not, in reality, outside of feminism – though they have been ousted from women’s spaces by some feminist groups; “I’m not here – as a transsexual man – knocking at the door of the feminist movement asking to be let in,” he says, “I have been in, of, and indeed, have been the feminist movement.”⁷² The denial of the presence and viability of trans/feminist identities within the inclusion debates ignores a long history of trans people’s

⁷² Bobby Noble, “Sons of the Movement: Feminism, Female Masculinity and Female to Male (FTM) Transsexual Men,” *Atlantis* 29.1 (2004), 22.

involvement in feminist movements.⁷³ In the context of the Nixon case, the insights and contributions that trans women have and do make to feminist political thought and activism are erased from view. Regardless of their skills and experience, trans women are deemed ‘not woman enough’ to participate in the feminist anti-violence work that Rape Relief does.

The universalizing conceptions of womanhood, women’s experience, and gender oppression that underlie Rape Relief’s radical feminist positions fail to grasp the deeply interwoven character of sexism, racism, classism, heterosexism, and other forms of oppression. This limits the degree of specificity and complexity with which violence might be conceptualized and addressed, and also obscures women’s implication in the oppression of other women. Rape Relief’s arguments significantly overlook marginalized feminists’ critiques of how white, middle-class feminist appeals to sisterhood and the safety of women-only spaces reproduce colonial, racist and classist patterns of domination and erasure. A generalized notion of violence as the domination of women by men cannot address – and in fact renders impossible or insignificant – trans people’s lived experiences of violence, brutality, and discrimination. Likewise, the specific needs and concerns of women that are subject to violent oppression on a variety of fronts cannot be adequately engaged within an analytic framework based on the assumption that all women share a common experience, or equally bear the effects, of living under patriarchy.

⁷³ For informative discussions on the involvement of trans men and trans women in feminist, gay/lesbian, and other political struggles, see Leslie Feinberg, *Transgender Liberation: A Movement Whose Time Has Come* (New York: World View Forum, 1992); Nan Alamilla Boyd, “Bodies in Motion: Lesbian and Transsexual Histories,” in *A Queer World*, ed. Martin Duberman (New York: NYUP, 1997): 134-152; Henry Rubin, *Self-Made Men: Identity and Embodiment among Transsexual Men* (Nashville: Vanderbilt University Press, 2003); and Aaron H. Devor and Nicholas Matte, “ONE Inc. and Reed Erickson: The Uneasy Collaboration of Gay and Trans Activism, 1964-2003,” in *The Transgender Studies Reader*, eds. Susan Stryker and Stephen Whittle (New York: Routledge, 2006: 387-406.

For these reasons, it is vital for feminists (trans and non-trans alike) to recognize the terms according to which trans people are currently compelled to engage in debates around inclusion as problematic. Radical feminist positions against trans inclusion must be resisted to the extent that they invest in and actively reproduce collective silences and historical erasures that present profoundly unequal relations as natural or ‘rational’. As Koyama suggests, “It is never feminist when some women are silenced and sacrificed to make room for the more privileged women.”⁷⁴ Insofar as inclusion in feminist and women-only spaces requires our complicity with multiple systems of oppression, trans people need to be wary of inclusion as a liberatory goal or political strategy.

⁷⁴ Koyama, “Whose Feminism is it Anyway?,” section IV, n.p.

Chapter 2 – Interrogating Discourses of Rights and Authenticity in Trans Politics: A Reading of Viviane Namaste’s *Sex Change, Social Change*

In the preceding chapter, I examined how universalizing and essentialist conceptions of identity, along with discourses of threat and safety, structure radical feminist arguments against trans inclusion. An intersectional analysis of the legal case between Rape Relief and Kimberly Nixon illustrates how, even within equality-seeking social movements, essentialist notions of sameness and difference can be mobilized in order to secure the boundaries around subjecthood and the Self. In theoretical and practical terms, these positions reproduce patterns of racist, classist, and transphobic domination, and function to reconsolidate the subject of mainstream feminisms as white, western, middle-class, and non-trans. Chapter 1 highlights how, in Sherene Razack’s words, “we can perform ourselves as dominant at the same time that we understand ourselves to be engaged in liberatory politics,” and suggests that it is vital for activists and politicized movements to undertake a continual process of critical reflexivity.⁷⁵ Such a project involves an awareness of how our identities and actions are always situated within a complex matrix of power relations, and are never without political implications for others. To the extent that the terms of the inclusion debates rely on and perpetuate a variety of silences with respect to the participation of privileged women in the oppression of others, trans people should reevaluate the efficacy of engaging in struggles for inclusion.

⁷⁵ Sherene Razack, *Looking White People in the Eye: Gender, Race and Culture in Courtrooms and Classrooms* (Toronto: UTP, 1999), 159.

As transgender political movements and scholarship gain visibility and influence within academic, feminist, and public discourse, it seems important to further consider how transgender issues and identities are being represented by trans scholars, as well as the social justice strategies that trans activists are employing. Viviane Namaste is one trans scholar who has advanced a number of valuable critiques of contemporary trans politics in North America. Her work has taken issue with how both feminists and trans activists have approached and presented the inclusion debates, as well as with popular paradigms for trans scholarship and activism. In her edited anthology, *Sex Change, Social Change: Reflections on Identity, Institutions, and Imperialism*, Namaste poses some difficult questions about how trans scholars and activists are defining the political priorities of trans communities – which voices and issues, for example, are privileged within debates among trans people, and who or what is left out of these discussions?

This chapter will discuss and elaborate on several of the compelling critiques that Namaste articulates in *Sex Change, Social Change* with respect to prevailing models for trans studies and activism. Alongside Namaste, I contend that there is an urgent need to displace some of the more popular modes of engaging trans identities and issues in order to build alternate theoretical and political models that are relevant to, and can address, the lived realities and material conditions of trans people on the margins. Drawing on some of the provocative insights that *Sex Change, Social Change* presents, I argue that, if trans movements hope to effect radical social change at a systemic level, it is crucial to develop a multidimensional understanding of how trans lives are differentially positioned in relation to the state and dominant institutions, and to give careful attention to the compromises and complicities that certain political projects entail. I conclude the

chapter, however, by identifying how parts of Namaste's work reveal a particular investment in discourses of authenticity and essentialist identity politics, which seems to contradict her over-arching emphases on specificity, historicization, and anti-imperialism.

Critical of how trans identities and issues have been taken up by prominent feminists, queer theorists, and trans activists, Namaste's work offers some timely interventions by displacing the usual starting points and directions of such inquiries. Significantly, she refuses to organize her work around the sorts of questions that often frame discussions focused on the relations between trans people and feminism. Stating in her introduction, for example, that "what is at stake is not an acceptance or rejection of transsexuals within feminist communities," Namaste instead emphasizes the need for an institutional analysis that addresses, and has relevance for, the lived realities of marginalized trans people.⁷⁶ Anglo-American feminist and queer engagement with trans issues, she argues, is largely limited to questions of identity and inclusion, and often unquestioningly embraces a problematic liberal notion of transgender rights. In *Sex Change, Social Change*, Namaste therefore promotes "a sustained analysis of transsexual lives that moves beyond questions of identity, matters of who is or is not a woman, debates about whom we can include," and seeks to highlight a number of critical absences and oversights in recent feminist and trans political engagement by centralizing an institutional analysis and the criminalization of transsexual lives.

Namaste presents an important challenge to queer and trans scholars and activists by interrogating what she identifies as a preoccupation with theories of identity and sex/gender relations. One of the main arguments Namaste presents in *Sex Change, Social*

⁷⁶ Viviane Namaste. *Sex Change, Social Change: Reflections on Identity, Institutions, and Imperialism* (Toronto: Women's Press, 2005), xii.

Change is that a primary focus on trans people's sex/gender identities and whether these identities disrupt heteronormative conceptions of sex and gender precludes an historicized account of how transsexuality is criminalized through the state and its institutions. In a keynote address included in her book, entitled "Sex Change, Social Change," Namaste suggests that "identity is the focal point of almost all the current TS/TG theory and activism in the English-speaking world ... everyone is talking about gender identities, about gender non-identities, about being an FTM, about not being a woman, about deconstructing the sex/gender binary."⁷⁷ She maintains that there is a serious need to challenge and displace identity as the privileged site of inquiry, especially insofar as this focus is premised on lesbian/gay or queer paradigms and impedes an institutional analysis of transsexuality.⁷⁸

Too often, Namaste argues, transgender and transsexual identities are interpreted according to conventional feminist, gay/lesbian and/or queer frames of reference, which can have serious implications for trans-identified people on the margins. As she explains in an earlier essay, "Tragic Misreadings'," queer and feminist theorists seem to be "fond of writing about the ways in which specific acts of gender transgression can help dismantle binary gender relations and hegemonic heterosexuality," but they "rarely consider the implications of an enforced sex/gender system for people who live outside of it."⁷⁹ By retheorizing the relationships between sex, gender, sexuality, identity, embodiment, and desire, feminist/queer theorists hope to offer understandings of these concepts that counter dominant sexist and heterosexist ideologies. A main focus of such

⁷⁷ Namaste, "Sex Change, Social Change," in *Sex Change, Social Change*, 18.

⁷⁸ *Ibid.*, 19.

⁷⁹ Namaste, "Tragic Misreadings': Queer Theory's Erasure of Transgender Subjectivity," in *Queer Studies: A Lesbian, Gay, Bisexual and Transgender Anthology*, eds. Brett Beemyn and Mickey Eliason (New York: NYUP, 1996), 183.

scholarship is to explore the social, political and institutional forms of regulation through which heteronormative sex/gender relations are (re)produced and naturalized, as well as to identify and theorize strategies of resistance. While these projects are certainly valuable, they have sometimes proceeded by means of an uncritical invocation of trans identities, in ways that reveal, and serve, the selective interests of non-trans researchers. In other words, trans identities are often made a subject of inquiry only, or primarily, for their instrumental or demonstrative value – that is, to the extent that such identities are perceived to challenge, or in some cases reinforce, heteronormative assumptions about gender, sex, and sexuality, and, as such, are useful for making a particular point. It is therefore critical, as Namaste argues, to reflect on "which aspects of transgender lives are presented" and how these discussions are framed.⁸⁰

Certainly, within the context of feminist/queer theory, the voices and experiences of people who explicitly articulate a transgender identity geared toward challenging normative assumptions about sex and gender tend to be afforded more space and attention than those identifying as transsexuals. As Namaste points out, "within Anglo-American debates on 'transgendered' people, it is nearly impossible to hear the voices of individuals who claim *transsexual* rather than transgendered identities."⁸¹ In addition, trans critics who explicitly identify as queer and/or align themselves with lesbian/gay politics are frequently given the warmest reception. People who articulate themselves as queer or genderqueer, for example, have been notably well received by feminists and

⁸⁰ Ibid., 184.

⁸¹ Namaste, "Sex Change, Social Change: Reflections on Identity and Institutions," Keynote Address presented at *Sexing Change: Reclaiming Our Genders and Our Bodies*. Toronto, 12 October 2001. Unpublished version.

queer theorists, and their work is cited relatively often.⁸² How might this near absence of transsexual voices – as well as of those who do not identify with lesbian/gay or queer politics – within contemporary critical gender and sexuality studies be understood? What accounts for the relative privileging of transgender over transsexual? What are the implications of these political dynamics?

A look at what 'transgender' and 'transsexual' have come to signify politically within the realm of feminist/queer theorizing and, to some extent, within trans studies itself, provides an entry-point for engaging with these questions. Some of the more prominent scholarship in the field of critical gender and sexuality studies implicitly or explicitly deems transgender or genderqueer identities to be more progressive, or politically salient, than transsexual identities. This is due to a perception that, unlike transsexuals, transgenders do not necessarily seek to bring their sex 'in line' with their gender through surgical or other means.⁸³ Instead, transgenders are thought to live with or through a degree of sex/gender incongruency; such identities, therefore, are understood to pose a greater challenge to normative sex and gender roles since they contradict or undermine the correlation between sex and gender that is typically posited as natural and

⁸² Some examples include Leslie Feinberg, *Transgender Warriors: Making History from Joan of Arc to Dennis Rodman* (Boston: Beacon Press, 1996); Riki Ann Wilchins, *Read My Lips: Sexual Subversion and the End of Gender* (Ithaca, NY: Firebrand Books, 1997); Kate Bornstein, *Gender Outlaw: On Men, Women, and the Rest of Us* (New York: Vintage Books, 1994); Pat Califia, *Sex Changes: The Politics of Transgenderism* (San Francisco: Cleis Press, 1997); and Judith Halberstam, *Female Masculinity* (Durham: Duke University Press, 1998).

⁸³ As examples, Namaste identifies Judith Butler's *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1990) and *Bodies That Matter: On the Discursive Limits of Sex* (New York: Routledge, 1993); Leslie Feinberg's *Transgender Warriors* (Boston: Beacon Press, 1996) and *Stone Butch Blues* (Los Angeles: Alyson Books, 1993); and Judith Halberstam's "Transgender Butch: Butch/FTM Border Wars and the Masculine Continuum," *GLQ*, 4. 2 (1998), 287-310. Other examples relevant to this discussion might include Suzanne Kessler, "Creating Good-Looking Genitals in the Service of Gender," in *A Queer World: The Center for Lesbian and Gay Studies Reader*, ed. Martin Duberman (New York: NYUP, 1997), 153-73; Marjorie Garber, *Vested Interests: Cross-Dressing and Cultural Anxiety* (New York: Routledge, 1992); Bernice Hausman, *Changing Sex: Transsexualism, Technology, and the Idea of Gender* (Durham: Duke University Press, 1995); and Elizabeth Grosz, *Volatile Bodies: Toward a Corporeal Feminism* (Bloomington: Indiana University Press, 1994).

essential. By contrast, the desire of many transsexuals to take hormones and undergo sex reassignment surgeries in order to secure a more congruent relationship between their sexed embodiment and gender identity has been judged by many mainstream feminists and feminist/queer theorists as evidence of an investment in normative or essentialist conceptions of gender and relatively conservative politics.⁸⁴ The common assumption that powers this evaluation, as Henry Rubin has pointed out, is that, in contrast to transgenders and gender-benders, transsexuals "maintain a 'natural attitude' that assumes an objective, independent, and self-evident reality to ... bodies."⁸⁵ While transgender crossing is often hailed as a revolutionary means of subverting the heteronormative sex/gender system, and transgenders are praised for living with indeterminacy, transsexuals are shamed for reinforcing or submitting to hegemonic sex and gender relations by seeking to 'fit into' society as women or men. Thus, the idea of 'transgender' – insofar as embodiments of it are recognized as engaging in a counter-hegemonic sex/gender dynamic and performance – has presented an innovative site for exploring questions that have been, and continue to be, of central concern to many feminist/queer theorists.⁸⁶ Within the disciplinary parameters and conceptual frameworks of feminist/queer theory, then, it has been possible to construct and assimilate a certain version of transgender identity and politics in a way that it has not been possible to do with transsexual identities and/or politics.

⁸⁴ See, for example, Janice Raymond, *The Transsexual Empire* (Boston: Beacon, 1979, 1994); Sheila Jeffreys, "Transgender Activism: A Lesbian Feminist Perspective," *The Journal of Lesbian Studies*, 1.3/4 (1997), 55-74 and *Unpacking Queer Politics: A Lesbian Feminist Perspective* (Cambridge: Polity Press, 2003); Suzanne Kessler, "Creating Good-Looking Genitals in the Service of Gender," (1997); Suzanne Kessler and Wendy McKenna, *Gender: An Ethnomethodological Approach* (New York: John Wiley and Sons, 1978); Bernice Hausman, *Changing Sex* (1995) and "Recent Transgender Theory," *Feminist Studies*, 27 (Summer 2001), 465-90; and Elizabeth Grosz, *Volatile Bodies* (1994).

⁸⁵ Henry Rubin, "Phenomenology as Method in Trans Studies," *GLQ*, 4. 2 (1998), 287.

⁸⁶ Patricia Elliot, "Engaging Trans Debates on Gender Variance: A Feminist Analysis," *Sexualities* 12.1 (2009), 6.

The work of Namaste and Rubin responds to what they identify as a certain sensationalization and appropriation of trans identity within some of the well-circulated feminist/queer and trans scholarship. Namaste argues that much of this work actually fails to be relevant to the lives of marginalized trans people, because, from the start, it takes the particular assumptions, interests, and priorities of the researcher or disciplinary framework for granted. Her analyses show how an exclusive focus on identity and sex/gender relations can neglect to address the systemic forms of oppression confronted by transsexuals, and especially by those who are poor, non-white, and/or involved in sex work. She points out, for example, that if trans is understood as a counter-hegemonic embodiment and practice that challenges binary codes of sex and gender, then the specific experience and desire of many transsexual people to establish a more congruent and stable location within that system is erased.⁸⁷ Furthermore, as Rubin highlights, the work of queer-identified non-transsexual theorists increasingly defines trans political progressiveness in terms of the refusal of sex/gender congruence and stable identity.⁸⁸ To be considered politically progressive, then, “transsexuals are expected to abandon the desire to alter their bodies to better signify their gender, and to abandon a fundamental understanding of their own experience of the body.”⁸⁹

Examinations that begin with questions around how trans people subvert the hegemonic sex/gender system and heteronormativity do not recognize transsexuals on their own terms and, for this reason, are unlikely to uncover anything about the day-to-

⁸⁷ Namaste, "Addressing the Politics of Social Erasure: Making the Lives of Transsexual People Visible – An Interview With Viviane Namaste," *New Socialist Magazine* 39 (December 2002/January 2003), online version not paginated. Available at <http://www.newsocialist.org/magazine/39/article04.html>. Accessed Nov. 7, 2009.

⁸⁸ Rubin, "Phenomenology as Method in Trans Studies," 276.

⁸⁹ Elliot, "Engaging Trans Debates on Gender Variance," 9.

day struggles of transsexuals who have no interest in overthrowing gender, but who just want to live as men or women. While starting with these kinds of questions might be useful for scholars engaged in research and theoretical debates over the social construction of gender and sexuality, it does not hold much potential for revealing or working to shift anything with respect to the material conditions of poverty, discrimination, and violence that many trans lives unfold in the context of. Similarly, although there are many transsexuals “who do not make sense of their lives, and their political struggles, within the confines of a lesbian/gay framework,” there is an unspoken assumption in some of the popular scholarship on trans identity that a natural alliance, or shared political project, exists between trans and lesbian/gay or queer communities.⁹⁰ Scholars undertaking such inquiries sometimes seem to assume that the urgency and centrality that they afford to particular issues, questions, or frameworks is, or ought to be, shared by the subjects of those inquiries. While the questions and hypotheses that preoccupy non-trans or privileged trans scholars are presented as the central and most pressing ones, a range of other questions and issues are effectively rendered out of the asking – that is, they do not even come up for question.

In contrast to the queer and trans scholarship that she critiques, Namaste’s work emphasizes the value and importance of shifting the critical focus away from the politics of sex/gender embodiment and toward an analysis of the criminalization of trans lives. In “Sex Change, Social Change,” for example, she describes how laws against prostitution, cross-dressing and changing sex, alongside regular police brutality and discriminatory treatment within the court system, organized the social, political and work lives of

⁹⁰ Namaste, “Addressing the Politics of Social Erasure,” n.p. See also, Namaste, *Sex Change, Social Change*, 28.

transsexual prostitutes and artists living in Montréal in the 1960s and '70s. Municipal bylaws aimed at 'cracking down' on prostitution in order to 'clean up' the streets for Expo 67 – for example, a law that prohibited cabaret artists from mingling with clients – had a devastating effect on the working conditions and earning potential of cabaret artists, who often supplemented their income through prostitution.⁹¹ “Indeed,” Namaste notes, “the early 1970s witnessed the virtual disappearance of cabaret culture in the city.”⁹²

Although it might seem that much progress has been made in terms of safety and protection from discrimination for trans people, Namaste points out, a survey of contemporary working conditions for prostitutes suggests otherwise. The ongoing regulation of prostitution remains a key mechanism through which trans people are criminalized. Police continue to selectively target sex workers for contravening municipal bylaws, “such as walking on the grass, or blocking the traffic on a deserted sidewalk at five a.m.”⁹³ In a socio-political context in which both transsexuality and prostitution are profoundly stigmatized, these kinds of bylaws, along with the federal laws that regulate sex work, create extremely precarious working and living conditions for trans prostitutes. When these dimensions of the everyday lives of transsexuals are foregrounded, the constraints that criminalization placed, and continue to place, on transsexuals' access to sex change procedures, health care, and other social services become more visible. “Reflection on the history of prostitution in Canada ... tells us a great deal about the ways in which the state organize[s] the work lives of transsexual artists and prostitutes”⁹⁴ –

⁹¹ Namaste, “Sex Change, Social Change,” 14.

⁹² Ibid.

⁹³ Ibid., 26.

⁹⁴ Namaste, “Sex Change, Social Change,” 16-17.

significantly, Namaste adds, it provides an opportunity for institutional analysis that a narrow focus on transgender identity or rights cannot.⁹⁵

A focus on the criminalization of prostitution opens up the potential for a critical analysis of the institution and management of healthcare and social services in relation to transsexuals and access to sex change resources. Gender identity clinics, for example, continue to deny a recommendation for surgery to transsexuals engaged in sex work on the basis that prostitution is not a legitimate form of employment, and therefore cannot be counted as part of the real-life experience.⁹⁶ This refusal, Namaste reminds us, “occurs in a Canadian legal context in which prostitution ... is entirely legal.”⁹⁷ It is also important to notice that such forms of institutionalized discrimination are classed and racialized, as a majority of transsexual women working as prostitutes in Canadian urban centers are poor or working-class and/or women of colour. Yet, despite the profound effects of the criminalization of prostitution on transsexuals’ lives, the decriminalization of prostitution rarely comes up as a major concern or topic of interest within mainstream trans or queer studies and politics. This prompts Namaste to ask: “How did we arrive at a political place where a major health institution has excluded prostitutes for three decades, and the self-designated activists of our community say nothing about this discrimination?”⁹⁸ Considering the extensive political work initiated and achieved by trans sex workers on issues of prostitution, poverty, the prison system, HIV prevention, among others, how is it that their voices are not being heard? How is it that the histories and struggles of prostitutes do not enter the political vision of trans movements? In Namaste’s words, this

⁹⁵ Namaste, “Sex Change, Social Change,” 18-19; 27.

⁹⁶ Namaste, “Sex Change, Social Change,” 25.

⁹⁷ Ibid.

⁹⁸ Ibid., 26.

near absence of critical attention to the lives and perspectives of trans prostitutes “speaks to the failure of this activism to offer any comprehensive analysis of institutionalized discrimination.”⁹⁹

The criminalization of prostitution, Namaste argues, must be further situated within a broader context of intensifying practices of surveillance, policing, and regulation of public space in North America. Pointing out some of the ways that city bylaws – for example, those directed against ‘loitering’, taking up space on public sidewalks or benches, or soliciting without a permit – are selectively applied to poor and homeless people, Namaste suggests that working around issues of prostitution would help to uncover links between the struggles of transsexual prostitutes and those of other sex workers, street youth, substance-users, and poor and homeless people.¹⁰⁰ Prioritizing prostitution, poverty, and policing within frameworks for trans activism would provide insight into the gendered, classed and racialized dimensions of the legal system and law enforcement by engaging with how “different laws are used to control people labeled as ‘undesirable’.”¹⁰¹ Such an approach would draw attention to aspects of transsexuals’ lives that are often ignored or absent within mainstream queer and trans activism, and could also provide a foundation for meaningful alliance between marginalized communities – for, political work of this kind would not only be relevant to, and beneficial for, transsexual prostitutes, but to a variety of marginalized people who confront institutionalized discrimination based on their status as outside or beneath the rights and entitlements of citizenship. A multidimensional analysis of state practices of

⁹⁹ Ibid., 28.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

criminalization and policing has the potential to substantively transform the possibilities for how lives are lived by interrogating, at a systemic level, how existing relations of power and domination are organized, and how these relations function institutionally to define worthy, against unworthy, subjects.

On several occasions in her book, Namaste encourages readers to reflect on the history of the women's movement in Canada as a means of recognizing some of the limitations of contemporary trans studies and politics. To this end, it is useful to return to the essay by Namaste and Sitara, called "Inclusive Pedagogy in the Women's Studies Classroom." In this paper, the authors advocate for more nuanced discussions of the Kimberly Nixon case that are capable of drawing connections between the kinds of arguments used by anti-trans feminists and those deployed by early Canadian feminists and suffragists. Namaste and Sitara point out that feminist debates about the case often revolve around questions such as 'Are transsexual women women?', 'How do/should we define woman?', and/or 'Should transsexual women be allowed to participate in (non-trans) women's organizations?'.¹⁰² Such questions can constructively open up a critical exploration of the meanings of sex and gender, the limits of identity categories, and issues of belonging and difference. However, framing the debate solely in terms of identity and inclusion can obscure some of the complex issues that the Nixon case raises, and allows for an over-simplified understanding of the relation between trans people and feminists as one of competing rights.¹⁰³ In contrast to such an approach, Namaste and Sitara illustrate how the Nixon case provides an opportunity to examine the different ways that feminists have theorized and applied the concept of 'woman's experience', as

¹⁰² Viviane Namaste and Georgia Sitara, "Inclusive Pedagogy in the Women's Studies Classroom," in *Sex Change, Social Change*, 61.

¹⁰³ *Ibid.*, 60-61, 78.

well as to contextualize mainstream feminist appeals to the state and attendant discourses of protection and rights within a longer history of imperialism in Canadian women's movements.

By shifting the questions that frame inquiry and debate on the inclusion issue, scholars can open up alternative and more detailed analyses of the case. If, instead of asking about whether the inclusion of trans women jeopardizes the autonomy of women's spaces, the question is posed as 'how have women's groups employed the discourse of protecting women's rights in the past, and what were the political implications of this strategy?', it becomes possible to critically reflect on how, historically, some feminist strategies for social change have been complicit with certain forms of violence and exclusion, or have been co-opted by the state toward conservative ends. For example, early Canadian feminists, such as Nellie McClung and Emily Murphy, advocated for women's rights by emphasizing the crucial role of women in reproducing the Anglo-Saxon race. They argued that elevating the status of women was necessary in order to protect the nation from the corruption of non-white immigrants.¹⁰⁴ These feminists "held deeply racist views and envisioned a world wherein the equal rights of women in the public sphere would be used in service to the British Empire."¹⁰⁵ A more recent example of how discourses of protection and appeals to women's rights have been employed by feminists in ways that are detrimental to marginalized women is the intervention of several feminist organizations in the *Butler* case – a case dealing with obscenity legislation, which was heard by the Supreme Court of Canada in the early 1990s. The state accepted the arguments articulated by feminist groups, such as the Women's Legal

¹⁰⁴ Ibid., 76.

¹⁰⁵ Namaste, "Against Transgender Rights," in *Sex Change, Social Change*, 104.

Education and Action Fund (LEAF), that pornography must be banned, or at least highly regulated, in the interest of protecting women from sexualized violence and objectification.¹⁰⁶ As Namaste and Sitara point out, however, one of the first applications of the legislation that followed from *Butler* was against lesbian pornography. “While some women argued that women needed to be ‘protected’ from sexually explicit representations,” they observe, “it is interesting that the Canadian state’s first act of ‘protection’ was directed against culture created by and for lesbians.”¹⁰⁷

Pursuing these kinds of analytical links between contemporary debates among feminists over trans inclusion and longer histories of feminist political mobilization, where appeals to protection and women’s rights served the interests of the state, leads to a much more fruitful examination of the Nixon case than a mere focus on whether or not transsexual women should be allowed to participate in women-only spaces. Such a contextualized approach to the issues enables a view of how, as Namaste and Sitara argue, “an appeal to ‘women’s rights’ has been instrumental in the work of imperialism and the functioning of a moralist state”; in this way, it effects a significant shift in the discourse by moving the focus away from the bodies and identities of transsexual women, and encouraging critical thinking around what constitutes social justice, and the ethics of particular forms of political action.¹⁰⁸

In “Against Transgender Rights,” Namaste suggests the value of extending these lessons from feminist history to reflections on contemporary political organizing around transgender rights. Understanding how campaigns for the vote and women’s rights were intimately linked to imperialist projects “allows us to question whether an invocation of

¹⁰⁶ Namaste and Sitara, “Inclusive Pedagogy,” 75.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid., 76.

‘transgender rights’ is truly liberatory, or whether it is bound within specific social relations of domination, despite its rhetoric of justice and equality.”¹⁰⁹ One example that Namaste uses to show how a preoccupation with obtaining or expanding transgender rights can replicate larger patterns of domination and erasure is trans activists’ work in creating and supporting an organization called Transgendered Officers to Protect and Serve (TOPS).¹¹⁰ Now disbanded, TOPS was an education and advocacy organization for transsexual and transgender police officers that helped facilitate medical transition and aimed to promote an equitable and harassment-free employment environment for trans people working in law enforcement.¹¹¹ Namaste notes that TOPS is “hailed in the U.S. transgendered movement as important in getting fair treatment for [police] officers.”¹¹² Indeed, many progressive people, whether trans or not, probably believe that the creation and political work of this and similar organizations help to advance transgender rights – after all, within a North American context, freedom from

¹⁰⁹ Namaste, “Against Transgender Rights,” 105.

¹¹⁰ Namaste does not explicitly distinguish between problems with liberal rights and problems with rights discourse, more generally. However, she does give some indication that she is addressing problems with liberal frameworks most specifically. For example, Namaste identifies a focus on the rights of individuals, in particular, as problematic. She argues that high profile trans activist initiatives geared toward expanding the health care or employment rights of trans people have done nothing to challenge an underlying system according to which certain rights are awarded or withheld from an individual based on whether and how they participate in the paid labour market. People who are unemployed, or do not participate in the paid labour market in specific ways, cannot properly be understood as subjects of these initiatives or of the rights that these initiatives aim to secure; and, yet, reforms passed as a result of these movements are pursued and portrayed in a celebratory manner through tropes of liberal progress, as though they will ultimately or eventually benefit all trans people. Namaste seems to understand the problem with transgender rights not so much as a problem of language or representation, though, but as a problem that stems from an uncritical acceptance of capitalism, criminalization, and economic imperialism, as well as an unwillingness to make more intensive demands on the state. A number of distinct criticisms have been made against rights discourse in general, and there is considerable scholarly debate on the issue of whether rights language itself creates problems that will not be resolved even by resisting liberal frameworks. For the purposes of the current discussion, however, I concentrate on the shortcomings of liberal rights activism as identified by Namaste with respect to popular North American models of trans rights activism.

¹¹¹ Although TOPS no longer exists, other similar groups have since been organized. One such organization is called TCOPS (Transgender Community of Police and Sheriffs). According to the TCOPS website, several hundred people are involved with or have contacted the group. Having grown considerably since its inception in 2002, TCOPS now also incorporates parole and probation officers, federal agents, and community service officers and dispatchers. See www.tcops.org.

¹¹² Namaste, “Sex Change, Social Change,” 29.

discrimination in the workplace is largely considered to be a basic human right. However, while ensuring that trans people are not harassed or discriminated against by employers and coworkers seems like a worthwhile political endeavour, Namaste encourages trans people to reflect critically on organizations like TOPS for how they participate in a legal and law enforcement system that criminalizes so many trans people.

Activists involved in advocacy groups for trans police officers and other law enforcement personnel maintain that the work that they do is of benefit to all trans people. In a vision statement for an organization called Transgender Community of Police and Sheriffs (TCOPS), Julie Marin writes that, “Law Enforcement officers are focal points of any community. We are role models to some and a figure of authority to others.”¹¹³ She goes on to suggest that, as a result of the public visibility involved in doing enforcement work, an officer or agent who transitions at work helps to encourage greater acceptance of trans people by the public. “When we are treated with respect and dignity by our peers,” argues Marin, “the public also treats us this way, and thus what is good for ‘us’, is also beneficial to the rest of the trans-community.”¹¹⁴ These claims need to be interrogated, however. Garnering respect and dignity from the public is arguably much easier, and less fraught with risk, for white, middle-class professionals with highly-esteemed careers than it is for trans people who are just struggling to get by – particularly for those who are racialized, homeless, engaged in prostitution, incarcerated, etc. The idea that the respect and dignity earned by trans police officers will translate into greater acceptance for all trans people in some sort of trickle-down effect ignores the specific

¹¹³ Julie Marin, “Vision.” TCOPS website (2005), n.p. Available at www.tcops.org. Accessed Feb.12, 2008.

¹¹⁴ Ibid.

reasons why police officers command so much respect and politeness from the public – in Marin’s own words, “[they] are role models to some and authority figures to others.”¹¹⁵

It is also worth reflecting on the possibility that the newly-earned respect and legitimacy enjoyed by some transsexual professionals is actually purchased at a high cost to socially-disadvantaged trans people who are deemed, by contrast, ‘unsuccessful’, ‘maladjusted’, or ‘criminal’. Dan Irving identifies a tendency within both mainstream news media and mainstream GLBT media to highlight particular kinds of transsexual success stories. He points out that, “In these stories, the markers of success have been employment, contribution to society, etc. For example, some articles have featured stories about transsexuals who transitioned on the job. Their ‘success’ was measured by the status of their occupation.”¹¹⁶ Meanwhile, another popular trend in the media is to invoke the constructed other of these trans success stories – trans failures or horror stories – in an effort to harness transphobia as a means of boosting profits. For instance, Irving observes, “the ‘exotic’ world of the transsexual prostitute is offered up to titillate readers and to reinforce the perspective that trans identities and sex work are ‘deviant’ and a threat to the ‘nation’.”¹¹⁷ Employment, economic status, and ability to pass, among other things, have come to serve as markers of a trans person’s success and/or ability to overcome what is constructed as personal adversity. Meanwhile, trans people who do not meet or aspire to middle-class ideals of respectability are pathologized and/or sensationalized within mainstream media. These polarized depictions of trans people

¹¹⁵ Ibid.

¹¹⁶ Dan Irving, as cited in Gary Kinsman, “Trans Politics and Anti-Capitalism: An Interview with Dan Irving,” *Upping the Anti* 4 (October 2007), online version not paginated. Available online at <http://uppingtheanti.org/node/2789>. Accessed Oct. 2, 2009.

¹¹⁷ Irving, as cited in Kinsman, “Trans Politics and Anti-Capitalism,” n.p.

help to rationalize the differential treatment of people based on the extent to which they appear to embody the norms and values of capitalist white supremacy.

In Namaste's view, the case of TOPS is emblematic of what she identifies as the paradox of U.S. trans politics. She explains:

... activists are so busy advocating for the nice treatment of professional transsexuals by their colleagues that they forget the most obvious of facts: these nice police professionals enact the laws and policies that criminalize our daily lives, push us to the margins, and make poverty a crime.¹¹⁸

TOPS, and other groups, like TCOPS, participate in and help to sustain a system of law enforcement that protects the interests of the state and private corporations, often at the expense of poor and/or racialized people. While a liberal project of expanding the rights of individuals might have an effect on which subjects have access to positions of power and authority, or legitimacy, it often does little to change how social relations are organized through domination and subordination. As Namaste points out, the work of TOPS and other similar groups "merely means that now transsexuals can arrest prostitutes, drive the homeless from one park to another ... or ticket the street kids trying to make a few bucks at the traffic lights."¹¹⁹ Similar arguments could be made in response to many other scenarios – for example, in the case of women or gays and lesbians becoming corporate CEOs or prison wardens. Having women, or queers, or trans people assume positions of power in multi-national corporations or law enforcement, does not significantly shift the violent and oppressive foundations upon which these entities are built. Indeed, in the context of a society "increasingly ruled by the police and prisons," it is crucial for trans activists and other progressive people to

¹¹⁸ Namaste, "Sex Change, Social Change," 29.

¹¹⁹ Ibid.

consider the ways in which promoting the rights of transsexual police officers “amounts to consolidating the rights and authority of the police in general.”¹²⁰

There are other important examples of how a liberal rights-based political agenda can be complicit with systemic forms of oppression and have harmful implications for trans people and others on the margins. In “Against Transgender Rights,” Namaste discusses the successful efforts of U.S. trans activists to have trans employees of the City and the County of San Francisco covered under their employer’s health insurance plan. Prominent trans activists have described the victory as a historic one that will help other trans employees to gain coverage under their employers’ policies; some have even made the suggestion that this activism could serve as a first step in ensuring that all trans people eventually have access to the health care they need.¹²¹ However, as Namaste identifies, this struggle for the right to insurance coverage involved taking certain aspects about how health care is organized for granted and involved making a number of costly political compromises.

The campaign to have city employees covered under their employer’s policy leaves intact a problematic and taken-for-granted connection between employment and access to health care. “This link between health and employment,” Namaste notes, “is one that allows for the possibilities of sick bodies only when those bodies have been working outside the home in a market economy.”¹²² A question arises as to how the inclusion of trans city employees under the insurance plan of a major employer will contribute to improving access to health care for all trans people when fighting for this inclusion did not challenge, but rather took advantage of, how the provision of health care

¹²⁰ Ibid.

¹²¹ Namaste, “Against Transgender Rights,” 107.

¹²² Ibid., 107-8.

is organized in the U.S. – a system wherein “sick bodies that have not been working outside the home are, presumably, to be disregarded.”¹²³ Comprised of private, profit-driven corporations, the insurance industry has a vested interest in the maintenance and reproduction of certain forms of discrimination, as well as in constructions of particular segments of society as deviant, illegitimate, and/or criminal. Formal categories of difference and dominant public perceptions and stereotypes can be useful to insurance companies in their bid to justify the exclusion of certain groups from their policies, or to limit their responsibilities to specific policy-holders and claimants. In remaining silent on these issues, and failing to consider or advocate for alternate models of health care – for example, models that treat health care as a universal right to be provided by the state – trans activists involved in this struggle “unwittingly accept an administrative, political, and economic context in which health care is linked to employment.”¹²⁴ Further, they engage in an activist model and movement that only serves the interests of relatively privileged trans people who can be seen to at least approximate dominant standards of respectability.

Implicating the U.S. insurance industry in larger processes of global capitalist imperialism, Namaste also discusses how American insurance corporations and private health care providers are now seeking to extend their markets into Canada and Mexico through trade agreements such as the North American Free Trade Agreement and the proposed Free Trade Area of the Americas.¹²⁵ Both agreements include clauses that enable corporations to sue governments for lost revenues as a result of being prevented from doing business or entering the marketplace, or as a result of ‘unfair competition’.

¹²³ Ibid., 108.

¹²⁴ Ibid.

¹²⁵ Ibid., 110-113.

With respect to health care, public funding could be construed as an unfair advantage that undermines a private provider's right to compete in a free market. Such agreements open the way for the imposition of an American understanding of health care as a commodity, and the provision of health services as a business, outside of the U.S.; as such, Namaste argues, "these agreements redefine the very terms, conditions, and rights of citizenship outside the United States and ensure that citizenship does not include the right to universal health care."¹²⁶

Namaste's analyses gesture toward the role of silence, compromise, and consent in sustaining state and institutional mechanisms that criminalize particular people and ways of living. She shows how trans issues have been taken up in some very narrow and limited ways by feminist, queer, and trans theorists, and explains how the terms privileged within the most publicized work around trans people often fail to adequately engage the complexities of trans lives – specifically, the lives of those who are most socially and economically subordinated. Namaste also provides a valuable critique of trans activism and organizing, implicating activist models based on a taken-for-granted liberal concept of 'transgender rights' in ongoing processes of economic and political imperialism. These reflections on the limitations and harmful implications of contemporary trans movements prompt Namaste to conclude that, "until we work not to promote our individual rights as transsexuals, but to intervene in the ongoing criminalization of our lives – we will fall short of effecting any radical social change."¹²⁷

Chapter 1 showed how the conceptions of women, oppression, and safety deployed by Rape Relief do not reflect, but in fact obscure or diminish, the lived realities

¹²⁶ Ibid., 112.

¹²⁷ Namaste, "Sex Change, Social Change," 30.

of women who confront multiple oppressions – the conceptual framework underlying Rape Relief’s arguments reflects the interests of women who are relatively privileged in terms of race, class, ability, citizenship status, etc. A critical interrogation of trans activism and organizing around trans inclusion and expanding the rights of trans people shows that, despite the hard work and good intentions of the activists involved, the political priorities and visions of these movements are being defined in ways that do not reflect or improve the lives of trans people who confront oppression on multiple fronts. What good, for example, does the right to public funding or insurance coverage for sex-reassignment surgeries do for trans prostitutes, who are denied recommendation for surgery – and even access to primary health care – on account of the work that they do? Many voices, realities, and experiences are pushed to the peripheries of trans movements, or erased from view entirely, because the political priorities – and, indeed, ‘trans’ itself – are being defined by those who neglect to register the urgency and pervasiveness of issues such as poverty, racism, incarceration, or immigration status, among others. In trying to market ourselves to the state, within academia, or to corporate interests, such as the insurance industry, who do we ‘sell out’ in the process? These are some of the important points and questions that I think Namaste’s analyses compel trans scholars and activists to consider.

However, even as Namaste asks scholars and activists to grapple with the complexities of trans lives, there are some significant instances in *Sex Change, Social Change* where the lived realities of particular trans subjects are generalized and dismissed. I suggest that these dismissals are the product of essentialist and homogenizing conceptions of transsexual and transgender. It seems to me that Namaste

mobilizes these delineations deliberately and strategically in an effort to counter prevailing paradigms of queer and trans studies and activism that privilege illegibility and the subversion of sex and gender norms in ways that erase or misrepresent the specific needs and experience of trans people who desire sex/gender congruence and stability, or that construct such desire as politically regressive. Namaste's move to reconsolidate or authenticate a specific, and specifically, transsexual identity also comes in the midst of cuts to publicly-funded health care and social services, intensifying practices of surveillance and regulation aimed at criminalized segments of the population, ongoing violence and discrimination against trans people, and the privatization of the welfare state – all of which affect transsexuals deeply.¹²⁸ It is certainly crucial to remain attentive to the contemporary social and political contexts in which Namaste articulates certain definitions or characterizations of transsexual, transgender, MTF, FTM, gay/lesbian, and queer, and to grapple with her motivations for doing so.

However, there are important reasons to challenge and resist essentialist depictions of identity or community as a way of responding to inequality and erasure. Such a strategy, for example, creates an oppositional relation between transsexual and transgender; promotes the idea that these categories are fixed, discrete, and internally harmonious; and also positions transsexual vs. transgender as the primary axis of difference between trans-identified people. In this sense, a strategic attempt to reclaim and redefine the self against a dominant group can create for others precisely the sort of erasure or misrepresentation that it was intended to remedy. I contend that it is possible to work constructively toward the sort of radical social change and justice that Namaste desires without engaging in essentialist identity politics or relying on discourses of

¹²⁸ Namaste, "Sex Change, Social Change," 29.

authenticity – indeed, as I will elaborate on in more detail in the following chapter, it is my belief that these approaches sustain hierarchical relations and impede systemic transformation. For the time being, I turn to some of the places in *Sex Change, Social Change* where Namaste’s depiction of transsexual and transgender identity or community establishes legitimacy for some embodiments and trajectories of trans, and denies it to others, through an imposition of both sameness and difference. These instances are important to reflect on, as they signal and reference a set of trends and debates among trans communities over the meaning and content of the terms ‘transsexual’ and ‘transgender’, and the relations between feminist, queer, and trans politics.

In “Sex Change, Social Change,” Namaste points to what she calls a ‘certain “transgendered” investment’ in disrupting the sex/gender binary as a useful demonstration of how focusing on identity and the subversion of gender norms “evacuates the possibility of an institutional analysis.”¹²⁹ She cites no-ho, no-op (no hormones, no operations) transsexuals, and those who identify as third gender, gender radicals, or genderqueer, as examples of people who articulate a transgendered political interest in resisting normative conceptions of sex and gender. While such a position may be ‘philosophically interesting’, Namaste says, claiming an identity beyond or other than man or woman actually “ignores the very fundamental reality of being in the world.”¹³⁰ Negotiating the social world requires that one identify as either a male/man or a female/woman. Moreover, the rigid imperatives of gender become most apparent when one is in need of a place to live, a job, or medical or other social services; “would someone please tell me,” Namaste asks rhetorically, “how to get an apartment when one

¹²⁹ Namaste, “Sex Change, Social Change,” 22.

¹³⁰ Ibid.

is neither a man nor a woman”?¹³¹ Only those who are privileged and do not have to worry about employment or housing or other basic aspects of sustenance, she suggests, can talk about identifying beyond or in-between the given categories. For Namaste, discourse around subverting the sex/gender binary represents an indulgence in abstract issues of identity; in her view, such a politics is “utopic, and one profoundly informed by privilege,” out of touch with reality, and not very useful for intervening in the world.¹³²

Indeed, within predominantly white, western contexts, a binary sex/gender system is rigorously imposed and enforced, despite the rather obvious failure of such a model to account for the diversity and mutability of sexed and gendered embodiment. As Susan Stryker points out, “a gendering violence is the founding condition of human subjectivity”; in order to be recognized as human, one must unambiguously become, and be legible as, either a male/man or a female/woman.¹³³ Feminist critiques of western science and medicine have helped to show just how much ideological and institutional energy is directed to the task of sustaining a binary system of sex and gender. For example, in her analysis of how intersex conditions are interpreted and managed by medical authorities in the United States, Cheryl Chase explains that “the birth of an intersex infant today is deemed a ‘psychosocial emergency’ that propels a multidisciplinary team of intersex specialists into action.”¹³⁴ According to dominant medical perspectives, living with ambiguous sexual or reproductive organs would be so stigmatizing and shameful for an intersex child that surgical and hormonal interventions

¹³¹ Ibid.

¹³² Ibid.

¹³³ Susan Stryker, “My Words to Victor Frankenstein Above the Village of Chamounix: Performing Transgender Rage,” in *The Transgender Studies Reader*, eds. Stephen Whittle and Susan Stryker (New York: Routledge, 2006), 253.

¹³⁴ Cheryl Chase, “Hermaphrodites with Attitude: Mapping the Emergence of Intersex Political Activism,” *GLQ* 4. 2 (1998), 189-211, quotation on 191.

should be made as soon as possible in an attempt to make the bodies of such children better approximate those of ‘normal’ males or females. Even though such procedures are rarely medically necessary, as “ambiguous genitals are in and of themselves neither painful nor harmful to health,” intersex children are made to endure extensive and invasive medical intervention and supervision, which, as Chase documents, often results in profound physical and emotional distress for intersexuals and their families.¹³⁵

Chase’s work demonstrates that, far from being natural, fixed, or objective, categories of sex and gender – along with other identity categories, such as race, nation, and sexuality – are socially-constructed and institutionally-reproduced; they represent central means of organizing people, power, and resources through the (re)production and naturalization of difference. “The fact that this system for preserving the boundaries of the categories of male and female has existed so long without drawing criticism,” Chase points out, “... indicates the extreme discomfort that sexual ambiguity excites in our culture.”¹³⁶ Identities and bodies that defy categorization, or move between socially-recognized categories, are considered a threat and subjected to various, often violent, forms of discipline.

Given the particular constraints of traversing social and institutional contexts in which deviation from foundational assumptions about sex and gender is typically met with hostility and ostracism, sex- and gender-transgressing people act strategically in order to survive. For trans people who do not understand themselves as either male/man or female/woman, this is likely to mean having to present, or be read as, men or women under certain circumstances – despite the felt inaccuracy, inadequateness, or

¹³⁵ Ibid. 192, 191.

¹³⁶ Ibid., 189.

invisibilizing effects of these terms. As Jason Cromwell notes, “for convenience sake, most transpeople present to the world as men or women”; even though passing entails being erased as transgendered, trans people who reject or fall outside of sex and gender dichotomies may have little choice but to identify as a man or a woman when the alternative is to be refused essential health and social services, to be discriminated against by potential employers or landlords, or to be the victim of physical violence.¹³⁷ Some people may pass as a man in one instance, but be read as a woman in another – they may identify as neither/both, in part because they are not consistently identified as one or the other. Factors such as class, race, sexuality, nation, and other aspects of social positioning mediate which strategies are available to particular trans people from one context to another, and also affect the stakes involved in disrupting the sex/gender status quo. Socially privileged people may be able to ‘play’ with gender, or to take the subversion of gender norms on as a political project, without the same risks as marginalized people endure in doing so.

However, it is not the case, as Namaste’s argument implies, that attempting to live outside of, or challenge, normative sex/gender relations is a project necessarily and profoundly informed by privilege – nor is it the case that such strategies are removed from, or impractical when it comes to negotiating, the harsh day-to-day realities of the ‘actual’ world. Namaste is right when she observes that it is extremely difficult to negotiate dominant social and institutional terrains without identifying, or being identified, as a ‘man’ or ‘woman’. It does not follow from this, though, that unless one holds a considerable amount of social privilege, there is no other choice but to live, for all

¹³⁷ Jason Cromwell, *Transmen and FTMs: Identities, Bodies, Genders & Sexualities* (Urbana: University of Illinois Press, 1999), 128.

intents and purposes, as a man or a woman. Just because I check off an F or an M on my application for social assistance or a credit card does not mean that I live, am read, or identify as an F or an M all or even some of the time. Instead, this state of affairs indicates that a whole range of identifications are denied subjectivity within, or rendered impossible by, the existing terms for becoming a subject/citizen in a particular time and place. And it indicates that those terms desperately need to change.

Another aspect of Namaste's position that needs to be questioned is the contention that transgender discourse around alternative sex/gender embodiments and disrupting the prevailing male/female binary "has very little to do with understanding what we live, and how this experience is organized institutionally."¹³⁸ Alongside the assertion that one cannot practically negotiate the world as something other than male/man or female/woman, because the dominant culture demands and requires that each of us identify as one or the other, Namaste also claims that "a transgendered discourse that is fundamentally invested in disrupting the sex/gender binary actually evacuates the possibility of an institutional analysis."¹³⁹ Thus, not only is it the purview of the privileged and utopic to refuse the categories male/man and female/woman, but undertaking activism and scholarship that attempts to critique and shift the social relations that make living outside of these categories so difficult actually spoils the possibility of doing more important work.

Namaste claims that the theories and activism emerging from queer theory and transgender studies are preoccupied with identity, and do not provide analysis or tools for understanding the institutional organization of 'our' lives. However, the questions that

¹³⁸ Namaste, "Sex Change, Social Change," 23.

¹³⁹ Ibid., 22.

Namaste raises in an effort to demonstrate her point – namely, how does one find a place to live, a physician, or an employer when one is neither a man or a woman – seem to provide a very constructive starting point for a practical analysis of how, institutionally, sex and gender work through and alongside other primary means of differentiating people to organize lives in particular ways and for specific purposes. For instance, one could ask: what are the social and institutional dynamics that give rise to these conditions and relations? Cromwell’s research indicates that many trans-identified people are unable, unwilling, or not satisfied to pass as male or female; despite the risks and difficulties involved in doing so, “many transpeople are resisting the imposed order that dictates the necessity of being either a man or a woman.”¹⁴⁰ What sorts of discursive and practical strategies do trans subjects mobilize in order to maneuver within and around normative imperatives of sex and gender? How are dominant ideas about sex and gender shaped by racism, classism, and other forms of systemic oppression and discrimination – how, then, does this impact on the political position that specific trans communities occupy, both in relation to the state and in relation to other groups of trans and marginalized people? These are but a few examples of questions and considerations that situate an interrogation of dominant ontologies of sex, gender, and other social categories within an institutional analysis that is at once sensitive to the material specificities of trans lives and attuned to the larger relations of power in which trans politics participate and unfold.

Trans theory and discourse that aims to expose and/or challenge binaries of sex and gender is not necessarily at odds with developing an institutional analysis or examining trans lives through the lens of criminalization. In fact, it seems that questions of identity and difference are very important to, and perhaps inseparable from,

¹⁴⁰ Cromwell, *Transmen and FTMs*, 117.

“understanding what we live, and how this experience is organized institutionally.”¹⁴¹

Patricia Elliot identifies that Namaste’s apparent dismissal of identity “implies that the social and political question of how to act in the world can be adequately addressed without asking how we understand our own and others’ identities, or that self-understandings do not inform our theories, our actions, even our bodies.”¹⁴² As I discussed earlier in this chapter, there has been a tendency within some of the most circulated feminist and queer studies to enlist an abstracted notion of transgender identity as a convenient means of demonstrating part of an argument, and/or to vilify passing trans people as gender conformists. As Rubin argues, “this sort of scholarship has fetishized transsexuals, either as ‘gender revolutionaries’ or as ‘gender traitors’.”¹⁴³ If trans scholarship and activism that addresses questions of identity and sex/gender relations is to go beyond a depoliticized celebration of sex/gender diversity, or a reification of trans identities as subversive, it is crucial for these projects to engage with differences in power. Trans scholars and activists, and others engaged in trans issues, need to be attentive to how their work constructs the subject of trans politics, and which subjects and issues are peripheralized as a result. Namaste’s critiques of popular feminist/queer theory with respect to these issues are immensely helpful in elucidating the ways in which unexamined privilege can (re)produce harmful assumptions and omissions. Significantly, though, when Namaste argues that transgender discourses are removed from and irrelevant to the realities that trans people encounter in the actual world, she actually overlooks the realities of varied communities of people for whom

¹⁴¹ Namaste, “Sex Change, Social Change,” 23.

¹⁴² Patricia Elliot, “Who Gets to Be a Woman?: Feminist Politics and the Question of Trans-inclusion,” *Atlantis* 29. 1 (Fall/Winter 2004), 13-14.

¹⁴³ Rubin, *Self-Made Men: Identity and Embodiment among Transsexual Men* (Nashville: Vanderbilt University Press, 2003), 163.

transforming normative codes of sex and gender is in fact a project intimately bound up with day-to-day survival and creating lives that are livable.

Given Namaste's overall emphases on specificity and historicization, what might account for her generalization and dismissal of certain trans-identified subjectivities and political issues as misguided and immaterial? Some clues about this can be uncovered by interrogating the particular conceptions of transsexual and transgender that underlie Namaste's work. For Namaste, the term 'transsexual' "refers to individuals who are born in one sex – male or female – but who identify as members of the 'opposite' sex."¹⁴⁴ Transsexuals, she adds, "take hormones and undergo surgical intervention, usually including the genitals, to live as members of their chosen sex."¹⁴⁵ This definition suggests that transsexuals are people who identify, and can be located, within sex/gender binaries as one or the other – transsexuals are either assigned male at birth, but identify as female, or assigned female at birth, but identify as male. It also suggests that hormonal and surgical interventions are central to the experience of being transsexual. "On a very fundamental level," Namaste argues, "transsexuality is about individuals who change our physical bodies because we want to move through the world on all levels in a sex and gender other than the one assigned to us at birth."¹⁴⁶ Being transsexual, she says, is about living day-in and day-out as a man or woman; it "is not about challenging the sex/gender binary ... [and] it is not about starting the Gender Revolution."¹⁴⁷

Namaste's understanding of transsexuality excludes trans people who do not seek hormonal and/or surgical treatments, or physically modify their bodies – whether they

¹⁴⁴ Namaste, "Making the Lives of Transsexual People Visible: Addressing the Politics of Social Erasure," in *Sex Change, Social Change*, 1.

¹⁴⁵ Ibid.

¹⁴⁶ Namaste, "Sex Change, Social Change," 20.

¹⁴⁷ Ibid.

self-identify as transsexual (versus ‘transgender’ or ‘genderqueer’) or not. It also excludes trans people who do not identify solely or completely with male or female, or who cannot or do not wish to live as one or the other all of the time. Namaste distinctly relegates challenging the sex/gender binary outside of the interests of transsexuals, and suggests that such a project actually stands in opposition, or runs contrary, to the meaning of transsexuality. These statements and exclusions help to bolster and consolidate one specific notion of transsexuality against others, which are perceived as threatening and cast as inauthentic.

It is important to consider that Namaste is making these assertions about transsexual identity in a socio-political context marked, in recent years, by a proliferation of trans identities that are challenging conventional and institutional understandings of transsexuality or gender dysphoria. Also, FTMs and other masculine-identified trans people have gained a greater amount of visibility in activism and public discourse, and an increasing number of trans people are explicitly articulating their identities as queer. Alongside the theoretical trends discussed earlier, whereby transgender crossing is hailed as subversive in contrast to transsexual passing, these shifts in trans politics might be seen as undermining or jeopardizing the bits of recognition, stability and empowerment that transsexual activists have worked hard to achieve over the last few decades. As much of this activism involved the strategic deployment of medical conceptions and discourses of transsexuality, it is understandable that a swing in momentum away from these definitions and toward a more open and fluid concept of transgender – unhinged from the discourses of disorder or dysphoria – might be met with apprehension by some. Unfortunately, however, instead of generating critical discussions across trans

communities about power and representation within social justice movements, these anxieties have given rise to new forms of identity politics and border wars.

That recent changes in the direction of trans politics have led to certain forms of boundary anxiety is also apparent in Namaste's interview with Mihra-Soleil Ross, included in *Sex Change, Social Change*. Ross, a longtime transsexual activist involved in grassroots organizing around issues of sex work, poverty, and trans women's inclusion in women's shelters, seems similarly invested in protecting a certain understanding of transsexual identity, history, and culture against the influx and/or influence of 'self-designated' trans people – that is, inauthentic trans people who fail to meet basic conventional standards for being transsexual, but nevertheless attempt to claim a space within trans movements. Ross suggests that the growing presence of FTMs and other masculine-identified trans people in trans politics – especially the involvement of those who identify as queer, or have ties to queer communities – is responsible for the disintegration of an independent transsexual community and culture. She explains:

From the early to mid-1990s, there was a bunch of us who had visions of transsexual and transgender spaces – of a parallel trans culture – operating independently of the queer community ... I was hoping that we, as a community, could develop a sense of ourselves that wouldn't be narrowly framed through a queer lens or bogged down in lesbian cultural references. I was hoping we could develop our own language, images, and come up with our own symbols to define and articulate ourselves. But, unfortunately, this has also been a complete failure. Those trans cultural spaces we attempted to create throughout the 1990s have all either disappeared or been absorbed by the lesbian-transgender community.¹⁴⁸

Here, Ross establishes mainly MTF, non-queer-identified trans people, as the pioneers of an authentic trans culture, separate from and untainted by queer bodies and discourses.

She describes a deliberate effort to keep transsexuality separate/safe from queerness,

¹⁴⁸ Mirha-Soleil Ross, as cited in Namaste, "Interview with Mirha-Soleil Ross," in *Sex Change, Social Change*, 89.

which is construed as a threat to the (non-queer) transsexual community. Ross' account assumes that there are clear boundaries and essential differences between the transsexual and the queer. It also erases the involvement of FTMs, other masculine-identified trans people, and queers in building and sustaining trans communities, insinuating, instead, that the presence and participation of these people is an entirely new phenomenon.

Part of the problem, for Ross, is, indeed, that the number and visibility of queer-identified people in trans movements is increasing. The real travesty, however, seems to be that queer people are claiming trans identities. Describing the factors that have led to the demise of a pure transsexual cultural movement, for example, Ross says:

... it is also due to an equally increasing number of lesbians transitioning from female to male while maintaining a lesbian or queer identity during and after transition. In addition, most lesbians who traditionally identified as 'butch' and who, in the past, wouldn't have had anything to do with transsexual folks, are now increasingly identifying as 'transgender' or 'trans men' even when not taking hormones or having surgery done. To make matters worse, there is an increasing number of lesbians who traditionally called themselves 'femmes' but who are now tacking 'transgender' or 'trans-sensual' in front of that label. And finally, to top it all off, there is an increasing number of self-identified lesbians who are attracted to butches, trans men, and transsexual men, and who also now claim their right to be part of the 'trans' community as 'soffas'.¹⁴⁹

Ross' claim that most lesbians are now identifying as transgender or trans men is inaccurate, and seems to be based on her subjective perceptions alone. FTMs and transitioning continue to be the subject of heated debate among and within lesbian communities. Halberstam, Rubin and others have even described these debates as border wars. The empirical research of Rubin and Cromwell attests to the often hostile relations between lesbian and trans communities, and the tendency for trans men to insist on distance and difference between lesbians and FTMs. Rubin has done a great deal of work

¹⁴⁹ Ibid., 89-90.

to historicize the relations between lesbian, FTM, and feminist communities. He describes how the emergence of the woman-identified-woman model of feminism as hegemonic in the 1970s lead to a moralistic campaign against masculine-identified women and butch/femme relations.¹⁵⁰ Hoping to make lesbianism more palatable to the predominantly heterosexual and homophobic mainstream women's movement, prominent lesbian activists and political organizations admonished masculine-identified women and accused them of false-consciousness for taking on the appearances and roles of 'the oppressor'.¹⁵¹ Rubin theorizes that the disavowal of masculine subjects by lesbian feminist communities played a significant role in consolidating an FTM identity.¹⁵² The traces of this history are very much present today, as lesbian feminists continue to be one of the most vocal opponents of trans inclusion, and of transsexuality in general. Ross erases these histories, and the complexities of FTM or transgender and lesbian relations, when she implies that lesbians everywhere are turning trans.

The incredulous tone Ross uses in describing what she sees as the current state of affairs seems to exclaim: 'How dare they! These people, who are actually lesbians, are now calling themselves trans in droves, *even without taking hormones or having surgery*'. Like Namaste, Ross seems to understand hormones and surgery as a central component of authentic trans identity. She seems to lament for the good old days, when transsexuals were transsexuals, homosexuals were homosexuals, and those in-between or beyond the given categories were silenced and/or erased from view. Indeed, at the end of the interview, Ross looks forward "to seeing current transgender and FTM identity politics break down," and expresses gratitude for trans cultural spaces that remain

¹⁵⁰ Rubin, *Self-Made Men*, 64-68.

¹⁵¹ *Ibid.*, 73, 74, 79.

¹⁵² *Ibid.*, 64, 63-83.

“untouched by all that transgender and FTM political brouhaha.”¹⁵³ At best, Ross’ narrative is an over-simplified rendition of the historical relations between transsexual, transgender and queer politics, which relies on monolithic and homogenizing conceptions of ‘MTF’, ‘FTM’, ‘transsexual’, ‘transgender’, ‘lesbian’ and ‘queer’. Such a framework is ill-equipped to engage with the complexities of these histories and identities, and the multiple relations of power that inform and situate them.

Interrogating the positions articulated by Namaste and Ross with respect to transsexual vs. transgender, MTF vs. FTM, and non-queer-identified vs. queer-identified trans subjects, suggests that, despite a stated interest in displacing identity as a focal point for trans studies, some critical trans activists remain highly invested in struggles over who the rightful subjects and stewards of trans politics are. At times, Namaste and Ross construct a narrow and situated version of transsexual identity and represent it as the authentic condition of being transsexual. This understanding of transsexuality is positioned in opposition to other embodiments or experiences of trans, as if these alternate understandings of trans identities and issues are in competition with, or pose a threat to, the viability of their own. Even though Namaste and Ross are both committed to elucidating and improving the material conditions that marginal trans subjects confront, they end up excluding or invisibilizing many trans subjectivities by mobilizing monolithic constructions of ‘transsexual’, ‘transgender’, ‘MTF’, ‘FTM’, ‘gay and lesbian’, ‘queer’, and other identities, which fail to consider significant specificities of race, class, nation, and citizenship. While there are important differences in power and privilege among trans communities, these differences are far more complex than the accounts offered by Namaste and Ross suggest. Drawing definitive lines around who the

¹⁵³ Ross, as cited in Namaste, “Interview with Mirha-Soleil Ross,” 102.

real transsexuals are, and which issues matter most to them, will not solve, but exacerbate, problems arising from an inattentiveness to the workings of power and privilege in trans studies.

Namaste importantly argues that if trans and feminist scholars fail to incorporate institutional analyses that are attuned to processes of criminalization into their work, the experiences and realities of marginalized trans people will continue to be elided. I contend that a crucial aspect of improving the material conditions confronted by differentially-located trans communities involves understanding that it is possible to make clear and strong cases in favour of such innovations without claiming an authentic position. In fact, a determined resistance to the imperatives and exclusions entailed in practicing a politics of authenticity may be a necessary part of effecting the kind of change that Namaste seems interested in pursuing. To this end, I suggest that trans scholars and activists have much to learn from an engagement with trans- and transnational feminist analyses typically imagined as unconnected to, or outside of, trans studies and activism.

Chapter 3 – Ruled Lines: Examining State Regulation of Identity and Community in Trans and Transnational Feminist Contexts

As long as we continue to reproduce the social means by which to differentiate amongst groups of people, we will continue to create the conditions by which the vast majority of us will remain alienated from our means of both sustenance and joy.

- Nandita Rani Sharma¹⁵⁴

Without an understanding of how responses to subordinate groups are socially organized to sustain existing power arrangements, we cannot hope either to communicate across social hierarchies or work to eliminate them.

- Sherene Razack¹⁵⁵

Elaborating on Namaste’s critiques of mainstream transgender scholarship and activism, Chapter 2 argued that a failure to critically reflect on how the subject of trans politics is constructed has resulted in social justice frameworks that primarily represent the interests of privileged trans people, and neglect to engage with the realities of trans people who are multiply marginalized. I share Namaste’s view that many of the new rights and entitlements achieved by trans movements in North America effect only superficial changes to a dominant socio-political system in which poor, racialized, and other oppressed people are criminalized and deliberately erased from view. While certain groups of trans people – namely, those who already demand some degree of legitimacy and privilege via their whiteness and/or middle-class location – stand to benefit from

¹⁵⁴ Nandita Rani Sharma, “Race, Class, Gender and the Making of Difference: The Social Organization of ‘Migrant Workers’ in Canada,” *Atlantis* 24.2 (Spring/Summer 2000), 5.

¹⁵⁵ Sherene Razack, *Looking White People in the Eye: Gender, Race, and Culture in Courtrooms and Classrooms* (Toronto: University of Toronto Press, 1998), 8.

trans activist initiatives around issues such as discrimination in employment or health care, a great many others remain excluded from or are invisibilized within dominant institutional and trans discourses.

However, Chapter 2 also took issue with Namaste's evaluation that an academic and popular preoccupation with deconstructing or challenging the binary sex/gender system is to blame for these shortcomings in trans activism and scholarship. I argued that Namaste and Ross' strategic attempt to reconsolidate an authentic trans identity in direct opposition to those they generalize as 'self-designated transgender activists' – trans people who have a political interest in destabilizing binary categories of sex and gender, who identify as queer, or outside of the terms 'male/man' or 'female/woman', and/or who opt not to undergo hormonal or surgical treatments – can be seen as a defensive move that effects its own erasures and violences. This strategic deployment of an essentialist conception of transsexual, however, must be viewed within the context of an imperative of politicization increasingly articulated by trans activists in ways that construct passing trans people as conformists. According to this perspective, crossing or genderqueer trans identities are the true gender revolutionaries, while those who pass as men or women participate in a system of oppressive gender relations.

How we imagine, situate, and narrate our selves, our movements and our relations is informed by but also harnesses power – it shapes the possibilities for social change that we can fathom and create. In previous chapters, I showed how singularizing and essentialist constructions of identity or community function to obscure important differences in power and location. When deployed politically, these conceptions are often complicit with racist, classist, (hetero)sexist, and other forms of oppression and

silencing, and prevent a view of “the complexity and inseparability of liberation for all.”¹⁵⁶ In this chapter, I suggest that accomplishing substantive changes to how relations between our selves and others are imagined and conducted requires that we release our grip on the hard-and-fast boundaries that delineate Us and Them. The authenticity debate and the polarized oppositions it constructs would have us accept and act on the view that liberation is a scarce and finite resource for which we must compete against each other. Despite what we are made to believe in a neoliberal, global capitalist context, liberation is not a commodity to be purchased from the state on a limited time offer, and we should not pursue it as such. Mobilizing essentialized constructions of sameness or difference that work to establish hierarchies of legitimacy both within and among communities mimics and colludes with nationalist, capitalist, and imperialist forms of organizing people and resources. I argue that, as trans people and feminists committed to social justice for all, we need to displace the current preoccupation with authenticity and come to terms with the heterogeneity of trans lives and the complex interactions of power that situate them.

I begin the chapter by considering the procedures and criteria for changing the sex on a birth certificate in the province of British Columbia. Here, the imperative of surgery is used to protect the categories of male and female from dissolution or intrusion. In practice, this imperative – which seems to make sense within the context of traditional medical understandings of transsexuality – creates a situation where a whole range of people along the spectrum of transsexual to transgender to genderqueer are either

¹⁵⁶ Michelle O’Brien, “Trans Liberation and Feminism: Self-Determination, Healthcare and Revolutionary Struggle,” published on the author’s website at www.deadletters.biz (November 2003), 2.

prevented from – or face almost insurmountable obstacles to – attaining a more appropriate sex designation on their identification.

In the next part of the chapter, I turn my attention to the U.K. Gender Recognition Act, a recently passed piece of legislation through which trans people can apply to have their gender identities formally recognized by the state. The Act is considered relatively progressive because, in this case, the granting of recognition does not explicitly require the applicant to have had surgery. As such, it provides an opportunity to question whether shifting or loosening the regulations will substantially improve access for marginalized trans people. After a brief explanation of how the gender recognition process works, I trace out some of the main critiques that have been made against the Act by pro-trans scholars. I suggest that the silent referent of these critiques is a relatively privileged trans subject, which limits the scope and force of the objections that are raised. I argue that a more complex understanding of transphobia, as well as of trans identity and community, constructively directs our attention away from battles over ‘us’ and ‘them’ and toward the state and commonsense discourses and ideologies that rationalize relations of domination and subordination.

In Canada, transgender and transsexual people are increasingly being recognized as an identifiable group with some claim to protection and rights under the law. As a result of ongoing activist and lobbying efforts, trans people have compelled a variety of institutions and organizations to draft trans-specific policies around inclusion, service provision, and treatment protocol. High-profile human rights cases revolving around the issue of discrimination based on transgender identity have sparked discussion at the provincial and federal levels of government about whether and how trans people should

be incorporated into existing human rights codes. Human rights commissions have recently considered sex discrimination to include discrimination based on transsexuality at the federal level, and also at the provincial level in provinces such as Quebec, British Columbia and Ontario. The human rights code of the Northwest Territories explicitly recognizes gender identity as a prohibited ground of discrimination. While, in many cases and contexts, the legal status of trans people remains murky, the last 20 years has seen an unprecedented level of state interest or engagement with trans identities and the issues they raise in relation to the law.

Trans people's access to official forms of recognition or legitimacy – for example, protection under sex discrimination laws, full legal recognition of one's sex/gender identity, or government identification consistent with one's sex/gender of identification – is still quite limited in Canada. Where these entitlements are available, the requirements for attaining them are guided by medical and psychiatric models for understanding and managing gender identity disorder (GID). Within this framework, surgery is considered to comprise the most pivotal and decisive part of a person's transition. The distinction between being pre-operative or post-operative, therefore, is often given a significant amount of weight in decisions about trans inclusion. The process and criteria for changing the sex designation on a birth certificate is one example where this is the case. In all provinces, a person's sex must be listed on the birth certificate, and it must be listed as either male or female. While each province has slightly different regulations for changing the recorded sex, surgery is considered a prerequisite in all provinces. In British Columbia, the process requires genital surgery for MTFs, and hysterectomy and

chest reconstruction for FTMs.¹⁵⁷

Most physicians and psychiatrists follow the World Professional Association for Transgender Health's (WPATH's) *Standards of Care for Gender Identity Disorders* (formerly known as the Harry Benjamin International Gender Dysphoria Association's Standards of Care). According to these standards, obtaining approval for sex-reassignment surgery usually requires that the patient has been assessed by a mental health professional and a general practitioner, has undergone a comprehensive mental health evaluation and been diagnosed with GID, has been on hormone therapy continuously for one year, and has lived full-time in the sex/gender of identification, continuously, for at least one year.¹⁵⁸

Once surgery is complete, a change of sex designation on a birth certificate can be requested by submitting a number of forms to the BC Vital Statistics Agency. One form is filled out by the applicant, a second form must be signed by the surgeon who performed surgery, and a third by a physician who conducted an examination after surgery. The signatures verify that, in the professional opinion of the attending surgeon and physician, sex-reassignment surgery is complete and the applicant can now be considered anatomically a member of the sex of identification.¹⁵⁹

It is not difficult to see that the requirements for changing sex reflect and protect

¹⁵⁷ Catherine White Holman and Joshua Mira Goldberg, *Social and Medical Advocacy with Transgender People and Loved Ones: Recommendations for BC Clinicians* (Vancouver: Vancouver Coastal Health, Transcend Transgender Support & Education Society, and the Canadian Rainbow Health Coalition, 2006), 10.

¹⁵⁸ World Professional Association for Transgender Health, *Harry Benjamin International Gender Dysphoria Association's Standards of Care for Gender Identity Disorders, Sixth Version* (2001), 20. Available online at <http://wpath.org>. See also, Olivia Ashbee, Joshua Mira Goldberg, A.J. Simpson, and Emily Hodge, *Getting Sex Reassignment Surgery* (Vancouver: Vancouver Coastal Health, Transcend Transgender Support & Education Society, and the Canadian Rainbow Health Coalition, 2006), 3. Available online at <http://www.vch.ca/transhealth/resources/library>. Accessed September 9, 2008.

¹⁵⁹ Ashbee, Goldberg, Simpson, and Hodge, *Getting Sex Reassignment Surgery*, 3.

the dominant view that sex is binary and corresponds to identifiable differences in reproductive anatomy. Because sex is assumed to be an obvious reality rooted in the body, one cannot change their sex without changing their body; gender alone is not enough to warrant a change of sex. For people who identify in terms other than male or female – for example, people who identify as trans, intersex, genderqueer, both/neither, or other – there is no choice but to accept one of two inappropriate sex designations on their birth certificate. Sex/gender identities other than male/man or female/woman are not recognized or validated by the Canadian state, no matter what kind of transition a person undergoes. Trans people who do not want to have the surgeries deemed adequate for a change of sex designation are also immediately ruled out. Regardless of how strongly a person might identify as transsexual and/or as a member of the sex not assigned to them at birth, they cannot hope to change the sex of assignment on their birth certificate to reflect this unless they undergo significant and specific surgical modifications to their body. Those who refuse or object to having these particular surgeries will also have to use a birth certificate with an inappropriate sex listed on it – a sex that is likely to conflict with their gender presentation and could also conflict with other pieces of identification.

For those so positioned, being denied the right to have an accurate indication of sex on one's birth certificate represents much more than an inconvenience; it can have some serious repercussions in a person's life. Indeed, any time there appears to be a contradiction between how a person looks and what their legal status is, problems ensue. One example is the frequency with which people of colour are bombarded with the question, 'where are you from?', 'no, but really, where are you from?', even after they

state that they are Canadian. In the dominant national imaginary, Canadians are white descendants of western Europeans. Females and males are supposed to look, dress, sound, and behave a certain way – namely, like women and men. A person who identifies, presents and lives as a woman, but whose identification classifies her as male is likely to have to explain to receptionists, clerks, managers, security guards, and others why it looks like she has stolen someone else’s birth certificate or I.D. She may be denied access to spaces or services, or asked to provide extra documentation to prove her identity. She may have to wait while a supervisor is called, endure incredulous or condemning stares, or answer ignorant questions about ‘cross-dressing’. These experiences can be humiliating, and they can also be dangerous. For passing trans people, a contradiction between one’s self-presentation and documented sex can lead to being outed as trans, or having to out oneself, which can place that person at risk of losing their job, of losing people close to them, or of being harassed or physically harmed. The risks are compounded for those who are simultaneously marginalized by race, class, or other factors that make someone a target for discrimination and violence. However, as things currently stand in Canada, this is part of the price of rejecting surgery or defining oneself outside of the sanctioned sex/gender categories; this is one of the many costs of requiring that people have major surgery simply in order to change the sex of assignment on their birth certificate so that it is congruent with their sex of identification.

Despite the dominant ideas about sex, gender and bodies, as well as the exclusions, that are reproduced in the criteria set out for changing the sex on one’s birth certificate, many people – including many trans people – may regard these kinds of requirements as

necessary and reasonable. For example, if we feel that transsexuality is not about transforming the sex/gender system, that it is simply about being able to live our lives as men or women, then it should not bother us that male and female remain the only options for sex classification. Such a view is generally compatible with the established medical model, as represented in the *DSM-IV* and the WPATH standards of care, which interprets trans identity through the lens of GID – a diagnosable condition for which medical sex reassignment (male-to-female or female-to-male) is usually indicated and considered the most effective treatment. Within this paradigm, transition is imagined as a linear and gradual progression from one sexed/gendered embodiment to the opposite sexed/gendered embodiment. There is little room in this model for a third or fourth destination, a neither/both embodiment, or an oscillatory position. Transition begins with coming out and living as a man or woman full time in all aspects of one's life, and it ends with having one or more sex-confirming surgeries. If you *really* are trans, this is the course of action you will desire and take.

From this perspective, it may actually seem appropriate to deny people who do not identify fully or continuously as male or female, or who do not wish to have sex reassignment surgeries, the opportunity to change the sex on their birth certificate. An analogy posed by Aaron Devor sums up this line of thinking. He suggests that “it is useful to think of gender change as analogous to immigration.”¹⁶⁰ The rights and entitlements of those who migrate to Canada remain partial and restricted until they fulfill all of the requirements of becoming a full citizen. “By analogy,” Devor says, “I’d say that [trans] people who are in transition, or who choose to live between genders, should

¹⁶⁰ Aaron Devor, as cited in Jason Youmans, “Trans Tribulations,” *Monday Magazine*, 2 February 2008, <http://web.bcnewsgroup.com/portals/monday>. Accessed August 5, 2008.

have intermediate rights.”¹⁶¹ Once transition is complete, and a trans person has taken all the necessary steps to gaining legal recognition as a member of their felt sex/gender, then, he continues, “they should have full rights and responsibilities.”¹⁶² In other words, just as a person cannot show up in Canada and immediately demand all the rights of having been born here, a person cannot just declare themselves a man or woman and expect to be treated as such in all ways under the law. There are certain steps a person is required to take before they can attain that status. In the particular case that elicited Devor’s comments, a transsexual woman was denied access to a woman’s self-defense class on account of her having not completed sex-reassignment surgery. According to the kind of thinking represented by Devor’s analogy, this denial is justified because the woman had not fully transitioned. Along the same lines, it might be argued that the process for changing one’s sex on a birth certificate should not be accessible to people who do not see themselves as male or female, or who do not wish to have the surgeries deemed necessary to complete transition. These people are not true transsexuals, they are not willing to do what a person needs to do to fully transition to male or female, so they should not expect the same privileges or accommodations as those of us who do.

However, if we stop to consider what has prompted the state to offer this accommodation on the specific terms that it has, what is accomplished through doing so, and whose interests are protected in the process, we might come to some very different conclusions about whether this state of affairs is reasonable and justified. We need to ask: what are the political implications of accepting the position on entitlement and

¹⁶¹ Devor, as cited in “Trans Tribulations.”

¹⁶² Ibid. It is not entirely clear from the way that the article is framed whether Devor is advocating this position, or whether he is simply describing the kind of logic that underpins the frequent curtailment of rights for trans people who have not completed medical transition.

belonging represented by Devor's analogy? What is it that we are actually defending when we defend the criteria and classificatory systems used to determine which subjects will be authorized to access rights and protections that have historically been denied to them, and which subjects will continue to be denied? A critical analysis of how the practical application of the surgical imperative enacts and reproduces multiple forms of oppression indicates that the criteria and definitions deployed do much more than sort the authentic from the inauthentic trans people. As such, it may be necessary to rethink our investments in upholding the boundaries of legitimacy as they are drawn by the state under the pretense of inclusion and equality.

Gaining approval for sex-confirming surgeries is a complex process that requires a considerable amount of time, effort, and resources. In order to be approved for surgery, a person must first be diagnosed with gender identity disorder. They must undergo numerous physical and psychiatric examinations by a handful of medical professionals who are charged with assessing the patient's eligibility and readiness for surgery. These assessments are stressful and can be experienced as humiliating for many trans people, given that mental health clinicians ultimately determine whether surgery is appropriate, and also whether coverage should be provided¹⁶³ However, the process positions people who come from a history of abuse, mistreatment, and/or institutionalization at the hands of medical and psychiatric authorities unequally in relation to others for whom a trip to the doctor has never been much to worry about. There is a long and ongoing history of this kind of abuse in Canada, which has been perpetrated most frequently against indigenous and racialized people, people with disabilities, poor people, and women. The

¹⁶³ Holman and Goldberg, *Social and Medical Advocacy with Transgender People and Loved Ones: Recommendations for BC Clinicians*, 5.

forced sterilization of women with disabilities, as well as of poor and indigenous women, the apprehension of children from people deemed unfit to be parents and/or for the purposes of forcible deculturation, and the institutionalization and over-medication of people characterized as mentally ill, are a few examples of how constructions of social, physical, and/or mental incompetence or illness have been used by the state to justify profound forms of violence against marginalized people. While the degree of institutional engagement and types of evaluations required in order to obtain a GID diagnosis is likely to produce some degree of anxiety in most trans people, this anxiety will surely be magnified for those who have experienced institutional mistreatment or trauma in the past, and may even dissuade them from the process altogether.

Moreover, as Dan Irving observes, “medical doctors and psychiatric professionals don’t just approve anyone for medical transition.”¹⁶⁴ In order to get a diagnosis of GID and approval for surgery a person must convince medical professionals that they are suffering significant distress as a member of their assigned sex, and that they will be able to function well as a member of the ‘opposite sex’. According to the criteria outlined in the sixth edition of the *Diagnostic and Statistical Manual of Mental Disorders (DSM IV)*, gender identity disorder is indicated by “a strong and persistent cross-gender identification”; “persistent discomfort with his or her sex or sense of inappropriateness in the gender role of that sex”; and “clinically significant distress or impairment in social, occupational, or other important areas of functioning.”¹⁶⁵ Gender roles, however, are not fixed and self-evident as the diagnostic criteria imply; rather, ideals of masculinity and

¹⁶⁴ Dan Irving, as cited in Gary Kinsman, “Trans Politics and Anti-Capitalism: An Interview with Dan Irving,” *Upping the Anti* 4 (October 2007), online version not paginated. Available online at <http://uppingtheanti.org/node/2789>. Accessed Oct. 2, 2009.

¹⁶⁵ American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision* (Washington, D.C., 2000), 302.85.

femininity differ and change from one time and space to another, and take shape through hierarchies of class, race, and sexuality. In the west, gender norms and ideals are deeply informed by heteronormative white, middle-class notions of respectability and productivity. The more closely a trans person is able to approximate appropriate masculinity or femininity in the eyes of the predominantly white, heterosexual professionals who evaluate them, the better that person's chances are of gaining access to the services they need or want. In this sense, while whiteness, middle-class or professional status, and heterosexual orientation by no means guarantee approval, these aspects of social location effectively function as currency in the quest for treatment and legitimacy.

Another example of how the process of obtaining approval for surgery is mediated by prevailing relations of power and subordination involves the heavy bureaucratic burden that the system places on the trans patient. Some trans people have referred to the administrative aspect of going through medical transition as a maze or a nightmare; especially for those who seek medical plan coverage, the process involves gathering a considerable amount of documentation, ensuring it follows the proper format and includes all of the necessary information, and submitting it at the correct time, in the correct order. As such, being successful in the process of obtaining approval for sex-confirming surgeries demands that the applicant have some experience and proficiency with respect to understanding and following administrative procedures and negotiating institutional settings and discourses. A white, English-speaking, university-educated professional has a great deal more of the financial and cultural resources needed to complete all of the required steps than someone who is unemployed or living in poverty,

who is not fluent in English, and/or who lives with physical or cognitive disabilities.

The question of whether or not a person can meet the standards for getting approved to have surgery aside, the cost of surgery alone is prohibitive for many people. Getting surgery through a private surgeon, without coverage, can cost anywhere from \$10,000 to \$40,000, depending on the surgeon and the procedures performed. While the Medical Services Plan (MSP) in BC will cover some of the costs of certain surgeries, those who wish to apply for MSP coverage are required to provide more documentation of their transition and to live full-time in the sex/gender of identification for two years.¹⁶⁶ This continuous period of full-time cross-living, referred to as the ‘real-life experience’ (RLE), is another aspect of medical transition that, at least in the province of BC, is clearly mediated by class and privilege. The WPATH criteria for RLE recommend a three-month period of RLE, or a three-month period of counseling, before chest surgery, and require at least one year of RLE before genital or lower surgery. In order to qualify for BC MSP coverage, however, a patient must undergo at least two years of RLE before having chest or genital surgery.¹⁶⁷

Moreover, MSP defines RLE more strictly than the international standards. In order to meet MSP standards for full-time cross-living, a person must demonstrate one of the following: full-time employment in a public workplace, full-time attendance in a school or training program, or ‘significant time’ spent volunteering in a public position.¹⁶⁸ The WPATH criteria, by contrast, are less exacting. They state, for example,

¹⁶⁶ Ashbee, Goldberg, Simpson, and Hodge, *Getting Sex Reassignment Surgery*, 3.

¹⁶⁷ Joshua Goldberg and A.J. Simpson, *Real Life Experience – Trans Care – Gender Transition* (Vancouver: Vancouver Coastal Health, Transcend Transgender Support & Education Society, and the Canadian Rainbow Health Coalition, 2006), 2. Available online at <http://www.vch.ca/transhealth/resources/library>. Accessed October 20, 2009.

¹⁶⁸ *Ibid.*, 3.

that a patient will be assessed as to whether they have been able to work (full- or part-time), function as a student (no time stipulation), volunteer (again, no time stipulation), or do some combination of these activities in their gender of identification.¹⁶⁹ Whereas MSP requires a letter from the patient’s employer, instructor, or volunteer supervisor, and “will not accept letters from people who you interact with socially” as proof of RLE,¹⁷⁰ the WPATH guidelines simply state that the patient must “provide documentation that persons other than the therapist know that the patient functions in the desired gender role.”¹⁷¹ The MSP requirements for RLE create a double-standard whereby those who cannot afford to pay privately for surgery must fulfill more rigorous requirements, meet a heavier burden of evidence, and wait longer, than those who can.

In addition, trans people who seek MSP coverage can only use the services of psychiatrists and surgeons that are MSP-approved. There are many surgeries, procedures, and related costs that MSP does not cover, including: FTM genital surgeries, facial feminization surgeries, electrolysis, speech therapy, counseling, and travel costs. One final obstacle to getting coverage for surgery through MSP is that clients must pay the surgeon out-of-pocket before being reimbursed by MSP; given that surgical costs (for surgeries that MSP covers) can be anywhere between \$10,000 and \$20,000, this stipulation makes it very difficult for many people to get surgery, even with MSP coverage.¹⁷² Access to surgery is highly mediated by class location, which is itself informed by race, gender, ability, and a variety of other factors.

¹⁶⁹ World Professional Association for Transgender Health, *Harry Benjamin International Gender Dysphoria Association’s Standards of Care for Gender Identity Disorders, Sixth Version* (2001), 17. Available online at <http://www.wpath.org>. Accessed October 20, 2009.

¹⁷⁰ Goldberg and Simpson, *Real Life Experience – Trans Care – Gender Transition*, 5.

¹⁷¹ World Professional Association for Transgender Health, *Harry Benjamin International Gender Dysphoria Association’s Standards of Care for Gender Identity Disorders, Sixth Version*, 18.

¹⁷² Holman and Goldberg, *Social and Medical Advocacy with Transgender People and Loved Ones: Recommendations for BC Clinicians*, 40.

A critical analysis of some of the practical implications of requiring surgery in order change the sex designation on a birth certificate in the province of BC reveals that a whole matrix of classificatory systems and relations of power combine at this site to structure trans people unequally with respect to accessing forms of legitimacy and protection that most citizens of Canada can take for granted as a birthright. Trans people do not enter into this process on equal ground, and they certainly do not emerge from it as such. Gender variant subjects who confront multiple forms of oppression are the most likely to be shut out of the privileges that come with being able to pass according to the medical standards and assessment process. Financial and social constraints render meeting all of the requirements practically impossible for some people, while others will have to take on significantly more work than those who already resemble respectable citizens in other ways. Getting a diagnosis and approval for surgery, paying for treatment, filing the paperwork, and finally obtaining a new birth certificate is made most difficult and taxing for those who would benefit from it the most. What we defend, then, when we defend the regulatory process and criteria used to define trans access to accommodation is the reproduction of interlocking social hierarchies that reward whiteness, middle-class status, heterosexuality, etc. with entitlement and privilege, whilst withholding it from Others.

One way of responding to the issues I have raised so far would be to argue that it is better to have an imperfect and exclusionary policy in place than no policy at all. Even though it does not benefit everyone, at least it concretely benefits some people. Such reforms ought to be considered a start – one notch in the long, gradual march of progress; from this point, we can slowly push for more inclusive policies and reforms, until

eventually all people are treated equally under the law. In this sense, the critic might ask, are we not ultimately better off than we were before?

Against this view, I contend that the benefits and privilege offered to us by the state are purchased at the direct expense of trans people and others who are constructed as outsiders within the socio-political, national, and/or global community. It is not the case that such reforms simply improve the lives of some people and have no bearing on the lives of others. Instead, the disparities between differentially-located trans people become more pronounced as these differences articulate with mechanisms of state regulation and institutional management. ‘We’ are not all better off than we were before; in fact, some of us are worse off: now that there is a system in place that ostensibly permits trans people to change their I.D. so that it affirms and verifies their identity, the legitimacy of gender variant people who do not or cannot do so is thrown further into question. These people may actually find them/ourselves more vulnerable to discrimination, harassment, poverty and violence because they/we are living outside the parameters established for people like them/us. After all, why should the law or other institutions respect or protect a person who has not followed the proper and available channels to earn this protection?

The idea that such initiatives and policies are a first step, from which more progressive and inclusive reforms can grow, assumes that the state is genuinely interested in and capable of cultivating equality for all people. As Irving observes, however, “poverty, criminalization, unemployment, and homelessness are all vital to the functioning of capitalist social relations.”¹⁷³ Within a neoliberal capitalist system, state

¹⁷³ Irving, as cited in Kinsman, “Trans Politics and Anti-Capitalism: An Interview with Dan Irving,” n.p.

reforms aimed at the inclusion or accommodation of marginalized communities operate as a mechanism of social and legal differentiation between Selves and Others. Particular kinds of exclusions are enacted, not because the regulations are too strict, or because it is impossible to solve everyone's problems at once, but because the very identity and economy of the nation-state is founded upon them – “because of the paradox in which the outsider stands as key to the system.”¹⁷⁴ The state co-opts, reinforces, and creates new hierarchies within and among trans communities as part of a larger process of consolidating prevailing relations of rule along the lines of race, class, gender, sexuality, etc. Doing nothing to challenge the inequalities such a system recreates is a political choice and a political action with material implications.

Launching these challenges, however, does not mean reifying one particular understanding or embodiment of trans and rejecting others. To the contrary, it entails resisting state and institutional discourses that work to naturalize the exclusion, disenfranchisement, and domination of whole groups of people. These discourses both fuel and draw from commonsense notions of which bodies constitute the real, the true, the original, the good, and the ideal, and are thus naturally entitled to more and better than their constructed opposites. The idea that hierarchy – and one's position in the upper rungs – is natural and inevitable is a story that privileged people are taught to tell and believe in order to obscure our participation in creating conditions of poverty and desperation, foreclose identification with the other, justify the pursuit of property, and guard against desertion. A reconceptualization of transphobia as always articulated through other forms of oppression, alongside a sustained and critical engagement with the complexity of how power operates on, within, and between trans communities, will go a

¹⁷⁴ Ibid., n.p.

long way in beginning to undo this consciousness of domination.

The United Kingdom's Gender Recognition Act 2004 (GRA) provides a timely and effective site for further addressing questions about whether shifting or relaxing the regulatory requirements for legal sex change will alleviate some of the inequities that I have discussed with respect to medical transition. An analysis of the GRA provides an opportunity to contemplate how a seemingly progressive piece of legislation can actually exacerbate the marginalization of those it purports to empower. A recent and widely celebrated piece of legislation, the GRA enables trans people to apply for legal recognition of their gender identity.¹⁷⁵ Applications for recognition are reviewed by a Gender Recognition Panel. If successful, applicants are granted a Gender Recognition Certificate (GRC) and can have their birth certificates reissued to reflect their sex of identification. The GRA states that "once a full gender recognition certificate is issued to an applicant, the person's gender becomes for all purposes the acquired gender, so that an applicant who was born a male would, in law, become a woman for all purposes."¹⁷⁶ This is significant considering that, under the previous UK law, "although transsexual people could obtain some official documents in their new name and gender, they could not obtain new birth certificates or enjoy any rights confined by law to people of the

¹⁷⁵ See coverage of the development of the Gender Recognition Act, from the initial stages of proposal and debate to the drafting and passing of the Bill, on the Press for Change Website. Press for Change is a prominent trans advocacy and education organization based in the U.K. Press for Change campaigners played a major lobbying and consultation role in the development of the Gender Recognition Act. See, in particular, "Transsexual Leaders Welcome Draft Bill To Allow Legal Change Of Gender," Press Release, July 11, 2008, <http://www.pfc.org.uk/node/392>; "Recognition at last! Transsexual campaigners welcome new Government proposals," Press Release, December 13, 2002, <http://www.pfc.org.uk/node/545>; and Claire McNab, "Responding to the Government Announcement: the hows and whys of handling the publicity around the draft Gender Recognition Bill," Press for Change Website, <http://www.pfc.org.uk/node/408>. Accessed August 18, 2008.

¹⁷⁶ "Explanatory Notes to Gender Recognition Act, 2004 Chapter 7," Section 9: General, www.opsi.gov.uk/acts/acts2004/en/ukpgaen_20040007_en_1. Accessed August 18, 2008.

gender to which they feel they belong.”¹⁷⁷ For example, MTF trans people in receipt of a GRC are entitled to protection as a woman under sex discrimination laws. Obtaining a GRC also means that a trans person can legally marry a person of the opposite sex, or form a civil partnership with someone of the same sex.¹⁷⁸ Also, if convicted of a crime, trans people with GRCs will be housed in a prison with other members of their gender, which is likely to improve the safety and well-being of trans prisoners.

Perhaps the most noteworthy feature of the gender recognition legislation, however, is that applicants do not necessarily need to have had hormonal or surgical intervention in order to be granted a gender certificate. As Sharon Cowan points out, this aspect of the Act marks an important shift from the trend in UK case law, which, historically, has always privileged the concept of biological sex over gender in making determinations as to whether a transsexual person should be considered a ‘real’ member of their ‘adopted’ gender.¹⁷⁹ Andrew Sharpe echoes these observations, commenting that, “in contrast to a reformist approach to transgender sex claims that has looked to post-surgical realities, the Gender Recognition Act would appear to sever the link between sexed status and the physical body.”¹⁸⁰ This development also distinguishes the UK from many other national and state jurisdictions, where surgery – or at the very least hormone therapy and the intention to have surgery – is either explicitly or implicitly required in order to gain full legal recognition as a member of one’s sex of

¹⁷⁷ Ibid., “Summary and Background.”

¹⁷⁸ Ibid., “Section 9: General.”

¹⁷⁹ Sharon Cowan, “‘Gender is No Substitute for Sex’: A Comparative Human Rights Analysis of the Legal Regulation of Sexual Identity,” *Feminist Legal Studies* 13 (2005), 69.

¹⁸⁰ Andrew Sharpe, “A Critique of the Gender Recognition Act 2004,” *Bioethical Inquiry* 4 (2007), 37.

identification.¹⁸¹ In not making surgical or hormonal treatments an absolute requirement for the legal recognition of trans people's sex/gender identities, the GRA seems to create an interesting potential for the subversion of sex/gender norms. The legislation does not preclude, for example, the possibility of legally recognized men/males with vaginas, or women/females with penises – nor would it preclude a (heterosexual) marriage between two people with vaginas, so long as one was legally recognized as male. That the GRA allows for these possibilities, even if just in theory, is quite remarkable given how deeply-entrenched and foundational the idea is that sex – one's classification as male or female – is a natural and self-evident truth revealed by specific anatomical and reproductive features of the body.

While the GRA does seem to allow for the legal recognition, as male or female, of bodies that defy conventional definitions of male and female, it rules out the possibility of marriage between two people who share the same sexed status, or of civil partnership between two people of opposite sexes. This has been one of the most contentious and debated issues surrounding the legislation, as the Act requires that pre-existing marriages or civil partnerships be terminated before a full GRC is granted. Applicants who are married or in a civil partnership, and who meet all of the criteria set out in the Act, are granted an interim certificate, which is valid for six months. An interim certificate can be used as evidence if either party chooses to end the union on the basis that one of the partners is seeking legal gender recognition, but it does not provide the rights and protections of a full GRC. A new birth certificate, for example, cannot be issued until an official GRC is granted. Once the pre-existing marriage is annulled, or the civil

¹⁸¹ See, for example, Gender Recognition Panel, "Table of gender recognition schemes in countries and territories that have been approved by the Secretary of State" (2005), Gender Recognition Panel website, <http://www.grp.gov.uk>. Accessed September 4, 2008.

partnership ended, a full GRC and a new birth certificate will be given; at this time, legally same-sex partners can form a civil partnership, and opposite-sex couples are entitled to marry.¹⁸²

Critics have detailed the unenviable position that this provision imposes on trans people with pre-existing marriages – namely, “they can either annul their marriage, thereby giving up the associated financial benefits in order to achieve legal recognition, or remain married but sacrifice legal acknowledgement of their ‘true’ sexual identity.”¹⁸³ In this sense, the GRA “reinforces inequality for those who are married”¹⁸⁴ or in a civil partnership, by forcing them to choose legal recognition at the cost of their marriage, or their marriage at the cost of legal recognition. Although the GRA’s requirement that pre-existing marriages and civil partnerships be terminated met with vocal opposition from both trans advocates and some members of government, it was ultimately upheld. Observing that “there is no other circumstance known to law in which the state requires parties, who are married and wish to remain married, to divorce,” Sharpe contends that this provision was retained “for the explicit purpose of insulating marriage from homosexual incursion.”¹⁸⁵ For, if trans people were permitted to remain married after being issued a GRC, those marriages would, in effect, become same-sex marriages. Even though it is estimated that the number of such couples would be quite low, the government remained adamant that even a small group of same-sex marriages is unacceptable.¹⁸⁶ This requirement can also be understood to anticipate that some spouses

¹⁸² Gender Recognition Panel, “Explanatory Leaflet: A guide for users,” Section 3.2, Gender Recognition Panel Website, <http://www.grp.gov.uk>. Accessed August 19, 2008.

¹⁸³ Cowan, “‘Gender is No Substitute for Sex,’” 76.

¹⁸⁴ Sally Hines, “(Trans)Forming Gender: Social Change and Transgender Citizenship,” *Sociological Research Online* 12.1 (2007), <http://www.socresonline.org.uk/12/1/hines.html>, section 6.4.

¹⁸⁵ Sharpe, “A Critique of the Gender Recognition Act 2004,” 38.

¹⁸⁶ *Ibid.*

of people seeking GRCs will not want to continue the partnership, and should be given a way out other than filing for divorce. Thus, while the GRA might offer an opportunity to subvert dominant assumptions about sexed and gendered embodiment, it simultaneously operates to fortify the boundary between opposite and same-sex unions – preserving the heterosexual foundation of marriage, reinforcing the heterosexual/homosexual binary, and protecting the interests of non-trans people.

Critiques of the GRA have also questioned whether the apparent prioritization of gender identification over sexed embodiment in the legislation will actually amount to significant social change with respect to gender diversity and trans inclusion. The gender recognition process – like the process for changing sex on Canadian birth certificates – relies on medical understandings of transsexualism. Drawing attention to the tremendous epistemological force of medical discourse in defining and aetiologizing transgenderism in terms of pathology, Sally Hines points out that “the concept of ‘gender dysphoria’ remains a key classificatory term within medical discourse and practice.”¹⁸⁷ Indeed, in order to apply for gender recognition under the GRA, an applicant must provide proof that they have been diagnosed with gender identity disorder. Although the GRA does not make legal recognition dependent on surgical interventions, Hines argues, the Act is still “shaped by a medical perspective of transgender that privileges a connective relationship between gender identity and body parts and presentation.”¹⁸⁸ In practice, then, having had surgery, or being able to pass according to conventional standards of masculine and feminine embodiment, will probably continue to weigh heavily in an

¹⁸⁷ Hines, “(Trans)Forming Gender,” section 5.2.

¹⁸⁸ *Ibid.*

applicant's favour. In this sense, the GRA does not represent a movement toward more fluid conceptions of sex or gender.

Indeed, further investigation into the application process and evidence criteria strongly suggests that hormone treatment and surgical intervention will, in fact, comprise an important element of how applications are evaluated. Applicants are required to submit two written reports by registered medical practitioners, at least one of whom specializes in the field of gender dysphoria, that outline the details of the diagnosis of gender identity disorder – for example, the reasons for diagnosis, the date of diagnosis, how long the 'patient' has been living in the gender of identification, and any treatments that have been prescribed.¹⁸⁹ The reports must also provide specific details about treatment, including information about whether and which surgical procedures have been planned or completed. A special guidance form prepared by the president of the Gender Recognition Panel spells out the importance of including these details as follows:

In the case of section 2(a), the Panel must therefore examine the medical evidence provided in order to determine whether it is satisfied that the applicant has or has had the diagnosis of gender dysphoria. In order to do so the Panel requires more than a simple statement that such a diagnosis was made. The medical practitioner practicing in the field who supplies the report should include details of the process followed and evidence considered over a period of time to make the diagnosis in the applicant's case. Nor is it sufficient to use the broad phrase, 'gender reassignment surgery' without indicating what surgery has been carried out. Nor should relevant treatments be omitted, such as hormone therapy. These requirements are particularly pertinent in assisting the Panel to be satisfied not only that the applicant has or has had gender dysphoria but also has lived in the acquired gender for at least 2 years and intends to live in that gender until death.¹⁹⁰

¹⁸⁹ Gender Recognition Panel, "Guidelines for Medical Practitioners and Chartered Psychologists: to facilitate completion of the Medical Report Proforma for Gender Recognition," p.3, Gender Recognition Panel Website, <http://www.grp.gov.uk>. Accessed September 4, 2008.

¹⁹⁰ Michael Harris, "President's Guidance No.1: Evidential requirements for applications under section 1(1)(a) of the Gender Recognition Act 2004," para. 3, Gender Recognition Panel Website, <http://www.grp.gov.uk>. Accessed September 5, 2008.

The Gender Recognition Board's guidance documents also state that if surgery has not been sought or completed, the reasons for this must be explained in the written report.¹⁹¹

Thus, there is an implicit assumption that surgery ought to form a central part of the treatment for gender identity disorder, and that all or most trans people desire or require surgery. Hormone treatment and surgery are counted as especially 'pertinent' aspects of evidence in determining whether an individual is legitimate in their claim for recognition. As Sharpe argues, the government presumes a surgical outcome, "indeed, an outcome in which genitalia are transformed, as the proper end of the transsexual journey."¹⁹² Thus, it is clear that having had surgery will weigh positively in an applicant's favour; what remains unclear is whether those who have not had surgery will be looked at unfavourably by the Panel.¹⁹³ In an analysis of the debates surrounding the content of the medical reports, Stephen Whittle observes, "it was clear that the Gender Recognition Panel members were uncomfortable with the idea of legal gender recognition for non-operative transsexual people," suggesting that such applicants will, indeed, be viewed with some skepticism.¹⁹⁴

The GRA has also been critiqued for reconsolidating a binary sex/gender model and neglecting to accommodate sex/gender embodiments that defy classification in these terms. As Cowan points out, this "heteronormative framework only allows us to eschew one sex or gender if we adopt the other."¹⁹⁵ Male and female are upheld as the only

¹⁹¹ Ibid., 7.

¹⁹² Sharpe, "A Critique of the Gender Recognition Act 2004," 39.

¹⁹³ While information on the number of applications approved and pending is available, statistical information addressing Panel decisions with respect to surgical and non-surgical trans applicants has not been made available to the public.

¹⁹⁴ Stephen Whittle and Lewis Turner, "'Sex Changes'? Paradigm Shifts in 'Sex' and 'Gender' Following the Gender Recognition Act?," *Sociological Research Online* 12.1 (2007), <http://www.socresonline.org.uk/12/1/whittle.html>, section 6.8.

¹⁹⁵ Cowan, "Gender is No Substitute for Sex," 93.

(recognizable) categories of sex/gender identification, and legal recognition is unattainable for those who cannot or will not define themselves along these lines. “Although the law now allows for movement across the binary of male/female,” Hines asserts, “the spectrums *in-between* male and female ... remain outside current frameworks of citizenship.”¹⁹⁶ The gender recognition process demands trans people’s compliance with the dominant cultural assumption that all people are either male or female, and that proper males and females exhibit masculine or feminine gender traits, respectively.

By making a diagnosis of gender identity disorder mandatory for legal recognition, the Act also perpetuates dominant medical and psychiatric understandings of gender variance and cross-gender identification as pathology. “Legal recognition,” notes Sharpe, “proves dependent on being characterised as mentally ill ... This is problematic in the instrumental sense that assertions of rationality serve to undermine the prospect of legal recognition.”¹⁹⁷ Trans communities are divided on the issue of whether transgenderism or transsexuality should be classified as a mental disorder; the main objection to having these conditions delisted is that doing so will impede access to trans-related healthcare, medical coverage, and/or health insurance by rendering treatments cosmetic or elective. It could be countered, however, that access to these services and benefits is already obstructed for a great many trans people who are living in poverty, living without papers, living with multiple disabilities, or living under other conditions that make it extremely difficult to access the health care system, to access it safely, and to endure all of the institutional processes and implications involved in obtaining a

¹⁹⁶ Hines, “(Trans)Forming Gender,” section 7.3.

¹⁹⁷ Sharpe, “A Critique of the Gender Recognition Act 2004,” 42.

diagnosis – let alone to gain approval for treatments and health insurance coverage. What is important to notice, in this case, is that access to legal recognition for trans people requires submitting to this particular model, and making oneself (non)sensible according to the terms defined by, and recognizable to, medical and psychiatric authorities. As such, the GRA supports an institutional system in which it is imperative for trans people to tell a certain kind of story about their experience of being trans, and to tell it convincingly, so that a chain of medical experts can then decide whether what they claim to know about their own bodies and selves is actually true.

Finally, gaining legal recognition involves agreeing to a variety of binding conditions that restrict movement and expression. For example, as noted in the GRP president's guidance notes above, in order to be granted a GRC, applicants must demonstrate their intention to live in the 'acquired' gender until death; indeed, applicants must sign a statutory declaration, and take an oath, to this effect. On the surface, this provision seems geared toward ensuring that applicants make well thought-out and informed decisions about whether to pursue gender recognition. However, making legal recognition contingent on a promise to live permanently as a member of the recognized sex/gender actually functions to protect the dominant gender order by further entrenching in law the view that sex and gender are stable, neat, orderly, one or the other. A person cannot identify as a male/man at one point in their life, and then as a female/woman at another point – and they certainly cannot identify as something else entirely at any point. Within the terms set out by the GRA, there is only one possible sex/gender destination for trans people – either male or female – and it must be treated as the final destination, from which no return or shift is possible.

Ostensibly, even if other sex/gender categories are recognized in the future, those who choose to pursue legal recognition as men or women are bound to remain men or women. This stipulation effectively restricts access to legal gender recognition to trans people who identify completely and consistently as male or female, or who are willing to sacrifice the opportunity for future changes in exchange for the immediate advantages of obtaining a GRC. According to Sharpe, “in this respect the Act serves to reproduce a more general legal reluctance to contemplate gender in non-binary ways.”¹⁹⁸ In fact, this aspect of the Act legally enforces the illusion that gender variance and digression is the product of a mental or identity disorder in the individual, and not an indication that dominant ideas about sex and gender are misguided, inadequate, and in urgent need of reformulation. In other words, the gender recognition process supports the construction of transness as a personal problem that requires individual solutions or accommodations, instead of seeing it as indicative of a systemic problem in need of political transformation.

Thus, while it appears to open up the potential for subversion by superficially relaxing the requirements for a legal change of sex, close investigation indicates that the Gender Recognition Act is not intended to effect a radical shift in how sex and gender are understood by the state and dominant culture. Critiques of the GRA have identified numerous ways in which the Act reconsolidates the heteronormative sex/gender system through its deployment of dominant medical and psychiatric models for managing trans identities and bodies. These analyses would be strengthened, however, by an engagement with some of the ways in which the GRA reproduces various racialized and classed exclusions, and by locating the gender recognition process in relation to other

¹⁹⁸ Sharpe, “A Critique of the Gender Recognition Act,” 39.

processes of defining and protecting the boundaries of citizenship, and of the nation, against a range of Others.

In many of the critical discussions of the GRA, for example, the analytical focus falls solely on categories of sex, gender, and sexuality. These categories are examined as if they exist separately from, or outside of, race, class, and other aspects of social location; in fact, within this scholarship, racial and class dynamics would appear to be irrelevant to how the process of gender recognition has been organized through the GRA. Cowan, for example, makes the observation that, even though the Act might undermine the pre-op/post-op distinction, “the determination and validation of sexual identity will clearly still be in the hands of medical experts.”¹⁹⁹ Indeed, the Gender Recognition Panel – charged with the responsibility of evaluating applications for gender recognition – is currently comprised of a president, vice-president, six medical experts, and three legal experts. Cowan points out the possibility that these experts might hold rigid or conservative views on sex and sexuality; for instance, “some doctors may believe that gender reassignment treatment or indeed a GRC, would be inappropriate for a male to female (MtF) butch ... lesbian, as that person was not displaying gendered behaviour appropriate to the new sexual identity.”²⁰⁰ This is a legitimate concern, given prevailing gender norms, and also considering how trans identities have been constructed within the medical literature and through the diagnostic criteria for gender identity disorder outlined in the *DSM IV*.

However, it should not be overlooked – as it is in Cowan’s critique – that dominant standards of ideal or appropriate masculinity and femininity in the west are

¹⁹⁹ Cowan, “Gender is No Substitute for Sex,” 76.

²⁰⁰ Ibid.

profoundly shaped through a consciousness of white middle-class superiority. In the example provided by Cowan, race and class matter – a white, middle-class MTF butch lesbian is much more likely than a working-class, racialized MTF butch lesbian to have the financial and cultural resources needed to convince white, middle-class medical experts that, despite being butch, she is woman enough to be legally recognized as such. Race, class, and other aspects of social location articulate with gender and sexuality to position trans people differentially in relation to accessing legal recognition and the rights that it entails.

Similarly, Hines' critique emphasizes the ways in which the Act reproduces a normative sex/gender model through its reliance on prevailing medical approaches that construct transgender subjectivity as an identity disorder. Because it hinges on a gender binary model, Hines argues, the GRA "is unable to recognise the diversity of new (trans) masculinities and femininities."²⁰¹ Trans people who do not fit within binary models of sex and gender, or who claim transgender identities that explicitly resist heteronormativity, "remain on the margins of citizenship."²⁰² This effect of the Act is critical to notice; however, like Cowan, Hines neglects to take race and class into consideration. For example, she does not critically interrogate which bodies and identities are permitted to move across the gender binary. The gender recognition process filters people in ways much more complex than through the application of a simple dichotomy between those who identify with male or female and those who do not. Class, race, ability, and sexuality, for example, all play a significant part in a person's ability to pass as men or women according to the 'experts'. As Irving observes, "Those

²⁰¹ Hines, "(Trans)Forming Gender," section 7.5.

²⁰² *Ibid.*, section 8.1.

who can afford immensely expensive medical procedures and non-medical means of gender modification – clothing, binders, cosmetics – are more likely to be read as either men or women if that is their goal.”²⁰³ In a context of white supremacy and racism, whiteness and the ability to perform dominant white cultural norms of gender and sexuality must also be recognized as central to the politics of passing. While Hines asserts that, “rather than broadening the realm of citizenship in relation to gender diversity, the Act works to reinforce a normative gender model,”²⁰⁴ she does not afford any specific attention to how the underlying conceptual framework and administrative structure of the GRA are classed and racialized. As a result, Hines’ critique is unable to address the ways in which the gender recognition process also functions to reproduce class and racial orders by making recognition most difficult to obtain for people who are already marginalized by class and race, while facilitating the claims of white, financially-secure, hetero subjects.

It is this inattention to the multiple differences within and among trans communities that leads Hines to uncritically celebrate trans identities “that are consciously created in opposition to traditional ways of thinking about gender,” as those that resist assimilation and signpost “a radical politics of gender transformation.”²⁰⁵ In taking this position, Hines overlooks the privilege that often buttresses politicized gender non-conformity. For whom is defying ‘traditional’ ideas of gender a choice? Whose traditions are we talking about? What about all of the people who have only ever been viewed as Others within the specific geographies that they inhabit? Is unintelligibility

²⁰³ Irving, as cited in Kinsman, “Trans Politics and Anti-Capitalism: An Interview with Dan Irving,” n.p.

²⁰⁴ Hines, “(Trans)Forming Gender,” section 7.5.

²⁰⁵ *Ibid.*, section 8.2.

just as radical or political a practice if it represents not a strategic attempt to topple the system, but the situation of living in an alienating, oppressive and dehumanizing context?

Hines does not consider that, for financially-secure, white trans people, consciously creating one's identity against conventional ideas about gender does not entail the same risks as it might for a person who cannot find work or a place to live. The costs of assimilation or resistance are not the same for all people; the practical and political implications of doing either can be much more severe for people who are marginalized in multiple ways, or for communities who have historically been the target of colonial, racist, and classist ideologies and institutions geared toward their systematic exclusion or assimilation. A more intersectional analysis would reveal that resistance and assimilation are not so clear-cut, that they might mean very different things to different people, and that they sometimes take place at the same time, in the same body. Hines, instead, reiterates a dichotomy between 'traditional' passing transsexuals and 'progressive' genderqueers or transgenders, which erases the complexity of trans subjectivities and the power relations that structure them.

In the context of trans political movements aimed at trans inclusion, and the legislation or policies that are drafted in response to these movements, sex and gender are never the only categories at stake. Many of the exclusions I identified earlier on in the chapter with respect to the process of changing the sex designation on a birth certificate in BC are similarly enacted through the U.K. gender recognition process. For example, it is well known that trans people who are living in poverty, engaged in criminalized sectors of the economy, HIV positive, and/or substance users are often stigmatized and discriminated against by health professionals and gender clinics. Like non-trans people

living in similar conditions, these people are routinely denied access to primary health care – never mind access to hormone therapy or a recommendation for surgery – because they do not have health insurance, a fixed address or legitimate employment, or because they are deemed a health or safety risk.²⁰⁶ Trans people who are unemployed will not be able to provide a letter to the Gender Recognition Board from their employer verifying that they have lived in their gender of identification for two years. Indeed, supplying evidence of full-time cross-gender living for at least two years prior to applying for a GRC could be next to impossible for any transient trans person. For many trans people, surgery is financially out of the question; for others, pre-existing medical conditions preclude hormone therapy and/or surgeries; still others may have perspectives on gender variance that are at odds with western medical approaches, and which lead them to resist medical treatments, such as hormones and surgery, as unnecessary or problematic. The gender recognition process organized through the GRA is set up to facilitate the claims of trans people who are white, middle-class, employed, physically and mentally ‘able’ or eligible, and who otherwise meet dominant standards of respectability – as a result of privilege, these people are the most likely to be recognized as legitimate within the terms set out by the Act. Whiteness, middle-class status, and other forms of privilege, however, emerge from many of the critiques of the GRA relatively unscrutinized, intact, and unimplicated in the social reproduction of inequality among trans people.

I suggest that in order to resist the inequalities reproduced through legislation like the GRA, and produce analyses that are relevant to a wider range of trans lives, we must interrogate – indeed, work to eliminate – the regulatory aspect of these reforms, and its ideological underpinnings. This most basic feature of the GRA is taken for granted by

²⁰⁶ O’Brien, “Trans Liberation and Feminism,” 9-10.

proponents and critics alike. While several scholars have identified specific requirements or restrictions as problematic, I have not come across any critique that questions the fact of regulation itself; nobody is asking, for example, why the process of legally changing sex should be any more involved or tightly policed than a legal name change, which simply requires filling out a form and paying an administrative fee. One explanation for this is that transsexuality is considered a medical condition, and gender recognition is a legal remedy for those who have been treated for this condition. As such, anyone applying for gender recognition should have to prove that they have or have had gender identity disorder and are seeking or have sought medical treatment for this condition. But, as the preceding analysis demonstrates, the criteria and regulations governing trans access to gender recognition do not, in practice, function to sort the legitimate from the illegitimate cases of gender identity disorder as they purport to do. Instead, the process turns out to be a system that filters out and delegitimizes the claims of those who most threaten and/or differ from the status quo.

Here, we might productively recall and elaborate on the line of reasoning implicit in Devor's analogy between processes of transition and immigration in Canada to help make sense of the seemingly uncritical acceptance of the state's powerful role in deciding whose sex/identities are worthy of official recognition and whose are not. The rationale for withholding the full rights and responsibilities attached to a particular legal status from those who have not completed all of the requirements for attaining that legal status relies on the notion that an 'outsider' – specifically, someone who is moving from from a supposedly disadvantaged state, or state of being, to a more privileged one – cannot just march across a socially, politically, and/or geographically significant and heavily-

enforced border whenever it suits them and expect to be afforded the legitimacy, rights, and protections of those who ‘naturally’ belong. Sex change, like immigration, must be carefully regulated to ensure that only those who can prove themselves worthy will be rewarded with a new legal status and benefits. This naturalized ideological stance is certainly active in the exclusion of trans people from gender-specific spaces, especially as it is enacted along the lines of a pre-op/post-op distinction. I contend that it is also active in shielding the regulatory aspect of the U.K. Gender Recognition Act from critical scrutiny by promoting the illusion that there are authentic and inauthentic expressions and embodiments of trans sex/gender, and that the criteria and requirements for attaining legal gender recognition are a necessary mechanism of differentiating between them.

I argue that, as trans people and feminists committed to social justice and anti-subordination for all people, we need to resist the suggestion that only some (trans) people deserve basic legal rights and entitlements, and the oppositional dynamic fuelled by it. As Nandita Sharma points out, the idea that certain groups of people – for example, those recognized as Canadians or citizens – can or should expect rights and entitlements that others cannot, “and that this expectation is ‘normal’,” is a nationalist discourse that both conceals and reproduces the exploitation of those constructed as outsiders both within and beyond national boundaries.²⁰⁷ Sharma identifies that “part of the ongoing nation-building project of ‘Canada’ has been the ideological construction of notions of Canadian-ness that rely on racist, sexist and nationalist ideological criteria of ‘belonging’.”²⁰⁸ In this sense, authenticity can be understood as a discourse of the state, which is mobilized in the interests of reproducing essentialized notions of sameness and

²⁰⁷ Sharma, “Race, Class, Gender and the Making of Difference,” 9.

²⁰⁸ *Ibid.*, 11.

difference that function to legitimize profound inequalities between people. We must recognize, as O'Brien does, that "Liberation is not something like privilege, that one person has access to because another is denied it ... Justice is not something that I ever, in the end, benefit from its denial to anyone."²⁰⁹ To this end, it is necessary to critically reflect on the ways and the extent to which we have internalized the naturalness or inevitability of hierarchy according to Self/Other dichotomies organized through race, gender, and class, among other things. From here, we might begin to develop strategies of undoing this consciousness and of withdrawing our consent from the reproduction and intensification of the disparities sanctioned by it.

This chapter has emphasized that a more critical and apprehensive approach to demands, objectives and interests of the state as it becomes more formally involved in legislating and regulating trans lives is urgently needed. Trans people committed to the goal of anti-subordination for all people can constructively work to deconstruct and resist the figurative and concrete borders and territorializing impulses actively promoted by the state and naturalized as commonsense. If we begin from a view of trans identities and communities as constituted through multiple and shifting political forces operating both externally and internally, we will be much better equipped to identify and organize against the ways in which state responses to trans and other marginalized groups "are socially organized to sustain existing power arrangements."²¹⁰ An intersectional approach to trans politics entails an understanding of transphobia as cross-invested in and imbued with other systems of oppression, and actively resists the impulse to fix boundaries around who counts as a legitimate trans person, or what counts as a trans

²⁰⁹ O'Brien, "Trans Liberation and Feminism," 7.

²¹⁰ Razack, *Looking White People in the Eye*, 8.

issue. At the same time, it compels a recognition of the material differences between us and our participation in the reproduction of these disparities.

When issues of race, class, and other aspects of social location are treated as integral, and not peripheral, to how trans is defined and regulated, it then becomes possible to make important connections between the struggles and situations confronted by marginalized communities that might otherwise appear distant, different, or unrelated. It takes us from a position of defensiveness and disavowal to a position of critical self-reflection and accountability, from which it is possible to see our selves and others as related in radical and unforeseen ways. For these reasons, if and when we are able to, we need to break with dominant constructions and expectations of us – for instance, the expectation that we will uncritically accept and defend state-defined regulatory processes, boundaries and hierarchies that (re)produce wealth, power, and status for a small, exclusive group of privileged people by systematically depriving so many others of the “means of both sustenance and joy.”²¹¹ Such a political practice demands that we position our own consciousness as a key terrain of struggle and transformation, so that we become capable of imagining new conversations, new ways of understandings our selves and each other, and new visions of a just world.

²¹¹ Sharma, “Race, Class, Gender and the Making of Difference,” 5.

Conclusion

In *Feminism Without Borders*, Chandra Mohanty outlines a vision of transnational feminist praxis that addresses the multiple and often entangled social and political borders that structure women's material conditions. Such a feminist politics calls for an attentiveness to how differences between women – for example, according to nation, class, sexuality and race – are socially (re)produced. As such, it is a framework that acknowledges the very real presence and implications of borders, and their enforcement, in the lives and on the bodies of women and marginalized people. At the same time, transnational feminist theories and practices endeavour to develop ethical ways of working with and across difference toward a more socially-just world.

In the context of contemporary forms of globalization and imperialism, marked by profoundly unequal movements of people and capital transnationally, both the enforcement of certain borders and the infringement of others help to structure vastly inequitable relations between wealthy northern nations and the global south, as well as between peoples along the lines of race, class and gender, among other things. Challenging complex transnational networks of power requires transnational feminist approaches that can build solidarity across diverse groups, interests and issues, while also recognizing the local, historical and political specificities of particular contexts of struggle. Mohanty thus distinguishes 'feminism without borders' from 'border-less feminism' in two crucial ways: by foregrounding anti-racist, anti-colonial and anti-capitalist analyses which resist invocations of universal sisterhood, or an assumed natural

alliance between women; and, by holding in sight the contradictory meanings and effects of borders, so as to caution against an uncritical celebration of border-crossings.²¹²

Along with Mohanty, I acknowledge that “that there is no one sense of a border, that the lines between and through nations, races, classes, sexualities, religions, and disabilities are real – and that a feminism without borders must envision change and social justice work across these lines of demarcation and division.”²¹³ The divisions between and through differentially-located communities mark and effect vast disparities in power, wealth, and mobility, which shape the material and political conditions for living particular lives. At the same time, these inequalities are legitimated through the perpetual regeneration and deployment of nationalist, sexual, gendered, classed, and racial discourses that construct the relations between people, communities, and states along dichotomous lines of Self/Other. So, while differences and dividing lines of race, gender, sex, class, and nation are actual and significant in terms of their concrete and tangible impact on living conditions, they must also be engaged as socially and discursively produced - as formations that have less tangible, but no less significant, effects on the conditions of imagination and possibility.

I began this thesis with the desire to interrupt the dominant modes and flow of conversation currently unfolding between and among feminist and trans scholars on issues of inclusion and identity. Through the critiques and arguments of my thesis, I respond to what I see as a pronounced lack of feminist and trans engagement with the multiplicity of trans identities, the complex relations of power in which they are situated, and the implications of trans political goals and strategies that privilege white, middle-

²¹² Chandra Talpade Mohanty, *Feminism Without Borders*, 1-2.

²¹³ *Ibid.*, 2.

class trans subjects. As trans movements proliferate and gain momentum, it is necessary to cultivate practices of critical self-reflexivity that are attuned to how imperialist, racist, classist, and sexist systems of domination differentially impact on and implicate trans identities and communities. As Irving observes, “fostering a critical collective consciousness capable of galvanizing segments of trans communities means confronting the multiple ways power is infused within our bodies and psyches in ways that appear as if inherent to our beings.”²¹⁴

My thesis has thus worked to elucidate some of the ways in which naturalized conceptions of identity and difference structure and are reiterated within the most publicized of contemporary border wars between mainstream feminists and trans activists, and among trans people. Foregrounding marginalized feminist and trans/feminist analyses, I have directed specific attention to the various absences, silences, erasures, and assumptions that are quietly enacted and compelled within these debates as they are currently configured. Many of the positions taken up by both non-trans feminists and trans scholars deploy reductive, homogenizing notions of identity that indicate a singular or oppositional understanding of oppression – for example, the idea that women are unilaterally oppressed by men, or that the binary sex/gender system is the primary site of trans oppression. Positing identities and relations in these terms signals a refusal to grapple with the interwoven character of power and the pervasiveness, in particular, of racism and poverty in organizing lives and politics.

Sherene Razack reflects that a politics of accountability and coalition compels social justice activists to “invest our energies in exploring the histories, social relations,

²¹⁴ Dan Irving, Book Review: *Trans/Forming Feminisms: Trans-Feminist Voices Speak Out*, in *Journal of International Women's Studies* 9.3 (May 2008), 366.

and conditions that structure groups unequally in relation to one another and that shape what can be known, thought, and said.”²¹⁵ With this in mind, I argue that identifying and resisting dominant stories of difference and sameness, as they surface within social justice research and activism, is a critical part of practicing ethical solidarity across diverse movements and sites of struggle. I emphasize that it is crucial for privileged scholars and activists engaged in social justice work to continuously interrogate not only what is to be gained and for whom, but at what cost, by which means, and at whose expense is a particular political strategy or goal pursued? Which histories, experiences, and bodies are rendered expendable or unimportant through how we construct ‘our’ issues, ‘our’ histories, and the needs of ‘our’ communities? I contend that there is an important distinction to be made between, on the one hand, acknowledging differences in power and location, and insisting on specificity, and, on the other hand, arguing that only and all born women or true transsexuals, for example, share a particular experience or understanding. The latter approach mobilizes monolithic and deterministic constructions of identity or community, which suggest a natural alliance or symmetry between some people in order to justify the exclusion of others. In so doing, strategies rooted in essentialist identity politics smooth over and trivialize important tensions and inequalities within groups of people. At the same time, they assert the existence of absolute, fixed, and self-evident boundaries between bodies, experiences, political commitments, and spaces.

Dissident, outlawed, mixed and marginalized subjectivities and histories are covered up by the invisible seams that lend coherence to essentialist stories. The spaces between or forged across enforced boundaries are left unacknowledged. These are the

²¹⁵ Razack, *Looking White People in the Eye*, 10.

subjectivities and spaces that Gloria Anzaldúa addresses directly in her book, *Borderlands/La Frontera*. While speaking from her particular location as a Chicana feminist positioned between Mexican, Indigenous, and Anglo cultures, and confronting the Texas/Mexico border, Anzaldúa addresses and engages a plurality of borderlands and border identities. Providing a powerful and moving testament to the existence and resilience of identities who reside in multiple, inbetween- and outside-spaces, Anzaldúa describes the transformative potential of what she identifies as “a new mestiza consciousness” – “an ‘alien’ consciousness . . . a consciousness of the Borderlands.”²¹⁶ Such a consciousness emerges from the condition of living simultaneously inside, outside, and between multiple cultures, languages, genders, geographies, and/or other frames of reference. *La mestiza*, Anzaldúa explains, is a product of mixing and transfer between these varied, often contradictory, locations. The *mestiza* lives with the tension and restlessness sparked by the friction of “self-consistent but habitually incompatible frames of reference,” coming together.²¹⁷ As a body and space where conflicting perspectives, values, and paradigms meet, “la mestiza undergoes a struggle of flesh, a struggle of borders, an inner war,” and is “in a state of perpetual transition.”²¹⁸

Living in the borderlands is not comfortable or safe when two parts of the self attack each other, and both attack a third. These attacks, Anzaldúa writes, are sometimes perceived as threats, and can invoke an impulse to defend in a reactionary way. However, she argues, “all reaction is limited by, and dependent on, what it is reacting against”; while positioning oneself in direct opposition to the values and practices of the

²¹⁶ Gloria Anzaldúa, *Borderlands/La Frontera: The New Mestiza* (San Francisco: Aunt Lute, 1987), 99.

²¹⁷ *Ibid.*, 100.

²¹⁸ *Ibid.*

dominant or other culture is “a step toward liberation,” it “locks one into a duel of oppressor and oppressed.”²¹⁹ Anzaldúa therefore emphasizes the importance of uncovering new strategies and possibilities for political action, instead of reaction.

Overwhelmed by the possibilities presented through her containment of multiple, divergent points of view, *la mestiza* recognizes that ideas and concepts cannot be contained by fixed and absolute boundaries if she is to survive:

The borders and walls that are supposed to keep the undesirable ideas out are the entrenched habits and patterns of behavior; these habits and patterns are the enemy within. Rigidity means death. Only by remaining flexible is she able to stretch the psyche horizontally and vertically.²²⁰

The new *mestiza* rejects strict, oppositional delineations and categories, and learns how to tolerate contradictions and ambiguity. Moreover, she transforms this fluid space of uncertainty and instability into a force for change by fostering a synthesis between the phenomena and experiences that collide within.²²¹ Through this process, “the self has added a third element which is greater than the sum of its severed parts. That third element is a new consciousness – a *mestiza* consciousness.”²²² In dismantling unitary paradigms and undoing oppositional dualities, *la mestiza* creates “a change in the way we perceive reality, the way we see ourselves, and the ways we behave.”²²³

Anzaldúa’s vision of transformation begins with “a massive uprooting of dualistic thinking in the individual and collective consciousness” and, as such, constructively speaks to a set of struggles that many marginalized trans and non-trans people are already

²¹⁹ Ibid.

²²⁰ Ibid., 101.

²²¹ Ibid.

²²² Ibid.

²²³ Ibid., 102.

engaged in.²²⁴ I locate my thesis in the context of precisely this kind of grappling, and as a process of asking how marginalized trans and non-trans feminists might begin to see and approach our seemingly disparate struggles as intimately related and bound up in one another. For example, instead of conceptualizing our critical interactions, and the tension generated therein, as battles over territory between two or more irreconcilable combatants, how might we work toward a radical reconfiguration of political community through an understanding that “our psyches resemble the bordertowns and are populated by the same people?”²²⁵

The presentation of trans and feminist relations, or the relations between trans communities, as two unitary formations positioned on either side of a single border, forecloses questions and explorations of how diverse trans/feminist marginalities might speak within and to each other. In an effort to open up alternative ways of imagining and building trans/feminist relations, this thesis has offered some preliminary ideas about how trans and transnational feminist thinkers might productively coalesce and dialogue around issues such as state and institutional processes of regulation and border control – including the reproduction of national identity and social hierarchies through the organization of citizenship rights. In this sense, my project has also aimed to unsettle disciplinary and conceptual boundaries that would present transnational feminist theorizing and theorizing around trans identities and gender variance as mutually-exclusive, or as having little to contribute to one another. While a few trans scholars and activists have begun to pursue such avenues, the potential of integrated trans(national)/feminist analyses to discern political connections between groups of

²²⁴ Ibid.

²²⁵ Ibid., 109.

people and contexts of struggle commonly understood as separate, unrelated, or competing needs to be addressed in much more detail.

“To survive the Borderlands/,” Anzaldúa writes, “you must live *sin fronteras* / be a crossroads.”²²⁶ Subjectivities formed and lived out in the border spaces – who cross and are crossed by multiple lines of power, who embody compound histories of resistance and oppression, and who traverse shifting, often contradictory, social locations – are invisible within conceptual frameworks that downplay or fail to grasp the multiple, complex, and deeply interrelated systems of power in which identities and communities are situated and invested with meaning. Through the challenges, questions, and analyses engaged by my thesis, I have found a way to write myself into and beyond the cracks and shadows of conversations that, while ostensibly addressing me, nevertheless begin – and would end – without me.

²²⁶ Anzaldúa, *Borderlands/La Frontera*, 217. ‘Sin fronteras’ is translated as ‘without borders’.

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