

Divisions: Self-Declaration and Gender Variant People

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1:0: Summary

In this article I argue that instead of one about self-declaration, two battles are currently being fought, the first is concerned with sexual abuse and abuses of power by men who are not transgender, the second is about transgender people themselves. When the radical feminist mantra that male to female transgender people are really men who masquerade as women, and the traditional Christian teaching which condemns all forms of gender and sexually variant behaviour as being lewd, depraved and in pursuit of inappropriate sex, then these two battles become combined. I examine these issues in detail in this document; I recognise that two contrasting views exist about how transgender identities develop, I consider that can be no justification for rubbishing one point of view at the expense of the other, and there can be no justification for presenting an argument in which the existing legal protections are simply left out. Nor can there be any justification for ignoring the fact that self-declaration as a legally protected characteristic has been in place for the last eight years. It is the lack of objectivity and the partisan approaches adopted by both sides in these arguments which leads to such a toxic atmosphere. This is not a debate.

The issues of self-declaration provoke a further battle between what most transgender people themselves believe, which is supported by the views of the scientific and medical consensus, against what some radical feminist viewpoints pursue. A crucial issue is as to whether biological sex or gender identity should be the primary marker for social interaction. When gender identity conforms to that expected by biology there should be little difference, however when they diverge and biological sex is used as the marker, the legitimacy of transgender identities is denied. This denial has led to the collusion of the Christian Church in the secular scapegoating of gender and sexually variant people by society, and to the present proposals by the United States executive government to legally define gender identity as being that belonging to the genitalia present at birth, irrespective of any other influences and regardless of any transformations, surgical or otherwise that are made. Therefore, as transgender people perceive it, the real attack is not about issues of self-declaration, it is the attack on the legitimacy of their own identities. Much harm is being created by this and transgender people are increasingly being persecuted for simply trying to be themselves.

Society is awash with social and gender discrimination against women. Sexual abuse by men against women is also very high. I make it totally clear that condemn all of these without any reservation. In this article I compare my own views with two respondents. One of whom I can name directly: for Debbie Hayton is both a friend and someone who has been campaigning very publically on these issues, the other who remains anonymous also has very strong views. We agree to disagree. All three of us are transgender people who are working very strongly for full inclusion of transgender people within the Christian tradition. I show that the differences between us can be mirrored within the feminist movements. That should not be surprising: however I demonstrate that the current attacks on self-declaration are being used to mask the underlying attacks by radical feminists on the legitimacy of transgender identities by binding abuse to biology, and that causes major transgender alarm.

¹ Personal biography at: <http://www.tgdr.co.uk/documents/SusanBiographyPapers.pdf>

² Available online at Gilchrist, S. (2018): "Divisions: Self-Declaration and Gender Variant People": <http://www.tgdr.co.uk/documents/243P-DivisionsSelfDeclaration.pdf>

This is the first in a series of three papers. The second *“The Development of Transgender Behaviour and Identity in Early Life”* and the third *“Interpretations of Science and Challenges to Gender Identity Research”* will be available shortly, as will a compilation of these papers in *“Conflict, Self-Declaration and the Misdiagnosing of Gender Variant People”*³.

People challenge gender for many reasons, but all of the evidence shows that sexual abuse by genuine transgender people is low, and should not be a concern. The failure or the inability to associate with male aggression instead leads to companionship and respect. For transgender people a lifetime conforming to a gender role that is rejected and cannot be identified with should at least make such people more aware of women’s concerns. The current scientific consensus declares that the core elements of both gender and sexual identities are features which arise very early in development, which do not respond to the predations of others and which cannot be changed in later life. It additionally supports the latest Memorandum of Understanding issued jointly by all the major medical and psychological professional institutions in the United Kingdom which condemns both “Gay Cures” and “Reparative Therapy” as being totally inappropriate for their destructive effect by trying to restore or create a core sense of gender identity that never did exist. I make use of new neurophysiological research. Transgender women and natal women do have different histories and backgrounds, but I believe that their matching experiences enrich rather than condemn any feminist cause. In this study I conclude that, instead of enemies, all who are engaged in the feminist movements should see transgender people as allies instead. This is a long way from the toxic arguments that now exist and I examine these disputes in this account.

2:0: Introduction

In July 2018 I published an article On *“Transgender People and Women’s Concerns”*.⁴ The article discussed the proposals now put forward by Justine Greening MP who was, until recently, the Minister for the UK Parliament Women and Equalities Committee. This would allow applicants who wished to obtain the legal recognition of their gender status on their birth-certificate to do so by a simple process. Under these proposals they would no longer have to satisfy an independent medical panel and conform to the present requirements laid down by the 2004 Gender Recognition Act⁵. They would instead be able to self-declare without the need for a medical diagnosis of *“gender dysphoria”* (broadly gender incongruence, or discomfort with their birth assigned gender) being required.

In a response to my article one person correctly noted that I identify two concerns that feminists have: one, that men disguised as women may enter women’s spaces for purposes of sexual attack and two, that women fear men will use it to exert power over women. In my article I contended that these are the result of misunderstandings. My respondent replied by saying that: *“When women get accused of misunderstanding it usually means that they understand all too well!”* Unfortunately what my respondent states about my misunderstanding, is her misunderstanding of what I meant: I was instead referring to the differing views on how gender identity develops. I totally accept that this was a genuine mistake by my respondent, and also on my part for not making it more clear, but what she

³ For a personal bibliography and further details see <http://www.tgdr.co.uk/articles/bibliography.htm>

⁴ Gilchrist, S. (2018): *“Transgender People and Women’s Concerns”*. This article can be accessed at: <http://www.tgdr.co.uk/documents/243P-TransgenderSocialIssues.pdf> .

⁵ Section 9 Subsection (1) of the Gender Recognition Act states that: the fundamental proposition 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. She would, for example, be entitled to protection as a woman under the Sex Discrimination Act 1975; and she would be considered to be female for the purposes of section 11(c) of the Matrimonial Causes Act 1973, and so able to contract a valid marriage with a man. Subsection (2) provides amplification of subsection (1), making clear that the recognition is not retrospective, so the certificate does not rewrite the gender history of the transsexual person, and that the new gender applies for the interpretation of enactments, instruments and documents made before as well as after the issue of a Gender Recognition certificate. Sections 9 to 21, and Schedules 3 to 6, set out the consequences of the issue of a certificate. The general principle is that the transsexual person will for all purposes be regarded as being of the acquired gender. These sections go on to describe particular consequences in terms of the issue of a new birth certificate, marriage, parenthood, benefits and pensions, discrimination, inheritance, sport, gender-specific offences and foreign gender change. <http://www.legislation.gov.uk/ukpga/2004/7/notes>

said also betrayed her own feelings. Her perceptions are common to many people and they also demand a reply. This article includes her comments as part of a generalised response.

In this account the word “*Transgender*” or “*Trans*” is used as an umbrella term to describe everyone whose gender identity shows some degree of incongruence with their biological sex. The word “*Transsexual*” is used to describe those people whose sense of rejection of the gender expected by their biological sex is complete, regardless of whether surgical gender reassignment being sought.

3:0: Transgender Identities, Perceptions and Facts

People cross dress and manipulate gender for many reasons. Two completely different views about how atypical gender identities are created are currently held. For many lesbians and feminists male to female transsexuals are predatory men who seek to exert power and domination over women, who manipulate femininity to their own desires and advantage by adopting a female role: It is argued that their failure to succeed in the male role means they try to do it in the female role instead. For transsexuals, (as a generalisation), their understanding of history instead is one of a lifetime being forced to live in a gender role which one cannot identify with, with all of the anguish distress, rejection and high suicide rates that are involved. The former viewpoint disregards the neurophysiological processes which dominate early development, the latter includes them⁶. There is also a fundamental difference and contradiction between these two explanations and the types of behaviour encountered, since the first is driven by rewards that may be offered, while the second is manifest through the search for identity instead.

It is generally considered that the early formation of gender and sexual identities are not well understood. That is why an extended study of these early processes is essential. The current scientific consensus is supported by all of the major professional medical institutions who are involved in these areas. This includes the World Professional Association for Transgender Health (WPATH), whose guidelines are endorsed by virtually all of these major professional bodies⁷, the experiential evidence and also by my own research⁸. This consensus considers the core elements of both gender and sexual identities to be features which arise very early in development, which do not respond to the predations of others and cannot be changed in later life. They are shown to form before behavioural separation occurs. This early development means that behaviour is not the focus, nor is it the adoption of any gender stereotyped roles. For the same reason it is demonstrated that these gender and sexually variant conditions are driven by the search for identity and not behavioural reward. Therefore there must be as wide a range of moral attitudes and behaviour among the gender and sexually variant peoples as in the community at large. As a consequence a moral duality must exist whereby those transgender people who seek to express their own identities in ways which conform to the highest moral values of society should be highly regarded, while those who do not should be very severely condemned for their acts.

That is not reflected in the statements my respondent makes. She says that: “*The problem the transgendered world has is that it thinks it is right (and justified) to be transgendered and therefore whatever they do must be right*”. Consequently, she says, “*No-one is entitled to a contrary opinion or any reservations*”. She also states that; “*All women know that most men given half a chance will try to take control, to be in charge and tell women what to do*”. She additionally states that in what I

⁶ For papers on this neurophysiological and psychological research work see: Gilchrist, S. (2016): “Taking a Different Path”: Chapter 10 in: “*This Is My Body: Hearing the Theology of Transgender Christians*”, Ed: Beardsley, T. and O'Brien, M: Darton Longman and Todd. May 2016 ISBN 978-0-232-53206-7 also Gilchrist, S. (2016): “*A New Approach to Identity and Personality Formation in Early Life*”: <http://www.tgdr.co.uk/documents/218P-InfluencesPersonality.pdf> also Gilchrist, S. (2013): “*Personality Development and LGB&T People: A New Approach*”: <http://www.tgdr.co.uk/documents/201P-PersonalityDevelopmentAndLGBTPeople.pdf>. The following paper: Gilchrist, S. (2019): “*The Development of Transgender Behaviour and Identity in Early Life*”: <http://www.tgdr.co.uk/documents/243P-BehaviourSelfIdentity.pdf> will soon be available

⁷ The guidelines can be downloaded from this website: <https://www.wpath.org/publications/soc>

⁸ You can see a summary of this at: <http://www.tgdr.co.uk/articles/index.htm>. The full personal bibliography is available at: <http://www.tgdr.co.uk/articles/bibliography.htm>

have written I make no mention of men's violence to women. She is concerned that self-declaration will mean that, as of right: *"a lot of unreconstructed men posing as women will invade women's space and try to take over, creating a great deal of unhappiness"*, also saying that: *"Fears that men will use light regulation to invade women's spaces to inflict violence on former or current partners, girlfriends etc. are not unreasonable"*, and she warns of the risk of sexual attack. She further states that women want spaces free of men, and she cites an example of a class where several women are there simply because it is a place where there are no men and they can enjoy the company of other women without men. She states that: *"The prospect of men with full male genitalia having access to women's spaces is abhorrent to most women"*, also *"What concerns feminists and indeed other women is that they do not want a load of unreconstructed men with full male genitalia having the legal status of women and with access to their rights and space"*.

In this analysis I totally condemn all forms of gender and sexual abuse. I also note that all gender and sexually variant people ignore these very real and strongly felt concerns at their peril. I believe that total responsibility must be exercised and in all of my work I emphasise the need to apply the moral code which I have described above, where those who seek to achieve the highest moral standards of society should be highly regarded, while those who seek to take advantage of the situation by engaging in any form of abuse or immoral behaviour, including sexual abuse must be very severely condemned for their acts. However a problem arises because the awareness of that moral duality is easily lost in the febrile attitudes of today's society which is inundated with instances and allegations of sexual abuse. That dismissal is compounded by the sexual scandals and doctrines in the Christian Church.

It was not because of any disregard of these concerns; it was precisely BECAUSE of my concerns about them I strongly advocated in my earlier article that absolute responsibility must be exercised. For my respondent to accuse me of not considering these issues is incorrect. This is also why, again in that earlier article, I gave very strong support to the paper by Debbie Hayton which emphasises the same absolute need to take full account of women's fears and concerns, although I do not agree with some of the suggestions about behaviour she gives. Debbie's article can be accessed at: Hayton, Debbie. (2018): *"A Plea to Trans Activists: We Can Protect Trans Rights without Denying Biology"*⁹. Nevertheless, just as I strongly support Debbie about voicing the concerns of many women I equally strongly disagree with her when she dismisses transgender identities as merely a collection of feelings. In this respect I take further issue with Debbie in her article: *"Women are Right to have Concerns Over Trans Reforms"*¹⁰ when she says: *"Transgender people like me change our legal sex and hence our access to facilities - everything from high street store changing rooms to prison cells. What works for one works for all: trans women, fetishists and even abusive men seeking access to women. It is a safeguarding nightmare"*. At the heart of our disagreements are our different views on how gender identity is formed and our views on the legal protections that currently exist. One issue is the disagreement over whether the primary identity marker that should be used for social and legal interactions (not for biological or medical purposes), should be gender identity or biological sex. The relationships between these markers and their independence from each other should be clearly understood. That raises particular concerns since, if the latter is adopted some groups may use it to condemn all forms of gender and sexually variant behaviour, irrespective of the purpose of the acts.

I express strong criticism of Debbie Hayton and some radical feminist groups in this account. However I do strongly support Debbie when she emphasises the absolute need for responsibility and total respect for women's concerns. I know Debbie, I regard her as a friend, and I totally respect the integrity with which she holds her views. Also I have no intention of making a personal attack on

⁹ Hayton, Debbie. (2018): *"A Plea to Trans Activists: We Can Protect Trans Rights without Denying Biology"*
<http://quillette.com/2018/03/30/plea-trans-activists-can-protect-trans-rights-without-denying-biology/>.

¹⁰ Hayton, Debbie. (2018) *"Women are Right to have Concerns Over Trans Reforms"* on September 16, 2018,
<https://debbiehayton.wordpress.com/>

her, and we each agree to differ in expressing our beliefs. I have also been pilloried by some of the more strongly minded in the transgender community for giving Debbie that support. However Debbie publically expresses her ideas in the newspapers and other publications. She also has a strong presence in her campaigning: both individually and as a trade union representative, and in her presence on social media. Although we disagree strongly in certain matters, I do believe that I have a corresponding duty to make a public response because of her public role, I am also duty bound to substantiate my own arguments with a detailed and considered answer. In this paper that detailed response is what I seek to present.

With the other person who responded to my previous article I take a different approach. I have used the comments she made to create a generalised view. You, the reader, do not know those which are her comments and those which I have added. Nor should you seek to know, since my purpose is to create a comprehensive argument to which I can give a full response.

4:0: Omissions and Approach

One particular concern with Debbie's argument is her claim that her statement, (which I have quoted above), represents the present reality. I consider this to be incorrect. In her arguments she dismisses the protections against abuse that already exist in the 2010 Equality Act and the protections against social disorder in other legislation. She also fails to note that under the 2010 Equality Act, self-declaration of gender identity has been in effect, without total disaster since that time. Many of the consequences of the 2004 Gender Recognition act have been superseded by the regulations contained in section 7 of the 2010 Equality Act. This Equality act has been in force for the last eight years, therefore its provisions have been applied from its implementation. In my understanding, that is why the safeguarding and protections which are given by these legislative processes are dismissed or ignored in the arguments Debbie presents.

Creating an impression by citing as fact circumstances which are incorrect, can only serve to raise unjustified alarm and concern amongst people who rely on them for the judgements they make. If any arguments are to be legitimate they must be built on realities which are founded on objective views which includes the understanding of others and not just statements by the protagonists themselves. It is the actual current social and legal provisions which must be examined to see what justifications still exist for the arguments that Debbie and the present day protesting groups continue to present. If our findings are not based on objective evidence, if we do not vigorously support our own positions and the legitimacy of our own identities, regardless of whether any of us undergoes surgical reassignment, the advances we have gained will be lost. That is why in this account I now seek to look in detail at the protections which are provided at the present time.

My anonymous respondent is totally correct to condemn the abuses she encounters, and she is entirely right to do this with the strength and severity she applies. She also describes how she had to exclude some gender variant people who did not conform to acceptable standards from her group. I too was once a member of a comparable group of transgender people. I took exactly the same approach when I encountered similar misuse, being called a killjoy for my efforts. However, to adopt the viewpoint she expresses, which parallels that which is adopted in a letter discussed later in this article is not the correct approach. Both of these identify only those people who have undergone the surgery of gender reassignment as genuine transsexuals and exclude all others as potential purveyors of abuse. They set a boundary which is defined by that physical action, not by the morality of the people concerned. Today about four-fifths of transgender people are presenting in non-binary roles. For these reasons and also because it is a fundamental element of self-identity I support the move to self-declaration in terms of meeting medical and social needs: In all societies the need for self-declaration must be to enable all people to find their own gender identities: not to force them into the sort of binary stereotypes that society and psychiatrists have in the past, and some too often still demand. Allowing people to truly explore their own feelings also enables them to

create the self-esteem and self-worth which permits them to develop the security of identity that is needed to manage the conflicts they face. In my paper on “*The Development of Transgender Behaviour and Identity in Early Life*”, and my other research publications, I show why from the outset this openness is required¹¹. Self-diagnosis and self-declaration must therefore be set the context of these needs. They do not determine the management and treatment methods that may be applied, and may be subject to separate checks. Therefore in this account I also argue that self-diagnosis and self-declaration are both needed for gender variant people to fulfil their lives in ways that they need, and the law requires.

However I also recognise the difficulties this creates. Any presumption that implementing a process of self-declaration will affect only transgender people is incorrect since many other issues are involved. The legal self-declaration of gender identity demands change to all societies where one gender group seeks to condemn or exert power over the other for either feminist or chauvinist causes. That has led to toxic arguments with radical feminist groups where genuine transgender concerns may be ignored, compromised or dismissed. Because of these disputes, transgender people may become scapegoats and pawns in the battles over these other issues, including power, discrimination and sex. Disagreements in the transgender communities mirror those in feminist groups. Later in this account I will show how a campaign, which is ostensibly about the wellbeing of women and transgender people, has been changed to one where transgender people and the legitimacy of transgender identities come under attack.

5:0: The 2004 Gender Recognition Act

When the Gender Recognition Act was passed in 2004, it was thought to be a state-of-the-art piece of legislation. The Act allowed transgender people to change their legal gender marker and be recognised in law as belonging to their new gender. It replaced the previous marker for determining social interaction, particularly in marriage, which was biological sex. When anyone satisfies its provisions a Gender Recognition Certificate (GRC) is issued. The requirements to obtain a GRC are as follows: That the person is over 18 years of age; that they can demonstrate they have lived in their new gender role for at least 2 years. Two medical reports, one from a gender specialist, are also required. Proof of intention to continue to live in new gender role must also be furnished. If that person is married, then permission from the partner must be obtained. A fee must also be paid. Divorce from a partner in any existing marriage was previously required. In January 2016, following consultation with transgender individuals and support groups, the Women & Equalities Committee of the United Kingdom Parliament, chaired by Maria Miller MP reported to the government with a number of proposed changes to improve the gender recognition process, along with 34 other recommendations to improve the lives of transgender people.

Since its introduction in 2004 only 4910 people have obtained a Gender Recognition Certificate (GRC)¹². Particular issues with the process that were highlighted were that only binary options available. Non-binary gender identities are not recognised by the Act. (These are people with identities not exclusively male or female, or who accept no gender at all). Other people who are excluded from the provisions of the act are transgender people who struggle to maintain all the love, relationships and commitments they have created in their birth assigned role, even when they feel equally as strongly as others about their own need to transition, The act makes no provision for anyone before the decision to transition is made, although certain of its provisions do apply after the decision to transition is affirmed. The absence of these provisions, the disruption to relationships and the social implications which are created by the need to live exclusively in one binary gender role (male or female) for two years, may force people into transition and into the adoption of that binary role. The stresses, rejections and trauma encountered at this time can be extremely high.

¹¹ For further details see <http://www.tgdr.co.uk/articles/bibliography.htm>

¹² According to Government information given in the consultation process documentation concerning reform of the 2004 Gender Recognition Act: <https://www.gov.uk/government/consultations/reform-of-the-gender-recognition-act-2004>

Two years living in new gender role is also considered too long. The process is costly and it is over medicalised. The system is bureaucratic and often has an effect on an applicant's health. Applicants never meet the intrusive reviewing panel. The 'Spousal Veto' is considered too draconian. (This is where a wife/husband can delay the process by objecting to it). Clearly reform was and is needed and the proposals now put forward by Justine Greening MP¹³ would allow applicants who wished to obtain the legal recognition of their gender status on their birth-certificate to do so by a simple process which would permit them to self-declare their gender identities without a 'diagnosis' of gender dysphoria first being required. The protections against abuse and the invasion of women's spaces would remain the same as those provided in the 2010 Equality act.

This binary approach arises at least in part because the primary purpose of the 2004 Gender Recognition Act was to legalise marriage between two people, one of whom had undergone the full process of gender reassignment. However for medical and other reasons, surgery was not an absolute requirement. In those days when marriage could only be between those who were legally defined as a man to a woman, (and also as now, intended for life), the enforcement of binary definitions was of major importance. The legalisation of Same-Sex marriage in the United Kingdom has since made this unnecessary. The Church of England has followed this legal definition: so marriages where one person has transitioned are fully recognised by this Church, with all the same rights and privileges as any other married couple, including being married by a Church of England priest in a full wedding ceremony, taking the same vows, in a Church of England Parish Church. Preventing sexual abuse and discrimination against women was not the driving force behind the 2004 Gender Recognition act, and its use for this purpose misinterprets the act. The introduction of Equal Marriage has made its current provisions anachronistic, and it ought to be reformed. However any reform should also be accompanied with the removal of the exemptions given to religious organisation in the Equality Act 2010. Otherwise in the eyes of those religious groups and organisations which still seek to censure and condemn transgender people, the protections currently contained in the Gender Recognition Act 2004, will be lost.

The belief that transgender people are men who want to become women and vice-versa is commonly held. However the driving force behind this belief is the need for transgender people to be themselves¹⁴. The demand for gender reassignment can become an obsession but once it is achieved, for many, gender no longer becomes an issue, and these people often merge invisibly into society, living ordinary, everyday and unremarkable lives. For these people the 2004 Gender Recognition act has been of great benefit, allowing people to enter into what are regarded by society and the Church of England as heterosexual marriages, which are in accord with their now recognised gender identity. It has also enabled these people to integrate fully into society without anyone being aware of the transgender history in their lives. The proposals that are now put forward for reform of the 2004 Gender Recognition act have promoted a furious reaction by some groups. This is on the grounds that it would open the floodgates to sexual abuse. However that was not its purpose of the act. The most significant effect of the 2004 Gender Recognition Act; which remains valid today, is to set the marker for marriage and social interaction to be that of gender identity, instead of biological sex.

Although many of the regulations in the 2004 Gender Recognition Act have been superseded, or are now outdated, significantly people are still not free to choose their legal gender under this act. They are required apply for it in an independent process which involves the judgements of specialists and an anonymous panel. This gives it the authority of being validated by the state.

¹³ Justine Greening MP was, until recently, the UK Government Minister for Women and Equalities

¹⁴ See Gilchrist, S. (2019): "*The Development of Transgender Behaviour and Identity in Early Life*": <http://www.tgdr.co.uk/documents/243P-BehaviourSelfIdentity.pdf>

6:0: Self-Declaration of Gender Identity in the 2010 Equality Act

The demands to conform to the gender binary which are imposed in the Gender Recognition Act 2004 through the decrees of an anonymous panel are in direct contrast to the Equality Act 2010, where the protected characteristic of “gender reassignment” is self-identified. Section 7 of the Act, refers to this “protected characteristic” of “gender reassignment”. It states that: “A person has this characteristic if he or she is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex. Discrimination against people covered by Section 7 is unlawful if a person is perceived to have the protected characteristic (regardless of whether that perception is correct)”. The Explanatory Notes for the Act make clear that the “process” referred to in Section 7 need not include medical treatment. The following example is given: “A person who was born physically female decides to spend the rest of her life as a man. He starts and continues to live as a man. He decides not to seek medical advice as he successfully ‘passes’ as a man without the need for any medical intervention. He would have the protected characteristic of gender reassignment for the purposes of the Act” (see Equality Act 2010: Explanatory Notes, August 2010, para 43). The 2010 Equality Act has provided many great advances for transgender people but for the last 8 years the principle of self-declaration enshrined in it has allowed other people who disrupt the gendered order of society for any reason to claim a transgender identity without incurring social and legal consequences for doing so, and to obtain protection against discrimination under the act. In section 7:0 of this document it is shown that the exclusions and protections under the Gender Recognition Act 2004 and the Equality Act 2010 remain intact. In section 9:0 it is shown that when abuses happen exclusions can still be made on the grounds of behaviour rather than legislative acts.

7:0: Interpretation

Some argue that the implementation of legal self-declaration means that all medical safeguards should be ignored. Under the present proposals it is only the birth certificate that can be changed and the medical profession would be totally abrogating its responsibility if it permitted or supported any treatments that it for did not consider correct. Paragraph 57 of the explanatory notes for the public consultation process on the reform of the Gender Recognition Act states: *It should be noted that there is no suggestion of removing the need for a diagnosis of gender dysphoria from the medical treatment pathway for trans people. This consultation refers only to the legal recognition process*¹⁵. That essential safeguarding is true of medical practice in all areas. The idea that self-declaration allows any person to bypass all of these medical protections has been peddled by many groups. In my view nobody, including transgender people should ever be permitted to specify the course of treatment or be prescribed drugs, unless the medical expertise agrees that the course is correct. That viewpoint is again corroborated in a review of procedures offered by Gender Identity Clinics in the United Kingdom which has just been issued¹⁶. In this review it is concluded that a medical diagnosis of “Gender Dysphoria” must still be made before any services that involve gender reassignment are offered. What part, if any, should this medical diagnosis play in any legal declaration is the issue in Gender Recognition Act that must be addressed.

Nevertheless the ability to self-declare changes the approach. Instead of enforcing a medical assessment which creates a barrier to overcome, self-declaration allows all sides to work together so that correct decisions are made. This includes support for people who possess non-binary gender identities when that is correct. These advances are very much needed; however they may also make it harder to get treatment: Self-declaration may result in treatment being more likely to be refused on the National Health Service once the authority of an independent panel is no longer

¹⁵ Section extracted From the Reform of the Gender Recognition Act: Government Notes on the Consultation Process: https://consult.education.gov.uk/government-equalities-office/reform-of-the-gender-recognition-act/user_uploads/gra-consultation-document.pdf

¹⁶ The consultation can be found at: <https://www.engage.england.nhs.uk/survey/gender-identity-services-for-adults/>.

required. This may be on the grounds of limited resources and the perception that it should be treated more like cosmetic surgery.

Instead of a remote panel making decisions which are based on how well the recipient adjusts and conforms to the values of a gender divided society, self-declaration also demands that medical judgements must be made on the basis of the integrity of the individual, personal adjustment and on considerations of sexual abuse. Any medical practitioner who provides treatment or prescribes drugs for anyone who is later found to use what he or she has enabled, to engage in sexual abuse or other inappropriate behaviour may be in great trouble with his or her professional bodies. Therefore more caution instead of less caution may be exercised, and it would be possible for any person could be struck off if due diligence was not observed. The concept of self-declaration has created a political minefield. Different agendas are involved and this must include relationships between power, money and sex.

The same is true for access to women's "Protected spaces". The Equality act is quite certain in its declaration that access to these "Protected Spaces" must be dealt with on a case by case basis, which must be objectively justified, and also a proportionate means of achieving a legitimate aim. The Government has also made it clear that it has no intention of changing the provisions of the Equality Act, Therefore anyone who was deluded enough to go through the process of self-declaration for these purposes would be trapped by the law in the same way as if they had not. Self-declaration is often interpreted to mean that simply by making a statutory declaration of change of gender, men must be treated completely as women (and vice versa). However under the Equality Act this would not seem to be correct. Instead it means that a man who makes such a declaration becomes a transgender woman and should be treated in that way. Likewise a woman who makes such a declaration must be treated as a transgender man. This is why the protections under the Equality Act 2010 remain intact¹⁷. These restrictions and medical caveats are disregarded by many feminist groups who argue that a free-for-all situation exists, so that any man who self declares a change of legal gender is able to invade women's protected spaces at will in order to do what she likes. The legal freedom which is envisaged does not prevent, remove or contradict any decisions that are made on medical or social grounds and no changes to these protections are proposed.

However the 2004 Gender Recognition act does declare that anyone who obtains a Gender Recognition Certificate must be recognised as a member of the acquired gender "*for all purposes*". If the Gender Recognition Act were to be reformed then part of that process should be to ensure that the protections currently specified under this act and the 2010 Equality Act continue to be enforced.

Although the present consultation being undertaken by the United Kingdom government does not specify it, it would be expected that the applicants would continue to make a Statutory Declaration as with the current process. That is required for any change of name, and it is the name that is chosen which reflects the gender affiliation that is made. This declaration has exactly the same legal weight as giving evidence in court with the same criminal consequences. Section 22 of the Gender Recognition Act 2004 also legislates that it is a criminal offence for any person who has acquired information about a person's transgender history in an official capacity, to disclose the information to any other person, regardless of if a person is in possession of a Gender Recognition Certificate or not¹⁸. The exceptions indeed are narrowly drawn, so it should generally be assumed that the law

¹⁷ <https://thewomensresourcecentre.org.uk/wp-content/uploads/Making-the-case-for-women-only-July-2011.pdf> page 5.

¹⁸ "Section 22 of the Gender Recognition Act defines any information relating to a person's application for a gender recognition certificate or to a successful applicant's gender history as protected information and therefore a trans person's gender history, regardless of whether they have a gender recognition certificate, can also constitute sensitive personal data as defined by the Data Protection Act 1998. There should be a massive onus on organisations, if requiring trans people to disclose their gender history in any way, to undertake measures to ensure that this information is protected, because there are fines of up to £5,000 for those who do not": House of Commons Women and Equalities Committee Transgender Equality First Report of Session 2015–16 paragraph 85: <https://publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/390/390.pdf>

about non-disclosure will apply to an employer, manager or colleague; or for anyone working in any capacity for an official body or is a service provider. It should nevertheless be noted that Section 22 sets out a series of exceptions, where disclosure is lawful. This may be where the disclosure is required in accordance with an order of court or tribunal, including the purposes of instituting, preventing or investigating crime. In a number of cases where advantage is taken of transgender legislation for sexual abuse the gender history will be a relevant. That may also be where a complainer subsequently learns of the birth gender of a transgender person they have had sexual contact with and alleges that had they been aware of this they would not have consented to the sexual contact. How gender identity is officially recognised is also important. As has been noted earlier, the 2004 Gender Recognition Act requires a number of preconditions, which demand living in the acquired gender role for two years, and independent judgement by an official panel. That is in direct contrast to the Equality Act 2010 where, as also previously described, the protected characteristic of “*Gender Reassignment*” is self-identified and comes into immediate effect. Thus the proposed reform of the Gender Recognition act 2004 to include self-declaration would only bring it into line with the provisions for self-identification which have been active since 2010 through the Equality Act.

8:0: Applicability

The question that really must be asked is about whether anyone who was intent on manipulating their gender for the purposes of sexual abuse would put themselves through this process. In common with all legal processes associated with any statutory declaration, applicants have to supply a form of primary ID such as a passport or driving licence plus proof of residency, such as 2bank statement or utility bill. Would they wish to permanently change their gender with the result that their employers would get a notification from the Taxation and Regulatory authorities? Some might be sufficiently deluded to try to do this. People who are intent on pursuing such abuses will often go to extreme lengths to pursue and justify their goals. However they may find the process more difficult if they seek medical intervention to make their appearance more convincing. I have shown that this is because the consequence of self-declaration will turn the medical judgements that are needed away from assessing the need to conform to a specified gender identity, to one where a judgement on integrity, peace and purpose become the focus instead.

Indeed such extreme steps do not have to be taken for anyone who is intent on abuse. For many years people have been able to change their names, passports, driving licences and other legal documents so that they are able to live without challenge in the acquired gender role. We have already seen that a consequence of the Gender Recognition act is that self-declaration of gender identity has been in place for the last eight years. One professional who deals with safeguarding issues and is a member of police independent advice groups, and a member of scrutiny panels dealing with violence against women and girls, has have not heard of a single instance of safeguarding arising from misuse of the Equality Act 2010. Nor have senior police officers and Crown Prosecution Service officers who have been asked. That has also been confirmed in other policing information I have been given¹⁹. On the other hand abuse against transgender people is well documented²⁰. In other countries where legislation for self-declaration has already been enacted there has not been any upwelling of sexual abuse. This is a nightmare which comes from imaginings not reality, and other reasons for it have to be explored.

¹⁹ This is not to say that abuse does not occur. That may include impersonation of the opposite gender. Abuse by anybody is detected by the nature of their behaviour and legislation is not the answer. The distinction must be made between those who are engaged in the pursuit of identity and that those who seek the rewards of inappropriate or abusive sex.

²⁰ House of Commons Women and Equalities Committee Transgender Equality First Report of Session 2015–16:
<https://publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/390/390.pdf>

9:0: Policing and Responsibility

The attitudes of society to gender and sexually variant or variant people have been transformed since homosexuality was de-criminalised in 1967. For the last eight years anyone engaged in gender challenging behaviour can claim protected status by claiming to be transgender, irrespective of the purpose or disruptive nature of their acts. That is a challenge which has to be faced within the transgender communities. However there is a tendency for any group who is universally attacked to bond together to create a common defence: and all sides may support the divisions this creates. That results in boundaries being enforced where all gender and sexually variant people are condemned without exception for engaging in immoral or abusive behaviour, without regard to the motives of their acts. A problem therefore arises when this universal condemnation makes people less willing to self-police their own communities. The equivalent universal condemnation has occurred in Christian theology. I have shown that a paradigm shift has taken place in Christian teaching, where the condemnations of acts that were initially condemned on the grounds of their purpose and intention, have been turned into condemnation of the actual acts. This universal condemnation arises from changes in the theology of the Church. Therefore a significant and continuing element in my research is to establish why these theological changes have occurred²¹.

In my previous article²² I have required that women's fears must be fully recognised and this is also why I emphasise that absolute responsibility must be maintained. That demands that proper discipline is applied, and the same sort of self-policing as that applied to mainstream society must take place inside each of the gender and sexually variant groups. Instead of any boundary which based on acts and group alliances and group identification, the real boundary that is needed to separate between wellbeing from abuse is boundary which is determined by standards of morality and the intentions and purposes of the acts.

10:0: Motives

It is very important for transgender people to be fully represented in public events like Pride Marches. However that may be compromised because people have been able to claim to be transgender and live without legal penalties in the gender they choose since the implementation of the 2010 Equality act. The freedom to do this; and the abuses that may arise from it, together with the general lack of understanding and the misattributions that are made in the public media can have a destructive effect. My respondent correctly states that: *"As things stand most women and most feminists accept transsexuals fairly readily"*. Elsewhere she also states that: *"I rather suspect most women have little or no problem with genuine transsexuals. They really are not the issue. The problem is that transgender covers a huge range of people, some of whom are not very pleasant and women have cause to be wary"*. In the article: *"Self-identification will not help transgender people"*, which was first published by the Times on 5 July 2018²³, and by ignoring that self-declaration and legal protections in effect already exist, Debbie Hayton states: *"Such a massive change in our relationship with society has required evidence of need: a diagnosis of gender dysphoria and medical reports. Self-identification sweeps away those safeguards. Any male person could declare they are female and inherit the rights and protections afforded to women. It's no wonder that women have become alarmed and have been meeting even amid intimidation and threats. They have not been reassured by platitudes. Men wouldn't claim to be women purely to violate women's rights, would they? Actually some might, and the ones that would are those who women are worried about"*.

²¹ See for example. Gilchrist, S. (2017): "A House Built on Sand? Attitudes to Gender and Sexual Variant Identities and Behaviour in Christianity and the Christian Church": <http://www.tgdr.co.uk/documents/231P-HouseUponSand.pdf> A full personal bibliography is given in <http://www.tgdr.co.uk/articles/bibliography.htm>

²² Gilchrist, S. (2018): "Transgender People and Women's Concerns". This article can be accessed at: <http://www.tgdr.co.uk/documents/243P-TransgenderSocialIssues.pdf>

²³ Hayton, Debbie (2018): "Self-identification will not help transgender people": The Times on 5 July 2018, <https://debbiehayton.wordpress.com/>

That exploits and accentuates the fears that women genuinely have. The real problem with these statements is that it is not the need to deal fully with and respond to women's concerns. This is fully accepted. It is the misrepresentation contained in these statements and through the actions of groups which ignore the changes which have taken place during the last eight years. That includes the approaches of those groups which condemn statements that are contrary to their own views as platitudes, and which present as facts, particular viewpoints that ignore the provisions against sexual and gender abuse that are written into the 2004 Gender Recognition Act and the 2010 Equality Act. I consider that the groups, who are presently campaigning against self-declaration of gender identity without regard to the protections which already exist, are either acting in ignorance or they are demanding that even stronger protections are imposed.

The protections which are contained in the 2010 Equality act require a measured and proportionate response to each situation, with total exclusion if required. These are described in section 7:0 of this document and an extract from the Government consultation document is given in the footnote, which expands on these points²⁴. However the protections demanded by many more radical feminists can be much stronger. Evidence of this demand can be seen in attitudes, like those of my respondent, and also in the viewpoint expressed in the Guardian letter of May 2018²⁵ which argue that the only transgender people who should be given access to any women's protected spaces are those who have undergone surgical gender reassignment: either because it is evidence of their commitment, or on the grounds that their surgery has ensured that they can only perform in ways akin to women in any physical act. For those feminists who adhere to the mantra that all male to female transsexuals are men who masquerade as women to exert power and domination over them, and manipulate femininity to their own desires and advantage by adopting a female role, the exclusion that is demanded is complete. All of these issues should be the focus for reasoned discussion, but the disregard for the protections already present in the 2010 Equality act, and the refusal to acknowledge that self-declaration has also been available, and has had protected since that time, destroys that approach.

The statement that self-declaration will result in a *"release a torrent of sexually based abuse and an irresponsible invasion of women's spaces"* when *"What works for one works for all: trans women, fetishists and even abusive men seeking access to women"*, which also describes it as *"a safeguarding nightmare"*²⁶ will rightly cause a great deal of alarm and concern amongst people who are not otherwise involved. By presenting these issues as facts, cartoons of reality are created,

²⁴ Section extracted From the Reform of the Gender Recognition Act: Government Notes on the Consultation Process: Sections 113 to 117: https://consult.education.gov.uk/government-equalities-office/reform-of-the-gender-recognition-act/user_uploads/gra-consultation-document.pdf *"The Equality Act enables service providers to offer separate or differing services to males and females, or to one sex only, subject to certain criteria. These services can treat people with the protected characteristic of gender reassignment differently, or exclude them completely, but only where the action taken is a proportionate means of achieving a legitimate aim. As an example, refusing a transwoman with or without a GRC access to a female toilet in a pub is likely to be unlawful, but a female only domestic violence refuge may provide a separate service to a trans woman only if it can be shown there is a detriment to other service users from including the trans woman as part of the regular service. The Government is aware that, following the announcement of this consultation, there has been a lot of comment and discussion about the potential impacts of reforming the GRA on the single-sex service exception in the Equality Act. We want to be absolutely clear – we are not proposing to amend the existing equality exceptions relating to single- and separate- sex services in the Equality Act. It will still be possible to exclude individuals with the protected characteristic of gender reassignment from single or separate sex services where doing so is a proportionate means of meeting a legitimate aim. The fact a trans person has legal gender recognition will form part of a service provider's decision as to whether to provide a different, or even no service to a trans person, but having a GRC is not a complete answer. Trans people with a GRC can still be excluded from single sex services, or provided with a different service if it is proportionate to do so on the facts of the individual case. Although reliance on this exception should be rare, it is most likely to be needed in particularly difficult and understandably sensitive areas, such as the provision of women's domestic violence refuges. Whether it is proportionate to exclude a trans person would have to be judged by the service provider on a case by case basis, considering the trans person's needs and the impact on other service users. Refuges will continue to make sensible risk-assessments of potential service users. Such assessments are required of all users, whether or not they are trans: for example the refuge might want to prevent an abusive lesbian from entering when her abused female partner is inside, or it may exclude a woman with a history of violence and instability.*

²⁵ Discussed in section 10:0 of this document

²⁶ Hayton, Debbie. (2018) *"Women are Right to have Concerns Over Trans Reforms"* on September 16, 2018, <https://debbiehayton.wordpress.com/>

which other people who are genuinely trying to seek an objective view can be persuaded to believe in. The perceived truths and realities which are created by these perceptions are based on campaigns in which the already existing protections and the experiences of self-declaration are ignored. When that happens, the common ground for debate and reconciliation is lost. Any attempt to remove the toxicity from the present arguments must concentrate on addressing the perceived truths and realities held by otherwise uninvolved people, at least as much as, if not more than, the campaigners themselves.

11:0: Observation and Experience

In this summary of the previous sections of this document I show that people cross-dress and disrupt gender for many reasons. Some will be those who seek power, domination and other rewards. For transgender people, the search is not for reward, it is driven by rejection rather than desire, and the search is for identity instead. Of course there can be overlaps where both sets of motives are involved. However a major obstacle in resolving these arguments is the commonly accepted viewpoint that the origin of transgender identities is not well understood. Finding a way to resolve these disagreements has been a major focus for my research²⁷. Instead of seeking an explanation for gender incongruence (or dysphoria), my investigation uses gender dysphoria as a case study to map the transition between the different processes involved in early development with the aim of providing an explanation for how, not just gender, but the development of personality and identity as a whole occurs. Although sexual differentiation in the brain is shown to develop before birth, gender identification depends on the separation of the self from the other and that cannot happen in the womb.

In this analysis I show that the development of gender identity is based on behavioural differences which are encountered from the moment of birth. The overlap in behaviour and the contagion of early development means that some male newly born babies will behave and interact more like female babies and vice versa and it is the momentum of these processes which determine the nature of the core sense of gender identity that comes to be formed. That is far too early for masculine and feminine identities to be created. Instead it is necessary to consider how different male and female behaviours and divergences in attitudes to aggression and competition are established. I also show that trauma and gender identification arises because of the rejection, attritions and alienations which are created through the inability to identify with those expected demands. I conclude that the development of a gender identity arises as a consequence of these behavioural differences. This means that it is not the cause. I also argue that male to female transsexuals are men who interact with society in emotions and attitudes in the same way as women. Therefore, for male to female transsexuals, the attitudes to sexual predations, aggression and abuse should be comparable to those of women and not of men²⁸.

This does not mean that any search for masculinity or femininity should be expected. Those demands only come as overlays on what has already been formed. Giving children the freedom to explore their gender identities enables them to find them, not to choose them. Although a great majority of children do find that they identify with their biological sex, some do not; and any well-meaning attempt to prevent this exploration by forcing gender stereotypes upon such children can

²⁷ This is fully written up in the paper: Gilchrist, S. (2019): "*The Development of Transgender Behaviour and Identity in Early Life*": <http://www.tgdr.co.uk/documents/243P-BehaviourSelfIdentity.pdf>, which will soon be available. For other papers on this neurophysiological and psychological research work see: Gilchrist, S. (2016): "Taking a Different Path": Chapter 10 in: "*This Is My Body: Hearing the Theology of Transgender Christians*", Ed: Beardsley, T. and O'Brien, M: Darton Longman and Todd. May 2016 ISBN 978-0-232-53206-7 also Gilchrist, S. (2016): "*A New Approach to Identity and Personality Formation in Early Life*": <http://www.tgdr.co.uk/documents/218P-InfluencesPersonality.pdf> and Gilchrist, S. (2013): "*Personality Development and LGB&T People: A New Approach*": <http://www.tgdr.co.uk/documents/201P-PersonalityDevelopmentAndLGBTPeople.pdf>.

²⁸ This is discussed in detail in: Gilchrist, S. (2019): "*The Development of Transgender Behaviour and Identity in Early Life*": <http://www.tgdr.co.uk/documents/243P-BehaviourSelfIdentity.pdf>, which will soon be available.

cause a great deal of harm²⁹. Some transgender children may identify with characteristics associated with the opposite gender from the outset, however many will instead seek to conform to the gender roles expected by society as they pit their conscious expression of willpower against a deep-seated and often unconscious demand. Far too often the attrition created by dealing with these conflicts leads to trauma and collapse in later life. Transsexual people often face an overwhelming compulsion to identify with the opposite gender. However the driving force is rarely expressed in searches for masculinity or femininity, instead it is an imperative need to live normal lives in ways which are true to their own identities, and to be accepted as ordinary members of society in everyday life.

The results on my study demonstrate that the experiential evidence, the current scientific consensus, which is supported by all of the major professional medical institutions who are involved in this area, and my own research, all agree in regarding the core elements of both gender and sexual identities as features which arise very early in development, which do not respond to the predations of others and cannot be changed in later life. I also show that a moral duality must exist whereby those who seek to live to the highest standards of society should be greatly regarded, while those who do not should be severely condemned for their acts. Not only must this moral duality be fully expressed inside the transgender community, it must also be seen to be expressed inside that community by those who are outside it. Transgender people experience conflicts which are driven by the search for identity and not reward. The management methods and behaviours encountered in identity driven and reward driven interactions are almost opposite in character to one and other and this means that their differences should be easily observed.

It is not just this research that should be considered. When equalities minister Penny Mordaunt launched the consultation on reforming the Gender Recognition Act she declared that “*Trans Women are Women. That is the starting point of the consultation*”. If gender identity is the primary marker for social interaction her statement that “*Trans Women are Women*” is quite correct³⁰. However Penny Mordant was doing more than this. Not only was she saying that for legal purposes trans women must be regarded as women for the starting point of the consultation, she was affirming not only the experiences of many transgender people and results of this research, but also the conclusions of the professional medical institutions, the scientific consensus, the memorandum of understanding, and the mass of experiential evidence which shows that trans women relate as themselves and to others in society in the same way that any woman might expect.

That these public judgements are already being made is evident in the statement made by my anonymous respondent in section 10:0 of this document, when she states that: “*As things stand most women and most feminists accept transsexuals fairly readily*”. Elsewhere she also states that: “*I rather suspect most women have little or no problem with genuine transsexuals. They really are not the issue*”. The increasing public profile of gender variant people means that other people too are becoming increasingly able to make their own judgements. Instead of meeting people who are intent on exerting power over women or are pursuing sexual abuse, when people meet others who are transgender, they find that the great majority are people who are seeking to be true to their own identities in the gender they know they possess. It is of note that a recent poll showed that a large majority of women were in favour of granting transgender women full women’s rights. It is also reassuring to note the strength of the condemnation by other LGBT people of anti-transgender lesbian activists who sought to disrupt the 2018 London Pride parade. These developments are welcome but more should be done. What is needed is not legislation that drives transgender people into narrowly defined binary roles. What is instead needed is a strong educational programme which acknowledges the integrity of the full range of transgender identities and deals with the abuse and

²⁹ Gilchrist, S. (2018): “*The Safeguarding of Transgender Children*”: <http://www.tgdr.co.uk/documents/241P-SafeguardingTransgenderChildrenDoc.pdf> This is discussed further in; Gilchrist, S. (2019): “*Interpretations of Science and Challenges to Gender Identity Research*” <http://www.tgdr.co.uk/documents/243P-InterpretationsSelfDeclaration.pdf>

³⁰ When this statement by Penny Mordaunt is quoted the second part: “*That is the starting point of the consultation*” is often left out

discrimination which transgender people are subjected to through the ignorance and the social, religious and political agendas that continue to exist.

When Debbie Hayton and others condemn the current proposals to replace the legal barriers to the self-declaration of gender identity with words such as: *“Self-declaration of legal gender is a reckless proposal that would deny trans people the opportunity to have their gender externally verified and force them to rely entirely on their own assertions. While that might work in some parts of society, it could be catastrophic for those living in hostile environments where their motives may be questioned and their claims disbelieved.* (Hayton, Debbie” October 14th 2017 in *“The Gender Recognition Act needs reform but self-identification is not the answer”*)³¹. These people are correct in raising real issues that must be addressed in terms of the social interactions with society. It may indeed be argued that this statement is intended to protect transgender people’s lives. Nevertheless people do not judge by assertions, they judge by the evidence of the behaviour that they see before them, or behaviour which they choose not to see, despite any evidence, assertions and legal protections that are supplied.

These however are not the arguments which this Debbie and members of radical feminist movements claim to make. The stated argument is instead about self-declaration, and that its reckless introduction would release a torrent of sexually based abuse and an irresponsible invasion of women’s spaces. In this account I have shown that this argument fails for three main reasons: the competence of the medical profession, the regulations against abuse that are built into the 2010 Equality act, and the consequences of the ability to self-declare gender identity, and to live life in conformity with that role, with protection from discrimination and without legal consequences, which has been available for the last eight years. It has not created the predicted disastrous effect.

There should be no place in any campaigning where the issues which are being presented as current issues, are instead issues where the outcomes are already known and the dire consequences that the campaigners predict have not been observed. Such an action only serves to raise alarm and concern. Debbie uses the word *“reckless”* in her paper. Therefore the real question to ask is *“Which is the reckless act”*. The failure to take account of the present situation suggests that transgender people may be being used as sacrifices and pawns for other arguments. Issues of gender and sexual abuse must always be of very real concern. However the same need to create a scenario which departs from present reality also redirects the discussion away from these issues of sexual abuse and the invasion of women’s protected spaces, towards the other campaigns that must be addressed.

12:0: Transgender Identities, Christian and Feminist Concerns

The present furore over self-declaration would seem to be an attempt to corral a horse long after it has bolted. The Gender Recognition Act of 2004 had the effect of changing the primary marker for legal issues to gender identity and from biological sex. The Equality Act of 2010 has been drafted to deal with issues of sexual abuse. The provisions of both pieces of legislation have been reviewed in detail in the earlier sections of this account. Just as my respondent could legitimately exclude those gender variant people who did not conform to acceptable standards, and I could apply the same exclusions to my own group, the provision of women’s “Protected Spaces” (and men’s) under these Acts remains intact. Therefore different reasons for pursuing these arguments may apply. All other ethics of society must be examined, for self-declaration can only obtain its intended purpose in societies where true gender equality is sought, and gender based abuses of power and discrimination are removed. A further concern is the attitude adopted by religious organisations, including sections of the Christian Church. The approach taken to gender and sexually variant people by many Christian Churches is most conveniently described in Article 2357 of the Catechism

³¹ Hayton, Debbie” October 14th 2017 *“The Gender Recognition Act needs reform but self-identification is not the answer”*:
<https://debbiehayton.wordpress.com/>

of the Roman Catholic Church. This states that: *“Homosexuality refers to relations between men or between women who experience an exclusive or predominant sexual attraction toward persons of the same sex. It has taken a great variety of forms through the centuries and in different cultures. Its psychological genesis remains largely unexplained. Basing itself on Sacred Scripture, which presents homosexual acts as acts of grave depravity, Tradition has always declared that “Homosexual acts are intrinsically disordered.” They are contrary to the natural law. They choose the sexual act to the gift of life. They do not proceed from a genuine affective and sexual complementarity. Under no circumstances can they be approved.”* By extension transgender experience may be included. Not only does this statement deny the moral duality inherent to gender and sexually variant behaviour which has been described earlier in this account, it condemns every departure from the expected behaviour and the male and female stereotypes which are demanded by a gender and socially divided society as depraved and misdirected acts. All such behaviour for any purpose disrupts and challenges the expected order any gender divided society, and the disorder created by the religiously promoted suppression and power over women casts a very dark shadow over many religious traditions, including the Christian Church.

It is notable that many people in the more radical sections of the feminist movement deny the legitimacy of transgender identities. It is argued that this is not for reasons of sexual abuse, but for reasons of discrimination and power balances in society. One should expect a true feminist agenda to seek equality for all, but paradoxically the need to assert and reverse the gender binary between men and women is essential if the momentum of the more radical feminist campaigns for gender recognition is to be sustained. This whole area has become a political minefield where the validity of transgender experience and the freedom of self-identification are being condemned because transgender people are being alleged to erase the validity of lesbian relationships. As far as these feminists are concerned transgender people are perceived to weaken their campaigns against the oppression of women, since the mantra that male to female transsexuals are really men who masquerade as women, has to continually be reinforced.

There is little incentive for anyone adopting these radical viewpoints to seek to understand the depth, nature and realities of transgender identities, or any alternative approach. Instead of this the concerns over self-declaration are highlighted, abuses are emphasised, the genuine fears of women are manipulated and the medical and legal restrictions are ignored. Of course all of these concerns must be fully and effectively dealt with, but it is even worse when transgender people themselves reinforce the same perceptions. A letter published in the Guardian in May 2018 did exactly that. It states that *“We are transsexual people deeply concerned about the proposed removal of safeguards from the Gender Recognition Act. Replacing the evidenced-based process for obtaining a gender recognition certificate with an over-the-counter style self-declaration blurs the distinction between us and transgender people who remain physically intact. This is problematic when such male-bodied people, including sexual fetishists, demand the rights afforded to women as a protected sex, including access to their private spaces. Transsexual people undergo a meaningful transition, including hormone therapy and surgery. We fear that these proposals will not only put women’s rights at risk but also damage our credibility in society. We are already seeing our right to define as “transsexual” being challenged by transgender activists who seek to remove this distinction. We call on politicians to show courage and facilitate dialogue valuing all affected groups. We absolutely condemn all attempts to suppress this debate”*.

To argue in this Guardian letter that those who have undergone gender reassignment are more genuine than others is I believe an affront to those who have struggled, and those who still struggle to maintain their lives in the roles that they have been assigned to, because of the loyalty to the commitments to others that they have made. Instead of fighting for the greater understanding of all transgender people I believe that the signatories of this letter have put the preservation of their own interests above the interests of everyone else. The implication that people who have not sought gender reassignment can be more closely associated with those who pursue perversion or

disruption is just as abhorrent to many people on the gender variant spectrum and in this I include gender motivated cross-dressers and transvestites (in whatever terms they describe themselves) as well. Not only does this letter betray the integrity of such people, it falls into the trap adopted by some in feminist movements who regard the motives of gender variant people to be in pursuit of power and femininity instead. Masculinity never seems to be considered. These are indeed very real issues but a letter which states as truths the claims it makes, in which the already existing protections and the experiences of self-declaration are ignored, which fails to bring to attention the true motives and the deep sense of identity felt by many transgender people, and which also implies that those who have undergone the surgery of gender reassignment are more genuine than others only divides the transgender communities and damages this cause.

In previous generations transgender people could rightly be condemned by feminist groups for reinforcing the binary gender stereotypes they were required to conform to. Do we really want to return to a situation where gender identity clinics withheld or approved treatment which is dependent on how feminine an individual presented in appearance, behaviour and clothes?. For many transgender people the conflict they face is one between their loyalty to the commitments, love and relationships in the life they have built which battles against the drive of identity that is felt deeply inside. Commitments and relationships can be destroyed but the sense of identity cannot. Do we want to pursue an approach which attacks the integrity of the life they have built and destroys any balance they may seek to achieve? Do we want to continue the misconception that transgender people are men who want to be women (and vice versa), whereas the real need for transgender people to seek gender reassignment comes from the need to be truly themselves.

I also object to statement made by my respondent which suggests that castration goes a long way to show good faith. It further reinforces the implication that people who have not sought gender reassignment can be more closely associated with those who pursue perversion, disruption or abuse, and I feel that many people will be offended by the association this makes. You can see the Guardian letter and my response to it in: Gilchrist, S. (2018): *“Response to the letter “Standing up for Transsexual rights”*³²

Transgender people who put forward an argument which requires that surgical gender reassignment should be used as a mark of genuineness betrays all those who do not follow that path. It presumes that a binary identification must be pursued when many more people today are identifying with non-binary roles. In the eyes of other people it diminishes the validity of their experiences. It also divides the transgender community and in addition it is the wrong approach. Like the provisions of the 2004 Gender Recognition Act it forces people into defined binary roles. When some transgender people create through innuendo or otherwise, questions about sexual abuse and apply them to other transgender people, it can have an enormously destructive effect.

In her response to my original article, my respondent very eloquently describes the fears and inequities that many women experience. I do not dissent with these in any way, indeed in my original article I emphasise very strongly that these must be very fully addressed. However that must be done in a calm and dispassionate way, and not in response to the social and political agendas that are pursued. Many transgender people are extremely angry about the attitudes of “Trans Exclusive Radical Feminists” (TERFs) who condemn transgender people as predatory men who seek to exert power and domination over women, without any giving regard to, and indeed who refuse to consider the reality of what being transgender means. That anger is greatly compounded by the way in which such radical feminist groups have used the proposals of self-declaration to accentuate what are very genuine fears and concerns of women by ignoring the restrictions that are currently placed on the process, by refusing to acknowledge that self-declaration has effectively been practiced for the last eight years and by arguing that allowing this change will create a deluge

³² Gilchrist, S. (2018): *“Response to the letter “Standing up for Transsexual rights”*: <http://www.tgdr.co.uk/documents/243P-ResponseToGuardianLetterMay18.pdf>

of sexual abuse and invasions of women's private spaces. For transgender people, anger is not a helpful response. It is essential that transgender people fully assert the realities of their identities while ensuring that the real concerns of women are fully and honestly met.

Absolute responsibility and sensitivity must therefore be practiced as well as total respect. For transgender people who have undergone surgical reassignment, for those who have not undergone surgical reassignment and for non-binary people that must be interpreted in different ways. That means that everybody should avoid causing offence by their acts. In this document I argue that self-declaration of gender identity is needed for medical reasons. However the social divisions and inequalities of gender in society instead take over the dominant role and the true needs are ignored. Transgender people are a minority in a society which is awash with such inequalities and sexual abuse, Therefore it is essential that understanding of what transgender people face is not suppressed by the social and political arguments and misdirected campaigns which the proposals for self-declaration have inadvertently created.

In this article I have tried to show why self-declaration should be encouraged and the problems that arise. Despite all its difficulties, self-declaration is needed to enable people to find the reality and truth of their own gender identities and to discover the self-esteem that this acceptance provides. It opens the door to all people, transgender, transsexual, agender, gender queer, cross-dresser, transvestite, however people define themselves, to find their true selves. More than that the ability to legally define this gender identity is needed for people to be able to assert their true places in society: with all of the security that the law could provide.

13:0: Religious Consequences

An important feature of the 2004 Gender Recognition Act is that it was not the individual who could decide what gender a person could be assigned to. Nevertheless the advantage in the act for transgender people is that the act changes the marker that is used for legal purposes from biological sex to the gender identity that is actually possessed. That change has been endorsed by the Church of England, who now gives full recognition to transgender people in its marriage ceremonies and in the priesthood, where there are a number of fully recognised transgender priests. Currently the Church of England is involved in the preparation of an Episcopal teaching document on relationships, marriage and sexuality which applies to the sexually variant people in its membership. However it has been made clear to those preparing the document that there can be no change to the traditional doctrine of the Church as *"The Church of England" has received it*". A consequence of reforming the 2004 Gender Recognition Act from one of state-declaration to one which is based on self-declaration means that for transgender people the equivalent protections that it had afforded may be lost. Details of the Church of England initiative on the preparation of the Episcopal Teaching Document can be found on the relevant Church of England web page³³. The introduction to this initiative states that: *"The project is led by the bishops because of their particular responsibility for upholding and teaching the Christian faith"*. Without the equivalent of a Gender Recognition Act to enforce an equivalent affirmation of legal status for sexually variant people, the Church embargo on refusing to even consider the possibility of change the traditional teaching *"as the Church of England has received it"* places limitations on the approaches the Church of England is prepared to make. Therefore the issues which have led to the preparation of this teaching document are unlikely to be properly addressed. Why the Christian Churches should endorse the change is described in my theological research. Nevertheless the Church of England is very strongly committed to affirming the

³³The introduction states that *"The Living in Love and Faith project is propelled by the Church's desire to learn how relationships, marriage and sexuality fit within the bigger picture of a humanity that is liberated by Jesus Christ and infused by the Spirit to reflect the image of God in which we are created. Perspectives on gender, identity and sexuality are evolving and the Church wants to explore these matters by studying what the Bible, theology, history and the social and biological sciences have to say. We hope to stimulate thinking and learning that helps us to understand what it means to embody a Christian vision of living in love and faith in our culture. The project is led by the bishops because of their particular responsibility for upholding and teaching the Christian faith"*. Church of England (2018): *"Living in Love and Faith"*: <https://www.churchofengland.org/LLF>

pastoral care and affirming the full welcome it wishes to offer to transgender and LGBTI people³⁴. By way of example the positive response of the Church of England to the Consultation on the Gender Recognition Act 2004 can also be read by clicking on the link in the footnote³⁵.

Unfortunately the same approach of welcome and care (apart from the rejection and condemnation of some conservative elements in the Church of England) is not found in all churches. The condemnations by these groups and organisations can be extreme, and the need for legal protection still remains. If self-declaration is to be enacted, the protections provided in the Gender Recognition Act can only be maintained or regained by removing the exemptions given to religious organisations in the 2010 Equality Act. Changing the birth certificate from male to female and vice-versa also does nothing to help those people who do not identify themselves with an exclusively male or female role. These changes are not good enough when today about four-fifths of those who identify themselves as transgender do not adopt a binary status. Therefore I very strongly argue that the ability to self-declare is needed for the medical, health and welfare of transgender people, but I also argue that this should come in a package where the ability to declare a non-binary gender marker on passports and other legal documents is provided, and when the exemptions given to religious organisations on the 2010 Equality Act are removed.

14:0: Medical Consensus

One major concern mentioned at the start of this article comes from the lack of agreement about how gender identity develops. Two opposing views are encountered, and I also describe these at the start of this document. I state that one viewpoint disregards the neurophysiological processes which dominate early development while the latter includes them. A major focus of my own research is to examine how these early neurophysiological processes contribute to the development of gender identity. A summary of my research is given at <http://www.tgdr.co.uk/articles/index.htm>, however for these purposes it is important to note that this research fully supports the scientific consensus that the core elements of both gender and sexual identities are features which arise very early in development, which do not respond to the predations of others and which cannot be changed in later life. It additionally supports the latest Memorandum of Understanding issued jointly by all the major medical and psychological professional institutions in the United Kingdom³⁶. This condemns both “Gay Cures” and “Reparative Therapy” as being totally inappropriate for their harmful and destructive effect. These are processes which attempt to change the sexual orientation and the gender identity of any individual by restoring a sexual orientation or gender identity which corresponds with that associated with the biological sex that is presumed to exist. Not only do these processes fail to achieve this, they attack and destroy the sexual or gender identity on which that person’s sense of selfhood is built and they leave a vacuum in its place. Radical feminists and transgender people who dismiss this core sense of gender identity as merely being a collection of feelings, or who alarm people by citing only the difficulties of self-declaration; create the same damage. They also support the secular scapegoating of transgender people by society and they contribute to the high rates of suicide and attempted suicide, together with the harm and distress which many feel.

15:0: Toxic Arguments

Any accountable campaigning must be grounded in reality. Presenting a selective history which failing to take account of these realities only heightens the tension between opposing sides and

³⁴ That approach can be seen in the Ad Clerum issued by the Bishops in the Oxford diocese on the 31st October 2018: <https://blogs.oxford.anglican.org/clothe-yourselves-with-love/>

³⁵ Church of England (2018): “Reform of the Gender Recognition Act - Government Consultation A Response from the Church of England”: <https://www.churchofengland.org/sites/default/files/2018-10/Gender%20Recognition%20Act%20consultation%20response.pdf>

³⁶ This memorandum can be found at: <https://www.psychotherapy.org.uk/wp-content/uploads/2017/10/UKCP-Memorandum-of-Understanding-on-Conversion-Therapy-in-the-UK.pdf>

creates increasing alarm and concern. Eventually these become perceived as truths which are based on their own fears and this drives the opposing sides even further apart. In my own work on reconciliation in tribal conflict situations I know that a major difficulty arises, not from the strength or violence of the actual campaigns, but from the creation by each side of their own versions of the perceived truths upon which their campaigns are based. As a consequence each side creates cartoons of the other, each determines that the other is entirely comprised of activists, and the vast groundswell of responsibility which comes from concerned men and women, transgender or otherwise is lost. As communication between opponents decreases the cartooning increases and in the worst situations violence occurs. Those cartoons are evident in the comments given in this article. It is also the perceived realities which are created by the invented truths (on all sides) which give the campaigners tacit support. Of course abuses will occur, such as that reported in page 21 of the Times on the 12th October 2018³⁷. However the creation of the cartoons means that the abuses created by some are applied to all; and the protections currently present in the 2010 Equality act should have ensured that this abuse could never have taken place. I admire Debbie enormously for some of the work she has done, particularly with women's groups, but I believe that she has destroyed her own arguments by taking a selective approach.

16:0: Discoveries

All people today are on journeys of discovery which started after the decriminalisation of homosexuality took place. This had meant that all forms of gender and sexually variant behaviour irrespective of purpose could be, and often were condemned as abusive, disordered and in pursuit of depraved sexual acts. Whether the condemnation was because it is considered to be a lifestyle choice, as the Christian opposition put it, whether it is because of the pursuit of power and abuse of women, as some radical feminists put it, whether it is because it attacks the enforcement of gender complementarity in a socially divided and gender differentiated society, as tradition put it, whether it is because of disruption to the normal path of development caused by some psychological trauma, as traditional psychiatry put it, and whether it is because of an inability to live up to the expectations of masculine stereotypes as Debbie puts it, all of those arguments fail for the same reason: for all of them presume that there must be an innate underlying gender identity which is in accordance with biological sex. In my own research I argue that this is not the case: this is why attempts to restore a non-existent sense of gender identity through the use of "Gay Cure" and "Reparative Therapy" approaches cause such great harm; even though they may sometimes seem to meet with short term success, because they destroy what exists and leave a vacuum inside³⁸. Details of this work are beyond the scope of this article but the neurophysiological and psychological reasons for coming to this conclusion are described in Gilchrist, S. (2016): "*A New Approach to Identity and Personality Formation in Early Life*"³⁹. The theological implications are discussed in Gilchrist, S. (2017): "*No, Pope Francis: Gender Identity is not a Choice*"⁴⁰.

17:0: Self-Declaration and the Gender Recognition act

Finding the correct ways to approach these conflicts are important matters. In the United Kingdom, these journeys of discovery were started after homosexuality was legalised. In section 4:0 of this article I argue that, in all societies self-declaration of gender identity is needed to enable all people to find their own gender identities: not to force them into the sort of binary stereotypes that society and psychiatrists have in the past, and some too often still demand. Allowing people to truly explore their own feelings also enables them to create the self-esteem and self-worth which permits them to develop the security of identity that is needed to manage the conflicts they face.

³⁷ The Times, 12 October 2018: "*Trans predator who targeted women inmates jailed for life*": p 21

³⁸ See also section 14:0

³⁹ Gilchrist, S. (2016): "*A New Approach to Identity and Personality Formation in Early Life*": <http://www.tgdr.co.uk/documents/218P-InfluencesPersonality.pdf>

⁴⁰ Gilchrist, S. (2017): "*No, Pope Francis: Gender Identity is not a Choice*": <http://www.tgdr.co.uk/documents/227P-No-PopeFrancis.pdf>

However giving the ability to self-declare gender also demands a truly gender equal society. Having this freedom to self-declare can affect society in many other ways, most notably in societies where gender based differences in social roles and outlooks are legally enforced. That is indeed another reason for supporting self-declaration of gender identity, since it demands that truly gender equal societies are established. Nevertheless there are many other social difficulties to overcome, not least from those religions and institutions which have teachings which enforce gender complementarity and those which distinguish between men and women as part of their doctrines, theologies and social codes. Any form of gender or sexually variant behaviour, regardless of purpose disrupts the “good order” of such gender divided societies so that, instead of freedom, repression results⁴¹. The consequent criminalisation and condemnation of this behaviour means that all awareness of full the moral range and duality inherent to gender and sexually variant behaviour is lost. All such acts become interpreted as acts of grave depravity and sexual abuse and on a worldwide basis, extreme penalties may be enforced.

In this investigation I have shown how each side creates its own cartoons of the other which are based on its own fears and concerns. Major conflicts become much more difficult to resolve when neither side can accept the perceived truths that the other possesses. Failures of communication make it more difficult or impossible to reach a common ground. The identity driven nature of both gender and sexually variant people means that a moral duality must exist within each of these groups. I have shown that anyone in either of these groups who is engaged in behaviour that conforms to the highest moral standards that society expects should be highly regarded, while those who do the reverse should be severely condemned for their acts. Before the legalisation of homosexuality, no evidence for that moral duality could exist. Therefore every form of gender and sexually variant behaviour, without exception was considered to disrupt the social order of a gender divided society and was invariably pursuing depraved sex. That is written into the doctrines of many Christian groups, so it is difficult to shift. However this form of tribalism is supported by evolutionary and neurological processes which create differentiated attitudes to aggression and competition between men and women in society. These processes are fully described in Gilchrist, S. (2019): “*The Development of Transgender Behaviour and Identity in Early Life*”⁴². It is shown that the dynamics of these processes can lead to extreme situations where rejections and honour killings are found to occur⁴³.

As minority groups, gender and sexually variant people can also be made scapegoats in divided societies, and cartoons are created which reinforce the condemnations that are made. In associated work I argue that this secular scapegoating has brought the Church to collude with the secular demands of society rather than to challenge them. Not only has this collusion reinforced the secular prejudices of such discriminatory societies; it gave and it still gives religious legitimacy to them: one only needs to look today at the behaviour of Daesh and Boko Haram to see how extreme this can become. The persecution and slaughter of gender and sexually variant people, not just in Christianity but in Islam, Judaism and all other religions, states and cultures which have drawn their teachings from it has been enormous. In many African countries extreme penalties, including the death penalty against homosexual behaviour are being advocated or applied.⁴⁴ In the United States it is not just President Trump and the conservative Christian right who seek to deny transgender

⁴¹ Note that this does necessarily involve discrimination

⁴² Gilchrist, S. (2019): “*The Development of Transgender Behaviour and Identity in Early Life*”: <http://www.tgdr.co.uk/documents/243P-BehaviourSelfIdentity.pdf>, which will soon be available

⁴³ These evolutionary processes, which are usually described as “*Domestication of the Brain*”, involve evolutionary changes to the brain structure demanded by the need to ensure cohesion and co-operation in hunter gatherer and later societies. The processes act to minimise disorder created by aggression and not domestication itself. These processes are shown in this study to combine with the adaptations to neurological structures in the brain during the first three years of life, and both elements lead to the core elements of personality and identity being created. For further reading on the subject, see: Wrangham, Richard: (2019): “*The Goodness Paradox: How Evolution Made Us More and Less Violent*” Pantheon Books ISBN 978 1 78125 583 4

⁴⁴ Gilchrist, S. (2017): “*Secular Scapegoating and the Christian Church*”: <http://www.tgdr.co.uk/documents/239P-SecularScapegoatingSummary.pdf>

people any legal existence by implementing laws which state that for legal purposes, gender identity is unchangeably determined by the genitalia that are present at birth. The same type of approach is being pursued by American Bishops in the Roman Catholic Church⁴⁵.

In the United Kingdom, an effect of the Gender Recognition Act of 2004 was to ensure that gender identity instead of biological sex was recognised as the primary legal marker for social identification. Even though many of the reasons for introducing this act have now been superseded, the legal protection it gives still remains. However any movement to change this state recognised process to one of self-declaration means that this protection could too easily be lost. The consequences of this will be to place transgender and other gender variant people broadly in the same position that lesbian, gay and sexually variant people in general occupy today, where no equivalent legislation has been passed. In these cases social acceptance has been gained through the development of public understanding rather than legislative acts. In effect self-declaration of gender identity has been practiced through the Equality Act since 2010. In section 7:0 of this document I show that the protections given to women and women's spaces under the Equality Act remain intact, even if self-declaration of gender identity is implemented through reform of the Gender Recognition Act. In this section I have also shown that self-declaration may make medical intervention more difficult since the absence of state affirmation may make providers more reluctant to provide gender reassignment surgery or permit procedures to make people's appearance more convincing, by treating it more like cosmetic surgery instead of a deep seated need. It may also be more problematic to get medical assistance because the consequence of self-declaration will turn the medical judgements that are needed away from assessing the need to conform to a specified gender identity, to one where a judgement on integrity, peace and purpose become the focus instead.

18:0: Legal Adjustments

The major significance of the 2004 Gender Recognition Act lies in its existence. Even if nobody took advantage of it to obtain a Gender Recognition Certificate it is a statement in law that gender identity must be the primary marker for determining legal identity and social interaction for all purposes: It replaced biological sex. For lesbian and gay people the Equal Marriage Act of 2013 (Marriage (Same Sex Couples) Act 2013) had an equivalent consequence of making sexual orientation the primary marker for social and legal identification, instead of biological sex. Both of these Acts demand levels of commitment which identify how people making use of them should live their future lives. At present the 2010 Equality Act enables people to self-declare their gender identity without legal penalty and gives protected status to those who do so (under the category of gender reassignment). All documents except the birth certificate can be changed to match the identification that is made. Section 22 of the Gender Recognition Act 2004⁴⁶ legislates that it is a criminal offence for any person who has acquired information about a person's transgender history in an official capacity, to disclose the information to any other person, regardless of if a person is in possession of a Gender Recognition Certificate or not⁴⁷. The prohibitions under the 2004 Gender Recognition Act and the 2010 Equality Act are matched, and any revision of the Gender Recognition Act 2004 should ensure that appropriate harmonisation occurs. Given that people are already able to self-declare their gender identity and change all of the documents that are needed for everyday use: and also to take account of the concerns that have been expressed I suggest that there should be a period of reflection and identification between the time when a formal self-declaration is made

⁴⁵ See: Gilchrist, S. (2016f): "Influences of Gender and Sexual Variation in the History and Traditions of the Christian Church": <http://www.tgdr.co.uk/documents/220P-InfluencesChurch.pdf>

⁴⁶ Gender Recognition Act 2004 Supplementary, section 22 http://www.legislation.gov.uk/ukpga/2004/7/pdfs/ukpga_20040007_en.pdf

⁴⁷ "Section 22 of the Gender Recognition Act defines any information relating to a person's application for a gender recognition certificate or to a successful applicant's gender history as protected information and therefore a trans person's gender history, regardless of whether they have a gender recognition certificate, can also constitute sensitive personal data as defined by the Data Protection Act 1998. There should be a massive onus on organisations, if requiring trans people to disclose their gender history in any way, to undertake measures to ensure that this information is protected, because there are fines of up to £5,000 for those who do not": House of Commons Women and Equalities Committee Transgender Equality First Report of Session 2015–16 paragraph 85: <https://publications.parliament.uk/pa/cm/cm201516/cmselect/cmwomeq/390/390.pdf>

and before a revised birth certificate is issued. That should not involve a medical diagnosis: instead it would enable a socially based test of the commitment to be made.

I also conclude that if self-declaration is to be enacted the protections provided in the Gender Recognition Act must be maintained by removing the exemptions given to religious organisations in the 2010 Equality Act. The enforcement of a binary male or female identity is not good enough when today about four-fifths of those who identify themselves as transgender do not adopt a binary status. Any legislation that is enacted should not force people to conform to a binary role or to require that proof of surgical gender reassignment is needed to define the legitimacy of their identities. Changing the birth certificate from male to female and vice-versa also does nothing to help those people who do not identify themselves as exclusively male or female. While I very strongly argue that the ability to self-declare is needed for the medical, health and welfare of transgender people, I also argue that this should come in a package where the ability to declare a non-binary gender marker on passports and other legal documents is provided, when ancillary changes to harmonise legislation are implemented, and when the exemptions given to religious organisations on the 2010 Equality Act are removed.

However providing a non-binary marker on the passport and other documentation only divides gender identification into three categories instead of two. That may not suit the needs of intersex people, non-binary people and those for whom any association with a gender is denied. A further option would be to remove all gender identification markers from all official documentation, including birth certificates, once an application to do so is approved or made. New Zealand already allows people to declare the gender they identify with on the birth certificate and all official documents. (That may be male, female or undefined). Self-declaration is being considered or has already been enacted without significant problems in other countries. The Republic of Ireland is often cited as an example of how this should be approached, where the protections against male sexual abuse remain intact.⁴⁸

In the introduction to this this article I have stated that instead of one battle about self-declaration, two battles are currently being fought, the first is concerned with sexual abuse and abuses of power by men who are not transgender, the second is about transgender people themselves. The United Kingdom Government has made it clear that the provisions and protections contained in the 2010 Equality act are not part of the present consultations about the 2004 Gender Recognition act, and that it does not intend to change any of the provisions and protections provided under the 2010

⁴⁸ The Irish Gender Recognition Act allows self-identification but it is reliant on a quasi-judicial exercise of ministerial competence. The Irish Equal Status Act entitles equal treatment regardless of 'gender', which in Irish law means whether you are a man, a woman or a transgender person. Therefore for all of these people the same regulations apply. The Equal Status Act allows people to be treated differently on the basis of their 'gender' in all of the following circumstances: People can be treated differently in relation to cosmetic services that involve physical contact – for instance, hairdressing, body waxing, and so on, if there is a risk that you could be embarrassed because of a lack of privacy; People can be treated differently at sporting events if the differences are reasonably necessary and relevant and, in relation to educational establishments, having regard to the nature of the facilities or events. Insurance companies may differently decide how much to charge people for annuities, pensions, insurance policies and so on, based on different risk assessments, if the differences are based on proper research and statistics (although EU law proscribes the limit of this exemption in so far as men and women must be treated the same). People can be treated differently if it's necessary for a drama or entertainment production. A person making a will or a gift is entitled to choose whoever they want to benefit. Services may promote or favour the special interests of one person or group over another. Goods and services which can be reasonably considered as being suitable only for the special needs of certain people may be provided. In shared accommodation people may be treated differently in relation to personal privacy where lack of privacy might cause embarrassment. People may be treated differently when the accommodation is provided by a person in their private home, if for example a home-owner took in a lodger, when housing is provided by or on behalf of the Minister for Justice and Equality, when the accommodation is reserved for a particular category of people. Single sex schools are allowed. Institutions providing religious training to ministers of a particular religion may admit students of only one 'gender'. Third-level or adult education institutions may treat students differently by way of traditional university sponsorships, scholarships, bursaries, and so on. Clubs may be established for a particular group of people. Any person can be refused goods, services or accommodation if an experienced provider believes that there would be a substantial risk of criminal behaviour or disorderly conduct by that person, including abusing the service and causing trouble by being abusive or aggressive. A person may be treated differently because of a doctor's clinical judgement in relation to the person's medical condition. A person may be differently in circumstances where they are not capable of entering into a contract or giving informed consent. See: Republic of Ireland, Gender Recognition Act 2015. <https://data.oireachtas.ie/ie/oireachtas/act/2015/25/eng/enacted/a2515.pdf> also the Irish Equal Status Act: <http://www.irishstatutebook.ie/eli/2000/act/8/enacted/en/print.html>

Equality Act. My purpose in this article has been to conduct an extended review of all of the factors impacting on these consultations. For all of the arguments presented in this document I conclude that the allegations being made by radical feminist groups, that *“allowing self-declaration is a reckless proposal which would release a torrent of sexually based abuse and an irresponsible invasion of women’s spaces”* is not based on fact. Instead of this, the real focus of the argument is about the legitimacy of transgender identities. For as long as a radical feminist mantra continues to be advocated in which all male to female transsexuals are people who seek to manipulate femininity to their own desires and advantage by adopting a female role and who may masquerade as women in order to exert power and domination over them, transgender people will feel under attack. Further than this I would argue that responsibility in discussion has been abdicated by misrepresentation of the available knowledge, the factual backgrounds and the current understanding, which arises through the pursuit of these campaigning acts.

19:0: Feminist Arguments

It might perhaps be noted that I have written this article as a discussion between three transgender people, each of whom take different positions in relation to arguments which are currently taking place within the feminist movement. In place of identifying transgender women as men who seek to take advantage of women I have shown in this analysis that their experiences are ones of lifetimes of being forced to live in a gender role which they cannot identify with, with all of the anguish, distress, rejection, persecution and high suicide rates that are involved. Transgender women and natal women do indeed have different histories and backgrounds, but I believe that their matching experiences enrich rather than condemn any feminist cause. Instead of treating them as enemies, I invite all those who are engaged in the feminist movements to accept transgender people as allies in the same cause.

20:0: Moving Forward

One of the features of any such conflict is that it can be started off through the pursuit of good intentions and not disruptive acts. Debbie and I have the same aims: which is to foster the wellbeing and acceptance of transgender people. We may disagree strongly about how transgender identities are formed, and the consequences this creates, but that should not diminish in any way my respect for Debbie’s work. As Debbie has been strongly involved in public campaigning on the issue of self-declaration of gender identity I feel that it has been my duty to make a public response.

The Economist published a series of series of invited essays on *“Transgender identities”* which has sought to uphold liberal values of open debate⁴⁹. Debbie’s own responses to them are contained in: Hayton, Debbie (2018): *“Society needs to dismantle sexism before revising legal definitions of sex”*. This was published in the “Economist” on the 11th July 2018⁵⁰. In it she states that: *“The apparent clash between trans rights and women’s rights has created a storm but, in this feature, calm voices on both sides of the discussion are working towards solutions where everyone can feel secure, valued and respected for who we are”*. In this we both agree that the issues over self-declaration are much broader than just those of transgender behaviour and identities. However an objective approach must be taken which deals with all of the concerns and all of the facts. I could expand Debbie’s title to include *“Society needs to dismantle sexism and religious discrimination before revising legal definitions of sex”*. However for the reasons I have stated. I also believe that we must not and cannot wait for society to do this for us. I am convinced that self-declaration is needed now: and not just through reform of the Gender Recognition Act. Legislation may set standards and correctly framed legislation can maintain the safeguards against gender and sexual abuse which the

⁴⁹ <https://www.economist.com/transgender>

⁵⁰ Hayton, Debbie (2018): *“Society needs to dismantle sexism before revising legal definitions of sex”*. This article was first published by The Economist on 11 July 2018 It was part of a two-week discussion on transgender issues with ten contributors. <https://debbiehayton.wordpress.com/2018/07/21/society-needs-to-dismantle-sexism-before-revising-legal-definitions-of-sex/>

present law provides for, but it is not the answer. What is needed is the development of proper understanding of transgender issues so that people can make objective judgements: not on the selected information and the abuse which is being produced by both sides in these arguments, but a considered approach which takes into account all of the knowledge and all of the facts.

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