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WOMAN: An Essentially Contested Concept

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Abstract

The literature on the metaphysics of gender is partially marked by a tension between conceptions that understand gender categories as importantly at least partly self-determined identities and those that understand them as social or cultural categories imposed upon others as a tool of oppression. I argue that this tension can be mediated by understanding gender categories as essentially contested. I then draw on "radical functionalism" to argue that, while, divorced of context, competing conceptions can simultaneously explicate an essentially contested concept, within context, some conceptions better meet background purposes underlying the use of the concept than others.

Résumé

La littérature sur la métaphysique du genre est en partie marquée par une tension entre les conceptions qui comprennent les catégories de genre comme des identités autodéterminées et celles qui les comprennent comme des catégories sociales ou culturelles imposées aux autres comme un outil d'oppression. Je cherche à concilier cette tension en comprenant les catégories de genre comme essentiellement contestées. Je m'appuie sur le « fonctionnalisme radical » pour soutenir que, lorsqu'elles sont séparées du contexte, des conceptions concurrentes peuvent simultanément s'appliquer à un concept essentiellement contesté. Cependant, dans le contexte, certaines conceptions sont supérieures à d'autres.

1. Introduction

Consider various hotly contested concepts, such as DEMOCRACY, FREEDOM, or ART. Debates about how we ought to understand these concepts have remained largely unresolved, despite garnering significant philosophical interest. One explanation of this outcome is that these debates are ultimately resolvable, such that we take there to be an optimal understanding of, for instance, FREEDOM, that is currently overlooked. Another explanation, proposed by W. B. Gallie, is that features common to these concepts render them "essentially contestable," such that we could never agree on one optimal understanding of these concepts (Gallie,

1955–1956). In particular, Gallie claims that these essentially contested concepts "inevitably involve endless disputes about their proper uses on the part of their users" (Gallie 1955–1956, p. 169). These disputes are "inevitable," as people ultimately disagree on what the most *important* features of these concepts are. For example, while one person might take the power to elicit emotions to be the most important feature of art, another might take the capacity to capture beauty to be the most important feature. Accordingly, these disputes cannot be settled via empirical investigation. Such concepts include DEMOCRACY, ART, SOCIAL JUSTICE, MEDICINE, and RAPE (McKnight, 2003; Reitan, 2001). In this article, I propose understanding gender categories this way, as well.

My proposal is motivated by the observation of a tension that partially marks the literature on the metaphysics of gender. This tension lies between trans-inclusive conceptions that understand gender categories as importantly partly self-determined identities (e.g., Bettcher, 2009, 2013; Jenkins, 2016; McKitrick, 2015) and those that understand them as social or cultural categories imposed upon others as a tool of oppression, and thus not largely self-determined (e.g., Alcoff, 2006; Ásta, 2013, 2018; Haslanger, 2000; Millett, 1971; Okin, 1987; Witt, 2011a, 2011b). My proposal mediates this tension.

Throughout the article, I borrow from Sarah Sawyer and take concepts to be "mental representations" and conceptions to be "the set of beliefs a subject associates with a concept" (Sawyer, 2020b, p. 1007). The paper is structured as follows. I provide both descriptive and normative grounds for taking gender categories to be essentially contested. While I take my comments to generalize to all genders, the focus of this article will largely be on the concept of WOMAN. I then draw on Jennifer Nado's (2021) radical functionalism to argue that while, divorced of contexts, nothing in principle suggests that one conception that emphasizes a particular feature of an essentially contested concept better explicates it than another, within particular contexts of use, some conceptions do explicate the concept better than others. In particular, these conceptions emphasize features of the concept that are more directly relevant to the background purposes and goals behind using it. Accordingly, I argue that while WOMAN is best understood as essentially contested, in some contexts, particular conceptions ought to dominate over others. It's in this sense that my view departs most radically from standard accounts of essentially contested concepts, as I argue that the concepts can be, in a sense, "decontested" within a context. Moreover, my view also departs from "pluralist" accounts of WOMAN, such as those of Talia Mae Bettcher and Katharine Jenkins, which take WOMAN to, in a broad sense, have multiple meanings. My view also contrasts with Esa Díaz-León's similar contextual understanding of the concept, as I argue that in order to take seriously the concept's role as an identity, we must understand it as essentially contested.

In Section 2, I show that WOMAN can and ought to be understood as essentially contested. I introduce and defend Nado's radical functionalism as the best approach with which to analyze debates about essentially contested concepts. In Section 3, I argue that, while we ought to understand WOMAN as essentially contested, our understanding of the concept is subject to a kind of context-sensitivity. I then show how this approach best captures the mechanics underlying the debate about

WOMAN. Finally, in Section 4, I contrast my view with Díaz-León's alternative contextualist view and discuss how understanding WOMAN as essentially contested contributes to the literature.

2. WOMAN as an Essentially Contested Concept

Consider Gallie's seven criteria of essentially contested concepts:

1) They're evaluative or "appraisive," such that it's considered good or bad to be classed as an instance of the concept.
2) They're "internally complex," such that a variety of descriptive or value-neutral features of the concept ground our understanding of it as good or bad.
3) They're describable in various ways, such that some may take particular descriptive features to primarily capture why the concept matters, while others may emphasize different features.
4) They're "open," such that the plausibility of conceptions can vary in light of changing circumstances.
5) Their contestants recognize that the concept is in fact contested and that their favoured conceptions are framed in opposition to those of others.
6) They're associated with an "exemplar" or paradigm, whose membership in the concept's extension is acknowledged by all contestants; this ensures that contestants aren't merely talking past each other and are instead discussing the same concept. This condition, however, presents issues that will be discussed in Section 2.2.
7) Continued debate produces a better understanding of the concept (Gallie, 1955–1956, pp. 171–175).

Wibren van der Burg notes that the first four of these conditions represent "semantic" criteria of essentially contested concepts, such that only these conditions are necessary for determining whether a particular concept is essentially contested. Meanwhile, the final three conditions represent non-necessary "pragmatic" conditions (van der Burg, 2017, p. 232). Accordingly, in this section, I restrict my focus to the first four conditions and will discuss how the concept of WOMAN meets each. I will also elaborate on an important caveat concerning the sixth condition and in doing so will introduce a conceptual engineering approach termed "radical functionalism," which I argue is uniquely suited to evaluating the plausibility of a proposed conception of an essentially contested concept.

2.1. The Debate About WOMAN

I will begin by tracing an extant debate about WOMAN between Sally Haslanger and Jenkins. Broadly, Haslanger takes someone to be a woman if and only if they're subject to systematic subordination, owing to perceived reproductive features that "mark" them as someone who ought to be subordinated (Haslanger, 2000, p. 42). Haslanger's view exemplifies an "ameliorative" approach to conceptual analysis, in which the measure of whether a conception of a concept is plausible is not in whether

it accounts for how we in fact tend to use the concept, but instead in whether the conception helps us realize normative aims, such as emphasizing the ways in which oppression interacts with gender categories.

Sensitive to Haslanger's ameliorative conceptual analysis, Jenkins replies to Haslanger with another political aim in mind: trans-inclusivity. While Haslanger's view seems to exclude trans individuals from the gender category with which they identify, if the individuals in question either do not publicly present as women or present in ways that aren't taken seriously by the public, Jenkins proposes an understanding of WOMAN consisting of two conceptions: one, which meets Haslanger's requirement of emphasizing oppression (i.e., gender as imposed social class) and another, which meets their own requirement of trans-inclusivity (i.e., gender as lived identity) (Jenkins, 2016, p. 397).

Jenkins' understanding of WOMAN is a pluralist account that treats it somewhat like an essentially contested concept, to the extent that more than one conception is taken to apply. My view, however, departs from Jenkins' in two respects. First, divorced of contexts, I take the concept to be conceivably defined by any number of plausible conceptions, rather than just by the two Jenkins identifies. Second, my view is contextualist, such that, within specific contexts, I take the concept to be defined by only some of these numerous conceptions. Before discussing my view in greater detail, however, I will show that features of this debate suggest that WOMAN meets Gallie's semantic conditions for essential contestability.

Recall Gallie's four necessary conditions: evaluativeness, internal complexity, various describability, and openness. Initially, the notion that genders are evaluative concepts might seem counterintuitive: unlike paradigmatic evaluative concepts, such as FREEDOM or DEMOCRACY, it's not obvious that being, for instance, a woman is inherently good or bad. However, Haslanger's and Jenkins' respective views each illuminate the evaluativeness of the concept. Haslanger notes that, under her view, "we should work towards a society free of gender in a materialist sense — one in which sex-oppression does not exist" (Haslanger, 2000, p. 49). For Haslanger, because women are indelibly tied to reproductive oppression, the concept is bad, to the extent that reproductive oppression is bad. Under Haslanger's view, and other eliminitavist accounts like it (see, e.g., Okin, 1987), gender categories are evaluatively bad and the goal of gender justice is to advocate for their abolishment. Alternatively, Jenkins' view suggests that WOMAN can be *subjectively* evaluative. If we understand WOMAN as a lived identity, then presumably we would need to preserve the intuition that misgendering individuals harms them in some way. Doing so requires understanding individuals as having particular, subjective investments in being identified in a particular way: while *objectively*, being a woman might not be good or bad, *subjectively* being identified as such is. WOMAN also exhibits internal complexity, as the reason individuals may find being categorized as a woman good or bad might vary: they may or may not identify as such; they may or may not be subject to standard types of women's oppression; they may seek certain legal rights associated with being identified as a woman; and so on. It's also entirely plausible that some individuals find one feature of WOMAN salient (e.g., its status as an identity), while others find another salient (e.g., its relationship to oppression). Indeed, these divergent reasons seem to be driving the debate described previously: those who

want to be considered a woman largely because they identify as such would likely be sympathetic to Jenkins' view, while those who want to be considered a woman largely because they relate to the kinds of discrimination women face would likely be sympathetic to Haslanger's. In this sense, WOMAN meets Gallie's third condition of various describability. Finally, the "open" nature of WOMAN is demonstrated by the popularization of Simone de Beauvoir's (1972) sex-gender distinction. The relatively antiquated conception of woman as a biological sex has fallen generally out of favour in light of changing circumstances and increasing cultural recognition of the ways in which social norms and identity bear upon who is considered a woman. Accordingly, the concepts of WOMAN and, by extension, other gender categories meet Gallie's semantic conditions of essential contestability.

In addition to the descriptive grounds discussed previously, there are normative grounds for taking genders to be essentially contested. Particular conceptions of WOMAN give rise to particular sociopolitical consequences. This connection between conceptual understanding and social aims motivates a recently proposed method of optimizing concepts, termed "strategic conceptual engineering" (Brigandt & Rosario, 2020). Under this view, we have good reason to understand different conceptions of a concept as constituting that concept if they are each conducive to meeting various social aims. Understanding WOMAN as an identity, for example, might be empowering for those who identify as such, while understanding WOMAN as a category defined by specific kinds of discrimination can allow us to better understand forms of gender-based oppression. If we take these aims to be generally unrelated, yet legitimate, then we have additional normative grounds on which to consider genders as being essentially contested.

2.2. Gallie's Exemplar

I need to address an important caveat concerning one of Gallie's pragmatic conditions: the "exemplar" condition. In doing so, I will propose a method of conceptual engineering suitable for making sense of what sorts of conceptions might plausibly explicate these concepts. It is on the basis of this method that I put forward my contextualist understanding both of WOMAN and of essentially contested concepts in general.

Gallie argues that discussions surrounding essentially contested concepts are anchored around "an original exemplar whose authority is acknowledged by all the contestant users of the concept" (Gallie, 1955–1956, p. 180). The purpose of this exemplar, for Gallie, is to distinguish between "confused" concepts and essentially contested concepts. While disputes surrounding the former involve disputes about a singular term that refers to two different subjects, disputes surrounding the latter are ultimately about the same subject.

The exemplar condition, however, is a matter of controversy in the broader literature on essentially contested concepts, as it presents issues that undermine Gallie's own account of the concepts (Collier, Hidalgo, & Maciuceanu, 2006). Ernest Gellner observes that "Gallie is, implicitly, betraying his own idea: he talks as if, behind each 'essentially contested concept', there was, hidden away in some platonic heaven, a non-contested, unambiguously defined and fully determinate concept or exemplar" (Gellner, 1974, p. 97). Similarly, Michael Freeden argues that

"[t]he postulation of such an exemplar is in effect inimical to the very notion of essential contestability, as it presumes an agreed or correct position from which deviations have occurred," while John Gray argues that "Gallie is mistaken in supposing that an agreed exemplar is always, or even typically, present in disputes of this kind" (Freeden, 1996, p. 60; Gray, 1978, p. 390). More generally, the existence of an uncontroversial exemplar suggests that such concepts need not be essentially contested at all; to derive the optimal conception of the concept, we can simply adopt an externalist metasemantic framework (see, e.g., Burge, 1979; Putnam, 1973; Sawyer, 2018, 2020a, 2020b) such that the optimal conception is that which best accounts for the objective properties of the uncontroversial exemplar.

Nevertheless, David Collier, Fernando Hidalgo, and Andra O. Maciuceanu (2006) speculate that an alternative reading of the exemplar condition might be more plausible. In a similar vein, Steven Lukes (2005) argues for a set of uncontroversial exemplars that anchor the concept. I'm unconvinced. Given conditions two, three, and four, it's unclear that contestants in the debate would unanimously acknowledge even a set of exemplars as authoritative, as each contestant might identify a different property of the internally complex concept as being the most relevant in grounding its evaluation or appraisal. Alasdair MacIntyre, for instance, observes that for "large areas of social inquiry … [w]e do not know how to decide whether a given alleged instance of a phenomenon is to be treated as a counter-example to a proposed generalization or as not an example of the phenomenon at all, because debate remains open about which the central, standard, and paradigmatic instances of the phenomenon are" (MacIntyre, 1973, p. 2). Ultimately, then, an understanding of WOMAN as essentially contested need not require the identification of standard exemplars of women, as whether such cases exist for even paradigmatic essentially contested concepts, such as FREEDOM or ART, remains to be seen.

2.3. Radical Functionalism and Essentially Contested Concepts

If essentially contested concepts are not necessarily anchored around an uncontroversial exemplar, what suggests that disputes about the concepts are really in fact about the same subject? Nado addresses a similar concern levied against the project of conceptual engineering. She frames the concern this way:

> Conceptual engineering seems to run the risk of being *too* revisionary, and thereby losing sight of the concepts we started with. Thus (for instance), when Haslanger proposes a revisionary definition of "woman," she is simply no longer talking about women. One can take this concern quite far, especially if one holds that a concept's meaning, intension, or what have you is essential to it. On such views, "revising" a concept turns out to be impossible. Any change in meaning results in a different concept. (Nado, 2021, p. 1511)

Nado's solution is an approach to conceptual engineering that she terms "radical functionalism." In particular, she argues that we can take a proposed conception as successfully explicating a concept if and only if it meets "needed functions" of a concept at least as well as prior conceptions, where "needed functions" correspond

roughly to our "purposes, goals, and aims" behind using the concept (Nado, 2021, pp. 1520–1521). Under this view, radical changes in a concept's subject are permitted, so long as revisions of the concepts better serve the concept's "functions." Haslanger's conception of WOMAN, under this view, might be justified, despite its substantive deviations from the semantic content underlying more mainstream uses of the term, as her view helps us realize normative goals that conceptions relatively blind to the role of oppression in shaping women's lives might not. One reason Nado takes commitment to the prior "meaning" of a concept to be unjustified is that sometimes changes in subject are warranted, as might be the case if a conception is rendered obsolete in light of new information (Nado, 2021, p. 1517). Moreover, she observes that "It's plausible to view conceptual engineering as not merely a matter of improving on a given function, but in questioning and critiquing the functions of our concepts, and potentially altering or abandoning those functions" (Nado, 2021, p. 1519).

This strikes me as salutary, and I would add that essentially contested concepts ought to be understood through a similar lens. Consider Gallie's comments on the "various-describability" constraint of essentially contested concepts:

> Any explanation of [the concept's] worth must therefore include reference to the respective contributions of its various parts or features; yet prior to experimentation there is nothing absurd or contradictory in any one of a number of possible rival descriptions of its total worth. (Gallie, 1955–1956, p. 172)

Gallie's point here is that participants in debates about these concepts each forward different accounts of why the concepts matter; however, nothing in principle suggests that one person's account better captures this. More generally, because of the unique framing of debates about particular essentially contested concepts, in which participants attempt to articulate why the concepts matter, a method of conceptual engineering that makes salient the role of the *functions* of the concept, such as radical functionalism, does the most justice to these debates. Adopting relatively standard methods of conceptual analysis — such as fixing conceptions around objective properties of the concept's extension, around how the concept is commonly used in ordinary language, or around some sort of similarity in semantic content with prior meanings of the concept — fails to capture what participants are attempting to accomplish in such debates. Returning to the exemplar condition, then, we need not identify a particular exemplar as anchoring debates about these concepts and can instead fix the debates around the functions served by the concept.[1]

It's also worth briefly distinguishing radical functionalism from a similar, alternative method of anchoring these debates. Understanding these debates as "metalinguistic negotiations" in which participants ultimately disagree about how the *terms* associated with these concepts ought to be used doesn't quite capture the nuances underlying Gallie's conditions two and three (Plunkett, 2015; Plunkett &

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[1] To further complicate matters, as will emerge in Section 3, these functions are specific to contexts-of-use, and accordingly, this approach renders essentially contested concepts context-sensitive in a particular way, which up until now has not been brought to light in the literature on the subject.

Sundell, 2013). A proponent of "freedom" as non-domination, for instance, isn't concerned with the "matters of language and thought" that concern metalinguistic negotiations, but rather, the "non-linguistic *object-level* matters" associated with freedom (Plunkett & Sundell, 2021, p. 158). Unlike Peter Ludlow's speaker who, in claiming that "No, Secretariat was not an athlete," is making a claim about how the term "athlete" ought to be used, when Philip Pettit argues that freedom requires "that each option be accessible and that no one have the power to block access," he isn't making a claim about the term "freedom" and how it ought to be used, but rather, is he endorsing a set of beliefs about object-level matters concerning freedom (Pettit, 2011, p. 693).

To illustrate the contrast in greater detail, consider David Plunkett and Tim Sundell's comments on Ludlow's metalinguistic negotiation about the term "athlete": "Think of some of what is at stake in whether Secretariat is called an 'athlete' or not. This might include who gets certain kinds of fame, praise, or recognition. For an animal rights activist, having Secretariat on the list might well change how people view animals" (Plunkett & Sundell, 2021, p. 148). An initial reading of these comments might suggest that debates about WOMAN are in fact about the linguistic term itself, and accordingly, constitute metalinguistic negotiations, as an analogous argument might be made that participants in these debates are concerned with what is at stake in whether trans individuals are called "women" or "men." However, an examination of what it means to *identify* with a gender category reveals that the debate is about more than strictly to whom the term ought to be applied. Recall that in this article, I am adopting Sawyer's definitions of a "concepts" as "mental representations" and "conceptions" as "the set of beliefs a subject associates with a concept" (Sawyer, 2020b, p. 1007). When we identify with a particular gender category, we do not merely, for whatever reason, decide we have a stake in the application of the term associated with that category; rather, we have some kind of mental representation of the term and a set of beliefs we associate with that representation, which allows us to recognize ourselves in the representation. What we are principally concerned with, here, is the *concept* of the category and whether our beliefs about it, or the conception we associate with it, determine that we belong to it. When I identify as a woman, for instance, I am not merely infatuated with the term, nor am I solely interested in it applying to me for the sake of various extrinsic consequences; rather, I identify with my mental representation of WOMAN. In short, the debate about WOMAN is ultimately a debate about a shared, yet contested, concept — not a debate about the term itself. More generally, debates about essentially contested concepts, though similar to metalinguistic negotiations, are ultimately about the concepts, rather than their associated terms. Accordingly, rather than being anchored around a shared term or an exemplar, I argue that we ought to understand these debates as being fixed around the *functions* of a concept, such that contestants offer a plausible "explanation of [the concept's] worth" by showing that their conceptions better meet its functions than rival conceptions (Gallie, 1955–1956, p. 172).

3. The Context-Sensitivity of Essentially Contested Concepts

In Section 2.3, I argued that essentially contested concepts are best analyzed through the lens of Nado's radical functionalism, as ultimately, participants in these debates

attempt to identify why these concepts matter. Divorced of context, different participants may each legitimately take different features of these concepts to be more or less important in explaining why the concepts matter; accordingly, the concepts are essentially contested. However, within particular contexts of use, our background purposes and goals *can* illuminate the superiority of one conception over another; if a conception better meets the purposes driving uses of a concept within context, then presumably it better captures why that concept matters within that context. It's in this sense that my view departs from standard readings of essentially contested concepts, as I argue that such concepts can be in a sense decontested, within particular contexts of use (see Freeden, 1996, for an alternative understanding of the decontestability of these concepts). To suggest that the concepts can be decontested within context, however, is not to say that they can be defined by precisely one conception, but rather, that the normative considerations underlying the concept's context-specific use can go some way in constraining which set of conceptions are taken to apply, even when other, alternative conceptions might instead better explicate the concept in other contexts.

However, do these normative considerations, in any meaningful sense, decontest the concepts within context, if various contestants each in forwarding their own conceptions are attempting to meet their own, competing background purpose or goal? Just as "there is nothing absurd or contradictory in any one of a number of possible rival descriptions of [the concept's] total worth," is there nothing "absurd or contradictory in any one of a number of possible" background purposes or goals (Gallie, 1955–1956, p. 172)? Not exactly.

Consider Díaz-León's distinction between between attributor-contextualism and subject-contextualism. While the former takes solely features of speakers — such as their beliefs or values — to determine the content of a context-sensitive term within context, the latter takes the term's content to depend on objective features of the term's context-of-use, such as moral and political considerations (Díaz-León, 2016, p. 250). Under this view, the relevant functions of the concept, though normative, are nonetheless objective and fixed features of the concept's context-of-use. Presumably speaker intentions go some way in determining what purposes are relevant; however, such purposes might still be constrained by what sorts of normative considerations are objectively justifiable. In this sense, there is an important asymmetry between the context-specific functions of an essentially contested concept and its various competing conceptions, which ultimately allows a context-sensitive understanding of essentially contested concepts to render such concepts, in a sense and in at least some contexts, decontested.

3.1. Applying My Proposal to WOMAN

I will demonstrate how an analysis of WOMAN as a context-sensitive essentially contested concept can help mediate the tension between its competing conceptions. Divorced from particular contexts of use, essentially contested concepts should be understood under various competing conceptions, simultaneously. However, within certain contexts, we ought to understand only some of these conceptions as applying. Consider, for example, the following three contexts: bathroom bills; a women's march

against violence; and the overturning of *Roe v. Wade*. The purposes underlying the policy, march, and discussions of abortion rights, respectively, ought to fix which conceptions are taken to apply.

Context 1: Bathroom Bills

Whether we consider someone a woman ought to depend not on whether that person possesses characteristics that comport with some fixed conception of WOMAN, but instead on whether doing so comports with our reasons for using the concept to begin with. In this specific context, those reasons depend on why gender-specific bathrooms exist and what features distinguish different gender categories and justify the existence of gender-specific bathrooms, if any. If no such features exist, then a relatively broad understanding of WOMAN seems appropriate in this context, such that the various conceptions making up pluralist accounts, such as Jenkins's or Bettcher's could apply, simultaneously. In this case, anyone who identifies as a woman or who belongs to the imposed social class of WOMAN could reasonably be given access to women's bathrooms, as no functions would be undermined by doing so. Alternatively, if a particular reason motivates segregated bathrooms, then the features of gender categories that correspond to these reasons ought to be emphasized over those that do not.

Context 2: A Women's March Against Violence

Jenkins's comments on a "Reclaim the Night" march she helped organize best capture the intuition behind my view with respect to this context. She recounts:

> we agreed that we wanted to make the march women-only due to the symbolic value of conspicuously violating the social norm that a woman ought to be accompanied by a man when walking after dark. … But who counts as a woman for this purpose? … There was unanimous agreement that the sense of "woman" we had in mind included all trans women. We decided to use the term "self-defining women" to highlight explicitly that this was the case. However, this didn't capture everything that we wanted it to: we recognized that there might be some people who did not identify as women but who were, in a very real sense, targets of the kind of violence and threat of violence against which our protest was directed. We felt both that these people could legitimately expect to be included in our protest and that our protest could only be strengthened by their presence. The kind of people we had in mind were primarily nonbinary people who had been assigned female at birth and trans men who felt that they were regularly misgendered as women. (Jenkins, 2016, pp. 419–420)

In asking "who counts as a woman for this purpose?," and in including non-binary people and trans men in her response, Jenkins rather explicitly notes that the conception of WOMAN operative in this context includes not just trans women and cis women, but also non-binary people who were assigned female at birth and

trans men — that is, groups who in many contexts would not be considered women, yet in this one ought to be. Importantly, she does not merely involve both men (including trans men) and women as part of the march, as doing so would undercut the "symbolic value" of making the march women-only. Rather, she understands the march as women-only while recognizing that trans men might also be disproportionately likely to become victims of sexual violence. Ultimately, then, the conception of WOMAN most apt in this context is one that emphasizes their disproportionate vulnerability to violence, as the march was primarily organized around this very issue.

Context 3: The Overturning of Roe v. Wade

Finally, consider the overturning of *Roe v. Wade*. In May 2022, the United States Supreme Court arrived at a majority opinion to overturn the landmark case. Doing so spelled massive reductions in the accessibility of abortion providers. Who exactly is affected by this decision? What does it mean to say that abortion rights are a women's issue and is doing so justifiable? Removing abortion rights is an instance of sex-based oppression; those affected most significantly are not strictly those who identify as women, but rather, those who possess the reproductive capacities that would allow them to give birth. These groups include only a subset of cis women along with some trans men and non-binary people. Accordingly, some institutions and individuals sensitive to the nuance underlying the sex-gender distinction have made attempts to distance themselves from gendered language like "women," referring instead to those affected as "birthing people." For instance, in a budgetary public health document looking to allocate funding towards the high maternal mortality rate of many women of colour, the Biden-Harris administration uses both the expressions "women of color" and "birthing people," stating that:

> The United States has the highest maternal mortality rate among developed nations, with an unacceptably high mortality rate for Black, American Indian/ Alaska Native, and other women of color. To help end this high rate of maternal mortality and race-based disparities in outcomes among birthing people … the Budget includes more than $200 million. (Office of Management and Budget, 2022, pp. 18–19)

I argue that, rather than adopting this neologism, there are political advantages to understanding WOMAN as a context-sensitive essentially contested concept.

Rather than understanding victims of sex-based reproductive oppression as women, the move to "birthing people" attempts to introduce a term and associated concept used to pick out those sexed as female who are capable of giving birth. The function or background purpose met by this move is to remain gender-inclusive, as at first pass, framing abortion as a women's issue seems to exclude trans men and non-binary individuals, who ostensibly are not women but who nonetheless may hold a significant stake in the issue. To come to my own stance, in introducing the term "birthing people," we lose out on some of the functions met by understanding those affected as women. Moreover, by understanding WOMAN as essentially contested and interpreting those affected by abortion rights along similar lines as those around

whom Jenkins' "Reclaim the Night" march was organized, we can still understand abortion as principally a women's issue, which nonetheless affects those who do not identify as such. In doing so, retaining an understanding of abortion as a women's issue — while adopting a context-sensitive and essentially contested understanding of WOMAN — helps us best meet the various background purposes underlying our use of the concept.

Regarding this first point, the concept WOMAN is indelibly tied to institutions that help protect the interests of those belonging to its extension. Women's scholarships, women's studies departments, feminism as a political movement principally concerning women, women's marches, and so forth help identify marginalized subsets of the population that can be understood as needing the sorts of protections offered by these institutions. Analogous institutions for birthing people, however, do not exist. There is no birthing people department, for instance, that exclusively studies forms of sex-based oppression, or birthing people march that resists forms of sex-based oppression. Rather, the institutions mentioned previously all aim to resist forms of both sex *and* gender-based oppression. Accordingly, if we want to retain an understanding of these institutions as principally concerning women, then we must adopt an understanding of WOMAN that reflects this dichotomy. In relegating victims of sex-based oppression to the category of "birthing people," however, we decentre them from the political concerns around which these institutions developed.

Jenkins' analysis of her march makes this point salient. Were we to apply the reasoning motivating the category of "birthing people" to her march, we would need to understand trans men and some non-binary individuals not as women, but as birthing people. However, recall that she "wanted to make the march women-only due to the symbolic value of conspicuously violating the social norm that a woman ought to be accompanied by a man when walking after dark." In order to retain this symbolic value, then, the march would principally concern only those who identify as women and so would necessarily need to exclude birthing people who do not. Jenkins is rightly reluctant to do so, however, as despite identifying as men, trans men are also at disproportionate risk of sexual violence owing to their sex. In choosing to include trans men as part of her march, however, she does not leave trans people out of the discussion entirely, as ultimately she only considers trans men to qualify as "women" *for the purposes of her march*. The sense of WOMAN operative in that context is one particularly sensitive to forms of sexual violence and so is used in a very particular, context-specific way.

Ultimately, just as Jenkins concluded that "who count[ed] as a woman" for the purpose of her march included trans men and non-binary people, as they too were "targets of the kind of violence and threat of violence against which [her] protest was directed," those who count as "women" when discussing abortion rights ought to include those who are oppressed by the overturning of those rights, even if, in alternative or more general contexts, they are not women. In doing so, we can retain the concept WOMAN, with its deep ties to the political history of abortion, while remaining sensitive to the idea that, in broader or alternative contexts, those most affected by the practice may not necessarily qualify as such.

4. Why Essentially Contested Concepts?

By way of epilogue, note that the way in which I treat essentially contested concepts, and WOMAN in particular as context-sensitive, is substantively similar to Díaz-León's account of the concept, as she argues that "we should understand the relevant standards [that determine whether someone is a woman] at issue in a context as those *that are relevant for practical purposes* (where these are broadly conceived to include theoretical, prudential, moral, political, and even aesthetic values)" (Díaz-León, 2016, p. 249). My view, however, departs from hers in three respects.

First, by endorsing a radical functionalist perspective on essentially contested concepts, like Nado, I do not take the theoretical aim of preserving continuity in semantic content with other or more traditional uses of the concept to be relevant in fixing our understanding of the concept, where "semantic content" might be broadly construed to encompass "extension, intension, or what have you" (Nado, 2021, p. 1513). Second, my analysis of the "various-describability" constraint of essentially contested concepts in Section 2.3 suggests that this sort of context-sensitivity ought to apply to all essentially contested concepts, and accordingly, renders such concepts not necessarily contestable, within a context; in this sense, my view also departs from standard views of essentially contested concepts in general. Third, unlike Díaz-León, I argue not solely that WOMAN is context-sensitive, but also that it is essentially contested.

The superiority of my view lies in this third point and to illustrate why, I will proceed by further elucidating Díaz-León's view. Díaz-León offers her view as a rebuttal to Jennifer Saul, who argues that context-sensitive accounts of WOMAN are unduly subordinate to the potentially illegitimate background purposes and values of communities of speakers. Saul claims that

> according to the contextualist view, [a transphobic community's] utterances of [the sentence "Trans women are not women"] are perfectly true. I can insist all I want that "Trans women are women" is true — and it is, when I say it to my like-minded friends, but this does not mean that *their* utterance of "Trans women are not women" is false. Nor can I argue that their law banning trans women from women's restrooms is at odds with the meaning of "women." There are simply different standards at work in the lawmakers' context. (Saul, 2012, p. 204)

Under Saul's view, the relevant standards that determine whether a purported woman is "similar enough" to others recognized as women are ultimately grounded in what participants in a linguistic community believe. However, Díaz-León's variant of the context-sensitive view manages to escape this sort of criticism by relying on the distinction between attributor-contextualism and subject-contextualism, introduced and discussed in Section 3 of my article. While Saul's point might undermine the former variant of contextualism, it does not undermine the latter, assuming that there is a fact of the matter regarding what sorts of political and moral considerations are justified or legitimate. Under the latter view, we can make sense of the proposition "trans women are not women" being false, despite being uttered in a linguistic

community that believes it to be true by taking "our best normative and evaluative considerations concerning the putative subject" to determine that trans women are relevantly similar enough to others recognized as women (Díaz-León, 2016, p. 251).

My contention is that Díaz-León's view needs to be combined with an understanding of gender categories as essentially contested, in order to legitimate their role as identities, even in contexts in which that role is not a dominating political consideration. Díaz-León argues that, under her view,

> what determines the salient standards of similarity in a certain context … is not a matter of what speakers have in mind, but rather a matter of which standards do in fact satisfy a series of practical and moral considerations .… And in this way, when the advocate and the opponent of trans women are speaking to each other, they are using *woman* with the same reference, namely the one fixed by the relevant normative considerations in the context at issue, which plausibly will be one including all trans women. (Díaz-León, 2016, p. 252)

However, sometimes the "normative considerations in the context at issue" are at genuine odds with other normative considerations, and this fact underlies why it is important to recognize the deeply contested nature of these concepts.

Consider, once again, Jenkins' protest. Under Díaz-León's view, the only way we can make sense of why we ought to include trans men and non-binary individuals as part of the women's march is if the normative consideration of acknowledging ways in which they too are equally prone to being victims of sexual violence dominates that of recognizing their identities. While Jenkins offers this example to show why a pluralistic account of WOMAN that understands it as both an identity and as a social class is plausible, a closer examination reveals that one normative consideration is, rightly, being prioritized over another. This is because the "symbolic value" of making the march "women-only" necessitated treating it as such; yet, to emphasize the role of WOMAN as an identity and to exclude trans men and non-binary individuals on that basis would presumably have undermined the march's political goal of combating sexual violence. Without further qualification, the status of trans men as men and non-binary individuals as non-binary is undermined; this is so because in taking their identities to be irrelevant in excluding them from a "women-only" march, the normative consideration of affirming their identities is subordinated by the other normative consideration of establishing solidarity amongst potential victims of sexual violence.

By understanding WOMAN as essentially contested, however, we can draw on the "internal-complexity" and "various-describability" constraints to make sense of how one of these normative considerations can subordinate another within a certain context, without undermining a person's status as a member of the gender category with which they identify. To illustrate this in greater detail, consider Gallie's comments on the essentially contested concept of DEMOCRACY:

> The concept of democracy which we are discussing is internally complex in such a way that any democratic achievement (or programme) admits of a variety of descriptions in which its different aspects are graded in different orders of

importance … these descriptions … emphasize features of democracy which clearly can exist in greater or less degree and are therefore liable to be differently placed for relative importance. (Gallie, 1955–1956, pp. 184–185)

As Collier, Hidalgo, and Maciuceanu note, Gallie's point here is that "different facets [of the concept] may be emphasized to varying *degrees*, involving contrasting relative importance" (Collier, Hidalgo, & Maciuceanu, 2006, p. 217). This isn't to suggest that in a particular context in which one feature of the concept is taken to be particularly important, other features simply cease to apply, but instead that those features play a comparatively less significant role in explaining why the concept matters and accordingly in determining the concept's extension within that context. While, for instance, in some context without any identifiable authority figures, Pettit's conception of FREEDOM as a condition that requires that "each option be accessible and that no one have the power to block access" may serve as a less relevant explanation of whether a person is free than Isaiah Berlin's conception of FREEDOM as "the absence of obstacles to possible choices and activities," this doesn't suggest that the role of authority figures in being able to, in principle, dominate others is an irrelevant or unimportant facet of FREEDOM (Berlin, 2002, p. 32; Pettit, 2011, p. 693). Rather, the conditions of the concept's context of use determine which facets are most important within that context alone.

Similarly, gender categories do not cease serving as identities simply because trans men might participate in Jenkins' "women-only" protest. However, that particular facet of these concepts plays a less relevant role in determining who ought to attend than the alternative facet of gender categories as imposed social classes, as ultimately the purpose of the march is to combat a particular form of oppression imposed upon a variety of gender identities, from cis women, to trans women, to trans men, and to some non-binary individuals. Whether people are disproportionately affected by sexual violence does not track how they self-identify, as much as how they're oppressed and what norms are imposed upon them by others. Accordingly, we can make sense of trans men remaining men, owing to their adherence to one facet of "man" (i.e., its role as an identity), while ultimately being admitted to a women-only march, owing to their adherence to another facet of WOMAN (i.e., its role as an imposed social class with deep ties to oppressive sexual violence). While they may not adhere to one facet of WOMAN (i.e., its status as an identity), within the context of Jenkins' march, that facet plays a less significant role than the alternative facet of the concept's status as an imposed social class whose members are disproportionately subject to sexual violence. Without acknowledging that the latter facet in this context is of relatively greater importance, we cannot make sense of why trans men might be allowed to participate, and without understanding the concept as essentially contested, we cannot make sense of how trans men may nonetheless be considered men.

Ultimately, then, understanding WOMAN as essentially contested is an important addition to standard contextual and pluralistic accounts of the concept, as particular contexts of use are often characterized by a variety of sometimes competing and yet nonetheless legitimate normative considerations. In such contexts, we must make sense of how one normative consideration can be prioritized over another, without

necessarily taking the latter to be outright irrelevant in fixing the boundaries of the concept. By understanding such concepts as essentially contested, we can understand some facets of the concept as genuinely belonging to the concept, while also playing relatively more or less significant roles in determining its extension, within various contexts of use.

Moreover, it's worth taking seriously the depth of this contestation in ways typically not acknowledged by standard contextualist positions. While I do take my view to sometimes "decontest" essentially contested concepts within some contexts, contextual segregation cannot serve as a consistently reliable method of settling all disputes. Even if, as Díaz-León suggests, there is a fact of the matter regarding the objectively "correct" political and moral considerations that can fix a correspondingly correct understanding of a concept, disputes might nevertheless persist in contexts in which this fact of the matter remains obscure. Accordingly, the lesson to be learned by coupling my analysis of essentially contested concepts with my contextualist account is that contestation is sourced not in the meanings of the concepts themselves, but rather, in the background purposes driving our conceptions to begin with. In shifting the focus to these purposes, we can begin to ask more fruitful questions.

5. Conclusion

We ought to understand conceptions of an essentially contested concept as explicating that concept if and only if they comport with the context-specific normative considerations underlying the use of the concept. This method of determining a conception's plausibility is conceptually appealing, as unlike other methods, it directly contends with whether the conception serves as an adequate description of the concept's "worth," by grounding its adequacy in our aims behind using its associated concept. Moreover, it is practically appealing, as this method prevents the concepts from being understood so broadly that they provide little practical guidance.

Finally, it's also worth noting a broader methodological prescription that arises out of this analysis of the debate about WOMAN: rather than taking the highly contested and unclear conceptual boundaries of these sorts of often social and political concepts to determine policy decisions and our actions, we ought to let our background purposes behind using the concepts fix their conceptual boundaries. In doing so, we shift the focus of debates on how we ought to understand the concepts to what our purposes are behind forwarding their conceptions and whether those purposes are justifiable.

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