The Normativity Problem as a Serious Obstacle to Modelling Gender

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Abstract

In this paper, I explore Sally Haslanger's (2000) proposed approach to modelling gender which she intends to overcome several problems for such a project. I specifically focus on what Haslanger calls the normativity problem, in which definitions meant to overcome oppression only reinforce oppressive norms. I argue that the normativity problem is a serious one for defining gender and that Haslanger does not successfully overcome it with her definitions of *man* and *woman*. In §§1 and 2, I offer background for and explain her account of the problem before offering my own formal reconstruction of it as what I call the normativity argument that (a) we ought not marginalise individuals in our defining of social categories, (b) definitions encouraging normative behaviour do this, and (c) any model of gender encourages such behaviour. In §3 I then give an account of her proposed definitions of *man* and *woman* along with her theoretical objections to the normativity argument—suggesting that only certain kinds of marginalisation are undesirable within the constraints of a particular feminist project and that her definitions do not encourage normative behaviour. I then offer my responses to her objections in §4, suggesting that her definitions are normative and do marginalise in a way incongruous even with her particular feminist project. Before concluding, I briefly discuss in §5 where my criticisms of Haslanger's approach to defining gender fit into some existing criticisms, in order to give my position an even clearer shape. This paper concludes in §6 by sketching some possible ways forward in the philosophy of gender responding to this problem.

1 Introduction

An important project in the philosophy of gender is perhaps the most basic: that of developing a working model for gender. What does being a woman, or a man, or being of another gender or not being of one at all, consist in? And even prior to that question: how ought we go about developing such a model or definition? Sally Haslanger, at one juncture in her paper

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'Gender and Race' (2000), considers a problem that serves as an obstacle to developing a model of gender: what she calls the *normativity problem*. In this paper, I want to take that problem seriously, and suggest that it is indeed a serious obstacle for defining gender. I will do this by example, illustrating how the normativity problem poses a challenge for Haslanger's own definition of *man* and *woman*. First, I will explain the normativity problem for defining gender by reconstructing it as an argument—which I will call the *normativity argument*, to distinguish it from its broader, less-detailed formulation as a problem. I will also explain Haslanger's response to the normativity argument by explaining her proposed definition of gender—particularly, *man* and *woman*—and how she may use it to avoid the problem. I end by presenting replies that defend the normativity argument and concluding that, even within the scope of her project, our intuitions about normativity, marginalisation, and oppression, the normativity problem remains a challenge she has not successfully overcome.

2 The Normativity Problem and the Normativity Argument

Although the normativity problem is described by Haslanger in a broader way, I will reconstruct it more formally here as the normativity *argument*. Before I do this, I will give the broad, short account of the normativity problem. Haslanger herself presents the normativity problem very briefly: 'The normativity problem raises the concern that any definition of "what woman is" is value-laden, and will marginalise certain females, privilege others, and reinforce current gender norms' (37). I believe her account can be reformulated this way: *in defining what it is to be a* woman *or a* man*, one inevitably creates norms that, rather than disrupt oppression, only perpetuate it.* When we look to either Haslanger's formulation or my own, the problem seems to be expressed much too quickly to illustrate the mechanics of how it works. Understanding these mechanics will allow us to better understand the approaches Haslanger and her definition of gender take in responding to it—what's more, a greater level of detail can be extracted from this quick version when we see this problem as more of an argument whose conclusion is *we ought not define what it is to be a* woman *or* man.

I think three premises can be extracted for the normativity argument. The first of these is that if defining a social category of people causes the marginalisation of individuals, then we ought not define that category. Although this premise is not explicitly found in Haslanger's broad figuration of the problem, it is important for the implicit argument of problem, because the premise serves as a standard by which attempting to define gender should be judged—that, simply, marginalising people is bad and any definition should not engage in it. Put differently, this premise is important because it is what makes the problem a problem: there being an ethical standard that must be met that defining gender does not meet. On its surface, this seems relatively straightforward and easy to accept—especially with a subject like gender, which carries great stakes in feminist politics, it makes sense that one ought not create ontological categories (by way of definition) that marginalise, and therefore harm, others.

The normativity argument's second premise is that if defining a social category encourages

normative behaviour, then individuals will be marginalised under that definition. This premise is also not explicit. However, including it is important not only to the logical structure of the argument by connecting the alleged effect of defining gender—encouraging normative behaviour—with the marginalising of individuals, but it is also important to why this problem is the normativity problem. The spirit of this problem, while it is applied specifically to gender, has to do with the ways in which normativity brings about undesirable consequences, and it is with this premise that normativity is introduced into the problem (and our argument). We might believe that this premise is true because, when a standard to which a thing is expected to conform is established, it seems to naturally follow that those things which fail to meet that standard are considered lesser than those that do. An example that illustrates this is the phenomenon of gatekeeping in various cultures and subcultures—behaviour that seeks to regulate who rightly belongs or does not belong in such a culture by imposing rigid (often unreasonable) standards for belonging. Fan subcultures are one vivid instance of this sort of marginalisation, albeit one with admittedly less severe consequences than others. A person might claim that, say, one is not a 'true' fan of a particular band unless one owns and has listened to all of that band's multiple albums. This definition encourages normative behaviour—that is, there is a norm (owning and listening to all the albums) that one must meet in order to be a 'true' fan. Consequently, in a situation in which a subculture accepts a conservative, gatekeeping standard for being part of that culture, those individuals which do not behave normatively are of a lower status than those that do—leaving those fans who, say, only listened to one album marginalised and those that have listened to all of them privileged. This example is vivid in its commonality, but some might also question its seriousness. After all, someone might say, being seen as not as much of a music fan as most does not seem like the end of the world. But this example is meant strictly to illustrate is that where normative behaviours are engendered, so too is marginalisation. Even if one's material conditions are not terribly affected by being marginalised in this specific context, it seems clear that marginalisation in some form is happening—one is still seen. Moreover, we might not take marginalisation among fan subcultures terribly seriously, but I think this is merely because what we are lacking is a kind of ubiquity to the norm established. A social category like gender is far more pervasive, so much so that it is typically unheard of in the *status quo* to assert that someone has absolutely *no* gender category. Clearly, the material consequences of this kind of marginalisation will be greater, as I will discuss soon.

Indeed, it is at this point when the argument's third, final, and most obviously necessary premise ought to be introduced: simply, that defining what it is to be a woman or a man encourages normative behaviour. If this is the case, then, given our previous two premises, it must be the case that we ought not to define what it is to be a woman or a man. Decades of feminist criticism, theory, and philosophy provide innumerable examples of our current definitions of *man* and *woman* enforcing normative standards, but one instance I find relevant to bring in as an example is the present oppression of transgender people. This will also serve as a second example of how normative behaviour marginalises individuals—here in a more pressing, violent way. The predominant, 'simple view' of gender—where to be a man is defined as having a phenotypically male body, and to be a woman is to have a phenotypically female body—encourages a frame-

work in which males are expected to act and be treated as men, with all its attendant behaviours, and females are expected to act and be treated as women. Trans people, in having an internal gender experience (one's psychological identification with being, say, a man or a woman) that is at odds with their phenotypical sex (and so assumed gender), violate this expectation. And currently, trans individuals face statistically obvious material oppression: the unemployment rate among the transgender community is reportedly double that of the general US population, with 26% of unemployed trans people report being fired by virtue of their gender identity; 78% of trans students in primary and secondary education experience some form of harassment, with 35% experiencing violence of some form; and so on (Grant et al. 2011). They also face other forms of other, less obvious discrimination, such as the denial of their gender identity among friends, family, and colleagues. This oppression would seem to confirm not only that there are normative behaviours that arise from defining gender (our third premise), but that such normative behaviour directly leads to the marginalisation of individuals (our second premise) as a kind of punishment for violating normative expectations. This punishing relationship is evidenced by a growing body of sociological research that suggests associations between individuals with strong cis-heteronormative beliefs (that being cisgender and heterosexual is the norm, proper, or right) and individuals with hostile attitudes toward trans people (such as in Worthen 2016, 37–38, 45).

Thus we have our full normativity argument:

(P1)   If defining P social category marginalises individuals, we ought not define P.

(P2)   If defining P encourages normative behaviour, then it marginalises individuals.

(P3)   Defining what it is to be a woman or a man encourages normative behaviour.

(C)   We ought not define what it is to be a woman or a man.

3   Haslanger's Account of Gender and Response to the Normativity Argument

Haslanger proceeds with a definition of *woman* and *man*. As such, she rejects the normativity problem, and therefore objects to our extracted normativity argument. Because this argument is valid, Haslanger—or any objector to the normativity problem—must reject one or more of our premises. There are two likely approaches to objecting to this argument, both of which Haslanger takes: perhaps more expectedly, to reject (P3) and, perhaps more surprisingly, to reject (P1).

However, before considering these objections to the normativity argument, I will first give Haslanger's definition of *woman* and *man* (albeit in simpler terms), because the content of her definition is important both for the rejection of (P3) and (P1). Haslanger defines *woman* by saying that person Q is a woman if and only if they meet the following three conditions:

(1)   Q passes as a person with a phenotypically female body (that is, Q is consistently re-
        cognized as female);

(2)   Q is marked as a person who ought to occupy the position of being socially oppressed
        because Q passes as female; and

(3)   Q is in fact oppressed because Q meets conditions (1) and (2).

Haslanger defines man in a nearly identical way, substituting *female* with *male*, and *oppressed*
with *privileged* (Haslanger 2000, 42). With this definition in mind, I can now present the two
objections mentioned earlier to the normativity argument—namely, rejecting (P3) and rejecting
(P1).

One may, as Haslanger does, reject (P3) by contending that this definition of *woman* (or
man) does not encourage normative behaviour. This contention is grounded in the presence of
the words *oppressed* and *privileged* in the definitions, such that they would encourage behaviour
that works against gender normativity rather than encourage normative behaviour toward their
fulfilment. That is, building oppression into the definitions of *man* and *woman*, there is enough
negative motivation to disrupt and resist normative standards of these genders, because what is
quintessentially *man* or *woman* is to either oppress or be oppressed, and, through conceiving of
one's gender as necessarily entailing such a hierarchy, people will recognise and seek to end such
oppression (46). This second claim, that people seek to end oppression, is implicit (and, perhaps
to most of us, obvious)—however, it is important to acknowledge it as critical to this response.
If people seek to end oppression, and they see oppression as a necessary property of being a man
or a woman, then it follows that such people will not aim to live up to the normative ideals of
those genders.

However, one may also reject (P1). It is important to explain the way in which Haslanger
frames her project of defining gender, because this response necessitates an understanding of it.
The framework she adopts is that of an *analytic project* whose goal is the furthering of feminist
politics and the combating of oppression (Haslanger 2000, 33, 36). This means two things: that
Haslanger aims to define gender in terms of its potential utility for an end, and that that end is
opposing injustice and oppression against women. With this project in mind, one may respond
to marg by suggesting that it is overly general in its application of avoiding marginalisation. That
is, Haslanger holds that a requisite aspect of any sort of metaphysical project, particularly an ana-
lytic one such as hers, necessarily involves giving some values and goals priority over others, and
it is only to those values or goals that one should be beholden. Because her definitions of *woman*
and *man* are constructed as part of a larger feminist project to critique and eventually end the
oppression of women as a social class, the pertinent question is not whether her definition may
marginalise individuals generally, but rather, whether her definition marginalises individuals in
a way that conflicts with the feminist values she adopts (Haslanger 2000, 46). Put differently,
even if one accepts that her definitions may lead to normative standards, and that such standards
may marginalise certain individuals, the only thing that matters is whether the definitions are
consistent with the aims of her specific project. And, in the case of the definitions given, she

believes that they are consistent, because just as her goal is to end and oppose oppression and injustice, particularly against women, this is exactly what her definitions of woman and man bring to the fore: the presence of these as being closely linked with gender, particularly in such a way that subjugates women. Haslanger grants that, even if there are cases in which people who we would intuitively call women are not women on her view, and so ostensibly would be marginalised, such people and such consequences are not relevant to her project, and so do not provide enough negative motivation against defining *woman* or *man* (Haslanger 2000, 46).

4   My Replies to Haslanger's Objections

I do not find either of these responses satisfying, and I will now offer replies to each of them in defence of the normativity argument. In the case of Haslanger's first response, rejecting (P3), I believe she both ignores the risk posed by the first condition to encourage normative behaviour, and mistakenly overemphasises the power of building-in oppression to mitigate such normative behaviour. If we recall the first condition of her definition of *woman*, it seems apparent that a clear normative standard is established without mention of oppression: one must *pass as a female* before anything else to genuinely be a woman (likewise for men, with passing as a male). This presence of a standard against which a person can be judged that is independent of one's oppressive status, even if it is only one component of being a woman, suggests that there certainly is a possibility of normative behaviour in the service of validly identifying as a woman being encouraged. Haslanger depends heavily on the fact that to be a woman on her view is to be oppressed in order to counter normative drives to perform womanhood properly. If you are a woman, then you are *ipso facto* oppressed on her account. This oppressive, marginalised status that comes with womanhood is intended to motivate the challenging of normative gendered norms. If one is to be oppressed by virtue of being a woman, then one will be inclined to kick against the normative standards that engender the oppression of women. However, I am unconvinced that this is enough. Rather, I believe that a normative standard of passing as phenotypically female can quite easily marginalise.

Earlier in this paper, I discussed the oppression of the trans community as at least in instance of punishment for the violation of norms on the basis of one's assigned gender and sex. On Haslanger's account of gender, not enough is done to relieve the oppressive pressure that gendered norms place on trans people. Although Haslanger ostensibly allows for a trans person to properly be a man or a woman—as her definition says, one's gender is only related to sex in how others recognise or imagine one's sex—this puts a disproportionate level of importance on passing as the sex associated with one's preferred gender in order to properly *be* that gender. Again, as with the simple view, one's gender identity is not relevant to one's 'actual' gender, but is subordinated to a normative standard—here, being able to *seem* to be one of the sex associated with that gender. Inevitably then, there still will be people who may, by their own lights and internal experience, be women, but who are not *genuinely* women on Haslanger's view by virtue of their inability (or unwillingness) to pass as female—and, as is the case for transgender people generally today, such people will be marginalised by Haslanger's definition. And so, by

our normativity argument, such a definition should not be accepted.

But if marginalisation is not something we ought to avoid wholesale, this ceases to be a problem. Thus my reply to Haslanger's second response: simply, even accepting her framework about what is important, her very project demands that individuals not be marginalised, particularly in the case of transgender women already alluded to above. As I've mentioned earlier, Haslanger's project is one that seeks to end oppression and injustice. And, in defining gender, that project makes use of feminist values to achieve that end—more simply, she pursues 'sexual justice' (37). However, it seems to me that, if I am right in my analysis of *passing as female* being a condition of being a 'true' woman, then her goal of opposing injustice and oppression isn't being met—rather, it becomes a new standard by which injustice (here, that injustice meted out to transgender women who fail to pass as female) is perpetuated. The fact that these non-passing transgender women, although not genuinely women by either Haslanger's definition or the simple definition, still share some psychological property, experience, or strong affinity with other women, should intuitively suggest this as well. In some sense, Haslanger's definition of *woman* still causes some kinds of women—or at least some people who have a strong affinity with womanhood—to be oppressed. And because this oppression would be rooted in their not being recognised *as* women, and so would not be considered oppressed *as women*, we cannot rely on our drive to end oppression to end this form of it, because it will not be recognised as such to begin with.

One might accuse me of question-begging here by critiquing Haslanger's definition of *woman* by presupposing another definition that includes trans women as women. But my point is that in an analytic project of gender that is meant to be progressive and to fight the oppression of women, empirical facts like *There is a group of people who claim identity as women* do not vanish, and neither should our intuitions about those facts. If Haslanger's project is to combat the oppression of women, I think the spirit of her project naturally ought to attend to individuals who also have close affinity to womanhood. Even if one does not take trans women to *be* women— a view which, as I've argued earlier, subjugates and oppresses these women—one intuitively cannot deny that trans women bear at minimum a uniquely closer relationship to womanhood from men, one that should qualify some sort of protection in a project aiming to define gender in the service of ending the oppression of women. But I think Haslanger's proposed definition does little to protect trans women who do not pass as cisgender are unjustly marginalised by the norm created in her definition. Indeed, her definition only lays the foundation for oppression. As such, this response, too, doesn't seem to erase the problem of normativity, because even according to Haslanger's project, unjust and unintended marginalisation occurs.

5 Other Criticisms of Haslanger's Account

Both Haslanger's conceptualisation of the *analytic project* and her proposed account of gender have been often cited and built upon. Of particular interest here, I believe, are two criticisms— one particular criticism by one particular philosopher, and one species of response that has

gained increasing support among social philosophers. Briefly discussing these will make clearer the scope and nuanced contours of the normativity argument against Haslanger's attempt at defining gender (and against defining gender generally) I offer in this paper.

Katharine Jenkins (2016) offers a criticism of Haslanger's account of gender with a very similar spirit to my own: that Haslanger wrongly marginalises trans people through her proposed definition. However, Jenkins's critique of Haslanger both complements and differs from my own in two ways. First, and perhaps most importantly, Jenkins does not focus on *normativity* as the agent of marginalisation, but *exclusion*. Haslanger discusses the normativity problem in her paper, but also what she calls the *commonality problem*: the claim that there isn't a property that sufficiently unites all the people we might want to call *women*, and so some people are (wrongly) left out (Haslanger 2000, 37). It is the commonality problem that Jenkins focuses in on. In discussing how Haslanger's account might bear on the status of trans women, Jenkins concludes as I do, 'trans women will be categorised as women by Haslanger's account only if they find themselves in scenario 3 [passing as phenotypically female] most of the time. Some trans women will never find themselves in scenario 3, and many trans women will find themselves in that scenario only some of the time. Therefore, many trans women will not be categorised as women according to Haslanger's definition' (Jenkins 2016, 401).

For Jenkins, the exclusion of trans women is the critical marginalising factor. By contrast, I hold normativity as the primary obstacle to a development of a non-marginalising model of gender. It is not strictly because Haslanger's definition excludes trans people that I take it to marginalise them, but rather because it creates a normative standard one must meet to validate one's gender identity. If I am right, then normativity proves problematic in defining gender in a more robust and diverse way. While the exclusion of trans people by Haslanger's definition is one of the more vivid ways in which her—or any—definition of man and woman might marginalise people through its normative aspects, normative marginalisation may manifest in many ways, as I stated in §3. Second, Jenkins does not, as I do, take the problem she discusses to be one that endangers Haslanger's project, but sees it as a prompt for a more rehabilitated instance of 'trans-inclusive amelioration' (407). I am not convinced that Haslanger's approach—or indeed any approach to modelling gender as a social category—can be successfully rehabilitated in light of the normativity problem. But I will touch on this again in §6.

Another tactic, popularised by Theodore Bach (2012, 2016), is to reject Haslanger's fundamental project of modelling *man* and *woman* as social constructs unified by some empirical property (i.e., all women share the property *being oppressed*), what Bach terms an *objective type* (2016, 179). The main thrust of this criticism is twofold: first, a use of objective types (as with Haslanger) risks undermining the very political goals that motivated their usage in the first place. Specifically, Bach believes that to define gender (or any social category) by a particular property—here, one's oppressed or privileged status—is to engage in 'an empirical and political gamble' (194). That is, one stakes a claim that it is one's oppressed status that is the only (or at least most) important fact to consider in a political project. However, this is not guaranteed. As I've argued in this paper, Haslanger wrongly stakes too big a claim on passing as a sex associated with a gender. And second, a use of objective types shuts out epistemological possib-

ilities: because Haslanger defines gender using a unitary, rigid property, it becomes impossible to 're-identify' a gender in more accurate terms as features of it may change over time (Bach 2016, 198). If being a woman is *ipso facto* being oppressed, then we cannot imagine a conception of womanhood that doesn't involve this oppression (195). Instead, Bach supports a model of gender that figures man and woman as natural rather than socially constructed. Moreover, Bach claims the unifying principle that makes gender (and all social categories) cohere is *historical essentialism*. The suggestion is that the essential feature of *man* or *woman* is an individual's connection to a historical lineage of other individuals of the same kind (Bach 2012, 242–43). By this Bach means that the essential feature that makes someone a man is to take on properties that 'make that individual a replication of ancestral men', and likewise for women (2016, 193). What makes this alternative model of gender so appealing on Bach's view is that the properties that mark this lineage can be varied and fluid: just as a species, another natural kind, can have some properties change over time while preserving the species on this view, so too can a gender or other social category. As such, Bach claims to circumvent the commonality or normativity problem in that one can fail to instantiate 'characteristic gender properties' while still properly being of the gender associated with those properties, as the essential feature of that gender is found in 'wider historical processes' (193).

A proper reply to Bach's approach necessitates a fuller discussion beyond this paper, but I will mark a broad, but hopefully illuminating, difference. As with Jenkins, Bach hopes to preserve a working model of gender in spite of the theoretical problems, and in fact cites conceptually preserving gender as a benefit of his approach over type-objectivism (195–96). I find this urge to preserve gender unmotivated and without obvious benefit, especially in the face of the innumerable problems that come from it (both conceptually as discussed here, but politically and ethically as discussed in the whole body of other feminist philosophy). Moreover, out of my normativity argument, if one *did* seek to properly model and preserve gender, attending to and avoiding the creation of norms would include norms favouring binary gendered systems. Marion Godman has shown that while Bach's theory can be applied to account for non-binary gendered systems, such an application risks losing some of the theoretical virtues Bach claims—such as unifying members of a gender across cultures under the same definition (Godman 2018). To put these differences in simplest terms: I take the normativity problem to be serious enough that I am not motivated to preserve a concept of gender in the face of it (or its other theoretical vices).

6   Conclusion and Implications

In this paper, I've taken the shortly—and broadly—described normativity problem for defining gender and expanded it into a larger argument with clearer mechanics, and have considered how Haslanger and her definition of *woman* and *man* have attempted to either reject or circumvent the problem. I conclude that these attempts fail when confronted with intuitions about normative behaviour and marginalisation that we can observe today within and regarding the transgender community. Haslanger suggests on one hand that her proposed definitions of *man*

and *woman* do not suggest the establishment of norms. However, I take her condition of passing as a particular gender to be enough of a norm to cause worry. And Haslanger asserts on the other hand that her analytic project and consequent definition are not and need not be concerned with marginalisation. However, given the goal around which her project is oriented, the ending of oppression and injustice, I maintain that her proposed definitions do still create normativity and marginalisation that create the injustice she seeks to end. And so, the normativity problem remains a problem.

How we move forward with modelling gender in response to this problem is a subject for further inquiry. If the normativity argument as I have reconstructed and defended it is right, then perhaps the natural conclusion is to do away with the project of defining gender. As I have argued for this strong version of the argument, I am inclined to accept such a conclusion. Conceptually, it seems, gender might run too high a risk of marginalising to properly define. This is a view that naturally lends itself to the yet-more ambitious stance of abolishing gender, doing away with it as an object in our social ontology entirely. But if the challenge is to create a model of gender that manages to circumvent the problems I've discussed (as Jenkins, Bach, and Godman attempt to do) then such alternative avenues of definition might be explored. But whether we are to abolish gender or find an innovative new model of it, we must reckon with the challenge of normativity and its capacity to marginalise.

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