

# Transpiration/Transition

## Translating Transgender “Erasure” in the Trump Era

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THE TERM “GENDER IDENTITY” is now lodged in mainstream politics for good—both in the sense of longevity and social benefit. But as this happens, who will translate gender theory into practical politics? Policies that invoke gender or sex are numerous, and reach nearly every aspect of social life, from bathrooms to consumer surveys and mortgage applications. These policies prompt and enable gender policing by administrative agents tasked with enforcing them. So far, restaurant employees, school officials, and other administrators have not been given the criteria for carrying out such gender policing. The recently reported Department of Health and Human Services (HHS) memo proposes such criteria by defining sex as binary and unchangeable (Green et al. 2018). But something was lost in translation.

There is a very good reason why we have not written gender criteria into employee manuals and other administrative rulebooks. That reason is a paradox that has been explored for decades in gender, sexuality, and women’s studies, but is just now emerging in mainstream politics thanks to transgender and intersex civil rights advocacy. On the one hand, our collective notions of maleness and femaleness are presumed so obvious that they need not be explained. On the other hand, the criteria for who is a woman and who is a man are so elusive that they cannot be explained without sinking into a morass of doublespeak and tautology. Anne Fausto-Sterling wrote in response to the reported HHS memo, “It has long been known that there is no single biological measure that unassailably places every human into one of two categories—male or female” (2018).

Fausto-Sterling's op-ed (the second of her career) focused on the "biological error," leaving it to others to explain the moral wrongness of the memo. We might add a third kind of error, if not wrongness, to the biological and moral wrongs: the fact that most gender policies are not rationally related to the goals they seek to achieve. Binary sex markers on personal identity documents do a bad job of keeping track of our personal identities because maleness and femaleness are classifications we share with many people. The legitimate goal of ensuring a modicum of physical privacy can be much more efficiently achieved architecturally by building all-gender bathrooms with ceiling to floor partitions. Sometimes the end goal of a gender policy is so important that the gender policing it triggers is worth it. Certain sex-based affirmative action policies aimed at remediating past and ongoing sexism, and some sex-segregated affinity groups, come to mind. In those instances, it's important for the decision makers within these organizations to state their working definition of gender and or sex, and to be transparent about how and why that definition is connected to a particular goal or set of goals. Philosophers and gender theorists have a lot of work to do.

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