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COSMOS + TAXIS

Studies in Emergent Order and Organization



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COVER IMAGE

Laura Evonne Steinman (LES, she/they) is a queer artist, educator and activist. Laura Evonne's artwork stands alone, independent of the opinions and voices represented in the articles in this publication.
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Gender, Adaptation, and Emergent and Imposed Orders

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INTRODUCTION

Gender has been and continues to be a culturally, politically, and economically relevant characteristic for obvious reasons. The relationship between sex, gender as a signal, and reproduction is the starting point, but given the interaction of sex and reproduction on the one hand and gender as a signal on the other, all operating within economic, political, and social orders, it's no surprise that in many human contexts, gender has nothing to do with reproduction at all and instead serves as a malleable and flexible marker of identity with social, political, and economic implications. Gender has taken on a meaning quite apart from its biological origins and now plays a complex and variable role in social life, markets, political and legal discourse, and cultural norms and values.

Because gender is both biologically rich and socially mediated and because gender—as an emergent order—overlaps with other emergent orders such as language, culture, social norms and mores, and (some) laws, as well as created and imposed orders like (some) laws and regulations, social scientists and theorists need to connect these two areas of study.

DEEP HISTORY OF SEX AND GENDER

My own interest in editing a special issue on gender and emergent order finds its deep origins in two of my favorite books about spontaneous order and gender, Sarah Blaffer Hrdy's books *The Woman That Never Evolved* and *Mother Nature: Mothers, Infants and Natural Selection* (Hrdy, 1989 and 1999). In both these books, the emergent order of evolution collides sharply with other emergent orders, including politics, economics, language, and even the scientific method. As Hrdy notes, her own interest in primatology came in part from the erasure of female primate agency by male primatologists who assumed—without evidence—a docile female vessel ever-open to the activity of aggressive agented males. What Hrdy and other self-described “feminist primatologists” of this era found instead was an incredible variety of adaptations and counter-adaptations that females have developed to counter male aggression, exert agency over not just reproductive but also social and political matters, while expressing and pursuing individual preferences (Hrdy, 1981 and 1999).

Far from confirming a biological essentialism, the message from the study of gender in primates is just how flexible

gender roles can be, particularly when they interact with other complex systems like social living, environmental pressures, and economic and legal systems.

One of Hrdy's most forceful chapters in *Mother Nature* is her uncompromising look at the evolutionary logic of infanticide. From a simplistic evolutionary perspective, one should never kill one's own offspring (and mothers in particular should never do so). But as Hrdy points out, no animal ever makes reproductive decisions in isolation. If one's child threatens one's own survival or if investing in this particular child threatens future reproduction, many parents—often mothers, given how these things go in evolutionary history—may make seemingly irrational choices that are actually painfully rational given the evolutionary logic at play. Hrdy's analysis of maternal abandonment and infanticide in the historical record suggests that far from being outside the norm, abandonment and infanticide are common strategies for human mothers facing economic or resource scarcity. Crucially, Hrdy notes that (nearly) unconditional maternal devotion is, in fact, found in most other primates. At the very least, infanticide or abandonment by mothers is very rare in other primate species. Conditional maternal commitment seems to be unique to humans. She traces this shift to the greater fat stores allowed by agriculture that decreased birth spacing.

For the first time in evolutionary history, women had to make hard choices—frequently—about whether to keep a child or not and how to allocate the scarce maternal resources of time, energy, lactation, food and shelter, among large numbers of offspring. This shift alone—from unconditional love to conditional love that is itself conditioned on social, environmental, and economic conditions—demonstrates that human gender roles are in fact quite flexible, that gender as both a set of norms and expressions is heavily influenced by external forces, and that we have probably not reached the end of gendered variation either in terms of how humans choose to play out gender as a “performance” (to use Judith Butler's phrase) but also how human communities react to and accept (or not) different kinds of gendered variation.

Sometimes the tradeoffs are explicit, as Hrdy notes (1999, 351) about the proliferation of wet nurses in the 19th century—a practice that greatly increased rates of infant mortality. She notes the interaction between emergent orders and their adaptive outcomes explicitly: “women's maternal responses were heavily influenced by an amalgam of old and new rules. Old mammalian decision rules for dealing with tradeoffs between subsistence and reproduction were reinforced by a conscious pragmatism on the part of mothers. For example, if she continued to care for a particular infant, would she lose her job? If she lost her job, how would her family survive?”

Not only are these decisions a complex interactive web of instinct, adaptation, and conscious choice, but they also change over the course of individual life-spans. As just one example, Hrdy notes that infanticide among mothers is much more common among young mothers than among older mothers. Two forces are at play: relative inexperience plays some role, but the other contributing factor, Hrdy posits, is that the shorter time horizon of remaining reproductive potential in older mothers makes the tradeoffs of infanticide less positive. A younger female might jettison a disabled infant that an older mother might choose to nurture. This is not a particularly attractive and certainly not a normative view of maternal love, Hrdy argues, but it is an objective one and one well supported by the empirical research on how human mothers across the globe weigh their reproductive choices in a complex and gendered world.

Hrdy's evolutionary logic is very much an economic logic, dictated by tradeoffs, opportunity costs, and affected profoundly by exogenous variables like social status and property rights. As such, she explodes the myth of the non-strategic and unconditionally loving female just as she and earlier feminists and social scientists exploded the myth of the passive and chaste female awaiting male sexual, political, and economic action (starting with Antoinette Brown Blackwell's “polite critique” of Darwin, which Hrdy quotes at length) (1999, p. 12). Females, like males, adapt to their environments, and their environments are made up of an infinitely complex social and economic landscape that creates a variety of tradeoffs in terms of survival, reproduction, social status, and belonging. Males too face a different set of tradeoffs and their choices are as difficult as those faced by females. It is no secret in the biological or sociological literature that inhabiting a male body in most species resigns you to a shorter lifespan and a greatly increased likelihood of violent death (Möller-Leimkühler 2003)).

In humans in particular, the situation is complicated because the emergent order founded on evolutionary logic butts inexorably against the emergent order of economic and social institutions, as well as the imposed orders that human political behavior create. Gender in humans is, therefore, many things. It is an adaptation (Hrdy), a signal (Malamet and Novak and Goodman), a coordination mechanism, a performance (Butler and Kuznicki), an evolving collection of moral and social norms (Snow), a set of normative and legal expectations (Skwire and Lemke), and a discovery process deeply linked to individual identity (Novak and Malamet; Kuznicki and Pakaluk).

GENDERED CHOICES IN A MODERN WORLD

In my own work, I've explored the way families and reproductive choices impact the broader emergent order (Hall 2014) as well as how women's decisions about maternity care and birth are impacted by the economic and regulatory environment. Women's preferences about birth, for example, are often swamped by exogenous and often extraneous factors such as liability fear, cronyist protectionist regulations, and a medicalized medical culture (Hall 2019).

Whether discussing family life or women's reproductive choices, the broader dialogue is often characterized by a false binary, fueled by ideology, where one's commitments to a particular outcome color the way we think about gendered phenomena. These ideological binaries create policy binaries such as "pro-life" or "pro-choice" or "feminist" or "TERF" that ignore the complex and emergent reality of how gender and gendered choices and constraints exist alongside and interact with other social and political orders.

What is more interesting than partisan fights—and what this volume hopes to contribute to—is investigating the actual ways in which gender as a spontaneous order of its own interacts with, influences, and is influenced in turn by emergent and imposed orders of all kinds. Feminists, gender theorists, and non-feminist theorists have long described this process. Susan B. Anthony, for example, bemoaned the emergent effects of industrialization on traditional women's work, hollowing out women's economic importance in the home and leaving women forced to find work in the unstable and often dangerous world of the factory or, if they were lucky enough, to take refuge in a hollow ornamental role devoid of intellectual agency (Freedman 2007, pp. 88-90). Simone de Beauvoir notes that women's identities shift based on "residence, housework, economic condition, and social standing" as well as class and race (ibid, p. 257), though she speaks somewhat more positively than Anthony of the economic power women gained from industrialization (ibid., p. 259).

More radically, lesbian feminists like Monique Wittig discuss the radical revolution of institutions themselves as the only way to escape male domination (ibid, p. 363). On Wittig's view, the "categories 'man' and 'woman,' [...]are political categories and not natural givens" (ibid, p. 363). She makes the relationship between feminism and other emergent and imposed orders explicit: "For what makes a woman is a specific social relation to a man, a relation that we have previously called servitude, a relation which implies personal and physical obligation as well as economic obligation" (ibid, p. 366). For Wittig, the only way to untangle the various orders is by a radical escape or exit from heterosexual reproduction and the social, economic, and political orders that emerge (and are in turn imposed) on it.

One way of thinking about the evolution of feminist thought broadly is that first wave feminists like Anthony focused on the imposed orders of legal and political inequality, including suffrage, and emphasized "voice" as a way of instituting social and political change. Second wave feminists saw that even once the imposed barriers fell, complex emergent orders like language, social norms, and economic roles remained firmly in place. While many second wave feminists continued to advocate using voice as a way to institute change through the democratic process, radical feminists like Wittig saw exit as the only way to thoroughly disentangle women from the web of emergent orders that heterosexual reproduction—and the persistent evolutionary logic it carries with it—creates. These new created orders, sometimes socialist feminist utopias, other times capitalist meritocracies like those found in Ayn Rand, have had limited success in the real world, for reasons that will become clear.

While exit becomes the explicit option for radical feminists struggling against the power of emergent and imposed gender orders in the 20th century, the idea itself is probably as old as civilization. The utopian hope of a liberated matriarchy that escapes masculine-controlled emergent and imposed orders goes back to Greek myths about the Amazons and is reanimated by authors like Charlotte Perkins Gilman in *Herland* (1915). As Hrdy notes in her evolutionary-historical analysis, these radical matriarchal myths are just that—myths—in part because of the evolutionary incentives for male control over female reproduction, incentives that women themselves both resisted and adapted to, often simultaneously (1999, p. 14). But it is interesting that women—for thousands of years—have played with the idea of exit as one way to build a new set of emergent and imposed orders based on very different gender roles.

Part of why feminism itself is so diverse and why so many women fail to identify as feminists in the first place is that gender is many things at the same time that is also a process. It is a process both across a single human lifespan, a process across cultural and social spaces, and a process across generations and evolutionary time. How gender manifests in hunter gatherer populations is understandably quite different from how it manifests in modern 21st century industrialized societies, but there are nevertheless through-lines and patterns that we recognize even across all this time and space.

Moreover, while feminists often focus on the effects of social, economic, and political orders on women's lived experiences, gender has profound political and economic import, even outside of the nagging questions about individual identity that characterize the culture wars today. Demographers, for example, note the way reproductive strategies have shifted over the years, toward a reduction in birth rate, with in some cases serious political, economic and security consequences (Hudson and den Boer 2004). Sociologists note the way gender interacts with criminal behavior and evolutionary theorists note how institutional structures can ramp up or tone down gendered competition among males (for example). Economists like Steve Horwitz (Horwitz 2015) have noted the way markets influence family formation and how family life in turn influences markets via education and norm-creation. Finally, critical legal thinkers like Crenshaw note the way multiple emergent orders overlap to create intersectional patterns of vulnerability and harm, as when rape laws protect white women and make both black men and women more vulnerable to violence at the same time (Crenshaw 1989).

While conversations in all these arenas continue about the proper normative relationship of sex and gender to the broader political and social orders, what cannot be disputed is that sex and gender have profound impacts on other social emergent orders and are themselves impacted by economic, social, political and legal change. In this sense, the study of gender has much more in common with the study of emergent orders and complex systems than it does with the study of a single social or political phenomenon. And yet, for the most part, very few scholars interested in emergent orders have looked deeply at the study of gender and very few gender studies scholars study the science and theory of emergent orders. This seems to me to be a serious mistake, but one we hope to begin to rectify with this special issue.

GENDER AND EMERGENT ORDERS

While there is far too much complexity for any special issue to do real justice to this topic, what I hope we do here is provide a starting point for analysis and directions for future research. I also hope that this collection of essays sparks interest among scholars who may not have thought about gender as a particularly fruitful topic of study in the emergent order tradition, encouraging them to see the many ways in which gender relates to standard concerns in the emergent order tradition, including law, property, social norms, discovery, coordination, and entrepreneurship.

Ultimately, many of the same mechanisms of selection, replication, and adaptation are in play in all adaptive emergent orders, meaning that we will find similar internal logic across evolutionary economic, political, legal, and social orders. But of course humans love to complicate things, and the overlapping nature of these emergent orders—combined with imposed and created orders at every level that add in their

own decision and adaptation rules—mean that we are often faced with a system too “wicked” to predict or control, though we may be able to begin to analyze and understand.

All of the papers in this issue involve explorations of the adaptive logic of emergent orders. Gendered individuals adapt to their environments and their environments are made up of an infinitely complex social and economic landscape that creates a variety of tradeoffs in terms of survival, reproduction, social status, and belonging.

To start, Akiva Malamet and Mikayla Novak’s article “Gender as a Discovery Process” demonstrates the overlooked power of markets to facilitate “gender entrepreneurship,” by which markets facilitate gender discovery both at the individual level but also at the societal level, as gender entrepreneurs work to identify gendered needs and provide products and services that fulfill those needs. Whether markets allow easier signaling among vulnerable communities like the “cloning” style of gay men or safe spaces for gender variation or health products for an array of gender presentations, the authors argue markets are a crucial liberatory force in part via the process of gender discovery.

Goodman’s paper pairs well with Malamet and Novak’s discussion, looking not only at markets as a discovery process, but also at the interaction between self-interested market profit motives and broader social benefits. Goodman argues that two gendered social movements—the LGBTQ movement and the #metoo movement—were facilitated and empowered by market actors who had no personal stake in the liberation fight, but whose entrepreneurial profit-seeking activities provided positive externalities for gender minorities and women seeking to expose and hold accountable legal and extralegal abuses.

In the second part of the issue, we move to concrete examples from historical and specific locations to see how these adaptive mechanisms work in practice. Skwire and Lemke’s paper deftly describes the conflicts that occur when the rules of an older social order butt up against the new. Using literature as a powerful economic tool for analysis, they point not only to the importance of property rights for women, an emergent right with deep social, economic, and evolutionary implications, but also to the confusion and conflict that occurs when disparate systems of expectations collide. In their analysis of the novel *The Shuttle*, Skwire and Lemke highlight the power of globalization for undermining and changing expectations about women’s roles and their interaction with the economic order in particular. In their discussion of the *Eustace Diamonds*, Skwire and Lemke point to how legal access and legal standing was dependent on a complex interplay of gender and social status. They note that “[c]omplex legal practices that establish different rights for different combinations of identity” create confusion, chaos, and conflict, undermining the liberal ideal of rule of law. Both novels emphasize women’s artificially created economic precarity and dependence on men, which leave them and their children without legal or political recourse in the event of spousal death, abuse or abandonment.

Of course, this interplay of emergent orders does not affect only women. There is growing interest in understanding the way men and masculinity broadly interact with various other emergent orders. And of course it is not just biological sex that interacts in this way. Sexual orientation and gender identity now interact with the biological realities of reproduction at the same time as they interact with rapidly changing economic, social, and political orders, leading to an explosion in variation and conversations and institutional approaches to thinking about gender. Snow’s piece is helpful here, analyzing the way a small all-male liberal arts college has used its very vague “gentleman’s rule” as a guiding principle for action and accountability. Snow uses Adam Smith’s conception of sympathy and the impartial spectator as a lens by which to understand the way a simple and extremely tacit rule can nevertheless create mutual understandings and expectations that male students use to hold themselves and each other accountable. Snow’s discussion of the tension between the “gentleman’s rule” and concerns about “toxic masculinity” on an all-male campus suggests that, at least in this informal and highly intimate environment, internal constraints on behavior and the accountability of intimate associates may be more effective than imposed orders like the complicated student conduct bureaucracies found at other institutions.

The two pieces that close out our special issue focus on the highly idiosyncratic and subjective ways that individuals interpret, discover, and interact with their own gender identities. Catherine Pakaluk’s ar-

ticle stems from her qualitative research on women with upper-tail reproduction, or those with five or more children. Pakaluk's article provides important insight into an often caricatured segment of the population, sometimes seen by feminists as mere tools of the patriarchy. Pakaluk's subjects explode this myth of these women as passive reproductive subjects, with the women in her sample interpreting their reproductive choices as part of a dynamic and emergent order that plays out as part of their relationship with their own identity and, often, with God. Reproduction is in this sense a kind of covenant for these women—a dynamic relationship between themselves, God, and their partner and children—that changes and adapts over time to create a unique identity. A particularly interesting part of Pakaluk's argument relates back to Malamet and Novak's work. In Pakaluk's piece, women with many children describe how this process of childbearing and rearing and leaving reproductive choices to a kind of tacit decision-making process guided by prayer and an openness to bringing new life into the world in turn shaped and forged their own identities. In this sense, reproduction itself is a kind of identity discovery process, where men and women alike discover new facets of their gendered and non-gendered selves and how the two interact.

The issue closes with Jason Kuznicki's piece, which asks us to think more seriously about the future of gender and the interaction between gender identity and new technologies, in part to interrogate what gender itself is in the first place. Kuznicki rejects gender essentialism, arguing instead that what we think of as gender is in fact a contingent cluster of different ideas and understandings. There exists no single gender essence, and as such, we must learn to be much more comfortable with gender flexibility and gender change, since it's inevitable given how humans create and re-create meaning via gendered performances, identities and characteristics.

While Pakaluk's and Kuznicki's pieces seem—at first glance—quite different, both deal with the way in which identity itself is an emergent order of a particular kind, one that interacts with other emergent orders like gender, social norms, religious beliefs, and new technological developments. Identity too, as both pieces suggest, changes across the life cycle itself. How people think of themselves as gendered agents differs across the human life cycle and this itself is conditioned on social, cultural, economic, and technological changes. Both Kuznicki and Pakaluk's articles indicate that the interaction between gendered identities and the other emergent orders at play participate in a constant and complex feedback loop. The decisions we make in our private lives about the kind of gender identity we practice and the reproductive decisions we make impact the broader society. Not only in terms of birthrates, but also in the kinds of human beings that emerge from the constant and interactive and iterative process by which people adjust their own expectations and behaviors to the expectations and behaviors of others.

Technology has both sped up and complicated these processes, with the growing ability of gender minorities (whether women with upper-tail reproductive patterns in Pakaluk's case or whether gender minorities and entrepreneurs in Kuznicki's case) to connect with each other, share their experiences, and create a digital community that affirms their gendered experiences. Technology has also, as Kuznicki points out, changed the relationship between biology and gender, allowing people to have more or fewer children than would have previously been possible, allowing people to change their bodies to better fit their own vision of their gendered selves, and eventually perhaps, as Kuznicki notes, eradicate the concept of gender as anything other than a collection of traits one can pick or choose that can be as permanent or as transitory as one might desire.

In this sense, humans may be able to eventually undermine the evolutionary logic of resource-intensive female pregnancy via surrogacy, uterine implants, or eventually artificial uteruses, in a similar way that formula undermined the resource-intensive logic of female lactation. If widespread, these innovations would shift the logic of male and female interactions in profound ways, creating new and unpredictable orders that we can only begin to guess at.

The impacts of the emergent order of innovation on gender link back to Goodman's and Novak/Malamet's papers, as the process of market dynamism constantly creates and destroys and creates again safe places for people to play with gender identity, to find people who share the same values and preferences, and to advocate for liberation to pursue their gender identities. Market innovation allows us to take

seriously the concept of gendered identity as a discovery process, one by which people's concrete and theoretical commitments and preferences interact with the broader emergent orders in which we all participate. As all these pieces demonstrate, this dynamism affects not only gender identity, but reproductive choices (Pakaluk), gender expression (Malamet and Novak and Kuznicki), gendered understandings of moral and social behavior (Snow) and the gendered implications of law and property rights (Skwire and Lemke).

In all these pieces, gender interacts with overlapping environments in rich and unpredictable ways. It is both an emergent order of its own but also the product of emergent orders and a reaction to imposed orders. Gender is part of the process by which individuals and communities adapt themselves to geographical, social, political, and legal environments. Gender is part of how people demonstrate their identity and place within a specific community but also a way in which individuals express their own unique understanding and identity as gendered individuals. It also, of course, has biological roots, but as Hrdy's work and Kuznicki's article in this issue demonstrate, that biology is itself part of a dynamic and shifting emergent order characterized by eons of mutation, adaptation, individual choice, and new technologies.

A through-line in all these pieces is the way gender interacts with individual agency, operating sometimes as a constraint and other times as a preference and other times as a form of liberation. Sometimes that individual agency eschews the norm and other times it finds a home in traditionally gendered activities. But in all cases, gender is complex, emergent, and unpredictable while still being clearly patterned.

CONCLUSION

It is these many complexities and seeming paradoxes that make gender such a fruitful area of study for philosophers, social scientists, biologists, and others. Part of my goal with this special issue is to move the discourse around gender out of the non-productive often-ideological binary between essentialism and social construct and into the much muddier world of emergent orders and complex systems. Each of the papers chosen for this volume does this in original and different ways. They all, importantly, eschew the easy ideological alignments that we often find in discussions of gender (for example, the common insistence on feminism as anti-capitalist). Instead, each of these papers takes a nuanced approach to understanding how gender interacts with, influences, and is influenced in turn by the range of overlapping emergent orders that make up human society, from language and markets to social norms and law.

Moreover, as multiple papers brought forth, emergent and imposed orders interact with each other. People seeking to flee oppressive imposed orders based on gender may in turn generate their own emergent order in the form of social movements or activist markets. Or, as Skwire and Lemke and Snow's papers indicate, emergent orders can be codified by and even enforced by intervention from top-down formal enforcement mechanisms.

Overall, this special issue is much more of an invitation to explore than an answer to any particular question. I asked each author to end their paper with additional questions, avenues for exploration, and directions for future research in the hopes that this issue can serve not only as a contribution to our existing set of questions but also as a producer of future questions and as a resource for scholars and anyone else who is interested in thinking about and researching the complex ways gender and other emergent orders interact.

One theme I find the most interesting and personally resonant in all these papers is the iterative interaction between our deeply personal interactions living in gendered bodies and the broader orders—both emergent and imposed—that constrain, liberate, and confound us. That perpetual dynamic opens up a range of possibilities for thinking more about what individual agency means in a gendered world and where we might go from here.¹

NOTES

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Gender as a Discovery Process: Social Construction, Markets, and Gender

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Abstract: We argue that gender is a dynamic and fluid social category. Gender is widely understood to structure human relations, shape norms, and afford status to individuals and groups. However, gender cannot be construed as a predetermined or fixed phenomenon and/or as structured simply by biological imperative. Understanding gender requires an appreciation of discovery processes of expression, experimentation, and evolution, interwoven in culture, politics, and the economy. Because gender as a discovery process is dynamically produced through decentralized human interactions, we analyze gender as a species of spontaneous order, as described in the Smithian-Mengerian tradition of liberal political economy. We illustrate how gender discovery takes place by detailing the complex and emergent patterns of gender performance across a wide variety of social settings, especially market interactions. This paper shows how markets facilitate gender discoveries through the symbolic use of products, medical and other health innovations, and the use of commercial sites to facilitate shared gender meanings and understandings. Although the centrality of gender roles to human culture through place and time is appreciated, we believe that gender as a discovery process carries normative weight. Respect for pluralism and liberal individualism implies tolerance of gender diversity and experimentation with gender fluidity. Overall, we propose that liberalism (properly construed) offers the most robust framework both for understanding gender and for morally upholding the value of gender expression and identity.

Keywords: discovery, emergence, entrepreneurship, gender, markets, social construction, spontaneous order

I. INTRODUCTION

The effects and implications of market activities on gender have generated a heated debate amongst scholars. Feminists generally conceive markets as a site for oppressing the physical and psychological autonomy of women, as suggested in their moralized critiques of female involvement in areas such as pornography and prostitution (Pateman 1988; McVey et al. 2021). There has also been growing interest in the intersectional dimensions of market participation. Controversies result from markets reinforcing both gendered and racialized practices, such as marketing of skin lightening creams by cosmetics retailers in East Asia, Africa, and elsewhere (Peiss 1998; Hunter 2011). Broader objections toward markets in fostering changes to traditional

gender practices, such as the division of household labor between men and women, have been raised by a range of theorists (Weiss and Friedman 1995; Howard 2008). We agree with the critics that markets, and attendant economic activities, can influence gendered perceptions and performances. However, we take an approach that is generally favorable to the beneficial role of markets. In doing so, we emphasize our unique contribution to age-old debates that show little sign of abatement.

The contentiousness of markets and gender exemplifies the significance of gender as a socio-cultural phenomenon. Gender is one of the more profound attributes of our personal and social identity and has a pervasive presence in economic, political, and social organization and in everyday life. Despite these realities, how gender is manifested and what processes influence and change ideas of gender are not yet completely understood. Interpretations of gender expression and identity are often subsumed within the age-old “nature versus nurture” debate. Variations in arguments favoring nature or nurture are fundamentally grounded in whether gender and sexuality are the product of natural (i.e., biological, genetic, or inherited) or nurtured (i.e., acquired, learned, or socialized) influences.

Are gender and sexuality—and their attendant diverse patterns of behavior, conduct, expression, and practice—the result of us having been born, or bred, to be the gendered and sexualized beings that we are? The dichotomous nature-nurture debates not only assume popular connotations but are deeply ingrained in philosophical and other academic discussions about identity, recognition, and rights.

In recent decades, arguments have arisen through disciplines such as sociology and philosophy that gender is a *social construction*, transcending learned or nurturing factors in family and other small-group settings. Gender is a concept afforded meaning and understanding through processes of interaction between people, which assume social significance regarding accepted and recognized activities, roles, practices, and values (West and Zimmerman 1987; Butler 1990; Freud 1994). To a non-trivial extent, social construction serves as a *rejection* of the argumentative trappings of essentialism—the latter being the notion that differences in gender identity are immutable, have a scientific basis, and are observable across cultures irrespective of time or geography.

In saying that constructionist approaches challenge the nature view, we do not mean to imply arbitrariness in social reckonings of gender. Gender norms are influential, as are attributions of the social quality of “normality” attached to how those norms are learned and structured. The social influence and power attributed to gender norms is attested by the way supposed deviations from acting, or being, consistent with norms are subject to punishments, including deviant labeling, social ostracism, and even violence (Becker 1963; Goffman 1963; Adler and Adler 2003; Goode and Ben-Yehuda 2009).

The purpose of our contribution is to illuminate previously underexplored ways in which the social construction perspective reveals gender itself to be an *emergent order*. Drawing upon recent developments in fields as diverse as Austrian economics, cultural economics, and economic sociology (e.g., Lavoie 1991; Storr 2010), we contend that understanding gender requires an appreciation of the discovery processes of expression, experimentation, and evolution, as interwoven in culture, politics, and the economy.

Further, market-oriented economic activities are crucial in facilitating dynamic, and vibrant, choice-oriented environments conducive to the embodiment, expression, and practice of gender and gender diversity. As we illustrate, this can be seen in a variety of activities, such as the symbolic use of products in medical and other health innovations and the use of commercial sites, each of which affirm existing gender identities, and/or create avenues or spaces for new identities to emerge. Underlying these activities are what we call *gender entrepreneurship*, or an alertness (Kirzner [1973] 2013) to using markets to discover and leverage new opportunities to express gender. In seeking to incorporate a nuanced understanding of individual choice *within* a broader framework of social construction, this paper highlights the importance of pro-market economic institutions in facilitating gender as an emergent process of discoveries and learning. This presents a contrasting position on the question of markets and gender relative to much (but not all) social science literature.

The structure of the paper is as follows. Section 2 will outline the key theoretical concepts and principles we see as pertinent to the study of gender as an emergent process. This is followed (in Section 3) by a

discussion of the broad contribution of market exchanges to gender discoveries, centered upon the notion of entrepreneurship and the activation of innovative processes by both producers *and* consumers of goods and services to express gender identity. Section 4 provides a brief set of concluding remarks.

II. GENDER AS AN EMERGENT SOCIAL CONSTRUCT

We argue that gender is not a fixed category, but the result of an emergent, socially constructed process of discovery. Following Malamet (2018), we contend that spontaneous or emergent orders are a species of social construct. Relatedly, many social constructs should be understood as being structured by spontaneous or emergent order (used interchangeably).

By *social construction*, we mean the proposition that social institutions—norms, practices, and common beliefs—are the result of a cultural process of assigning meaning, which provides a sense of epistemic and existential orientation in the world. Social constructs are created through reciprocal interactions between people. Individuals put forward their subjective perspective of the world. Their viewpoint contrasts and/or mirrors those of others in an “intersubjective” meeting of minds (Berger and Luckmann 1967; Schütz 1972). As a result of this process, common behaviors and concepts are created that help to *organize* and *regulate* the structure of society. Constructs are created by shared communal beliefs and practices, and reciprocally shape the adoption of new ones. Over time, many constructs become enduring rituals—practices that both define and bind the nature of communities and the shapes that communities take (Collins 2004).

Some may take the idea of social construction to be identical with the idea of culture, or “nurture”. While there are commonalities, social construction goes beyond the generic idea of cultural influence to investigate the origins and constitutive structure of cultural practices and institutional forms. More critically, as discussed later, social construction is distinct from cultural explanations by emphasizing the impact of personal agency, and by highlighting the ways in which humans are self-aware, meaning-seeking creatures. Constructs can also be produced by disparate power relations in society. People, particularly societal elites, regularly seek to exert control over others. One mechanism of control is by classifying certain groups (especially racial, religious, gender, and sexual minorities or dissenters) as deviant and therefore normatively undesirable and socially harmful (Foucault [1975] 1995).

In this respect, social constructs can result from diverse sources. Constructs can be *emergent*, arising from free egalitarian interactions between individuals. Constructs can also be *imposed*, created through hierarchical relations between people with more power and those with less. These are not binary categories but combine in complex ways, reflecting the entangled and interwoven character of human societies and institutions.¹

In all cases, constructs are human-devised mechanisms for addressing subjective social goals or ends. A construct can exist as an abstract idea, as a rule that people follow (often institutionalized), or a combination of both. Both ideas and rules serve social purposes. In this discussion, we highlight how constructed categories like gender serve as cherished identities rather than as sources of oppression. Crucially, individuals regularly pursue self-determination and personal liberation through their engagement with, and interpretation of, gender ideas and norms.

II.A. GENDER AS A SOCIAL CONSTRUCT

Why might one think of gender as a construct? Many authors across disciplines have argued that sex and gender are distinct categories. While sex is biological, gender is social. For Judith Butler (1990; 1993), gender is a “performative” act (though they also argue that the sex-gender distinction is blurrier than some assume). For Simone de Beauvoir (1973), a woman is something one “becomes” through socialization and personal affirmation. On the most basic level, many of the elements that comprise what it is to be a “man” or a “woman” are socially defined. Wearing makeup or dresses to identify one as a woman or feminine is not a

natural fact, but a choice influenced by cultural imagery and norms. The meaning of “man” or “woman” is heavily defined by specific behavioral or other features.

From a more radical perspective, some claim that both sex *and* gender are socially constructed (Fausto-Sterling 2000; Kuznicki 2023). While we consider this view important and valid, it is not essential to our discussion. We instead merely emphasize the proposition that gender can be substantively decoupled from sex. Further, that what gender is results from a cultural process of assigning meaning to different combinations of body shapes, clothing styles, mannerisms, vocal patterns, and other identifying markers.

In addition, gender is an inherently normative category (Haslanger 2000, 2005; Butler 1990, 1993). What we understand a man or woman to be is influenced by our values about the way such a gender *should* be. Our social practices and treatment of others are always influenced by how we think society should be organized and how people ought to behave (Foucault [1975] 1995). Because to be human involves looking at the world from a specific subjective viewpoint and ascribing value and meaning to our lives and environment, it is impossible to engage with the world around us from a neutral, value-free perspective (Malamet 2018, p. 15; Malamet 2019). To be a particular gender is not only how we look or sound, but how we act (though appearance is also part of this). Thus, “manhood” is regularly associated with characteristics such as strength and assertiveness, while “womanhood” is often seen as more vulnerable and nurturing.

II.B. GENDER AS AN EMERGENT ORDER

Because gender is constituted through norms and ideas, understanding gender requires paying attention to *why* and *how* gender norms and ideas are manifested. Key to our discussion is the idea that gender is created through acts of *experimental discovery* and is a form of (as well as a contributor to) emergent order. The idea of spontaneous order is prominent within what Boettke et al. (2016, p. 4) call “mainline economics” or what we refer to as the Smithian-Mengerian tradition of liberal political economy.

By *emergent order*, we refer to the idea that many human institutions are self-organizing systems, composed out of the myriad choices of many individuals, which together create larger patterns that no one intended. Prominent examples of emergent order include language, money, markets, religion, and many other social norms, practices, and ideas or beliefs. In the words of Adam Ferguson (1782, 3:2), spontaneous order is “the result of human action, but not the execution of human design.” Overall, spontaneous order is characterized by a lack of central direction, and the creation of stable but unpredictable patterns created by individual choice but influenced by social context.

In the case of gender, patterns are created when individuals adhere to, reject, or modify gender conceptions or norms. These choices are copied or responded to by others for their own independent reasons. Variations in gender performance are an organic product of regular social interactions and cultural experiences. The social construction of gender helps to highlight these dynamics. Recall Butler’s argument that gender is performative. For Butler, gender is not a stable category, but something continually renewed through patterns of behavior: “gender is an identity tenuously constituted in time, instituted in an exterior space through a stylized repetition of acts” (Butler 1990, p. 140). Thus, when someone engages in gender performance, they are recreating a way for that gender to exist. This in turn reinforces the existence not only of a particular set of imagery and behavior, but of a way to think about and see gender more generally.

The emergent features of gender mirror and intersect with other forms of spontaneous order, such as language. Language is composed out of the many different decisions of separate individuals which repeat and form patterns of common usage and expression (McWhorter 2017; Hayek 1945, p. 528). The words chosen and the structures that are used by individuals cumulatively influence the linguistic universe that all speakers of a language inhabit. Like language, gender has no overall goal or purpose to which it is dedicated. Rather, different people perform gender in their own unique way (often unconsciously), which contributes to a variety of patterns of gender expression. Together these patterns compose the threads of how gender is understood and plays out in society.

There is also a direct intersection between linguistic and gender-based spontaneous order in emerging norms around pronouns. The use of different pronouns and nomenclature to describe and discuss people has been highly significant for how gender is practiced, ranging from the inclusion of non-gendered terms such as “they/them” alongside “he/him” and “she/her” in English, as well as the growing (though still limited) employment of “neo-pronouns” such as “xe/xem/xyr,” “ze/zem/zir,” and “ey/em/eir.” Changes in what kind of pronouns are included in discourse and the willingness to employ them in expansive ways, has been a crucial part of gender performance and identification for transgender, gender-fluid and gender-nonconforming individuals. Like gender, language is also a social construct, which is created by, and existentially contingent on, the beliefs and decisions of human communities. New uses of pronouns not only reflect the deep relationship between the spontaneous orders of gender and language, but also the ways in which linguistic practices can be understood as “speech acts,” which create and establish things in the world as well as communicate information.

What does it mean to say that gender is a *discovery process*? The idea of discovery has differing but important and related meanings and implications. In Smithian-Mengerian political economy, discovery has been used largely within the context of markets. Theorists such as Israel Kirzner argue that entrepreneurs experiment with products and business models to discover what consumers want through a process of trial and error. Entrepreneurial discovery serves a key coordinating function within markets as a way of matching the complex, dynamic, and subjective preferences of consumers with the myriad and differing offerings of producers. Discovery provides information to actors in the market about what people value, and the relative degree to which their desires are being met. Gender can function as a discovery process in this narrower economic sense—the identification of fulfilment of wants. Thus, entrepreneurs seek to fulfil gendered preferences.

While our focus is on how markets facilitate gender discoveries, we recognize this also entails a broader set of social dynamics and implications. Discovering gender can entail finding points of coordination between actors, helping to create shared expectations and, therefore, stable rules that facilitate cooperation, as discussed in the economics and political science literature on institutions. How people enact gender helps to establish other social roles, and gender can be an important regulating mechanism for social interactions. Gender discovery in this sense entails experimenting with how gender is thought about or practiced as a form of relational management. Gender is intertwined with many other emergent ideas and systems that govern what Malamet (2018, pp. 19-20) calls the “social commons” or the larger shared social ecosystem we all inhabit.

Gender discovery also entails new ways of understanding and performing identity. The spontaneous order of gender is part of a larger process of personal self-definition. Who or what people understand themselves to be helps to form what their goals are, and how they wish to live their lives. Gender experimenters promote or critique currently existing practices and stimulate other people to engage and evaluate their understanding of gender identity, both personally and as a social practice. In doing so, experimenters engage in a unique kind of social entrepreneurship, including through interactions in market spaces, as discussed below.

II.C. CHOICE WITHIN CONSTRAINTS

Commentators sometimes mistake social constructs as “totalizing” forces which control the way that people look at their world and act towards one another without allowing for significant conscious agency. This misperception is partly due to the influence of power-based theories (such as those of Michel Foucault or critical theory) as the lenses through which social constructs are often identified. For Frankfurt School critical theory, constructs are a means by which the capitalist class (however defined) impose a cultural narrative into which people are socialized, to prevent the possibility of insurrection and rebellion against them (Jay 1996). For Foucault, critical theorists, and others who view constructs as establishing a power relation,

the function of social narratives (and commonly shared language) is to exert control over the scope of what people understand or imagine their social world to be.

Power relations theorists see constructs as an important means of establishing supremacy over others. People are not only coerced through physical force, but also by influencing and directing how they choose to behave, what kinds of thoughts they can have, and how they relate to their society. On this view, prominent social narratives (or “ideologies”) are understood as a form of “false consciousness,” an intellectual and cultural framework by which people are mentally blocked from identifying the sources of their oppression, whether economic or cultural, and pushed towards justifying the dominant power structure (Rosen 1996).

An arguably less totalizing perspective that also emphasizes limits to individual agency can be found in the literature on institutions from disciplines such as economics and rational-choice oriented political science. These disciplines focus on the ways in which social rules (both formal and informal) constrain and limit what people can do (North 1990). When social practices become institutionalized as norms or rules, they constrain and shape behavior by disseminating shared expectations, if not meanings and understandings, among the people adhering to them and imposing higher costs on certain courses of action compared with others. What individuals can do is limited by the behavior and expectations of others.

As rules are institutionalized, the power they hold over individuals increases, which makes them more enduring (Collins 2004). Institutional endurance is also produced by a particular arrangement’s economic, social, and cultural efficacy in achieving a particular goal or set of objectives. The perception of institutions as totalizing or controlling is influenced by the level of group adherence and retention (Hayek 1988). Gender is often encapsulated and embodied through institutional arrangements, whether expressed informally through customs and traditions, or formally codified in law.

Building on Malamet (2018), we contend that constructs are the product of choice while at the same time constraining agent behavior. Because constructs are a product of the human mind, individual actors’ engagement with a construct is *dialectical*. Individuals are socially situated and embedded within networks and cultural contexts which affect their beliefs and behaviors. As Charles Mills (1998) notes, other people choose my race or ethnicity by putting me into a certain category or insisting upon my racialized status. Thus, race is a social fact that is independent of my personal belief or assent.

At the same time, people respond to and often engage critically with their cultural and social environment, affecting the shape of ideas and practices around them. While my racial or ethnic status might exist independently of how I think or feel about it, my relationship to it can vary widely, including embrace, rejection, and renegotiation. As I relate to and make choices about my existence as a Black or Jewish person, this impacts what it is to be Black or Jewish in society, and therefore how that category or community is culturally constituted.

More radically, if I reject my assigned identity entirely, then any new identity I assume functions in part as a *response* to how I have been historically perceived. Those who engage in gender transition not only seek a new persona to inhabit and with which to engage others, but also wish to reject their gender assigned at birth. In doing so, transgender and gender fluid people want both to have their membership in a new category affirmed and their previous membership rejected or erased.

In this respect, society may place people in certain social categories and treat them accordingly, but members of a category help define who and what they are, and the social meanings attached to them as group members. The relative flexibility or rigidity of a construct is contingent on what the human mind will allow, and on what multiple minds can agree to or converge upon. The stronger and more unanimous the convergence, the more widespread and robust a construct will be. Thus, the ability of a transgender, gender fluid, or gender-nonconforming person to have their identity affirmed is contingent on the shared agreement of others that gender identity is not immutable but chosen and should be respected. This vision of gender dovetails with notions of “ecological” rationality viewing practical reason as the congealment of shared understandings between people that serve as cognitive shortcuts for perception and decision-making (Gigerenzer and Todd 2012).

Spontaneous orders of gender performance interact with and compete with one another for space in culture. Indeed, the existence of competing conceptions of gender and how it should be performed (and thus, in what way it can be said to exist) is what fuels contemporary “culture wars” and social conflict over gender (Malamet 2018). Here markets play a critical role. They provide avenues for people to experiment with their gender identities by providing ways to change one’s body, mannerisms and other aspects, and communities and spaces within which diverse gender performances can be understood and accepted. They also allow for a more pluralistic and open conversation about gender to occur by disrupting traditional ways of being and modes of discourse.

III. MARKETS AND GENDER DISCOVERIES: PRINCIPLES AND CASES

As indicated in the previous section, one of the advances of contemporary social thought is the proposition that gender is an emergent, socially constructed concept. Ideas and perceptions surrounding gender are constructed through social interactions by diverse individuals who communicate over the meanings attributed to certain behaviors, expressions, images, performances, representations, and senses denoting masculinity, femininity, or some other aspect attributed to gender.

Gender is commonly perceived as a structural phenomenon. But discussions regarding the structure of gender do not fully exhaust the possibilities for the potential range of gender identities and expressions. It has long been remarked by social theorists that understandings of gender as a structured phenomenon do not nullify the potential for individuals to exercise creative agency to alter their sense of gender identity, if not to challenge conventional gender boundaries altogether. This potential for agency is empirically instantiated in a variety of ways, and are, crucially, initiated by gender outlaws, dissidents, and entrepreneurs acting individually or in groups such as social movements (Goodman 2023).

Although our account primarily focuses upon the influence of *market processes* in supporting the social construction of gender, we recognize that gender entrepreneurs can occur in non-market settings as well. For example, political entrepreneurship by feminists has been seen as having the spill-over effect of culturally and psychologically freeing up gender concepts and modes of expression, such as greater acceptance of women participating in public spaces (Bolt 1993). Such effects can serve as an impetus for other forms of change, whether political, cultural, or economic.

III.A. CONTRIBUTION OF ENTREPRENEURSHIP TO THE SOCIAL CONSTRUCTION OF GENDER

The social construction of gender is winnowed through an array of social institutions, organizations, and arenas. One of our central propositions is that markets are arenas where social constructs such as gender are actively formulated and nurtured by dynamic interaction. While it is true that certain market activities may contribute to the affirmation of conventional gender identities, this need not always be the case. Actors use markets and the outputs that derive from market processes to ascribe meanings to gender that are often novel, and which challenge and seek to renegotiate established conceptions.

The perspectives outlined here should not be altogether surprising, given that markets are *themselves* socially constructed processes, allowing for a multifaceted interplay of values held by a wide variety of agents (Storr 2010; Novak 2018). Gender boundaries may be seen as fluid by some people and not by others, and structure or agency (or some combination) may predominate gender meanings and understandings. However, the main point is that people participate in and use the outputs produced by markets to act upon and validate their gendered beliefs, however they may be expressed.

Here, we introduce the concept of *gender entrepreneurship* as a crucial process through which individuals explore opportunities to discover new means of expressing gender.² Gender entrepreneurship suggests that individuals have the capacity to sense and potentially partake in efforts to grasp at, new (and previously inactive) opportunities to affirm, disaffirm, or vary gender constructs. An underlying presumption is that

gender entrepreneurship is carried out in a quest to seek personal gain and fulfilment, with the subjectively perceived costs of acting not exceeding the subjectively perceived benefits.

Arguably, the most interesting category of gender entrepreneurship are those acts aimed at challenging the “naturalizing” ideology of gender exclusively entailing binarization and fixity. It is here that gender variation fits within the generic idea of entrepreneurship as an act of “dissensus” against prevailing norms (Boettke and Coyne 2008). Whereas gender variation may be fraught with certain risks, this branch of gender entrepreneurship resonates with a broader appreciation of the significance of “becoming” as an elemental feature of identity (de Beauvoir 1973; Buchanan [1979] 1999; Callard 2019), and, similarly, the existential struggle to achieve personal authenticity through gender presentation. Irrespective of whether gender entrepreneurship is motivated by a desire for variation or affirmation, these activities contribute toward an emergent order of multiple and complex gendered meanings and understandings that are articulated and expressed in a societal milieu.

It is critical to appreciate that all individuals are capable of interacting in markets in ways that produce gender discoveries. Consistent with Koppl’s (2006) appreciation of entrepreneurship as a universal trait of humanity and extending von Hippel’s (2005) idea of “user innovation” to the social construction of gender, we see prospects for both producers and consumers in using various resources to support their preferred vision of gender. These resources exist at every stage of product life cycles, from raw materials and other inputs contributing to initial production processes through to final consumer goods. To broaden the potential constituency of gender entrepreneurship, we apply Kate Bornstein’s (1994) proposition that anyone is implicated in gender entrepreneurship to the extent that they are dissatisfied with any aspect of their gender identity and representation, and consequently undertake efforts (however great or small) to affirm or vary their gender.

Thus far, gender entrepreneurship has been represented as acts performed by individuals. However, we need not apply a strict interpretation of methodological individualism that sterilizes collective involvements. A fundamental contribution of social construction is that concepts imbuing social meaning, such as gender, emerge because of social interaction and exchange, with conjectures and refutations of gender identity, expression, and representation continuously at play and constantly negotiable.

Researchers have observed how patterns that we would describe as gender entrepreneurship are embodied in collective actions undertaken by identity-based social movements, civil groups, and numerous other collective forms of association and participation (Tebble 2016; Novak 2021). As already recognized by Storr (2008), we emphasize that markets are social spaces wherein people perform gender affirmations and variations that are observable by others and either emulated or opposed by them.

As mentioned, abundances generated by the market help affirm socially recognized notions of gender in novel ways, or otherwise seek variation to existing meanings and understandings. Arguably, efforts to *adapt* market-generated outputs and resources provide new interpretations of gender that would be most evident to our societal peers. However, efforts at gender affirmation often entail either the use of new products and technologies that are originated and diffused through the market, or the use of existing outputs in novel ways.

All these activities are gender entrepreneurship. But *how do* market activities support individual tendencies towards gender entrepreneurship and discovery? In what follows, we identify three potentially interrelating mechanisms through which gender discoveries take place, brief descriptions to which we shall now turn.

III.B. CONSUMPTION GOODS AND GENDER SIGNIFICATIONS

The first mechanism of entrepreneurship involves the use of *consumption goods*. Individuals use a range of consumption goods to symbolically attach or to signify gender attributes and markers to those in their social circle as well as to the public. A good example of these are the products accessible on the market—such as clothing, cosmetics, fragrances, grooming products, and so on—that adorn or decorate human bodies,

and which may be used by gender entrepreneurs to present affirmatory or variegated forms of gender identity and expression. Market-produced outputs used to signify gender need not be limited to those worn on the body, with a panoply of additional goods (e.g., food and beverages, literature, etc.) potentially amenable for use by individuals and groups to help constitute identity and status, and publicly signal specific kinds of commitments and values (Dolfsma 2004; Dalla Chiesa and Dekker 2022).

Entertainment such as music is particularly important, as music often generates subcultures and forms of attendant visual and auditory expression reflecting gender performance. Rock stars such as David Bowie and Robert Smith of The Cure, and members of musical subcultures such as punk, glam rock, goth, disco, pop, heavy metal, and others have engaged in significant gender experimentation as key parts of their larger artistic commitments.

Consistent with this, consumer culture theorists have proposed that individuals utilize consumer goods to advance so-called “identity projects,” which include the use of certain products to anchor and buttress preferred gender identities (Larsen and Patterson 2018). The assortment of “symbolic goods” potentially available for affirming or revising gender constructs appear to be relatively open-ended, as individuals and collectives regularly interpret products as signifying some aspect of identity that is detectable by, and relatable, to others (Potts 2011).

Gendered fashion and ascriptions to certain items or styles of clothing and accessories have been heavily susceptible to evolution, reflecting the interaction between the production of new trends and shifting consumption tastes. For example, it is purported that gendered color associations in infant’s clothing shifted from the early twentieth century from pink to blue for boys, and from blue to pink for girls (Paoletti 1987; c.f., Del Giudice 2012). Critical scholars have suggested that economic, cultural, and social changes during the modern era contributed to the standardization of menswear, especially work attire, but, conversely, to a diversification of womenswear to emphasize attractiveness and beauty. Correspondingly, the “[c]onstruction of fashion as a woman’s preoccupation has made men’s interest in fashion and appearance at best ‘suspect’ of effeminacy or, even worse, of homosexuality” (Rinaldo 2007, p. 78).

The use of clothing and cosmetics typically attributed to the opposite sex by certain male performance artists, like Bowie and Smith, are depicted as arguably dramatic examples of transgressive “genderbending” that aroused public attention, if not controversy amongst some quarters. The more recent example of American rapper Lil Nas X has invited public commentaries surrounding the intersection of gender performance, especially acts and expressions of masculine nonconformity, and race (e.g., Montiero 2021; Persaud and Crawley 2022).

Conversely, there are also examples of fashion styles being used by sexual minorities, including gay men, to *reinforce* (or *affirm*) gender stereotypes, as opposed to challenging them. In the East and West coasts of the United States during the 1970s, certain members of the gay community adopted a so-called “clone” look which “appropriated clothing associated with conventional working class male icons—the cowboy (denim jacket and cowboy shirt); the biker (leather jacket and cap); and the lumberjack (jeans and hiking boots)—and urbanized, eroticized, and stylized them, as a way of undermining conventional conceptions of gay men as effeminate” (Vider 2018, p. 348).

The expanding ability of individuals to travel long distances on commercial flights, and to communicate cheaply over long distances, meant that the cloning trend disseminated to other parts of the globe. For instance, the clone look appeared in Sydney’s inner-city gay enclaves from the late 1970s and, like elsewhere, elicited contentious discourses over the meanings of masculinity. Critics argued that hyper-masculine cloning fashions perpetuated sexual stereotypes: “[t]he new masculinity ... despite its shattering of older stereotypes, had also brought a new hierarchy and orthodoxy” (Faro and Wotherspoon 2000, p. 251). Defenders of cloning argued that the aesthetic uniformity of cloning greatly assisted oppressed and vulnerable gay men to identify and bond with one another. From the symbolic consumption perspective, it is notable that Johnston (1999, p. 71) remarks that “[i]f you know what to look for ... you can recognize each other in the street. ... His clothes tell you a hundred meters away. To be a clone is to be as openly homosexual (at least to other gays) as a participant in a gay rights march.”

Broader trends have been identified over recent decades which aim to broaden the acceptable range of masculine portrayal. One notable example was the emergence of an urbane “metrosexual” identity from the mid-1990s, associated with encouraging men to embrace diverse (including, arguably, “effeminate”) clothing styles as well as skin care, cosmetic, and other beautification products (Rinallo 2007; Hall 2015). The metrosexuality trend in fashion and style has been estimated by some researchers to correspond with broader cultural shifts in de-stigmatizing effeminate behavioral traits, such as the open expression of emotions, as well with economic shifts such as labor market precarity as the traditional male “breadwinning” status waned. Increasing acceptance of diverse clothing styles and grooming products for men, viewed as constituent features of metrosexual identity, appears to have contributed to a sizeable consumer segment amenable to advertising and marketing promotions (e.g., Bano and Sharif 2016).

Market-produced private goods are also used by individuals who explicitly define themselves as not affiliating with either end of the binarized male-female gender spectrum. For certain non-binary people, there is a demand for unisex clothing that is deemed to eschew conventional gender symbolisms, or otherwise lacks physical or other reference to gendered cultural labels. This may tie in with broader desires for expressing individuality (Bardey et al. 2020). Unisex clothing may include basic items such as tee shirts and jackets, and other items that register ambivalence from a gendered lens, but it is also possible that some non-binary individuals seek other items, such as skirts and dresses, which may conventionally be attributed to a certain (in this case, female) gender (Thomas 2021). In addition to demands for agender, or gender-neutral, fashion are calls to encourage the provision of gender-neutral toys for infants and children, and to promote gender non-neutrality in respect of such activities as product placements and packaging (e.g., Bainbridge 2018).

III.C HEALTH CARE GOODS AND GENDER IDENTITY

In addition to consumption goods, individuals also rely upon *health care goods* to assist in the realization of gender discoveries. This category includes medical procedures including cosmetic surgeries, and pharmaceutical and therapeutic goods such as medicines and medical devices. Existing health care goods are used by people to affirm or vary various elements of their gender identity, as well as consuming the fruits of surgical and other medical innovations to exercise gender entrepreneurship. The use of health care goods in these gendered forms may be interpreted as a special case of the broader phenomenon of “techno-physio evolution” (Fogel 2004). This refers to technological improvements (such as food safety and nutrition, urban sanitation, etc.) that have generally improved human health and well-being as indicated by gains in height and weight, improvements in physical strength, and a trend decline in mortality rates.

Over the past several decades endocrinological, surgical, and other treatments, as well as prosthetics and other appliances, have been made more available for transgender and gender non-conforming people who wish to engage in transitioning and other bodily affirmations of gender. These treatments and products—which are widely available by for-profit providers and, in the case of gender affirmation surgery, are provided by “medi-tourism” operators in developing countries (e.g., Aizura 2010)—are intended to ensure the functional abilities and physical appearance of the gender they know and understand themselves to be. Gender affirmation surgeries, hormonal therapies, penile packers, breast binders, and other products, are all technologies aimed at empowering individuals to become the gender they wish to be or express. A range of health goods used by transgender people have previously been made available to cisgender people—including hormonal treatments for menopausal women, breast augmentation or mastectomies, or phalloplasty for wounded war veterans.³ Although the quality of empirical studies varies, and there is the need for further research, there appears to be sufficient evidence supporting the intuition that these products, procedures, and treatments have beneficial impacts with respect to quality of life and subjective wellbeing (e.g., Murad et al. 2010; Hess et al. 2018).

A key point regarding the gender discovery potentials of health care goods is that a range of procedures and treatments are actively, and frequently, used by cisgender people to affirm their gender identity. In this

regard, an expansive range of cosmetic surgeries—for example, breast augmentation, hair transplants, penile enlargements, and so on—are performed to help reinforce one’s innate sense of gender, and to accomplish a more effective presentation of their gender identity befitting their societal context. A recent study of Swedish cosmetic genital surgical patients indicates that surgeries to alter the appearance or performance of genitalia is associated with improved self-image and reduced anxieties in terms of intimate activity and broader social comparisons (Hustad et al. 2022). Gender affirming properties of health goods are not limited to invasive surgical procedures, with medicinal products such as Viagra, for example, identified as technologies used to affirm both idealized and corporeal performances of gender by men (Loe 2001; Mamo and Fishman 2001).

We acknowledge that certain critics view health care goods as pathologizing certain kinds of gender expressions, identities, and performances, as well as reinforcing stereotypical dimensions of gender (e.g., Fraser 2003; Spade 2003). Another set of questions have been raised regarding the ethics of bodily modification, including with “transhumanist” potential (Hogle 2005; Kuznicki 2015, 2023). While we cannot address these critics here in full, we emphasize that markets facilitate the provision of goods and services that assist individuals in actively and creatively constructing their own sense of gender, together with contributing to an emergent order of gendered meanings and understandings in the world.

III.D. COMMERCIAL SPACE AND GENDER-ORIENTED INTERACTIONS

The final category of gender entrepreneurship takes place in *commercial spaces* and similar physical sites. Consistent with Foucault’s (1986) concept of “heterotopia,” or alternative locations whereby minorities can clandestinely frequent and congregate in relative sanctuary away from the prying and social disapproval of majorities, a range of commercial spaces (e.g., bars, clubs, meeting venues) provide individuals with the relative freedom to indulge in gender variations. Spaces of this kind have also been referred to as “safe spaces” (Massimino 2015), allowing socially marginalized groups to mingle without having “to negotiate the sometimes perilous social and performative labyrinth that is the ‘heteronormative matrix’” (Tebble 2016, p. 220). Other locations such as single-gender clubs and outlets allow individuals to affirm their gender as well. According to Cowen (2013), the significance of commercial sites is that they present a polycentric, decentralized context within which gender entrepreneurship can take place.

Commercial bars catering to sexual minorities, particularly members of the LGBT community, are important spaces where individuals experiment with gender expression and performance (D’Emilio 1993; Escoffier 1998). Following the initial post-war expansion of bars primarily frequented by gay men in major cities in North America, Europe, and elsewhere, lesbian women increasingly opened, or otherwise gained access, to single-sex commercial venues. These venues enabled lesbians to challenge gender expectations and norms surrounding female presentation and conduct. Jennings (2015) recalls oral histories of women discussing butch-femme dynamics in commercial bars in Sydney, Australia, during the 1960s. One account refers to the presence of butch lesbians with three-piece suits, cufflinks, and ties, together with their femme companions retaining feminine dress and appearance codes. Within the bar setting, at least, there was “a highly nuanced subculture based around butch/femme playing, and new entrants to the community were expected to adopt a butch or femme style and behavior. This was often a highly conscious process in which new members chose an identity and experienced a rite of passage in which they adapted their image to fit the new identity” (ibid., p. 65).

Numerous additional studies have pointed to other strands of gender entrepreneurship in LGBT-friendly commercial establishments. Members of the transgender community found relative safety in certain commercial bars, providing them with leeway to express and learn diverse styles of gender conduct and presentation, in contrast to conventional gender stereotypes and norms (e.g., Perkins 1983; Boyd 2003). These acts of gender entrepreneurship were conducted precariously during an era of police harassment and bar raids (Stein 2019). Similar commercial venues enable people to affirm their diverse visions of gender identity—such as in male leather bars where men wear and use leather goods to affirm masculinity norms

(e.g., MCoun et al. 2006; Hutson 2010). Alternatively, establishments can be used to challenge conventional norms, such as in BDSM (bondage and domination, sadism, and masochism) venues where people can experiment with practices of submission and domination (Rubin 2011).

An array of non-sexualized and less risqué commercial spaces is likewise available for individuals to affirm or modify gender meanings and understandings. Single-sex associations of men and women often hire commercial venues to participate in activities stereotypically viewed as male and female domains of activity, respectively. Examples include mechanics or woodworking activities for men, and arts and crafts, and cooking, for women (or *vice versa*, as gender experimentation allows). Sports venues may similarly be used to either affirm or vary gendered norms and expectations.

An interesting case study of women's roller derby leagues in skate rinks and similar commercial venues, shows that derby participants regularly improvise in their use of clothing and routines to defy gender stereotypes: "roller derby personas resignify these meanings in manifold ways, ranging from celebrating taboo femininities, ironizing traditional femininities (and their foreclosures), and creating hybrid femininities that meld masculine and feminine cultural signifiers" (Thompson and Üstüner 2015, p. 254). Another is the occasion of "cosplay" (costume-play) gatherings, and similar events, as a potential opportunity for some participants to wear garments that defy gender stereotypes (Satinsky and Green 2016). Scholarly accounts have also been given as to how certain subcultures use clothing fashions and other market produced goods to promote androgynous styling aesthetics, and engage in other practices (including within shared spaces), that question gender conventions (e.g., Goulding et al. 2004). These examples, and others, illustrate the capacity of various commercial physical spaces to serve as a foundation for the interactive performance of gender amongst groups of people.

IV. CONCLUSION

We have argued that gender is best understood as an emergent social construct. Individuals act out gender in myriad different ways that establish multiple and competing patterns and conceptions of what gender is or means. The nature of gender as an emergent and dynamic "way of being" means that it can never function solely as a power relation but is also a form of identity and cultural expression constantly subject to questioning and reevaluation. Or, as Jason Kuznicki (2017) argues, gender is an art form. Further, we illustrated how markets serve as a critical avenue through which gender is expressed and experimented with. As the process by which production and consumption decisions take place, markets are crucial for providing gender entrepreneurs with the resources and institutional framework they require to act. Importantly, markets are a space of dynamism and disruption, in which previous modes of living and acting can be challenged, and alternatives provided.

Some feminist scholars, critical theorists, and others have worried that markets can also be harmful or oppressive by reinforcing demand for gender stereotyping and by selling products using traditionalist, restrictive, or otherwise negative gender performances (Walters and Ellis 1996). While we acknowledge these concerns and take them seriously, we emphasize that the dynamic and disruptive properties of markets provide many avenues for dissident forms of gender expression. In addition, although there may be highly dominant and oppressive understandings of gender in contemporary culture, the opportunity for "exit" within markets, or by using products supplied by commercial entities, provides constant opportunities to dissent and engage with alternatives.

The implications of market activities and materials in support of gender entrepreneurship are significant, and yet to be fully appreciated in academic discourse. The adaptation of gender diversities within market contexts may be claimed to reflect empirical observation on the state of human diversity without any necessary recourse to moralizing judgments. However, we contend that respect for self-determination and a pluralistic approach to what constitutes the "good life" give us reasons to tolerate and even celebrate diverse forms of gender expression (medically assisted or otherwise). This aligns with the liberal insistence on respect for persons as separate rational beings (Rawls 1999; Zwolinski 2008). We similarly embrace the

Millian-Nozickian perspective of the value of diversity as realized through the combination of experimentalism with voluntarism, as applied to gender.

From a classical liberal perspective, the contribution of the market in supporting gender, whether it be in affirming or varying hues, is intrinsically linked with fundamental commitments to freedom of expression and of association, as well as bodily autonomy. Gender entrepreneurship is ultimately a reflection of the innate right of the individual to modify or adorn their body to express how they see themselves and the kind of person they wish to be. The existence of markets, even those operating illicitly, not only present spaces in which divergent views of gender can be performed, but they provide gender minorities with some measure of immunity from having their needs and desires outvoted by political majorities (Tebble 2016). The freedoms afforded by the market process to promulgate gender discoveries support a wider range of important, yet non-economic, virtues, including the freedom to aspire to “become who we want to become.”

NOTES

- 1 The terminology of “emergent” and “imposed” was developed in conjunction with Fabio Rojas.
- 2 The concept of gender entrepreneurship presented in this paper is distinct from the voluminous academic literature examining economic (and other forms of) entrepreneurship by men or women.
- 3 We thank Kelly Wright for pointing out these precedents in the use of health care goods.

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Commerce, Spontaneous Order, and Gender Freedom Movements

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Abstract: Various social norms and legal restrictions limit individuals' autonomy based on their gender. Some of these restrict the romantic and sexual relationships individuals may pursue. Others restrict gender expression. Still others restrict the freedom to work, own property, or participate in the political process. Many scholars have studied the role of intentional political activism in combating these restrictions. Less explored, however, is how spontaneous order within market economies created opportunities for this type of activism. Individuals who are seeking private gains rather than social change can nonetheless contribute to social change that they do not intend.

JEL Codes: J16, Z10, L26

1. INTRODUCTION

Gender plays an important role in our lives, both subjectively and intersubjectively. Subjectively, gender is a key part of many people's identities. Intersubjectively, gender roles serve as institutions. These are largely informal institutions, but they are sometimes codified in formal law. As Lachmann (1971; 1979) argues, institutions help individuals orient themselves and coordinate their plans with one another. For instance, individuals have used gender roles as points of orientation to guide and align their expectations in situations such as romantic courtship and the division of household labor. However, individuals are diverse and hold heterogeneous values, beliefs, and identities. Gender roles that help some individuals coordinate their plans can be constraining, onerous, and oppressive for others. Historically, gender roles have been enforced through violence, both the formal violence of the state's legal system and various forms of informal violence wielded by non-state actors.

Individuals deserve freedom and dignity, regardless of their gender. However, individuals have often been restricted based on their gender. This can take a variety of forms. Women have been barred from bodily autonomy, employment opportunities, access to property rights, and rights to free contract (Salmon 1986; Warbasse 1987; Zaher 2002; Lemke 2016; Skwire and Lemke 2023). This was particularly severe for married women. Throughout the 18th and early 19th century, the doctrine of coverture forbade married women from making contracts, controlling their own property, starting businesses, and exercising various other rights (Lemke 2016). Even after these restrictions ended, marriage was still viewed as consent to sex, which meant that marital rape was treated as legal. Marital rape was not criminalized

in all fifty states in the United States until 1993 (Bergen 2016). Until 1973, Irish law required women to retire from the civil service once they married (Foley 2022). Members of the lesbian, gay, bisexual, and transgender (LGBT) community have also been restricted based on gender. Until the U.S. Supreme Court's 2003 ruling in *Lawrence v. Texas* overturned sodomy laws, state and local governments could criminally prosecute people for having consensual sex with individuals of the same gender (Weinmeyer 2014). Similarly, same-gender marriage was illegal in the United States for many years. It was gradually legalized on a state-by-state basis until the last remaining state laws prohibiting same-gender marriage were overturned by the U.S. Supreme Court in the 2015 *Obergefell v. Hodges* ruling (Rosenfeld 2017). Transgender and gender nonconforming individuals have faced both formal and informal restrictions that pressure them to conform with expectations associated with the gender they were assigned at birth. For instance, transgender and gender non-conforming people have been involuntarily confined in asylums and psychiatric facilities for deviating from gender expectations (Lobdell 2011; McCloskey 1999; Novak 2015, p. 16). In many places, these various gender-based restrictions have given way to increases in freedom. How did these expansions of freedom come about?

Perhaps the most visible cause of these changes involves the deliberate, intentional work of activists engaged in collective action to expand freedom and equality. Together, they formed social movements such as the women's suffrage movement, the Women's Liberation movement, the feminist movement, the Gay Liberation movement, the transgender rights movement, the #MeToo movement, and other similar efforts to challenge formal and informal restrictions that limited autonomy based on gender. But this intentional collective action was not the only factor that helped challenge such restrictions.

Intentional efforts at collective action occur within a particular social context. The options available to activists, the incentives they face, and the relationships they can form with others to build their movement will all vary depending on their social context. For instance, activists who live in cities may meet more people they might organize with than activists in small towns. The circumstances in which they meet will depend upon which public spaces exist in their area. Once they meet, the culture and language in their region will shape how they discuss politics and eventually organize. No one person or organization planned all of these features of the surrounding social context. Instead, they result from the interactions of many individuals, creating patterns that were not intended by any single individual. In other words, the social context within which activists act is a *spontaneous order*. *Classic examples of spontaneous orders include language, social customs, the common law, and market processes*. Each of these social phenomena display orderly patterns that were not designed by any one person. In this paper I focus on the role of market processes in shaping the context where activists act. Individuals within markets act to pursue a variety of individual aims. For instance, they may seek to purchase goods and services they value, or to make profits by investing in business ventures, or to earn wages. Individuals within a market pursue their own plans. Some individual plans may be complementary, and dovetail well with one another, while others might involve incompatible ends that give rise to rivalrous conflict. However, the feedback provided by prices, profits, and losses results in a tendency towards coordination among these diverse plans, guiding individuals to pursue projects that mutually benefit themselves and others in their society. This coordination is a spontaneous order that was not planned, and could not be planned, by any individual.

The spontaneous order generated by market processes impacts the opportunities available for alert entrepreneurs to pursue their ends. This applies to both commercial entrepreneurs seeking pecuniary profits and to various non-market entrepreneurs seeking non-pecuniary ends. Entrepreneurs act in a manner that drives processes of change. Following Kirzner (1973) I define entrepreneurship within market processes in terms of alertness to profit opportunities. Entrepreneurship within social movements can take at least two forms: social entrepreneurship and political entrepreneurship. The definitions of both terms are contested. Boettke and Coyne (2009, p. 171) define "social entrepreneurship as entrepreneurship driven by social considerations—peer recognition, appreciation, strengthening social ties and bonds, etc.—rather than economic (profit) or political (power) considerations." They define political entrepreneurs as "individuals who operate in political institutions and who are alert to profit opportunities created by those institutions"

(Boettke and Coyne 2009, p. 180). I argue that the changes wrought by market entrepreneurship can create new opportunities for social movement activity initiated by political and social entrepreneurs. Conversely, the changes wrought by social movement activity can create new profit opportunities for commercial entrepreneurs acting within the market process. This can then give rise to an iterative process, in which the entrepreneurs who seize those profit opportunities create a new set of opportunities for social and political entrepreneurs. I argue that the spontaneous order generated by the entrepreneurial market process created opportunities for social and political entrepreneurs to form movements that challenged formal and informal restrictions that have limited individuals' autonomy based on gender.

By explaining this bidirectional influence between market processes and social movements, I synthesize insights from several literatures. One is the literature on entrepreneurship and the market process (Kirzner 1973, 1992; Lachmann 1976, 1986; Holcombe 1998). Another is the literature on non-market entrepreneurship (see Lucas 2019), which includes both social entrepreneurship (see Storr, Haeffele-Balch and Grube 2015; Haeffele and Storr 2019) and political entrepreneurship (see Holcombe 2002; McCaffrey and Salerno 2011). By explaining the connections between these types of entrepreneurship, this paper complements the literature on entangled political economy, which focuses on the dynamic connections between political and economic enterprises (Aligica and Wagner 2020; Novak 2018; Wagner 2016). In addition, I contribute to the literature on social movements (Ammons and Coyne 2020; Chong 1987; Lichbach 1994, 1995; Rojas 2007; Novak 2021; Chenoweth 2021; Chenoweth and Stephan 2012) by exploring how such movements are shaped by the entrepreneurial market process. This analysis complements the work of King and Soule (2007), who examine social movement activists as "extra-institutional entrepreneurs" that impact the stock prices of major corporations. Within the literature on social movements, I contribute to the literature on social movements for women's rights (Friedman 2003; Hosterman et al. 2018; Hossein and Hooman 2022) and gay, lesbian, bisexual, and transgender (LGBT) rights (Duberman 2019; Feinberg 1998; Spade 2015). More broadly, I contribute to the literature on how gender roles, gendered legal restrictions, and gender disparities change over time (Goldin 1991, 2006; Goldin and Katz 2000, 2002; Mammen and Paxson 2000; Lemke 2016). My central contribution to these disparate literatures is to emphasize how the spontaneous order generated by the entrepreneurial market process has enabled social entrepreneurs to build movements aimed at intentionally altering gender norms, as well as the iterative nature of the interaction between markets and movements.

While I focus on movements that I believe expand freedom for those previously marginalized, my argument does not imply that market processes only enable movements that expand freedom. Markets create an incentive to cater to unmet demands, which means offering products and services, including social spaces, to those whose demands for such products and services are unmet. These incentives guide entrepreneurs to serve all prospective consumers, not just those I support or approve of. Because gender is subjectively and intersubjectively important as an institution, and because there are heterogeneous beliefs about which gender roles are desirable, there will likely always be those who contest prevailing gender norms. Sometimes they will contest these norms because they restrain the freedom of marginalized people. But in other instances, they may contest these norms because they create space for autonomous actions that disrupt prior meanings and points of orientation associated with other gender expectations. Therefore, while market processes create social spaces and opportunities for social entrepreneurs associated with movements for feminism and LGBT rights, they also create opportunities for social entrepreneurs who wish to strengthen or reinforce traditional or restrictive gender roles for a variety of reasons. In this case, the interaction of the market process with processes of political contestation does not create an inexorable arc of history that bends towards justice. Rather, it creates an open-ended process in which diverse individuals with heterogeneous values engage in political contestation with one another.

The paper proceeds as follows. Section 2 discusses entrepreneurial processes, with particular focus on how entrepreneurship within the market process creates opportunities for social movement activity and vice versa. Section 3 discusses historical examples in which the entrepreneurial market process created opportunities for entrepreneurial activists to build movements that contested prevailing gendered norms, ex-

peccations, and institutions. Section 4 concludes with a discussion of the implications of this analysis and opportunities for future research.

2. MARKET AND NON-MARKET ENTREPRENEURIAL PROCESSES

Entrepreneurship is a human universal (Koppl and Minniti 2008). That is, individuals across institutional and social contexts are alert to previously unseen opportunities and act in a way that drives dynamic change. The patterns and outcomes that arise from this entrepreneurship can vary depending on the institutions within which entrepreneurs act, as well as the type of gains the entrepreneurs seek. However, all sorts of entrepreneurship change the status quo. This change can create new entrepreneurial opportunities. As Holcombe (1998, p. 50) explains, many entrepreneurial opportunities “come from the actions of other entrepreneurs.” He offers some illustrative examples of this from within the entrepreneurial market process. For instance, he explains that Bill Gates seized a profit opportunity created by Steve Jobs’ entrepreneurship in creating the personal computer. Likewise, Steve Jobs seized a profit opportunity that was only available due to Moore’s invention of the microprocessor. This illustrates that “When entrepreneurs take advantage of profit opportunities, they create new entrepreneurial opportunities that others can act upon” (Holcombe 1998, p. 51).

While Holcombe focuses on this within the market process, I argue that entrepreneurship in the market also creates entrepreneurial opportunities for political and social entrepreneurs. Likewise, political and social entrepreneurs within social movements create profit opportunities for commercial entrepreneurs. Each of these forms of entrepreneurship causes changes in society, and those changes create new entrepreneurial opportunities.

To illustrate why this is, it’s worth first unpacking the dilemmas that individuals within social movements face. Imagine that a social movement is seeking a large-scale social or political change. For instance, they may be seeking to change a law. If the law changes, however, then everyone who prefers the new law benefits regardless of whether they participated in the social movement. If participating in the movement is costly, then there are incentives to free ride on the actions of other movement participants (Olson 1971; Tullock 1971). To resolve this problem, activists within a movement must provide “selective incentives” that are differentially available to those who have contributed to a movement (Lichbach 1994, 1995). These incentives can take on various forms. Some might involve direct material benefits associated with participating in movement. Others might involve more intangible benefits, such as movement participation enhancing one’s reputation in a particular social circle. Crucially, activists are continually facing collective action problems, and to succeed, their movements must provide incentives that encourage participation.

Often, the incentives that encourage movement participation are tied to goods or services produced for profit within a market. For example, suppose that activists within a given social movement frequent a specific bar, coffee shop, or restaurant. Contributing to that movement may increase an activist’s reputation among other activists in that movement. By improving their reputation in that social circle, the activist increases the chance that they will be invited to spend time recreationally with others in that social circle. If that recreation time is substantially more enjoyable due to the bar, coffee shop, or restaurant that members of this social circle frequent, then that selective incentive is more valuable. In other words, the value of this selective incentive has been enhanced by the commercial entrepreneurship of the restaurateur, barkeeper, or coffee shop owner.

An entrepreneurial process perspective, however, should draw our attention to another key feature of social movement organizing, namely that activists discover opportunities to advance their cause, rather than simply starting from a predefined plan for social change. It’s not as though prospective activists are simply deciding whether to contribute to a predefined social movement. Instead, they may at times be ignorant of the opportunities for social movement activity. If they are unaware that other people share their political perspective or social grievances, they may never consider collaborating with them on activist projects. For instance, they may feel uncomfortable with current gendered norms and expectations, but not

realize that anyone else finds these norms similarly onerous and constraining. Businesses such as coffee shops, bars, bookstores, and social media sites that provide social spaces (Storr 2008; Haeffele and Craig 2020) and action spaces (Ikeda 2012) for like-minded people therefore do more than just increase the value of a selective incentive to participate in a social movement. They also enable people to discover opportunities for social and political entrepreneurship that they may have otherwise been unaware of.

Commercial entrepreneurship can therefore contribute to a spontaneous order that enables social and political entrepreneurship in social movements, both by providing social spaces where social and political entrepreneurs can discover entrepreneurial opportunities and by creating goods and services that can be used as selective incentives for movement participation. This makes it clear that commercial entrepreneurship shapes social movements. What about influence in the other direction?

Social movements can create profit opportunities for commercial entrepreneurs in a variety of ways. Consider the point about social interactions among movement participants again. Repeated interactions among movement participants may alert them to profit opportunities associated with exchanges they can make with one another. For example, Chong (1987) explains that during the Jim Crow era many black businessmen grew their business through contacts that they met via their participation in the National Association for the Advancement of Colored People (NAACP). These profit opportunities provided a selective incentive to participate in the NAACP, and they also enabled entrepreneurs to act on profit opportunities that they discovered during their participation in the NAACP.

Movements create symbols, slogans, and ideas that their supporters wish to express. This creates a profit opportunity for commercial entrepreneurs to sell products that express support (or opposition) to the movement. When a movement popularizes a slogan, such as “Trans Rights Are Human Rights,” this creates profit opportunities associated with selling clothing, signs, stickers, buttons, and other consumer goods emblazoned with that slogan.

Another way that social movements can alert entrepreneurs to profit opportunities is by making entrepreneurs aware of a previously underserved clientele. For example, if the Gay Liberation movement resulted in more people coming out as lesbian, gay, bisexual, or transgender (LGBT), this likely alerted more entrepreneurs to the presence of a clientele that they may have otherwise not marketed to.

To alleviate the collective action problems associated with social movement organizing, political and social entrepreneurs may develop new technologies or tactics. For instance, they might invest in encryption techniques to protect themselves and their allies from government surveillance. Doing so reduces the expected risk of legal repression for activists, which all else equal would incentivize a greater willingness to participate in movement activities. However, the encryption technologies developed by activists in a non-price environment may then be able to be commercialized by entrepreneurs in the market, who could sell them to a variety of consumers that are willing to pay for encrypted communications. Innovation carried out to address the context-specific dilemmas that social movement participants face may therefore create entrepreneurial opportunities for profit-seeking entrepreneurs interacting within the market process.

We have discussed several mechanisms by which commercial entrepreneurship can create opportunities for social movements and entrepreneurship within social movements can create profit opportunities for commercial entrepreneurs. These can build upon one another in an iterative process. For instance, commercial entrepreneurship may create a social space where a social movement then organizes more effectively. That social movement organizing could then result in a new technology, which commercial entrepreneurs could then commercialize for profit. The commercial form of that innovation may then be useful to other social movement entrepreneurs in their organizing. The next section discusses historical examples in which these types of entrepreneurial processes contributed to movements for gender freedom.

3. MARKET PROCESSES AND MOVEMENTS FOR GENDER FREEDOM

To illustrate this theory of social movements and market processes, it is important to examine how these processes have unfolded historically. This section focuses on two illustrative examples from gender freedom movements. The first is the role that gay bars, most notably the Stonewall Inn, played in the early stages of the Gay Liberation movement. The second is the role that Twitter played in the #MeToo movement.

3.1 Gay Bars and the Gay Liberation Movement

For much of the 20th century, both homosexual activity and unconventional gender presentation were socially stigmatized. In addition, homosexual sex was criminalized via sodomy laws (Weinmeyer 2014), and many American cities enforced laws prohibiting cross-dressing (Redburn 2022). This mix of formal and informal institutions would deter open expression of homosexuality and gender nonconformity. However, some gay men, lesbians, bisexuals, transgender people, and gender non-conforming people such as drag kings and queens still wanted to express themselves and find camaraderie with others. Demand for this type of experience created profit opportunities associated with catering to gay clientele. Even if business owners shared the anti-gay prejudices popular at the time, discrimination by some business owners implies a set of profit opportunities for others (Becker 1957). In this case, the story may be a bit more complicated, simply because many customers may share homophobic prejudices, which means catering to gay audiences could drive away homophobic heterosexual customers. However, even in situations where customers, not just owners, prefer to avoid a marginalized group, entrepreneurial processes can still erode discrimination. Coyne, Isaacs, Schwartz, and Carilli (2007) carefully document how this type of entrepreneurial process contributed to the racial integration of Major League Baseball. That said, entrepreneurs who founded gay bars were typically not desegregating gay patrons from straight patrons, but instead creating havens where gay patrons could interact in a manner largely free from the judgment of heterosexuals.

LGBT bar patrons faced not just prejudice on the part of producers and consumers, they also faced restrictive laws such as sodomy laws that prohibited consensual homosexual sex and laws that criminalized wearing clothing deemed inappropriate based on one's sex or gender. Catering to a crowd that skirts the law can be costly and risky for a business. Even in states where homosexuality itself was legal, government intervention placed barriers in the way of businesses that catered to LGBT patrons. The PBS program *American Experience* notes:

In the early 1960s, while homosexuality was legal in the state of New York, establishments openly serving alcohol to gay customers were considered by the State Liquor Authority (SLA) to be “disorderly houses,” or places where “unlawful practices are habitually carried on by the public.” The SLA refused to issue liquor licenses to many gay bars, and several popular establishments had licenses suspended or revoked for “indecent conduct.” Businesses that remained open were frequently raided by the police (*American Experience* n.d.).

However, some business owners were already taking on costs associated with defying the law. For example, the mafia owned a variety of businesses. As they were already acting unlawfully, the relative price of engaging in additional unlawful activity was lower for them. Moreover, members of the mafia had experience bribing police, which is a useful skill when engaging in prohibited activity. It should therefore be unsurprising that they were major operators of gay bars at the time (Duberman 2019 [1993]; *American Experience* n.d.). The mafia already specialized in providing extralegal security services, which are especially useful for defending a criminalized and stigmatized clientele from both private and public predation. For instance, at lesbian bars in Greenwich Village “Mafia thugs at the door...were supposedly there to keep out straight men keen to convert a ‘lezzie’” (Duberman 2019 [1993], p. 53). One mafia-operated gay bar that would become especially important to the burgeoning Gay Liberation movement was the Stonewall Inn, located on

Christopher Street in Greenwich Village. Until 1966, the Stonewall Inn was a bar and restaurant that catered to heterosexual audiences. The bar was not bringing in much revenue, which created a profit opportunity for Tony Lauria, or “Fat Tony,” of the Genovese crime family. He purchased the Stonewall Inn and converted it into a gay bar. He took several types of precautions to evade existing laws. One such precaution was bribing the local police. In addition, he classified the Stonewall Inn not as a public bar, but as a private “bottle club.” Visitors signed in, often under pseudonyms, in order to affirm that they were members of the club. This process made it easier to prevent police from entering. An additional advantage of being a “bottle club” rather than a bar was that a liquor license was not required to operate (American Experience n.d.).

While the mafia offered valuable services to members of the LGBT community by running gay bars, their relationships with LGBT clients were sometimes marred by conflict and hostility. For instance, in addition to profiting by selling alcohol to patrons, members of the mafia also gathered revenue through blackmail. Due to the stigma against homosexuality, some closeted patrons were willing to pay a great deal to keep information about their sexuality private. “This practice eventually became the most profitable aspect of the Mafia’s club management” (American Experience n.d.). Likewise, the mafia members who provided security also sometimes turned away and denigrated black patrons and others they perceived as “undesirable” (Duberman 2019 [1993]: 53). For the mafia, running gay bars was a profit-seeking business venture, not a social justice effort. To paraphrase Adam Smith (1776), “It is not from the benevolence of...[the mafia]... that we expect our... [gay bar]..., but from their regard to their own interest.”

Venal, self-interested profit seeking by members of the mafia established the Stonewall Inn as a gay bar. In 1969, it would also become a symbol, a key part of a collective narrative (Chamlee-Wright and Storr 2011), around which the burgeoning Gay Liberation movement would coordinate for years to come (Armstrong and Cragge 2006). Despite the owners’ precautions to avoid police raids, the police raided the Stonewall Inn on June 28th, 1969. The patrons did not passively accept the raid. Instead, they fought back, engaging in what quickly became known as the Stonewall Riots.

These riots prompted the formation of several new Gay Liberation organizations. One year later, the first ever gay pride parades were held in several American cities, including New York and San Francisco, to commemorate the riots. While similar riots had occurred elsewhere, there were activists in New York ready to seize the entrepreneurial opportunity associated with commemorating the Stonewall riots:

Gay liberation was already underway in New York before Stonewall, which enabled movement activists to recognize the opportunity presented and to initiate commemoration (Armstrong and Cragge 2006, p. 725).

Pride parades and festivals continue to be held annually in June all over the world and are both major celebratory events and major sites of LGBT rights activism. The opportunity to resist police repression of LGBT bar patrons, and the opportunity to coordinate social movement events inspired by that resistance, would not have been possible without a gay bar. In other words, activists seized a series of social entrepreneurial opportunities that were available because members of the Mafia had engaged in profit-seeking entrepreneurship by purchasing a bar and converting it into a gay bar. The Mafia’s members did this not out of any commitment to toleration or a political agenda of Gay Liberation, but out of the desire for profit. This market process is not a panacea, and it does not always promote desirable outcomes. But it does create incentives to make mutually beneficial exchanges with underserved minorities. Even when institutional barriers, such as legal prohibitions, stand in the way of serving a marginalized group, entrepreneurs will often discover creative ways to evade these restrictions (Coyne and Leeson 2004; Elert and Henrekson 2016; Thierer 2020).

3.2 Twitter and Gender Freedom Movements

In 2006, activist Tarana Burke began efforts to connect and mobilize survivors of sexual harassment and assault using the phrase “Me Too” as a rallying cry (Mosley 2021). Yet that rallying cry became much louder over a decade later, when it was used as a hashtag on Twitter. On October 15, 2017, “actor Alyssa Milano tweeted a request to her followers in response to the sexual assault allegations against movie producer Harvey Weinstein: ‘If you’ve been sexually harassed or assaulted write ‘me too’ as a reply to this tweet’” (Hosterman et al. 2018, p. 69). This tweet prompted extensive conversation about sexual assault and sexual harassment across multiple social media sites. It quickly became a trending topic on Twitter, and eventually both millions of tweets and millions of posts on other social media sites, such as Facebook, used the hashtag (Ibid).

The discussion prompted by the #MeToo movement raised awareness of sexual assault and harassment, altered collective narratives and social norms, and helped survivors of sexual assault build a movement to assert their rights and dignity. While the #MeToo movement began in the United States, it spread to at least 85 countries (Trott 2021; Kermani and Hooman 2022). Even women living under authoritarian governments that repress feminist activism were inspired to engage in these types of online efforts to speak out against perpetrators of sexual assault. In Iran, for instance, the hashtag Tajavoz, a Persian term that translates to “rape,” was used by thousands of women to speak out against sexual abuse (Tafakori 2020; Kermani and Hooman 2022).

These movements against sexual assault were able to expose abusers and shift collective narratives using social media, especially Twitter. Social media sites like Twitter are themselves commercial products that result from a market process. However, Twitter itself resulted from an iterative process, in which social movements shaped markets, and then markets shaped movements.

To understand how Twitter emerged from both social movements and market processes, we need to consider the type of problem that Twitter’s predecessor was developed to solve. Street protests can be difficult, stressful affairs. Especially in unpermitted marches, protesters may find it challenging to coordinate their movements and maintain strength in numbers. Protesters may face violence from police and from counter-protestors. When this happens, they may wish to communicate with one another so that their compatriots can avoid the worst of this violence. They may also wish to document, share, and eventually publicize information about this violence. Doing all of this in real time can be quite challenging.

To help protesters cope with these types of real time challenges, Tad Hirsch, who was then a graduate student at the MIT Media Lab, developed an open-source app called TXTmob that would allow protesters to communicate with one another during protests. He explains that he “initially developed the project with the Bl(a)ck Tea Society, an ad-hoc group of activists that organized demonstrations at the July 2004 Democratic National Convention (DNC) in Boston” (Hirsch 2020). TXTmob was developed to address a specific political context, in which activists embraced autonomous street protest tactics in the face of militarized policing. To reduce their vulnerability to police, activists engaged in actions throughout a city rather than in a single location in which police could conduct mass arrests or other repression. But to coordinate these dispersed actions, they needed to communicate with each other. TXTmob allowed them to communicate anonymously with other activists about conditions on the ground.

Hundreds of activists used TXTmob to coordinate with each other during the DNC protests. After the DNC protests, Hirsch collaborated with activists to improve TXTmob in hopes that it could be even more useful during the upcoming Republican National Convention (RNC). These improvements enabled activists to use TXTmob in protests for several years. The updated app was used to coordinate protests at the RNC as well as various other protests around the world. TXTmob was far from perfect. As Sasha Costanza-Chock (2020) explains:

it used a clunky hack to send SMS for free: it took advantage of the email-to-SMS gateways that nearly all mobile operators made available at the time. Indeed, if hundreds of thousands of protest-

ers had all signed up for TXTMob, the tool quickly would have been blocked by mobile service providers once they noticed the volume of messages being sent without payment.

This is a serious limitation, and it meant that TXTmob could never operate at the scale that later services like Twitter operated at. However, it was a worthwhile trade-off given the constraints that protesters faced at the time.

After the RNC protests concluded, Hirsch (2020) “released the TXTmob source code under an open source license to enable other activist organizations to host their own TXTmob-like services without my approval or involvement.” He also attended the Ruckus Society SMS Summit, an activist conference where he met several activist coders and discussed his insights about SMS tools such as TXTmob. His intention was to make this type of application more accessible to other activists. In the process, he inadvertently revealed a profit opportunity for entrepreneurs. This is because several of the developers he met with worked for a podcasting startup called Odeo. After Apple announced their own podcasting service as part of iTunes, it became clear that Odeo’s main product would not be competitive in the marketplace. To adapt, employees at Odeo brainstormed a variety of new product ideas at a demo session. At that demo session, coders discussed TXTmob, its previous performance, and the potential to develop a similar tool commercially. This demo session then led to further work, which led to the development of TWITTER, which was later renamed Twitter (Costanza-Chock 2020).

So acts of social entrepreneurship meant to facilitate protest activities within a social movement resulted in the creation and refinement of technology. Employees at a for-profit firm saw that by modifying this technology they could create a profitable commercial product. Entrepreneurship within social movements thus created profit opportunities that entrepreneurs seized, creating one of the most successful social networking websites of all time.

The story of Twitter illustrates the iterative nature of this process, as it has also been used for activist activity since its creation as a commercialized social network. There are some ways that Twitter is worse for activist activity than TXTmob. Part of Twitter’s business model relies on gathering user data to target advertisements. This means that if police or prosecutors want to acquire information about an activist who tweeted from a protest, there may be a significant amount of information for them to acquire. TXTmob, on the other hand, was designed with privacy concerns in mind, as Hirsch (2020, n.p.) explains:

TXTmob placed a premium on protecting activists from police surveillance and retaliation. TXTmob collected very limited user data, left control over personal information in users’ hands, and separated message archives from users’ data to obscure which individuals sent or received particular messages. It turned out that these were not idle concerns as I was eventually subpoenaed by the City of New York to supply records pertaining to 2004 RNC protests. Happily, much of the requested data did not exist and in any case I successfully fought the subpoena with the help of pro-bono lawyers.

Despite TXTmob having significant privacy advantages over Twitter, however, Twitter can host a much higher volume of activity and is more user friendly. It should therefore be unsurprising that social movements around the world, including the Arab Spring, Occupy Wall Street, #MeToo, and Black Lives Matter, have used Twitter to share information, spread their messages, and coordinate their activities (Tufekci 2021). The #MeToo movement, as well as the related movements that it inspired, were able to challenge sexual assault largely because they could benefit from an iterative process in which activism shapes markets and vice versa.

Note that social movements advocating progressive or freedom-expanding changes to gender norms are not the only movements whose members use Twitter to advance their ends. For instance, Ahmed and Psoiu (2021) analyze how several far-right groups in Germany, such as the Alternative für Deutschland (Alternative for Germany), the Autonomous Nationalists (AN), and the Identitäre Bewegung Deutschland

(Identitarian Movement Germany—IBD) use Twitter to advance their ideas. All three of these far-right groups use Twitter to condemn feminists and the LGBT community. Where feminist and LGBT movements have sought autonomy and the erosion of old gendered restrictions, these far-right movements seek to restore rigid gender roles that would significantly constrain the autonomy of many people. The iterative process of commercial and social entrepreneurship that I analyze in this paper will not be used for just one set of political goals. Instead, it opens a wide arena of political contestation, creating a dynamic process in which current meanings and institutions regarding gender will be contested, for good and for ill.

CONCLUSION

This paper has only scratched the surface of movements for gender freedom. The examples we discussed are far from the only examples. However, what these examples illustrate is that social movements are shaped by a broader social and economic context, a context that results from human action but not from human design. The spontaneous order of the market process creates incentives for commercial entrepreneurs to establish businesses that then create social spaces. These social spaces enable individuals who are disaffected with the status quo to meet, network, share their grievances, and begin the process of collective action. While these movements are not the only mechanism that erodes gendered restrictions on autonomy, they are one important mechanism. Understanding the background role that market processes have played in such movements can help us understand gender, freedom, collective action, and social movements. Future research could use analytic narratives (Bates et al. 1999; Skarbek and Skarbek 2023) to illuminate other historical movements for gender freedom by carefully studying the institutional context within which these movements took place, the incentives facing activists, and the role of social and economic entrepreneurship in shaping these movement.

Because of the important subjective and intersubjective role gender plays in many people's lives, gender issues are likely to remain a topic of significant political and social contestation. Gender is a deeply personal part of many people's lives, and therefore the perceived meaning of gender is crucial to feeling that their own self-understanding and identity is respected. When gender roles or expectations clash with individuals' projects, purposes, and plans, they can become stultifying and oppressive. At the same time, gender expectations can serve as points of orientation around which people coordinate their plans, so contestation of gender expectations can disorient those whose plans relied upon gendered expectations. This creates situations where some level of dissatisfaction with prevailing gendered expectations is likely, often from multiple directions. Markets create incentives to satisfy the diverse consumer demands of individuals with a range of views on gender issues. In the process of satisfying these demands, entrepreneurs will create social spaces where individuals can meet others who share their values. This creates opportunities for social entrepreneurs to discover opportunities for collective action and political contestation. Dynamic change in the market process thereby gives rise to similar change in the political process, in which entrepreneurs continually discover new commercial and non-commercial ways to reorganize and reshape the social world. With gender, as with all other spheres of social life, we should expect change, as we live in a "kaleidic society, interspersing its moments or intervals of order, assurance and beauty with sudden disintegration and a cascade into a new pattern" (Shackle 1972, quoted in Garrison 1987). Moreover, just as we should expect some commercial entrepreneurs to succeed and many more to fail, we should likewise expect some social movement entrepreneurs to succeed and many more to fail. Markets create opportunities to meet like-minded people and engage in collective action with them, but they do not guarantee that the movement that arises will last or successfully achieve its political ends.

In a dynamic, entrepreneurial society, it is unclear *ex ante* which movements will succeed and which will fail. It is therefore also unclear which gendered institutions and expectations will exist in the future. Future research could examine how institutional arrangements and market structures shape the *direction* of changes in gender roles, perhaps giving rise to observable long-run tendencies. Relatedly, future research could contrast case studies of successful and failed entrepreneurial efforts within social movements, to bet-

ter understand the feedback and selection mechanisms that impact these social entrepreneurs' ability to carry out their plans. In addition, future research could examine the interactions between entrepreneurial gender expression that occurs outside of collective social movements (see Kuznicki 2023; Malamet and Novak 2023) and the types of collective contestation and social entrepreneurship that this paper emphasizes.

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Her Own Property: Lizzie’s Diamonds and Rosalie’s Fortune

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1. INTRODUCTION

In British and American history, the division of property within marriage was governed by the system of coverture. You can still hear remnants of this at more traditional weddings today, where the bride is “given” to her husband by her father, promising to obey her new head of household. “For the husband is the head of the wife as Christ is the head of the church, his body, of which he is the Savior. Now as the church submits to Christ, so also wives should submit to their husbands in everything” (Ephesians 5:22-24).

This religious practice came to be reflected in British property law, which interpreted the idea of the husband as the sole head of household to mean that a man and women, once married, would act as one economically as well as spiritually. In turn, this view of marital property was imported to the United States by way of British colonial rule. In the decades after American independence, as states and territories began to formalize law through the creation of state codes, coverture was written into state law across the developing country. As a result, in both Britain and the United States, most marriages during and prior to the 19th century were governed by a set of property laws that declared the husband the formal owner of all property acquired either before or during marriage. These ownership rights included the right to sell at will and to determine who would gain control over the property upon his death. These laws put women in a situation where they were economically dependent and therefore vulnerable to both petty tyranny and genuine abuse.

Women’s economic security was partially protected by a related set of laws intended to prevent the most egregious malpractice on the part of husbands, but enforcement of these laws was often available only to the wealthy and still required the assistance of a male family member who may or may not have her best interests at heart. For example, the husband’s right to dispose of his family’s property at will was bounded somewhat by a requirement that his wife or widow be sufficiently provided for, most often by a guarantee that she would remain in control of 1/3 of the estate after his death.¹ Similarly, women from wealthy families could sometimes work with male kin to create separate estate

1 With some variation across jurisdictions and also some exceptions for particular circumstances. For example, a widow might be allowed to keep half an estate if there were no children to share it with, or she might have to give up her ‘dower rights’ if she began a relationship with another man (Shammas 1987).

trusts in order to keep family property from transferring to a future husband (Chused 1982). However, this was a legal device that had to be exercised *prior* to marriage, was only helpful to those few women wealthy enough to own property prior to marriage, and still left women beholden to the men of their family.

Fortunately, this situation did not last. Piece by piece, beginning in the 1830s and continuing well into the 20th century, women in Britain and the United States gained the ability to own independent property and to keep independent earnings (Chused 1982; Geddes and Lueck 2002; Lemke 2016; Shammas 1994). There is no clearly defined date at which married women gained full equality in economic rights, and it would be disingenuous to say that we are sure coverture has completely been excised from political and legal practice. Nine states continue to make it more difficult to convict spouses of sexual assault (Hasday 2000; Baker 2021), some doctors check in with husbands before agreeing to perform tubal ligations and other reproduction-related procedures (Fain 2020), and debate continues over whether the tax code is written and enforced in a way that holds husbands and wives equally accountable (Cain 2021; McMahon 2014).

However, there is no question that the century from 1830 to 1930 was a period of radical change in laws about women's property. Coverture, a legal practice that dated back to 10th century Roman law, had largely been dismantled (Zaher 2002), and the starting point for family relationships was now primarily one of equality rather than hierarchy. The relationship between husbands and wives was no longer primarily one of economic dependence.

As is the case for all revolutionary changes, the process of adjusting from coverture to equality was messy and at times painful. Further, our history books have not always done a particularly good job recognizing either the significance of these changes or the conflict surrounding them. The 19th century reforms in married women's property rights represented an obvious change in expectations about women's political rights and economic participation. Less obvious, at least from the historical distance of the 21st century, are the ways these legal reforms brought about changes in practices and expectations within people's most intimate relationships. As such, novels about women navigating the institutional uncertainty that accompanied changing property regimes served—then and now—as a useful way of seeing the unseen personal costs that go along with these institutional costs.

In this essay, we take a close look at two novels from the tumultuous period when women's property rights were in transition in the US and the UK. The novels in question are Anthony Trollope's *The Eustace Diamonds* (1991 [1871]) and Frances Hodgson Burnett's *The Shuttle* (2007 [1907]). *The Eustace Diamonds*, from Anthony Trollope's Palliser novels, is the story of the widowed Lizzie Eustace's struggle to gain/maintain ownership over a diamond necklace worth 10,000 pounds. *The Shuttle*, by Frances Hodgson Burnett, the popular children's author who wrote *Little Lord Fauntleroy* and *The Secret Garden*, is about the daughter of an American multi-millionaire who marries an impoverished English aristocrat and faces serious conflicts between her American understanding and his English understanding of women's property rights. (The British were a good forty years behind the most economically developed American states in terms of married women's property rights reform.)

In section two, we briefly elaborate on the value of using literature to illuminate 19th and 20th century reforms in married women's property rights. In section three, we discuss the conflict in *The Eustace Diamonds* and the difficulties that arise when rights depend on legal status that is uncertain or in conflict with cultural norms. In section four, we turn attention to *The Shuttle* and the way that relationships between British and U.S. citizens particularly illuminated the tensions between a coverture and a post-coverture system of property law. Section V concludes with a return to the question of how people navigated the radical changes in family law that took place during the 19th century, and what we can learn from studying the experience of Trollope's Lizzie, Burnett's Rosalie, and other fictional accounts of women navigating changing property regimes. Careful consideration of these novels brings great insight into how married women's property law—and by extension, other gender-discriminatory property institutions—affected women and families in complicated and intimate ways.

2. LITERATURE AND SOCIAL CHANGE

Literature is in general a useful tool for social scientists. In this chapter, our primary interest in the use of literature as a tool for social scientific analysis is for the unique view it offers into how individuals interpret their environment and their relationships during moments of radical social change.

Political economy prioritizes a subjectivist form of analysis in which individuals act according to their unique, personal perception of the value of alternative choices. When people interact, their views of themselves, each other, and the social and political rule systems they navigate come together to shape if, when, and how they will cooperate to talk, trade, create a business, form a non-profit, build a family, start a club, or engage in any of the other infinitely varied forms of human cooperation. The subjective values and choices of people interacting with each other within systems of rules become our social world. As a result of the inevitably internal roots of human action, “the articulation of human history has an “irreducibly narrative character,” and good history shares many of the attributes of good fiction” (Lavoie 2011, p. 112). Interpreting human social arrangements requires us to grapple with social problems as the people involved saw them, and social change as it was experienced by the people whose lives were affected. It is the meaning that individuals attach to those changes and those experiences that will be able to explain their choices and reactions in response. As such, Don Lavoie encouraged social scientists to turn their attention to questions of interpretation and shared meaning in their choice of methods (Lavoie 2011).

Carrying out this “interpretive turn” in practice requires the use of multiple methods, including the robust use of qualitative methods (Chamlee-Wright 2011). Looking at a situation from as many angles as possible is the best chance we have for understanding what is actually going on. As such, social scientists seeking to understand the systems of order that undergird social interaction will find it necessary to incorporate fieldwork, diverse historical records, and narratives of personal experience in order to attain the best understanding possible of what’s going on in an institutional environment (Boettke et al. 2013). For example, rule of law as it is written is an important piece of information, but in order to understand how people will respond to changing that law, it’s essential to be able to also identify the *de facto* rules in use (Ostrom 2009). The laws, policies, and practices that people *believe* to be relevant for their situation are the ones that they will factor in when making decisions (Lemke and Lingenfelter 2017).

However, fieldwork is not possible when looking to the past, and sometimes the historical record is not adequately robust. In the absence of clear and thorough historical records of the everywoman’s experience navigating changes in property rights regimes, narrative sources—including spoken lore, mythology, and literature—become some of our most valuable access points to understanding the issues people were struggling with and the perspectives that they were capable of bringing to the problem-solving process. Much as fieldwork can be used in studies that compare alternative political or economic systems to better understand the situation and constraints as perceived by people in the system—a productive alternative to an expert standing outside the situation and assuming they understand—literature helps to better understand the multifaceted impact of gendered property institutions on the lives of the men and women who experienced them.

Further, literature reflecting women’s experiences has a particularly relevant contribution to make to our understanding of economic institutions. There are many reasons for this, but we wish to highlight two. First, most histories have tended to be about political rather than economic life. As a result, women’s suffrage and other feminist causes have received significantly greater attention than the seemingly more mundane changes in property law, which were just as, if not more crucial to women’s advancement in the 19th and 20th centuries. Second, prior to the emergence of the field of women’s history in the 1970s (Lerner 1975), historical study focused on public rather than on private life. Since women were often excluded from participation in public domains, women’s experiences were categorized as belonging to the private domains of family, home production, and community and therefore not considered by the discipline of history. The creation of the field of women’s history was offered as a corrective to this imbalance, and often an effective one,

but the field came into being 100 years too late (give or take a generation) to be able to capture the turmoil surrounding changes in women's property rights in real time.

Novels often provide interesting and accurate commentary on the economic changes that characterize the times in which they are written as well as what the people experiencing those changes thought about them. But it is always a pleasant reconfirmation to observe that it *is* true that the worlds of art and economics are not as far apart as we sometimes feel they are. And here, with the question of women's property rights, the literary connections are particularly rich.

3. LIZZIE'S DIAMONDS

In *The Eustace Diamonds*, published before the Married Women's Property Act of 1882, the primary problem is the uncertainty that emerges when there are different property laws for different classes of property owners. In both British and American history, wealthy families had access to a legal device known as the "separate estate"—a type of trust in which a male trustee could serve as the *de jure* owner of a married woman's property in order to keep it separately from her husband's estate (Chused 1982). These were most often seen as devices that fathers could use to keep family property away from shady future sons-in-law.

One of the effects of the separate estate was to create a system in which women from wealthy families had ways to protect independent property that were not accessible to the bulk of the population. Over the course of the century, as both wealth and support for women's property rights grew, this dual system of 'rights for me but not for thee' contributed to confusion around what rights women could expect to be entitled to. When rights are contingent upon identity—in this case, whether you are a wealthy woman or a working class woman—complications can arise from the reality of needing to establish identity before it becomes possible to identify the relevant set of rights (Lemke 2023; Zelizer 2005).

Anthony Trollope's *The Eustace Diamonds* turns on these questions, as the widowed Lizzie Eustace,—grasping, dishonest, promiscuous, and utterly charming—struggles to stake her claim to a diamond necklace that may or may not have been left to her by her late husband. The estimable lawyer, Mr. Camperdown, explains the central problem of *The Eustace Diamonds* this way:

The diamonds in question had been bought, with other jewels, by Sir Florian's grandfather, on the occasion of his marriage with the daughter of a certain duke,—on which occasion old family jewels, which were said to have been heirlooms, were sold or given in exchange as part value for those then purchased. This grandfather, who had also been Sir Florian in his time, had expressly stated in his will that these jewels were to be regarded as an heirloom in the family, and had as such left them to his eldest son, and to that son's eldest son, should such a child be born. His eldest son had possessed them, but not that son's son. ...That last Sir Florian had therefore been the fourth in succession from the old Sir Florian by whom the will had been made, and who had directed that these jewels should be regarded as heirlooms in the family. ...The late Sir Florian had, by his will, left all the property in his house at Portray to his widow, but all property elsewhere to his heir...there was confusion.

... Mr. Camperdown believed that he had traced two stories to Lizzie,—one, repeated more than once, that the diamonds had been given to her in London, and a second, made to himself, that they had been given to her at Portray. He himself believed that they had never been in Scotland since the death of the former Lady Eustace (pp. 149-150)

The uncertainty here is a triple one, at least. The first of these uncertainties is that Lizzie Eustace is entirely devoid of any notion of truth, so her testimony about the diamonds is thoroughly untrustworthy and becomes increasingly so throughout the novel. The second of these uncertainties arises from the unreliability of Lizzie's testimony. All the property in the house at Portray at the time of her husband's death

has been willed to her, so much depends on whether the diamonds were in the house or not. Lizzie, as Mr. Camperdown explains, has told two stories which conflict with each other. One story, if true, will make the diamonds legally hers, following her to any future marriage. The other story will make them the property of her infant son, and of his future heirs. The final uncertainty is whether the diamonds are legally heirlooms or not. Heirloom status is a peculiarity of British property law applicable to pieces of property considered integral enough to an estate that removing that item would damage the value of the estate itself. The crown jewels are a canonical example. If an object is determined to be an heirloom, it cannot ever be willed away from the proper heir as defined by inheritance law (Blackstone 1915 [1765], pp. 1287-1291). Not even by the head of the family, not even to his wife. The Queen cannot give the crown jewels to anybody except her legal heir, and Sir Florian cannot give the diamonds to Lizzie—but only *if* they are determined worthy of heirloom status.

Lizzie's attempts to hang onto the diamonds are further complicated by her desires to marry again. Because the diamonds may or may not be part of the dowry she brings with her on her marriage, every potential husband, and the mother and sisters of every potential husband has opinions—freely shared—about the legal ownership of the diamonds. Some only want her if she owns the diamonds and can bring this valuable property with her upon remarriage. Others only want her if she will give them up, because they fear the social danger of being connected to a woman with a suspect reputation. Her cousin Frank (one of Lizzie's occasional fiancés) at one point writes a long letter to Lord Fawn (another of Lizzie's occasional fiancés) “with the object of proving that Lord Fawn could have no possible right to interfere in the matter.” While both men want her to give up her attempts to keep the diamonds, Frank finds himself constrained to argue from Lizzie's point of view because he is a relative:

And though he had from the first wished that Lizzie would give up the trinket, he made various points in her favour. Not only had they been given to his cousin by her late husband,—but even had they not been so given, they would have been hers by will. Sir Florian had left her everything that was within the walls of Portray Castle, and the diamonds had been at Portray at the time of Sir Florian's death. Such was Frank's statement,—untrue indeed, but believed by him to be true. This was one of Lizzie's lies, forged as soon as she understood that some subsidiary claim might be made upon them on the ground that they formed a portion of property left by will away from her;—some claim subsidiary to the grand claim, that the necklace was a family heirloom (pp. 183-4).

The lack of clarity about the ownership of the diamonds, and the instability of Lizzie's financial position regarding them—Can she sell them? Pawn them? Wear them in public?—take a toll on Lizzie that inspires some sympathy even in those readers who are immune to her amoral charms. Lizzie's unceasing uncertainty makes her veer wildly between wanting to keep the diamonds and threatening to throw them into the sea to be done with them. She becomes paranoid that the diamonds will be seized from her. She buys an iron box to keep them safe, but is then terrified to leave the box and so must carry it with her whenever she travels:

During the whole morning she had been wishing that she had never seen the diamonds; but now it was almost impossible that she should part with them. And yet they were like a load upon her chest, a load as heavy as though she were compelled to sit with the iron box on her lap day and night. In her sobbing she felt the thing under her feet, and knew that she could not get rid of it. She hated the box, and yet she must cling to it now. She was thoroughly ashamed of the box, and yet she must seem to take a pride in it. She was horribly afraid of the box, and yet she must keep it in her own very bed-room (pp. 187-88).

When property rights are not secure, when they are unclear, the social and personal effects are dire. History is never inevitable when it is taking place. The women living within this time of such dramatic in-

stitutional reform hoped to know that what they owned was theirs, but precedent and experience affirmed a different story. We may not like Lizzie, or trust her. But we don't want to see her like this. The effect this uncertainty has upon her is similar to that recounted by women who had been abandoned by their husbands during this period of time. Were they in reality still living under coverture, under the legal control of a man of unknown whereabouts and intentions? Or were they living under the legal status of a single woman, able to own their own property and make their own economic decisions? This not-knowing left them looking over their shoulders for the reappearance of a man who could transform their property status at a word (Robinson 1898).

The four page legal opinion on the matter of the diamonds written by another of Trollope's literary lawyers, Mr. Dove, provides a further example of unclear property rights in these decades of switching. The opinion delineates fine legal distinctions among types of property such as chattel, paraphernalia, and heirlooms. The opinion is too long to cite here, but what it does make clear is that Trollope's most experienced lawyers, who have practiced law for "upwards of forty years" have no idea to whom the diamonds belong.

When the diamonds are stolen twice over some of the debate about who should own them becomes irrelevant. But we gain a new sense of the lengths to which people will go to preserve their property when the rules are uncertain. The first time the diamonds are stolen, the thieves get only the iron box. Lizzie's paranoia had reached a stage where she now slept with the diamonds beneath her pillow. This protected them from the first theft. In order to then use the theft to protect her possession of the diamonds, Lizzie claims the thieves got them. This means that when another set of thieves actually do successfully steal the diamonds, she is without recourse. It also means that everyone is quite sure that somehow Lizzie is a thief—and as is usual with Lizzie, some people find this charming and others are horrified. Unsurprisingly, a certain number of women are on her side in the matter. As Lady Glencora puts it "It is so delightful to think that a woman has stolen her own property, and put all the police into a state of ferment" (vol II, p. 75). The ferment may be delightful for us as readers, and delightful for the unimaginably wealthy and socially prominent Lady Glencora, but for Lizzie, it's just more instability and insecurity, and more inspiration to lie and cheat in order to try to protect what is, or might be, hers. While some of Lizzie's response is certainly due to flaws in her character, at least some is clearly a response to the uncertainty of the rules of the game. As Trollope notes as the novel winds down and the diamonds are gone for good, "Her income was still her own. They could not touch that. So she thought, at least,—oppressed by some slight want of assurance in that respect" (vol II, p. 118).

4. ROSALIE'S FORTUNE

Complicated as property rights are in Trollope's novel, there are even more complications in Frances Hodgson Burnett's *The Shuttle* (2007 [1907]), where the primary problem is what happens after laws have been equalized, but there remain two different competing traditions of property rights. Though by the time *The Shuttle* was written, England had passed the Married Women's Property Act of 1882,² it had only been in effect for a generation. New York—the home of our heroines—became one of the earliest states to pass comprehensive reform when they enacted the 1848 Married Women's Property Act securing married women's right to own separate property and to keep earnings as their own (Geddes 2002; Custer 2013).³ As such,

2 Limited legislation was passed in 1870, but it was not until the 1882 Married Women's Property Act that women were granted equal rights to keep earnings and maintain separate property.

3 The 1848 New York Married Women's Property Act was not the first piece of legislation securing some form of property protection for married women, but earlier legislation was more piecemeal, addressing issues such as a creditor's ability to claim widow's property in payment of her husband's debts. The New York Act was the first to protect both separate property (including real estate) and earnings acquired after marriage (Geddes and Lueck 2002, Geddes and Tennyson 2013).

when Burnett wrote *The Shuttle*, three generations of American women had the experience of it being possible for married women to legally and securely own property separately from their husbands.

What is particularly intriguing about *The Shuttle*'s potboiler plot about wealthy young American women crossing the ocean to marry impoverished English aristocrats is the way it provides an international example of how the interplay between different political jurisdictions can impact reform. In the U.S. case, the 19th century was a time of great competition between states and territories. The rise of the railroads in America made it easier for people to move between jurisdictions, expressing their preferences for a particular kind of law or practice regarding property by voting with their feet (O'Hara and Ribstein 2009; Somin 2020). In this way, the decentralized federal structure of the United States helped to accelerate reform by creating opportunities for localities to experiment with new laws and for people to choose whether or not they were ready to participate in those changes. Political leaders sought population growth and industrial investment because their careers depended upon the successful flourishing of nascent and frequently-challenged American settlements across the continent (Lemke 2016). Further, the relative openness and distance from British political control had helped to foster a great spirit of civil society and local political entrepreneurship among the early American population. These factors contributed greatly to women being able to exert political influence without enfranchisement, and economic influence before the establishment of formal rights.

In short, political freedom and economic growth were mutually reinforcing influences in the early United States, which served to foster a trend towards greater equality and inclusivity throughout the century (Lemke 2020). Coverture and the strict hierarchies it fostered within the household did not mesh well with this new political landscape, but the social habits fostered by the system of coverture were not easily abandoned. It takes time and a great deal of learning for people to adjust to new ways of relating to each other.

The ability to learn new ideas from across international borders was not as well established in the 19th century as it is today. As travel across the Atlantic Ocean became more accessible, affordable, and comfortable throughout the century, Burnett and many of her contemporaries came to consider transatlantic transportation a great force in the shaping of early 20th century society. The title of *The Shuttle* is a reference to the steady increase in transatlantic steamship travel that paralleled the growth of the railroads:

Steamers crossed and recrossed the Atlantic, but they accomplished the journey at leisure and with heavy rollings and all such discomforts as small craft can afford. Their staterooms and decks were not crowded with people to whom the voyage was a mere incident—in many cases a yearly one. "A crossing" in those days was an event. It was planned seriously, long thought of, discussed and re-discussed, with and among the various members of the family to which the voyager belonged (p. 2).

And so when the first of our heroines—Rosalie Vanderpoel—leaves New York to live in England with her new husband, the distance between those counties seems enormous. But a mere twelve years later, when Rosalie's younger sister Betty is grown up and ready to travel alone:

The Shuttle had woven steadily and—its movements lubricated by time and custom—with increasing rapidity. Threads of commerce it caught up and shot to and fro, with threads of literature and art, threads of life drawn from one shore to the other and back again, until they were bound in the fabric of its weaving. Coldness there had been between both lands, broad divergence of taste and thought, argument across seas, sometimes resentment, but the web in Fate's hands broadened and strengthened and held fast (p. 68).

The increased ease of travel makes it possible for Betty to discover the truth about her sister's dreadful marriage. The people who crossed the Atlantic in the 19th century brought with them not just goods and

technologies, but also ideas, information and norms, including about the feasibility of alternative household property arrangements. Rosalie's father, in keeping with American practice, has given Rosalie her inheritance on her marriage. She controls her money. Her English husband, the vile Nigel Anstruthers, feels, on the other hand, that:

A man of birth and rank...does not career across the Atlantic to marry a New York millionaire's daughter unless he anticipates deriving some advantage from the alliance. Such a man—being of Anstruthers' type—would not have married a rich woman even in his own country without making sure that advantages were to accrue to himself as a result of the union. "In England," to use his own words, "there was no nonsense about it." Women's fortunes as well as themselves belonged to their husbands, and a man who was master in his own house could make his wife do as he chose. He had seen girls with money managed very satisfactorily by fellows who held a tight rein, and were not moved by tears, and did not allow talking to relations (p. 17).

And so from the moment she is married, Rosalie is confronted by emotional family scenes where she and her family are unjustly accused of being:

...vulgar sharpers. They had trapped a gentleman into a low American marriage and had not the decency to pay for what they had got. If she had been an Englishwoman, well born, and of decent breeding, all her fortune would have been properly transferred to her husband and he would have had the dispensing of it. Her husband would have been in the position to control her expenditure and see that she did not make a fool of herself. As it was she was the derision of all decent people, of all people who had been properly brought up and knew what was in good taste and of good morality (p. 65).

While at the time of *The Shuttle*, the formal laws about women's property ownership are essentially the same on both sides of the Atlantic, the informal norms differ dramatically. While, in fact, the letter of the law of married women's property in England was formally stable, the new laws were wildly at odds with a deeply rooted set of cultural traditions held by the British aristocracy. This is why Sir Nigel feels threatened and unstable, noting "between puffs of the cigar he held in his fine, rather cruel-looking hands... 'A woman is not 'helping' her husband when she gives him control of her fortune. She is only doing her duty and accepting her proper position with regard to him. The law used to settle the thing definitely'" (pp. 34-5). The law settles things definitely in 1907. It just doesn't settle them as Sir Nigel would prefer and as he was raised to believe it would. This sets up a cultural conflict wherein Rosalie's naïve attempt to adhere to American norms while her husband insists on English norms is nearly the (literal) death of her. His efforts to "manage" her satisfactorily through screaming at her, beating her, and dragging her reputation through the mud are, quite simply, desperate attempts at rent protection. (In the economic sense of investing effort in maintaining control of a revenue stream that has somehow been established as a guaranteed privilege, often by law—in this case, Sir Nigel finds it in his economic interest to preserve the rents that accrue to him via the legal privilege over Rosalie's fortune granted through the coverture system). And his final play of coercing her—beaten and ill—to give him legal control of her money is a way of forcing the new law to behave like the old.

Discovering the truth of her sister's fairy tale marriage to an English aristocrat leads Betty to travel to England, use her own personal fortune to rescue her sister and remind her of her privileges as an independent American woman. Betty, much more business-like than her fragile and slightly silly sister, argues that marriages like Rosalie's and Nigel's would be the better for a certain amount of public honesty about what is happening:

What I see is that these things are not business, and they ought to be. If a man comes to a rich American girl and says, 'I and my title are for sale. Will you buy us?' If the girl is—is that kind of a girl and wants that kind of man, she can look them both over and say, 'Yes, I will buy you,' and it can be arranged. He will not return the money if he is unsatisfactory, but she cannot complain that she has been deceived. . . . Let it be understood that he is property for sale, let her make sure that he is the kind of property she wants to buy. Then, if, when they are married, he is brutal or impudent, or his people are brutal or impudent, she can say, 'I will forfeit the purchase money, but I will not forfeit myself. I will not stay with you.'" (p. 79)

Sugar-coating such financially-focused transactions with a coating of romance merely leads to Rosalie's horrified realization that "I never understood. I knew something made you hate me, but I didn't know you were angry about money...I would have given it to you—father would have given you some—if you had been good to me" p. (65).

When Betty enters on the scene to right the wrongs that have been done by bringing a lot of money and a set of very American bourgeois virtues (McCloskey 2010), we see how she is able to turn her business-like expectations for how the world should operate, combined with her considerable intelligence and knowledge of English property law, to confound the knavish tricks of Sir Nigel. As she observes to her sister:

"I am the spoiled daughter of a business man of genius. His business is an art and a science. I have had advantages. He has let me hear him talk. I even know some trifling things about stocks. Not enough to do me vital injury—but something. What I know best of all,"—her laugh ended and her eyes changed their look,— "is that it is a blunder to think that beauty is not capital—that happiness is not—and that both are not the greatest assets in the scheme. This," with a wave of her hand, taking in all they saw, "is beauty, and it ought to be happiness, and it must be taken care of. It is your home and Ughtred's—"

"It is Nigel's," put in Rosy.

"It is entailed, isn't it?" turning quickly. "He cannot sell it?"

"If he could we should not be sitting here," ruefully.

"Then he cannot object to its being rescued from ruin" (p. 179).

While she is unable to get back Rosalie's fortune—which Sir Nigel has lost at gambling tables and spent on other women—Betty is able to do with her own money what should have been done with Rosalie's. She is able to make her sister comfortable, happy, and prosperous, and secure the Anstruther family home for Rosalie and Sir Nigel's son.

Betty attributes much of her ability to accomplish these things to her strong relationship with her father. While she hasn't engaged with his businesses as a son would have—as an equal partner—Betty and her father are shown throughout the novel discussing business and money matters on fairly equal terms. In her preface to the Persephone Books edition of *The Shuttle*, Anne Sebba observes that American fathers had a reputation at the time for doting on their daughters and that "One of the biggest differences between American and English fathers was in their attitude to women and one of the strongest themes of *The Shuttle* is...the generous and intelligent way Reuben S Vanderpoel behaves towards his daughter, who may not have been a man but was virtually treated as such" (p. xi).

The importance of this father-daughter relationship for stable and effective women's property rights is not merely a novelist's construct, in other words. It is historically accurate and a relevant consideration to the political economy of women's rights reform. Our initial impulse might be to imagine that men living during this era would view married women's property reforms as a losing proposition. It used to be the expectation that a husband would be the sole manager of the family's property; now he had to share control, or perhaps even lose it entirely. However, the status of married women's rights affected men not only as husbands, but also as fathers. Even if we imagine these men to be concerned only with their narrow economic

interests—not likely in real experience, given the complexity of familial relationships—any upper hand they might gain through the system of coverture represents an upper hand their future son-in-law will hold over their daughters and any family property they inherit. As the economy grows, and with it women’s access to wealth and opportunities to productively participate in markets, the gains from a daughter’s future wealth will come to outweigh any personal losses men might experience from more equitably sharing property within marriage. As such, it’s possible that the closer relationships fostered as marriages become more companionate, families become smaller (Fernández 2014), and lives become longer wind up positively reinforcing reforms in married women’s property rights.

5. CONCLUSION

Discussions of coverture frequently quip that under British common law, “man and wife are one—but the one is the man” (Williams 1947, p. 17). Too often the experiences of only “the one” are preserved in the historical record and presumed sufficient to reflect a moment in history (Lerner 1975). Limiting our historical inputs in this way is a missed opportunity to understand the reality experienced by families and communities throughout history and across the world, where similar (and at times, more extreme) institutions persist still today. One way to access some part of that felt experience is to consider fictional representations of these institutions.

Anthony Trollope’s *The Eustace Diamonds* forces us to confront the profound uncertainty that can occur when both law and culture are in flux. In addition to serving as a cautionary tale about the dangers of insecure property rights, Trollope’s narrative deals with the thorny questions that arise when law is contingent upon identities such as man or woman, aristocrat or working class, deserving heir or undeserving gold-digger. Complex legal practices that establish different rights for different combinations of identity are both illiberal and confusing, forcing people to invest great effort into simply establishing who has the right to do what. Trollope’s novel is a great help in illuminating how people respond to such situations and therefore in helping us to understand how particular institutional regimes can be expected to function.

Frances Hodgson Burnett’s *The Shuttle* invites us to consider how the dynamics of globalization and learning across borders impact the most intimate of our personal relationships. Concepts that we take for granted today—such as women being as capable of hard work, leadership, and intellectual contributions as the men in their households—were once novel, if not controversial, concepts. Exposure to these ideas through the clashing of cultures can motivate people to use their voices in a diversity of ways to stimulate legal reform, from academic research to dinner table conversation to protesting in the streets. The story of Rosalie and her sister Betty gives us an intimate view of how the tensions that exist between clashing legal/political/social systems can affect individuals’ lives in a way that shapes the evolution of social norms.

These are just two novels about one particular set of questions in women’s history. There is a great deal more that could be done to understand better how the U.S. and the U.K. have been shaped by the doctrine of coverture and its impact on both laws and families. Court case records, diaries, letters, and wills can help us to recover some of these stories, but so too can fiction that was written specifically to explore such stories and the institutions that enable them. So, let’s meet the wives, daughters, and sisters affected by gender-specific property law. Reading Trollope and Burnett—not to mention Jane Austen, Louisa May Alcott, Edith Wharton, and many others who captured women’s hopes, fears, and experiences—is a great way to start.⁴

4 The authors wish to thank the participants of the symposium on Gender and Emergent Order sponsored by the Institute for Humane Studies for valuable feedback on a manuscript version of this article.

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The Impartial Wally: A Smithian Analysis of Wabash College's Gentleman's Rule

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Abstract: This paper uses Adam Smith's theory of emergent moral order presented in *The Theory of Moral Sentiments* to analyze the mechanisms at play in the functioning of Wabash College's Gentleman's Rule. The Rule is extremely succinct: "The student is expected to conduct himself at all times, both on and off the campus, as a gentleman and a responsible citizen." Thus, the Gentleman's Rule is often seen as too vague, simple, and unenforceable by outsiders but is often invoked as a point of pride for the Wabash community by students, alumni, and faculty. I argue that the mechanisms described by Smith explain why this vague, simple, and extremely implicit rule creates a self-enforcing moral order among Wabash students within this uniquely small all-male liberal arts college campus. The paper will also explore the link between the functioning of the Gentleman's Rule and the nature of the male identity among the community.

I. INTRODUCTION

On March 13th, 2021, a student on Wabash College's campus threw a glass bottle into a dorm window that had a home-made "Black Lives Matter" sign hanging (Hood 2021). Was the incident racially motivated?¹ A case of toxic masculinity? Just drunken behavior? Regardless of the motivation, the reaction on campus was immediate (Hood 2021).² The students, and the community at large, swiftly condemned the incident and declared it a violation of the college's "Gentleman's Rule." Wabash College is unique: it is a small, all-male, rural, liberal arts institution. But the "Gentleman's Rule," as its *only* student rule, may just be its strangest and most unique feature.

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- 1 While campus administrators concluded the incident was not racially driven, Greg Redding, the Dean of Students, noted, "Even though we're confident...this wasn't a racially motivated event, the mere fact that it seems like it was jarring enough" (quoted in Hood 2021). The students whose window it hit do not agree with the administration's conclusion and do believe the incident to be racially motivated (see Hood 2021).
 - 2 This is, of course, not to downplay the importance of the issue, especially if it was racially motivated, but rather to note that regardless of the reason for the attack the community largely responded in consensus against the act.

The rule is simple, “the student is expected to conduct himself at all times, both on and off campus, as a gentleman and a responsible citizen” (Wabash College 2022). Appeal to the rule is common not only in response to serious and sensitive issues, like the incident above,³ but to any behavior seen by the community as inappropriate. As we will see, the rule has a strong appeal to the majority of Wabash Students and the greater community.

Wabash College is a small liberal arts college for men. It is one of only two all-male colleges in the United States.⁴ Wabash’s formal student rule is the Gentlemen’s Rule. As you can see above, the rule is vague. No further details are given as to what it means to be a gentleman (see Butler 2000) or a responsible citizen (see Isaacs 2014, p. 27). As Butler ponders, “what does the rule mean? The question is straightforward, but the answer is not easy” (Butler 2000, p. 12). Yet, the rule is an integral part of Wabash’s culture and certainly influences student’s behavior.⁵

In this paper, I argue that Adam Smith’s (1976 [1790]) first book, *the Theory of Moral Sentiments* (TMS from here on), provides a possible theoretical explanation for how the mechanisms behind Wabash College’s “Gentleman’s Rule” work and operate. I argue that Smith’s theory provides a way to not only understand the self-governing nature of Wabash College’s student body, but also in *understanding its nature as an all-male college*.

The fact that Wabash is an all-male college provides a useful environment for studying issues of gender (Smyth 2010). Issues of hegemonic and “toxic” masculinity are concerns for researchers within such environments (Benedicks and Trott 2021). I argue that Smith’s theory of morality in TMS not only sheds light on the workings of the rule, but it may also provide some evidence of a functional internal mechanism that limits perverse forms of masculinity. The rule provides an interesting look at how Wabash College’s all-male status influences and constrains the notion of masculinity away from a hegemonic form to a more positive form, such as what Plank (2019) refers to as mindful masculinity. It is beyond the scope of this paper to determine causality, but I will show how Smith’s theory might be operating in the community and how it invites us to think deeper about masculinity in general. As Isaac points out, “It may be easy to try writing off Wabash College as a bastion of masculinity, but there is always the presence of the Gentleman’s Rule to confound such a simplification” (Isaacs 2015, p. 78).

The paper proceeds as follows, Section II will explain what the Gentleman’s Rule is, its history, and explains the evidence I use. Section III explains the mechanisms of Smith’s theory. Section IV discusses, through first-hand accounts, how the Gentleman’s Rule operates. Section V discusses the connection to masculinity. And Section VI concludes.

3 In this case, the student certainly faced backlash from violating the Gentleman’s Rule from fellow students but also received official suspension from the College administration. Enforcement is discussed below.

4 The other is Hampden Sydney College in Farmville Virginia. Technically, Morehouse College in Atlanta Georgia is also all male, however, Morehouse is part of the Atlanta University Center Consortium, and often shares students within classes with the all-female Spelman College.

5 This is an empirical paper in that I rely on student interviews conducted by Isaacs (2014) to provide evidence for the operation of the Gentleman’s Rule, but it is not making any claims about how well the rule works or how well it compares to alternatives.

II. THE GENTLEMAN'S RULE

The Gentleman's Rule was formally implemented by then Dean of the College Byron K. Trippet after World War II.⁶ The rule was designed to give students the dignity and freedom of adulthood. As Trippet (1982, p. 127) explains,

...It was a philosophy which presupposed that students were adults, not children, that they were able to distinguish between right and wrong, and that they were aware of their responsibility for the consequences of their behavior. It thus gave wide latitude and freedom in the choices students could make in their private lives.

This was/is an exceptional rule. It mimicked European universities more than private American universities at the time, which tended toward "numerous rules and petty prohibitions" (Trippet 1982, p. 127).

Trippet (Ibid.) felt the initial reception of the rule worked:

On the whole Wabash students responded well; in fact their pride in the general policy made them more loyal to the college and more mindful of its good reputation. I believe this is one of reasons for there having been only minor difficulties at Wabash in the late 1960s and early 1970s, when student rebellions swept over most American universities and college. Wabash Students already enjoyed the freedoms then being demanded elsewhere.

Butler some years later notes, "They [students] prize the rule" (Butler 2000, p. 21).

Positive reception of the Gentleman's Rule should be of little surprise. Before its formalization, the rule had a much longer tradition dating back to the earliest days of the college. The earliest version dating to 1839,⁷ read "Every student is received as a gentleman and is expected to conduct himself with propriety; to be diligent in study and to deport himself in an orderly, courteous and moral manner, both in the college and the community." Early evolutions did contain some *petty prohibitions*, such as "card playing, dancing, profanity, use of tobacco or intoxicating liquors, wasting time, forming bad habits, neglecting studies, harming the college in unspecified ways, and, currently, plagiarizing" (Ibid.). But specific "petty prohibitions" have never been official rules. As Butler (Ibid.) argues,

Despite occasional efforts to specify particular crimes or vices heinous enough to warrant expulsion, long lists of rules, as students today quite proudly note, have never really been part of the Wabash tradition. This tells us something about the kind of community with which we are dealing. It suggests a community rooted in a shared set of values, a shared purpose, a shared vision of a common good.

The Gentleman's Rule is enforced informally by the students, faculty, and other community members. When serious issues arise the Dean of Students steps in, "...serv[ing] as the arbiter of administrative judgments related to the Gentleman's Rule. This same person spearheads discussion of the Gentleman's Rule with incoming freshman during freshman orientation week and within the greater Wabash community as needed" (Isaacs 2014, p. 56). Fraternities and/or athletic teams provide additional alternative enforcement. Still, most of the enforcement occurs via a bottom-up process of interaction among community members, mostly between the students themselves.

6 The principal architect, according to Trippet, was Dean of the Faculty George Kendall (Trippet 1982, p. 127).

7 A Memorandum from August 26, 1997, laid out the evolution of the Gentleman's Rule from the earlier "motto" through its formalization.

Isaacs (2014) provides the only full-scale study of the Gentleman's Rule.⁸ His study is ethnographic,⁹ utilizing student interviews to glean insight into the perception and workings of the rule. Isaacs (2014) interviewed several students, and this paper utilizes his interviews with pseudonymous Wabash students.

From the outside the rule may seem vague but to most within the community the rule is clear but implicit. What it means to be a gentleman and a responsible citizen becomes defined through a social process and the Gentleman's Rule acts as a sort of focal point.¹⁰ The students had a tough time articulating what exactly they mean but, it is clear, the Gentleman's Rule acts as a constraint.¹¹ As Isaacs (2014, p. 79) explains,

Participants in this study described the Gentleman's Rule using general descriptors and short comparative phrases. For instance, Xander stated that the Gentleman's Rule was "not law, but a vision of who we want to be" as mature adults. This vagueness was echoed by Andrew, who referred to the Gentleman's Rule as a learning experience guided by the half-joking phrase, "Don't be a jackass."

I argue, the unclear nature becomes clear and leads to a social equilibrium, where a common understanding develops, at least to some degree, about what right behavior is. As Andrew, one of the students, states, "The Gentleman's Rule varies for each person... and I think that it's the different interpretations of the Gentleman's Rule when compiled together and mixed with other definitions and interpretations from other people that you begin to narrow down what it is to be a gentleman" (quoted in Isaacs 2014, p. 80). The next section explains Smith's theory.

III. SMITHIAN MECHANISMS

Adam Smith, like many of the Scottish Enlightenment, was a spontaneous order theorist.¹² He believed that individuals in acting, in their own self-interest, promote, without any intention, the general welfare of society (under the correct institutions, see also Boettke and Snow 2011). As with his economics, Smith's theory of morality is essentially an invisible hand theory.¹³ Smith's friend and colleague Adam Ferguson characterized the invisible hand of the market as a spontaneous order that is the "result of human action, but not the execution of any human design" (1782, p. 205). Smith viewed social order as emerging out of the interactive magnitude of individuals in society, which often had a harmonizing effect.

8 Though Butler (2000) provides a wonderful analysis of the Gentleman's Rule as well.

9 I have tried to ground the methodological approach of this paper in an ethnographic one as well to utilize the experiences of those in the community (for more on this method see Chamlee-Wright 2010), which Isaacs' (2014) study helps to achieve. Isaacs, however, was not studying the Gentleman's Rule from the same perspective as I am. His narrative and theory do differ significantly from mine, though I don't believe they are at odds with one another, he was just looking at different research questions, see Isaacs (p. 9).

10 A focal point is a solution that people will tend toward choosing by default in the absence of communication. See Schelling 1960.

11 As noted above, I believe the evidence does provide empirical support that the rule does operate but I am not making any claims as to how well the rule works or if it is better or worse than alternatives.

12 As Hamowy explains, "Perhaps the single most significant sociological contribution made by that group of writers whom we today regard as constituting the Scottish Enlightenment is the notion of spontaneously generated social orders" (Hamowy 1987, p. 3)

13 Smith only mentions the Invisible Hand three times in his writing. Once in an early essay on the history of Astronomy (Smith 1982 [1980], p. 49), once in the *Theory of Moral Sentiments* (Smith 1976 [1790], p. 184) and once in the *Wealth of Nations* (Smith 1981 [1776], p. 456). In both WN and TMS he is referring to issues of economic distribution. See also Rothschild 1994.

Smith provided a bottom-up theory of morality generated by our sentiments¹⁴ and moderated through our interactions in TMS (Smith 1976 [1790]). Smith's metaphor was that of the impartial spectator (in the title I refer to this as the "Impartial Wally", a play on Wabash's mascot), an imagined third party who allows an individual to judge the ethical status of their actions from an objective and impartial perspective.¹⁵

Smith's work is often misunderstood as being contradictory, with some arguing that TMS puts benevolence¹⁶ on center stage while *Wealth of Nations* puts self-interest (even greed). But there is no so-called "Das Adam Smith" problem¹⁷ or contradiction. Smith was never the proponent of "selfishness". Nor is self-interest missing from TMS. Self-interest and benevolence in both books have interactive effects and are both part of sympathy which does the real lifting. To use Smith's own words: people learn to respond in ways that "humble the arrogance of his self-love, and bring it down to something which other men can go along with" (Smith 1976 [1790], p. 120). It is through this social process that what is right and proper emerges. As Otteson explains, "our natural sociability and our natural, nonutilitarian interest in the fortunes of others result in everyone's striving to bring home to himself what those around him are thinking and feeling: this is what Smith calls natural human sympathy" (Otteson 2002, p. 17). Or as Smith himself puts it, "to feel much for others and little for ourselves... to restrain our selfish, and to indulge our benevolent affections, constitutes the perfection of human nature; and can alone produce among mankind that harmony of sentiments and passions in which consists their whole grace and propriety" (Smith 1976 [1790], p. 25).

Individuals are self-interested. This is even a virtue, what we call prudence (McCloskey 1999, p. 253). But it is far from the end of what motivates human behavior. We care about the well-being of others and for its own sake, i.e., benevolence. This is even how Smith starts TMS, "But whatever may be the cause of sympathy, or however it may be excited, nothing pleases us more than to observe in other men a fellow-feeling with all the emotions of our own breast; nor are we ever so much shocked as by the appearance of the contrary" (Smith 1976 [1790], p. 13).

For Smith what is moderating behavior is sympathy, which is the invisible hand of social/moral outcomes. In Smith sympathy is a broad term meaning "fellow-feeling with any passion whatsoever" (Smith 1976 [1790], p. 10). And this sympathy plays a dual role of both observer and observed. We have our feelings, but we also have a degree of empathy.¹⁸ When something happens to an individual that causes joy or sorrow, others will observe and feel that joy or sorrow, but to a lesser degree. As Smith notes, "Mankind, though naturally sympathetic, never conceive, for what has befallen another, that degree of passion which naturally animates the person principally concerned" (Smith 1976 [1790], p. 21). This is important, for it helps to moderate our own behavior and learn to bring it down to what others will tolerate.

We want others to share in our feelings, for "nothing pleases us more than to observe in other men a fellow-feeling with all the emotions of our own breast" (Smith 1976 [1790], p. 22). Yet, we are not the same and do not feel the same to the equivalent degree. While you may be shocked and disheartened when a friend fails to share your joy as much as you do, she may be shocked or disheartened as to how much you are expressing your joy. You may think, "Why is she not as happy as me?" while she is thinking, "Why is he so happy, he should chill!" When this happens both parties will react to the reaction of the other, moderating

14 Smith was a very careful writer and used words in very precise ways. Sentiments today are often seen as a catchall for emotions, but this is not what Smith had in mind (see Schmitter 2014, p. 206). Sentiments here are "things of the heart and mind" (Smith 1894, p. 595) and is thus a combination of more moral feeling and moral thinking (See Smith and Wilson, pp. 19-33, for a discussion of words and meaning in Smith).

15 This will be explored more below.

16 In truth this is also a misunderstanding and over-simplification. The true center of TMS is sympathy, of which benevolence is only a small part.

17 For a history and discussion of the "Das Adam Smith Problem" see Montes 2009.

18 The term empathy did not exist during Adam Smith's time, so he did not use the word. See Fleischacker (2019) for an excellent treatment of Smith and empathy.

our responses in future interactions. We do wish others would share in our feelings, but we care about them too. As Smith explains, “man naturally desires, not only to be loved, but to be lovely; or to be that thing which is the natural and proper object or love” (Smith 1976 [1790], p. 113). We care about those we interact with and want them to genuinely care about us. This causes us to moderate our behavior. It is a social construction.

This interaction creates an imperfect equilibrium¹⁹ that pulls individual’s expectations about what is right and proper, what Smith calls propriety.²⁰ As he says, “these two sentiments, however, may, it is evident, have such a correspondence with one another, as is sufficient for the harmony of society. Though they will never be unisons, they may be concords, and this is all that is wanted or required” (Smith 1976 [1790], p. 22).

Virtuous behavior is not obviously objective but the result of discovery through the interaction of individuals. The metaphor Smith uses is the impartial spectator. This acts as a sort of conscience that we imagine as a disinterested outside observer. Allowing us to wonder what others would think about our actions and judge that action against the positive or negative reactions they attract. Causing us to adjust our own behavior accordingly. Morality is not objective but interpersonal. Thus, if the situation is right, individuals will moderate their behavior, moving each other closer to the expected reaction of each. Propriety is an interactive back and forth between individuals, or as Smith puts it, “in order to produce this concord, as nature teaches the spectators to assume the circumstances of the person principally concerned, so she teaches this last in some measure to assume those of the spectator” (Smith 1976 [1790], p. 22).

Smith’s theory is social and happens at multiple levels. And so, this invisible hand of sympathy is hardly a cure all or always an effective form of governance. There will be conflicts and sometimes those conflicts, in Smith’s view, may require more stringent civil government. Sympathy as an effective constraint weakens the more complex, large, and heterogenous a society is. He distinguishes between different spheres of sympathy, what we might call our more intimate and the larger extended order.²¹ This is social, so what is right and proper needs to emerge out of a larger social order, it will influence, but will also be influenced by, our intimate orders. The problem of modern society is to learn to live in both (Hayek 1988). Sympathy will be more powerful in our more intimate spheres and weaken the further out we go but in interacting in both we learn what is proper in each.

Wabash College is a small school. This allows the gentleman’s rule to rely on the intimate order more. It is leveraged by the culture and the community in ways that would not be possible in a larger extended order, such as at large universities. The next section will provide some anecdotal evidence for Smith theory in action within Wabash’s Gentleman’s Rule.

IV. THE LIBERAL DOCTRINE NOT “GENTLEMEN” OF THE SYSTEM

Wabash College’s Gentleman’s Rule is often seen as vague and undefined. It is primarily enforced through the interaction of the students, by the students, but with a fallback enforcement from the Dean of Students, fraternities, and athletic teams. As Isaacs succinctly puts it, “For the most part, Wabash students are only accountable to other men as their peers” (Isaacs 2014, p. 53). This section utilizes interviews conducted by Isaacs to illustrate how Smith’s theory in TMS provides a potential explanation of the workings of the Gentleman’s Rule.

19 Imperfect because we do not feel “exactly” the same, as noted above. And furthermore, sympathy, while a powerful mechanism for bringing us in to concord with one another it is still far from perfect. Smith believes we are far too kind to ourselves and constantly act to deceive ourselves, as he notes, “the self-deceit, this fatal weakness of mankind, is the source of half the disorders of human life” (Smith 1976 [1790], p. 158).

20 For Smith propriety can be found in “the suitableness or unsuitableness, in the proportion or disproportion which the affection seems to bear to cause or object which excites it” (Smith 1976 [1790], p. 18).

21 For more on this see Hayek (1988) and Smith and Wilson (2019).

Students tend to love the rule because of the freedom it entails. As David (quoted in Isaacs 2014, p. 83) puts it,

I think that the Gentleman's Rule creates a culture of freedom more—or not freedom, but taking responsibility for your actions. It's not like, "Oh, we'll take care of this, but here's your punishment." Instead, it's like "You take care of it. That sucks for you." I think that's what the Gentleman's Rule makes the culture of Wabash look like, and then when you look at people who are under the Gentleman's Rule, they still do the right thing.

The freedom of the Gentleman's Rule helps students to see the connection of freedom with responsibility (see for example Hayek 1960, pp. 71-84). As Isaacs notes, "The concept of responsibility was the most discussed attribute related to respondents' discussion of the Gentleman's Rule. Additionally, responsibility was often emphasized for its importance as part of gentlemanly behavior" (Isaacs 2014, p. 81). This fits with Smith's (1981 [1776], p. 664) "liberal plan of equality, liberty and justice" that permeates throughout Smith's work, including TMS. In fact, rules imposed from the top down often fail because of the unintended consequences connected to the disconnect between the wants and desires of the people the rule is meant to constrain. As Smith (1976 [1790], p. 233-234) so eloquently explains,

The man of the system²²... is apt to be very wise in his own conceit: and is often so enamored with the supposed beauty of his own ideal plan of government, that he cannot suffer the smallest deviation from any part of it... He seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranges the different pieces upon a chess-board. He does not consider that the pieces upon the chess-board have no other principle of motion besides that which the hand impresses upon them; but that, in the great chess-board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might choose to impress upon it.

Instead, rules that emerge from the bottom up often work better because they automatically align with the wants and desires of the actors the rule is meant to constrain. This is why I believe the Gentleman's Rule does not fall victim to the "men of the system" problem, by allowing students the freedom to behave without the hampering nature of top-down rules, and thus allowing Smith's mechanisms to operate from the bottom-up.

They also allow individuals to learn from their mistakes. As Evan echoes, for both the inability for top-down rules to stick and for bottom-up rules to be adaptive, "Some of these rules are thrown out there with just like the understanding that students will see a rule and respect it and say, "Okay, that rule's there for the betterment of me." That's not the case. Like, a lot of times, we learn things, and we become better because of respecting our failures" (quoted in Isaacs 2014, p. 83). This is not perfect (something expressed throughout TMS and noted above), these bottom-up rules will tend to work better within less complex, smaller, and more homogenous communities. But this is exactly what Wabash is and thus, I believe it shows why the Gentleman's Rule is an example of Smith's theory in action.

The Gentleman's Rule may seem vague, but in ways this is only true from the outside. As Isaacs (2014, p. 81) explains,

The definition of the Gentleman's Rule may be vague and general on an individual basis. However, it appears that students at Wabash believe that each student who interacts with the rule brings knowledge along with them to help the rest of the student community decipher what it means to

22 The man of the system in Smith (1976 [1790], p. 233) are people who believe they can craft their own solutions to problems regardless of the will of people they are attempting to control.

be gentlemanly. With allowance for variability in mind, the more common understandings of appropriate behavior under the Gentleman's Rule can be explored by looking at feedback given by the body of respondents to the study.

The notion of what the rule means is learned through the process of being in the community. It is learned through interactive action, practice, and habit. It is community driven. As David (quoted in Isaacs 2014, p. 80) notes,

I don't think that the Gentleman's Rule is a rule that you would cite examples of... I could come up with a ton of things, but the reason that they're gentlemanly is not because I think they're gentlemanly. It's not because I have some idea of gentlemanliness. It's because I think that they are good things, gentleman do good things.

The undefined nature of the rule is, at least within the community, not undefined but a tacit understanding that emerges through interacting within the community. This is learned through the dance of sympathy explained by Smith. As Isaac hypothesizes, "The most effective method of maintaining appropriate behavior seemed to be through direct interactions with other students. Whether interactions were with resident assistants, fraternity brothers, or athletic teammates, these interactions made an effect on respondents and encouraged them to maintain a standard of conduct acceptable to the college culture" (Isaacs 2014, p. 97).

This process not only helps individuals to learn what *propriety* within the community is, but it is also adaptive. As Isaacs explains, "In this perception, the Gentleman's Rule was not a static thing... but an ongoing process where each new person interacting with the Gentleman's Rule became an opportunity to introduce new ideas. Every previously known idea helped add to and refine the definition of what a gentleman is" (Isaacs 2014, pp. 80-81). And what a Gentleman is, which in this context essentially means proper behavior, is indeed a learned notion. It is learned from interacting with fellow students, and other members of the community such as faculty, staff, and athletic coaches. And they learn this right from the beginning, as Andrew expresses,

I know incoming freshman, they see the senior fraternity brothers, the RA members, the people doing speeches, the president, the student body, football captains, people from various different areas across campus taking the Gentleman's Rule seriously, the freshman understand that this is a big deal. The responsibility is being placed on my shoulders now. I need to prove to these guys that I'm ready for this responsibility (quoted in Isaacs 2014, p. 82).

And, not following the Gentleman's Rule, has consequences. As Isaacs points out, "Part of the responsibility that students gain when they live under the freedom afforded by the Gentleman's Rule is the responsibility to face consequences for their actions. These consequences may be simple issues of trial and error or they may be effects of a more serious nature" (Ibid.). The students tend to have a strong opinion that the Gentleman's Rule should be abided by, as Evan notes, "I think that we are perceptive enough to understand proper social etiquette in those kinds of events, and I feel like a Wabash man should abide by those characteristics" (quoted in Isaacs 2014, p. 93).

And to not do so comes with social consequences, as David says, "It's frowned upon to not be gentlemanly, and it's made known. People will tell you if you're doing something wrong" (quoted in Isaacs 2014, p. 98). For another example, it is common for students who skip a class to immediately get a call from a fellow student telling them to get to class. Again, the rule is enforced through the interaction of the students, as Kyle explains, "If it were an ideal between two gentlemen, that conversation would have never had to happen. It would have been, hey, you know the rules. He would have said, "Okay, I apologize," and we could have gotten over it. But him acting the way he did, we had a lot more conflict than needed" (quoted in Isaacs 2014, p. 92). The results of such conflict would be social pressure from many within the student body.

The range of behavior regulated by this rule is wide and varied. Students are expected to come to class, pay attention, treat each other (and the community at large) with respect, etc. The rule is a sort of reinforcement of Smith's notion of propriety on a wide variety of issues. But it is not simply a "petty prohibition" but rather a freedom to act but with consequences. You will be told you are doing wrong, and you thus need to regulate your own behavior to not only be loved, but to be lovely, as Smith had theorized. In this sense, the Gentleman's Rule acts as a focal point (see Schelling 1960).

Drinking to excess is an important issue that many colleges face, including Wabash. The consensus is that "Wabash students tend to agree that the college is perceived as having a reputation for wild parties and excessive consumption of alcohol" but that "Wabash students believe, though, that respect for others help students in the culture of the Gentleman's Rule navigate situations that would be very difficult for most traditionally aged college men" (Isaacs 2014, p. 87). The small community does lend itself to a close knit community. As Kyle explains,

I think we've caught this rep the last few years of being a party school, but the people on the outside don't really see how really respectful we are of the situation. We can have a situation like the Phi Delt bouts where guys are beating the crap out of each other, and you're rooting and hollering, but you still have the respect of the situation where you're still there as Wabash. You're still there rooting for a social situation. So, we probably don't have as many events or as many big concerts and things like at another school, but when we have those, we're a lot closer bound and a lot more tight with each other (quoted in Isaacs 2014, p. 87).

But this type of situation can also, and often does, lead to problems with things like drinking. Students, at least, believe the rule reduces the damaging effects of this behavior. As Evan notes,

Does that mean drinking and just go hard? No. With respect toward others, [it means] understanding that lines can be breached at specific social events, knowing where those lines are, having some sort of awareness of, "What state am I in right now? What state is everybody else in?" It's this overall social awareness. That factor of awareness is very key (quoted in Isaacs 2014, p. 93).

And this leads to a social order where students, at least attempt, to hold each other accountable. As Isaacs puts it, "Michael L. noted that he believed that it was because Wabash trusted its students to use their sense of honor and "gentlemanship" to guide their actions as students and as individuals helping hold other students accountable" (Isaacs 2014, p. 97).

The Gentleman's Rule certainly helps²³ to check the behavior of the individuals themselves, according to students, but it also is a reciprocal interactive mechanism, and so students view the problem situations not only in the sense of how they should act but what their fellow students are doing. As Isaacs explains, "However, an alternate interpretation that some respondents inferred was that part of learning personal responsibility means also taking responsibility for the well-being of those around you and protecting them from themselves" (Isaacs 2014, p. 84). So, while the Gentleman's Rule does provide a lot of freedom to engage in risky behavior, such as drinking to excess, it also provides a check on this behavior.²⁴ So there is freedom, as Evan notes,

I'm not going to go running through everybody's dorm and checking that a mini-fridge is full of a case of beer, even if they're underage. What that does is that gives them the opportunity to learn how to handle their alcohol. It gives them the opportunity to learn how to balance their time, and

23 Is the Gentleman's Rule enough is an important question but, again, beyond the scope of this paper.

24 But again, this is imperfect. I am not claiming the Gentleman's Rule is a panacea for problems, like drinking to excess. Like many colleges this is an issue at Wabash College. For example, see Robb (2011).

I think we hold ourselves to a higher standard than many of our other peers that are out age, and what I think is so great about this Gentleman's Rule is that it offers the opportunity to fail and bounce back (quoted in Isaacs 2014, pp. 83-84).

But there is also social pressure created by the sympathy interaction described by Smith, as Andrew says,

I think a big aspect of being a gentleman is respect—respect for yourself, respect for other people, respect for the environment, respect for what you're doing, whatever. I think that respect to me is to kind of formulate behaviors that are acceptable and not acceptable... I mean, if you're drinking your liver to death, it's probably not a gentlemanly thing to do. That's a conversation brought up at Wabash, because, for a long time, there seems to be this identity of Wabash that's associated with heavy drinking, and it's interesting to see what guys are having conversations about it, and I think that the Gentleman's Rule is allowing for those conversations. Like, do we really want our college's identity to be associated with drinking whole time? We can put away a lot of beer. Do we really want that image? I think it goes back to respect: respect for your college's identity, respect for your college's reputation. So, I would have to say that the ideal Wabash student or Wabash gentleman's behavior would be centered around respect (quoted in Isaacs 2014, p. 88).

Or as Evan put it, "They only have one rule. We can go there, and we can party. We can drink the whole time. It'll be fun. Well, yeah, you can, but, as soon as the students get on campus, they understand we carry ourselves in a different manner" (quoted in Isaacs 2014, p. 82).

V. MASCULINITY IN SMITH AND AT WABASH

The role of masculinity is unsurprisingly connected to the Gentleman's Rule. What exactly is a Gentleman? Butler, in searching for a definition of gentleman found hundreds of entries (Butler 2000). What she essentially finds is that the term has fluctuated in meaning through history.²⁵ On campus, what the term means is socially constructed and determined by the community. And, at Wabash, this seems to fit what Isaacs' interviewees found (Isaacs 2014). As he notes,

Respondents believed that masculinity could not be pinned down to a small group of characteristics that would serve as an "ideal" and felt that what was masculine depended on the interpretation of each individual. As respondents were interviewed, however, there were some consistent concepts that they used to refer to masculinity. Along with loose connections to athleticism and grit, the characteristics that were agreed upon were positive ideals that they associate with both masculinity and good character or being gentlemanly, such as personal responsibility, respect for others, reasoned discussion, and self-awareness (Isaacs 2014, p. 115).

So, how does this fit with Adam Smith's theory?

Smith did not write much on gender, but he did touch on it in his unpublished work on Jurisprudence (Dimand et al. 2004). His views are consistent with his point that "the difference of natural talents in different men, is, in reality, much less than we are aware of...the difference between the most dissimilar characters, between a philosopher and a common street porter...seems to arise not so much from nature, as from habit, custom, and education" (Smith 1981 [1776] p. 17). In other words, Smith, as a radical egalitarian, saw individual differences as stemming from circumstance rather than a particular natural inequality (Peart and Levy 2004). Regarding the difference between men and women, Smith did recognize natural differences, like physical strength, but believes that what ultimately mattered was the social structure (Dimand et al.

25 See Butler (2000) for a more detailed account of the various definitions of a gentleman.

2004). For example, the economic system matters by focusing human action in ways that have implications for the different genders.

Smith saw commerce as lessening the importance of physical strength. This in turn would change the social construction of gender (Dimand et al. 2004), i.e., reducing the importance of natural differences between men and women. By making natural differences between men and women less important, it would allow for the potential equal participation in the economy. Justman (1993) even argues that Smith saw men of a commercial system as “feminized” due to its shift away from physical strength and power.²⁶ Gender roles are adaptable to society itself and are determined by the culture, institutions, and constraints of society.

Smith, living at the cusp of the industrial revolution, even noticed changes starting to occur. In *The Wealth of Nations*, for example, when Adam Smith refers to a gentleman, or country gentlemen, which he meant the aristocracy as opposed to the merchant class, he saw them as unproductive and lacking innovation and remnants of a past social structure (See Smith 1981 [1776], vol. 2, p. 170). As the merchant class began to gain dignity, they began to replace the older notions of the aristocratic “gentleman” (McCloskey 1999). Today, we no longer think of the definition of a gentleman in the way Smith did in *The Wealth of Nations*. I believe this helps illustrate how societal perception dictates the different gender roles in both the intimate and extended orders. A rule, like the Gentleman’s Rule, can rely on sympathy to push and alter gender roles and push away from problematic forms of gender identity.²⁷

Still, by relying on our sympathetic relations this does not mean that the outcomes will be desirable. As Isaacs (2014, p. 42) admits, “These altered definitions of manhood do not necessarily stand up well against the pressures of society. Many times, even when men acknowledge that society’s expectations of men are inappropriate and morally wrong, they still act in line with those same expectations through such means as drinking to excess, objectifying women, and making anti-homosexual comments.” For Smith, self-deception is a natural tendency (see Smith 1976 [1790], pp. 156-161) and a small homogenous (all-male in this case) community, like Wabash, by not having the other perspectives present, could lead to something of a path dependency.

Recently a literature on “Hegemonic” masculinity²⁸ argues that this version of masculinity creates a self-enforcing mask that must be protected and affirmed because of how pervasive it is, even if participants disagree with the form masculinity has taken (see for example Connell 1987; Laker and Davis 2011; Kimmel 2008 and 2011; Sexton 2019; and Rosenberg 2018). Benedicks and Trott (2021) argue that this hegemonic masculinity can weaken student performance and lead to mental health issues in the classroom (especially at all-male college).²⁹ They further question one prominent Wabash slogan, WAF, or Wabash Always Fights, as a harmful tradition that helps to prop up this hegemonic masculinity.³⁰ The issues brought up by this literature may very well be true, and if so, should be taken seriously.

The question is, how does the Gentleman’s Rule either help or hinder the problem. And Wabash students certainly face those issues brought up by the Hegemonic masculinity literature,

A lot of Wabash men are really performing—really stressing the performance of masculinity, and so, they do a lot of actions that would suggest that they’re very man-ish, but when you actually nail them to a board and try and get them to do more difficult things like talk about feelings, you get

26 McCloskey (1999) makes a similar point.

27 Future research could involve intersectionality and the role it plays. I point readers to this interesting debate on Cato Unbound on intersectionality and classical liberalism: <https://www.cato-unbound.org/issues/may-2020/intersectionality-classical-liberalism/>

28 Hegemonic masculinity is almost like a more systematic version of toxic masculinity.

29 Both authors are also professors at Wabash College.

30 I see their point but also believe the slogan can be and often is used in an extremely positive manner.

much more shy behavior and much less typical masculine behavior (M. W. quoted in Isaacs 2014, p. 73).

It is beyond the scope of this paper to deal with how to fix these issues, but I would argue that the Gentleman's Rule provides not only an example of Smith's theory in action but, additionally, a potential means of escape. For Smith, "Nature, however, has not left this weakness [self-deception] ... altogether without a remedy" (Smith 1976 [1790], p. 159). When actions are seen as improper the interactive effects discussed above start to create, what Smith called, general rules of conduct. And "Those rules of general conduct, when they have been fixed with our mind habitual reflection, are of great use in correcting the misrepresentations of self-love concerning what is fit and proper to be done in a particular situation" (Smith 1976 [1790], p. 160).

It is true, as M. W.'s quote above potentially illustrates, that spontaneous orders are not automatically good.³¹ They can create a path dependency of toxic behavior that leads to attitudes meant to dominate not only females but also other men. This is a possibility, but the good news is that the Smithian theory leaves room for mechanisms that can effect change. Even if current norms relating to gender fall into this trap, there is hope to move away from it, given the evolutionary nature of Smith's theory. Social entrepreneurs can help to change the way the community see behavior and thus change the social equilibrium in a more positive direction (see Goodman 2023 in this issue). Gender norms are socially constructed through Smith's framework. In truth, the impartial spectator only cares about gender if the community does. And the Wabash community works hard to make sure other perspectives are not only not ignored but deeply thought about. The college has many classes, lectures, visiting speakers, etc. which make sure other perspectives are heard and understood.

And Wabash already provides evidence that this change is possible. Hood (2018) describes several Wabash traditions that fell by the wayside. Some of these traditions exemplified violent toxic male behavior but through push back, and more importantly, the changing of ideas over time, these traditions have been abandoned and would be looked at today by Wabash Students as ungentlemanly. And this from a school that loves its traditions! Regarding masculinity specifically Journalist Eleanor Clift (2018) notes that Wabash students fare pretty well in their handling of toxic masculine issues, and a big reason is the Gentleman's Rule, "based on what I saw, I'd say that the 'Gentleman's Rule' has stood the test of time at Wabash."

Therefore, I think that the Gentleman's Rule has been a positive influence on how the young men at Wabash view masculinity. At the same time, it is not a cure all.³² The rule and its meanings are still largely tacit. As Isaacs (2014, p. 75) put it, "While there was agreement among respondents that hyper-masculinity was not what masculinity is supposed to be, there was little agreement about specific words that made up a core understanding of masculinity." But relying on the concept of sympathy to moderate our behavior, off campus not just on, pushes students to treat all people with the same dignity. As Isaacs (2014, p. 78) notes, "Andrew felt that masculinity, by nature, involved aspects of protection, sensitivity, confidence, compassion, and self-reliance." The Gentleman's Rule, in a sense at least, really becomes a rule for being a good person.

V. CONCLUSION

Overall, I believe the reason the Gentleman's Rule works, at least to the extent that it does, is because of the mechanisms described by Smith. It is of course not a panacea and for it to be continually effective it needs to remain part of the culture of the community. But at the very least, students do perceive the Gentleman's Rule to be a check on their behavior and often in a positive way. As Patrick explains,

31 Spontaneous orders do not necessarily lead to positive or desirable outcomes in all circumstances, for example see Martin and Storr (2008).

32 There are, of course, tradeoffs associated with anything, and all-male education is no exception. As Butler (2000) points out one potential issue is the lack of female perspectives.

I think that the Gentleman's Rule is a lifestyle. I mean, it is technically a rule, but it's more like a lifestyle where you pledge yourself to treating others with respect and dignity and treating them as a gentleman would. That just kind of entails being respectful of other people—not just them, but also their viewpoints, and conducting yourself in a manner that, even if no one's around to see you, your parents or whoever would still be proud of you for behaving that way. [It's] something that would bring the college pride and honor as opposed to people being ashamed or neutral to the way you're acting (quoted in Isaacs 2014, p. 86).

According to students, the rule often has the positive effect of moderating student's behavior by providing the freedom, but also the responsibility, to act as they see fit. As Isaacs notes, "By treating others with respect, students perceive that they will be given respect in accordance with their positive behavior" (Isaacs 2014, p. 85).

I have argued that at the heart of why the rule works the way it does is explained by Adam Smith's theory of sympathy presented in TMS. For it helps to regulate our self-interest and bring it into accord with the other-regarding feelings toward others.

It is my hope that this article helps to shed light on the possibility of decentralized rules working as an effective form of governance, but many important questions remain. How well does the Gentleman's Rule work? What is the relevant comparative analysis? To what extent can the notion of Smithian sympathy be relied upon? Is a "Gentleman's Rule" possible at co-ed institutions? How small does the community need to be? Is masculinity at Wabash toxic or is it constrained well due to the Gentleman's Rule?

The rule helps to provide a tacit understanding of proper behavior but is also adaptive. What was seen as just and proper today would undoubtedly be different then it was a Wabash one hundred years ago. But the rule while changing in understanding remains a very important and integral part of Wabash's culture. As Butler (2000, pp. 21-22), put it,

Today we as a community no longer fully share the same sort of meanings shared by members of this community a hundred years ago. As I said earlier, I've been asking students about the "Gentleman's Rule" for years. They prize the rule. They are happy to talk about it. A recent comment in *The Bachelor* is not atypical of the kind of response I usually encounter in my discussions with students about the rule. The passage read, "The institution of the Gentleman's Rule and what it represents must remain intact...the freedom that the campus is afforded from the Gentleman's Rule is unique to our campus and helps create the atmosphere which makes Wabash a real world learning institution."

Smith argued that we all have an impartial spectator and I have argued that the "Impartial Wally" is an integral part of the Wabash ethos.³³

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“Not Planned by Us”:
Motive and Meaning
Among Upper-Tail
Birth-Rate Women

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Abstract: This paper asks whether the propensity to mate and form a family, manifested through gender norms, gives rise to forms of order that are discernible and spontaneous. I present evidence from women who take childbearing to be a rule of life, the highest good of the household, and the meaning of their gender. Narrative data is drawn from the first qualitative study of American women whose birth rates diverge from mainstream in both number and kind: in number, having five or more; in kind, entrusting their family size to God’s design and Providence, “not planned by us.” I describe the feature, “not planned by us,” as a particular family form predicated on childbearing having pride of place (as a rule, or propensity) among the goods sought by the domestic community. I proceed in three steps using two case studies. First, I present a narrative account of the subjective values reported by upper-tail birth rate women in relation to childbearing, invoking the rational-choice premise that women pursue goals that they value. Second, I present a description of upper-tail birth rates derived from the economic way of thinking, wherein women who see children as an expression of God’s Provident order, “not planned by us,” assess the subjective benefits of childbearing as relatively higher, and the subjective costs relatively lower, than their lower-birth-rate peers. Subjects did not always jettison careers, but they adjusted careers to fit a gender-identity of childbearing. Third and finally, I present self-reported accounts of domestic emergent order arising from the family form in which childbearing is valued so highly, as well as subjects’ speculations about the contribution of their family form to more complex higher-level social orders.

I think our culture really values the sort of very rigid perception of success and work and has started to devalue a mother’s contribution to society. And it’s almost like radical and feminist to say that my contribution is healthy, well-balanced children and that is a contribution. Like it’s not just about my music career or how much money we make or any of that, really. Those are all secondary to what you contribute to the world, which is the future of humanity.

— Leah, age 40, 5 kids.

One reason why economists are increasingly apt to forget about the constant small changes which make up the whole economic picture is probably their growing preoccupation with statistical aggregates, which show a very much greater stability than the movements of the detail. — F. A. Hayek, “The Use of Knowledge in Society” (1945).

I. INTRODUCTION: PROPENSITIES AND EMERGENT ORDER

Adam Smith's *Inquiry into the Nature and Causes of the Wealth of Nations*, published in 1776, postulated that prosperity arises unintentionally ("has in view no such extensive utility") from the division of labor that follows on a propensity in human nature (Smith 1976, I.ii). By unintentionally Smith meant that the favorable outcomes of markets were not the result of any directed plan or social design but rather emergent from the actions of individuals meeting their own needs through exchange. By propensity Smith meant a rule of human action that holds for the most part, manifesting itself through tradition or custom, that specifies a motive for action or inaction in a particular circumstance. The propensity to "truck, barter, and exchange," Smith submitted, is the rule that forms the basis for the "general opulence" of the market economy (Smith 1976, I.ii). Economists after Smith, especially those in the Austrian, London, and Chicago traditions, continued to develop insights into the role of individual propensities and rules of behavior on social order and governance more broadly, including noneconomic phenomena. This line of inquiry today comes to us under the heading of studies in emergent order, or "the study of spontaneous orders" (Hayek 1982, p. 36).

To inquire into the relationship between gender and emergent order, a natural starting place is the propensity in human nature most closely affiliated with gender: the propensity to mate, marry, and found a family. Indeed, gender commonly refers to the norms, customs, attitudes, and roles associated with being male or female (Merriam-Webster 2023), where male and female are demarcations of the human species relative to sexual reproduction. Therefore, variation in gender norms within and across cultures can be understood as manifestations of the propensity to mate and form a family. Following Smith and the study of emergent order, especially its application to noneconomic phenomena, one may ask whether the propensity to mate and form a family, expressed through gender, gives rise to forms of flourishing and order that are discernible and spontaneous. By discernible and spontaneous I mean that (i) there is a plausible path from an individual rule of behavior (viz. a manifestation of the propensity to mate) to characteristics of social order, and that (ii) individuals aim not at the social outcome directly, but rather follow as a principle of action a norm of the propensity. Such a line of inquiry in the emergent order tradition—from the propensity to mate and found a family to social flourishing via gender norms—has no precedent.

As a first effort, this paper examines women who adopt childbearing intentionally as a rule of life and a norm of their domestic community. I present evidence from the first qualitative study of American women whose birth rates diverge from mainstream in both number and kind: in number, having five or more; in kind, entrusting their family size to God's design and Providence, "not planned by us." I describe the latter feature, "not planned by us," as a particular family form predicated on childbearing having pride of place (as a rule, or propensity) among the goods sought by the domestic community. This group was chosen based on availability of the data. Future studies of this kind might evaluate women and men with different gender norms attached to their propensity to mate and form families, to see if other pathways might be traced out from the propensity to mate to emergent domestic and social orders.

I proceed in three steps using two case studies. First, I present a narrative account of the subjective values reported by upper-tail birth rate women in relation to childbearing, invoking the rational-choice premise that women pursue goals that they value.¹ Second, I suggest that women who see children as an expression of God's Provident order, "not planned by us," see childbearing as the highest good of the domestic community, and a gender norm of their propensity to mate. They assess the subjective benefits of childbearing as relatively higher, and the subjective costs relatively lower, than their lower-birth-rate peers, yielding to a calculus of childbearing in which additional births are more likely than in the general population. By their own account, subjective costs and benefits changed over time, with many reporting that that after three or four children the marginal cost of an additional child decreased, but marginal benefits—expected joys and an evaluation of the merits—increased, leading to a calculus in favor of the marginal child.

1 Self-reported goes without saying. I merely note here, and then move on. No attempt can be made in this paper to verify or externally validate the views of subjects of the study.

Subjects did not always jettison careers, but they adjusted careers to fit a gender-identity of childbearing, rather than adjusting childbearing to fit an identity of professional work. I explore the idea that expressions of the propensity to mate and marry can be used to identify family form according to gender norms. Third and finally, I present self-reported accounts of domestic emergent order arising from the family form in which childbearing is valued so highly, as well as subjects' speculations about the contribution of their family form to more complex higher-level social orders.

The remainder of this paper is structured as follows. Section II describes the phenomenon of upper-tail birth-rate women in the United States, and the puzzles associated with their choices, establishing this group of women as an object of research interest. Section III describes the study and method in greater detail. Section IV presents the findings from two case studies. Section V provides discussion and matter for further study.

II. BACKGROUND: UPPER-TAIL BIRTH-RATE WOMEN AND CHILDBEARING AS A PROPENSITY

At the time of the American founding, when Adam Smith published *The Wealth of Nations* and shortly after the circulation of Mary Wollstonecraft's *Vindication of the Rights of Women*, the total fertility rate of American women was 7 children per woman (Haines 2008). By 1900 this number had fallen in half, where it largely remained until 1960 (CDC 1999).² However, from 1960 to 2000, the total fertility rate halved again (Livingston 2018). The United States recorded its lowest total fertility rate on record in 2020, 1.64 lifetime expected births per woman (Hamilton, Martin and Osterman 2021).

The generally accepted explanation for the first decline is the economic shift away from agricultural and home-based work in which children are a net benefit to households, to non-home-based work where children are a net cost to households. Scholars debate whether the subsequent decline since the 1960s resulting in total fertility rates below replacement is part of the same overall trend, or instead a 'second' demographic transition in the west (Lesthaeghe 2010). But there is little debate that the mid-century slowing of birth rates resulted from a new set of costs and benefits centered on the experiences of women: the competition between work and family introduced by the 'contraceptive revolution' of the 1960s (Goldin and Katz 2002; Bailey 2010; Westoff and Ryder 2016). The birth control pill made it possible for women to postpone childbearing, invest in higher education, and pursue a career, all without delaying marriage or partnership. Between 1960 when the first contraceptive pill was approved and the end of the century, the share of women in the labor force surged from 37.9% to 60.0% in 2000 (BLS 2023). Labor economists report that "neither [the 1963 nor the 1973] cohort [of women] had as many children as 'desired', but their desires reflected trade-offs they were willing to make between family and career" (Goldin and Katz 2002, p. 752).

But this is not the whole story of American birth rates in the twentieth century and beyond. Statistical averages obscure a great deal of variation in the lives of actual women. A non-negligible portion of American women did not fall short of their desired birth rates, and still today a portion have families as large as their early American sisters. Largely hidden from popular view, these are women in the uppermost tail of the birth rate distribution. The US Census Bureau (Figure 1) estimates that five percent (4.3% + 0.7%) of women aged 40-44 have five or more children today (vs. 20 % in 1976), and nearly one percent (0.07%) today have seven or more (vs. 6.2% in 1976) (Census Bureau 2023).³

2 As the CDC puts it, "Family size declined between 1800 and 1900 from 7.0 to 3.5 children."

3 Author's own calculations, US Census Bureau, Current Population Survey 1970-2020.

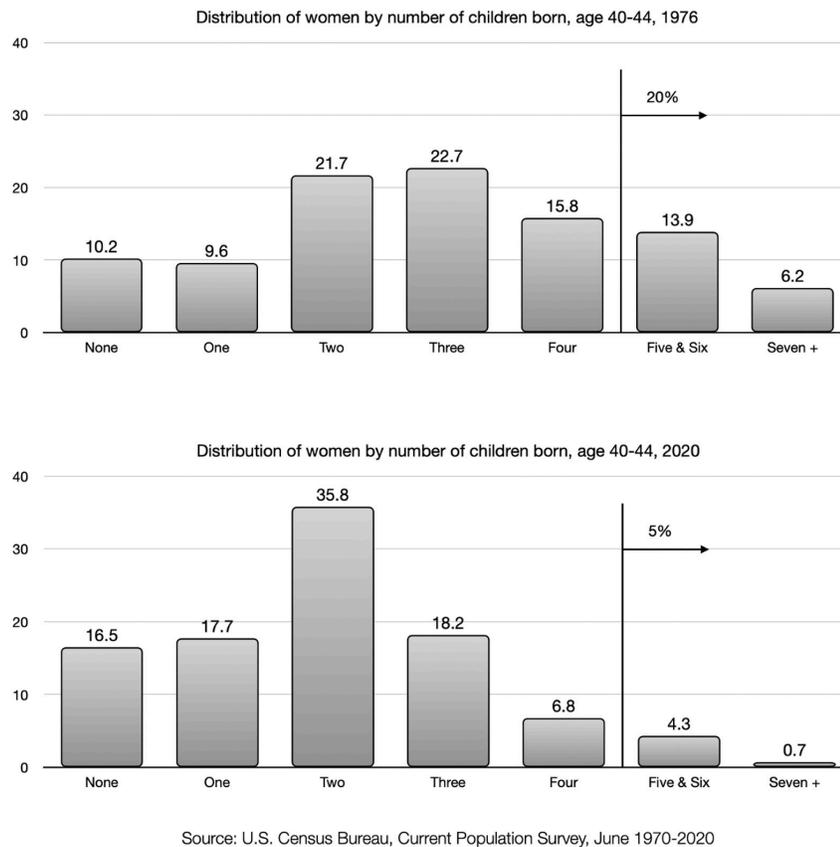


Figure 1.

Despite the large decline since 1976, the percentage of women having five or more has remained relatively constant since 1990 and has not continued to fall.⁴ Thus, some women continue to depart radically from the birth rate norm. Why they do this in a two-child world is as much of a puzzle as average birth rates plunging below replacement (Kearney, Levine and Pardue 2022).

One popular account asserts that women with large families are ignorant, under-educated, or lack alternative life choices. French President Emmanuel Macron has expressed this view at the United Nations saying that women who are “perfectly educated” will not go on to have families of “seven, eight, or nine children”⁵ (Iati 2018). This hypothesis likens women with upper-tail fertility to the hand-loom weavers of old, unwilling to modernize, and destined for extinction with time and education. While it presents a negative portrait of such women, it is not wholly without grounds. Education is one of the strongest correlates of declining birthrates (Martin 1995; Matthews and Ventura 1997). But education, however associated, can hardly be the causal factor. The evidence rather points to ‘career’ (or at least work outside the home) as the mediating co-causal variable. Education raises the opportunity cost of foregoing the labor market to have children—both financially and socially. *Ceteris paribus*, women with more education are more likely to be

4 Most of the change in birth rates since 1990 has been from the rising percentage of women having only one child (16.9% to 19.8%), and the falling proportion having three (19.4% to 17.3%). Childlessness has not risen substantially since 1990, though it rose from 10% to 16% from 1976 to 1990.

5 French President Emmanuel Macron at a Gates Foundation event said: “I always say: ‘Present me the woman who decided, being perfectly educated, to have seven, eight, or nine children.’”

in the labor market, squeezing out time for children, since time is a rival good. Ultimately, the thesis that high birth rate women are ignorant confuses correlation and causation.

Another common narrative is that women with upper-tail birth rates are irrational religious dupes, perhaps even victims of cults, cult-like practices, or patriarchal religious norms. On this account, women don't make up their own minds, but follow religious doctrines or leaders mindlessly (e.g., the Pope; religious elders; Rabbis, pastors, priests or husbands). Certain voyeuristic television shows (e.g., *The Duggars*, *Sister Wives*) continue to fuel this narrative, but it has long existed in American culture. Over time, however, Catholic and Mormon birth rates have followed the same declining trend as the American population at large (Westoff and Jones 1979; Mosher, Williams and Johnson 1982; Reiss 2019a). For instance, "among non-Hispanic whites in the 1980s, Catholic total fertility rates were about one-quarter of a child *lower* than Protestant rates (1.64 vs. 1.91)" (Mosher, Williams and Johnson 1982, p. 1; emphasis mine). Reiss reports that Mormons were still having "an extra kid and a half: a 3.31 fertility rate" in the 1980s when Catholic fertility had already dipped below average, but today are having about 2.42 children, "about 7/10 of a child higher than is typical of Americans as a whole" (Reiss 2019b). Utah birth rates bear this out. The Utah birth rate declined by over 40% from 2007-2014 alone (Hamilton et al. 2015). Nevertheless, the popular association about Catholic and Mormon birth rates remains. Other variants of the religious 'dupe' explanation include being victim of patriarchal marriages or churches that apply soft forms of coercion or peer pressure against women's personal preferences or desires. Ultimately, the hypothesis that 'high-birth-rate women are irrational' depends upon lower levels of personal agency and responsibility. Notably too, this explanation (like the first) depends in part on a confusion between correlation and causation. Religiosity itself is highly correlated with total fertility, but not obviously causal (Hayford and Morgan 2008). Unfortunately, this explanation also trades on another causal mistake: while departures from personal agency and responsibility may be found among some religious people, religion alone is not the causal story.

Therefore, puzzles remain as to the existence, persistence, and stability of upper-tail birth-rate women. There is no unified scholarly view of the matter, nor any generally accepted description of their motives. Moreover, beyond inherent research interest, upper-tail birth rate women constitute a natural subject for gender study. Feminist thought has concerned itself deeply with claims about female rationality, agency, education, and opportunity. Since upper-tail birth rate women are at least popularly associated with deficiencies in exactly these areas, their stories may offer clues needed for a more complete picture of the status of women in the contemporary West.

The economic way of thinking in the emergent order tradition provides a salutary approach for the study of upper-tail birth-rate women. First, it supposes that such women, like all other individuals, pursue ends that they value. Discovering these purposes and motives, descriptions can be formed of the norms and behaviors affiliated with the propensity to mate and form a family. These descriptions form the basis of rules of action (or inaction) from which an emergent order may arise.

Second, upper-tail birth-rate women are usually embedded in strong local communities where spontaneous orders, pre-political by nature, are highly developed (Skarbek 2011). Even among ordinary birth-rate families, the household itself and the domestic community is obscured from view and *unconnected* to formal governance. That is, order within the family belongs to the realm of individual freedom and private norms. For this reason, there is a long tradition that identifies the family as a seedbed of virtue, the bedrock of civil society, and a mediating force between individuals and the state (Wollstonecraft 1790; Burke 1790; Tocqueville 1840; Hall 2014).

What remains to be done is to trace out a plausible path from one type of gender norm to domestic emergent order (what happens *inside the family*) and from this to broader social orders (*outside the family*). The contribution of this paper is to introduce evidence of this path from upper-tail birth-rate women for whom childbearing is taken to be the meaning of their gender and the chief manifestation of their propensity to mate and form a family.

III. METHOD: THE NARRATIVE IS THE DATA

Women were recruited in ten American locations⁶ following established practices for human subjects research.⁷ Selection criteria included: (1) female; (2) born in the United States; (3) college-educated (Bachelor's degree or equivalent); (4) Married; (5) Five or more children with a current partner; (6) Would describe their family size as purposeful.⁸ All interviews were conducted by qualified scholars (PI, or co-PI) who met the same selection criteria as the subjects.⁹ The use of two interviewers served as a robustness check and identical interview guides were used. Interviews were conducted mostly in the homes of the subjects, but occasionally in a quiet public location such as a library. The open-ended interviews lasted from 90-120 minutes. Since the women recruited for the study did not constitute a representative sample, it may be said that each subject is herself, $N=1$.

While economics has largely abandoned the interview as a source of data in favor of quantitative methods and causal inference, many questions cannot be fruitfully addressed without this more primitive form of observation. Although interviews do not yield population statistics, “what open-ended interviews do yield, and yield consistently,” according to economist Michael Piore, “are stories the respondents tell. The story is the ‘observation’. The stories are basically narratives. The question is thus what to do with the stories. Typically, stories are not analyzed as statistical data; stories are ‘interpreted’... The stories [act] not as data points but to suggest particular revisions in theory” (Piore 2006, p. 18).

The primary interpretive lens for the stories is the rational choice framework: first, people pursue ends that they value and act for a purpose; second, ends are pursued through a rational ordering of values. That is, incentives matter. Individuals compare the expected (subjective) value of a choice against subjective costs, especially the opportunity cost of the most valuable choice not chosen. Following Buchanan, cost is understood to be “that which the decision-taker sacrifices or gives up when he makes a decision. It consists in his own evaluation of the enjoyment or utility that he anticipates having to forego as a result of selection among alternative courses of action” (Buchanan 1999, p. 41). Following Mises, costs are understood to be “a phenomenon of valuation,” (Mises 1949, p. 393) such that “costs are equal to the value attached to the satisfaction which one must forego in order to attain the end aimed at” (Mises 1949, p. 97). The consequence of this is that a calculus of choice which provides insight into purposes can be rendered in two equivalent ways: as a comparison of subjective value (of a choice) with subjective cost (the value of the next best choice); or as a straightforward ranking of goods of different values, e.g. this is most important, this is second, etc. The latter rendering is not as recognizable as the economic way of thinking; nevertheless, the logic of choice developed especially in the Austrian tradition insists on their analytical equivalency (Buchanan 1999). At the same time, the ranking of goods recommends itself more highly to noneconomic phenomena where choices cannot be presented in terms of (simultaneous) commodity prices.

The mode of interpretation in this paper invokes the entire legacy of the Smithian paradigm, in which people pursue ends that they value *cooperatively*, on account of which formal and informal institutions

6 Locations: (1) Spokane, WA; Seattle, WA; (2) Los Angeles, CA; Long Beach, CA; (3) Salt Lake City, UT; Provo, UT; (4) Denver-Aurora, CO; (5) Houston, TX; (6) Greenville, SC; (7) Washington DC; Arlington, VA; Rockville, MD; (8) Philadelphia, PA; Wilmington, DE; (9) Boston, MA; Hartford, CT; Providence, RI; (10) Chicago, IL; Milwaukee, WI; Des Moines, IA.

7 IRB Approval was obtained in Fall of 2018; recruitment took place in spring of 2019; and interviews were conducted in summer of 2019.

8 We wanted to recruit women who could tell us about their purposes. Our sample therefore is not representative of all women with five or more children. However, unintended (‘non-purposeful’) pregnancies are less common among college-educated women (Musik et al. 2009).

9 The author of this article was the PI and primary interviewer (80% of interviews). Emily Reynolds, co-PI, conducted the remaining interviews. Investigators who fit the selection criteria for the sample were chosen to reduce feelings of negative judgment or stigma, to facilitate greater freedom and openness in responses.

emerge to protect distinct human goods, such as children (marriage), provisions (markets), and safety (governance). In the Smithian paradigm, the motives of individuals—for instance, to form families, to make provision for themselves, to seek safety—springing from basic human propensities, are not problems to be solved but clues as to the character of resulting social orders, institutions, and modes of governance: “The important point is that the regularity of the conduct of the elements will determine the general character of the resulting order but not all the detail of its particular manifestation” (Hayek 1982, p. 40). Regularity in conduct is observed by marking the motives and values that guide human action in the face of certain choices. These regularities (as customs, norms, or traditions) are manifestations of basic propensities.

My empirical approach to interpretation of the narratives (only a fragment of which can be included in this manuscript) involves identifying three types of expressions in the speech of the subjects, often but not always separable as data in the narratives:

- 1) *Expressions of subjective value embedded in the narratives.* What ends do my subjects report valuing and pursuing? What motives do they describe? What meanings do they attach to their decisions? Did these motives and meanings change over time?
- 2) *Expressions of explicit or implicit ranking of goods, or costs and benefits.* How do they describe the opportunity costs of childbearing? What do they perceive as the merits and rewards of childbearing?
- 3) *Expressions of emergent order arising from choices consequent upon (1) and/or (2).*
 - a. Within the family. What characteristics of the marriage itself do subjects speculate result from entrusting family size to God’s design and Providence? What characteristics of the siblings? Of the domestic community itself?
 - b. Outside the family. What features of civil society and social order do subjects speculate might be traced to the family form reflected by upper-tail birth rates?

For elements of (3) to correspond to Hayek’s statement of emergent order, they should be purpose-independent in the sense that they are distinct from the purposes stated in (1) and (2), and *in an important sense* unintended. “The order rests,” Hayek insists, “on the purposive action of its elements,” (Hayek 1982, p. 39) but even if aware of the (desired or undesired) consequences of their purposes, the elements (decision makers) are unable to ‘intend’ the character of the emergent order, since it is not the product of any one decision maker.

In Hayek’s sense, the family is clearly ordered as a ‘society’ and not as a ‘government’ (Hayek 1982, p. 48). “The formation of spontaneous orders,” he writes, “is the result of their elements following certain rules in their responses to their immediate environment” (Hayek 1982, p. 43). Later he writes that “Rule in this context means simply a propensity or disposition to act or not act in a certain manner, which will manifest itself in what we call a *practice*, or custom” (Hayek 1982, p. 75). Members of a family follow rules in this sense, practices, or customs, consciously (or subconsciously) adopted by those who establish the household. Rules may not be the same for all members but correspond to roles (Hayek 1982, p. 49).

Returning to the subject and method of this paper, open-ended interviews yield exactly the sort of insights necessary to connect family form to emergent domestic and social orders. Mapping family onto the Hayekian notion of *cosmos*, let ‘family form’ be the set of ‘rules’ or ‘propensities’ that are adopted or ‘obeyed’ by the members of a domestic community. Expressions of subjective value provide an accounting of the distinct human goods sought by the principals of a domestic community, the purposive action of the individuals described as rules or propensities. Expressions of relative valuation or rankings of goods manifest how the rules (tend to) work in various circumstances. In this case, subjects report adopting childbearing as a rule or propensity. Expressions of emergent order describe the ‘character’ of the domestic society resulting from the rules and propensities (or purposes), as described by the individuals inhabiting them.

III. FINDINGS: “BEARING GOODNESS AND LIGHT”

Fifty-five women were recruited into the study from ten US locations (see footnote 6). Women ranged in age from 32 (born in 1987) to 71 (born in 1948). The number of children ranged from five (lower bound on selection) to fifteen with an average of seven across the sample. Seventy-five percent (41/55) of the sample reported white/Caucasian as race or ethnicity, while the remaining twenty-five percent (14/55) reported identifying with a racial minority, including black (1), Hispanic (2), Asian (2), Filipino (1), Jewish (5), and mixed races or other (3). Women in the sample reported belonging to the following religious traditions: Christian, Baptist; Christian, Evangelical; Christian, non-denominational; Christian, Presbyterian; Church of Jesus Christ (LDS/Mormon); Jewish (‘Observant’; Orthodox; or Hasidic); and Roman Catholic.¹⁰ Fewer than half of the sample, forty-five percent (25/55), came from families of origin large enough to fit the study sample (five or more children), while fifty-five percent (30/55) came from smaller families. A full twenty-five percent (14/55) grew up with no siblings (4/55) or just one sibling (10/55).

In what follows, I present two case studies, preserving as much of the original voice as possible given space constraints. Names have been changed. Other identifying information has been removed. Quotes were chosen to indicate: (1) subjective values; (2) ordering or ranking of values (or relative subjective costs and benefits); and (3) aspects of emergent order.

Case 1. Leah, age 40, 5 kids, Jewish.

We met Leah in her home in the Northeast on a quiet Sunday morning. Leah was expecting her fifth child when we visited. She told us she:

had graduated college and had attended a religious women’s yeshiva for 8 months. And we got married. I knew going into marriage that our intention was to start a family right away. Like we weren’t getting married to wait. ...I was in a very intentional mindset when I got married. ...And [my son] was born 10 months after we got married basically.

She continued, highlighting the importance of her religious turn:

I think I always knew that I wanted to have children, but I never had a preconceived notion of, ‘I want to have x amount of kids.’ I just knew that I wanted to be a mom and I knew that I wanted to have a family. But I didn’t grow up with a lot of siblings and I didn’t have that experience and I didn’t grow up super religious. ...I grew up in a reformed congregation which is basically completely secular except you do token Jewish things. And now, we’ve chosen a different life where we are much more intentionally practicing religion and the traditional.

For Leah and her husband, having children was part of marriage, and both were linked with a sense of mission and purpose in relation to God’s plan for them. Leah recalls that at the time, as a young mom, it was incredibly hard:

to go through another pregnancy and everything and not having really slept through the night very much, but I mean, I just really saw it as divine providence and God’s will for me. And I really felt like it was a blessing.

Expressions of the blessing of children, as a statement of value, overwhelmed our narrative data. Esther [age 38, 9 kids], another Jewish subject, said “God’s not out to trick us and send us trouble. He really wants to

10 Muslim women and atheist women were sought but not located for this study.

send us blessings. Yes, things don't always turn out exactly the way you might have expected it, but children are a great source of blessing. And God wants us to have more blessings and more healthy children and we should definitely ask for that.”

Regarding personal identity in relation to her choice to have a large family, Leah described how her values and the ordering of priorities had evolved over time:

Like I think that when I had my first 2, I was hyper-committed to my goals. I still was recording full-length CD's and playing in concerts and having rehearsals late at night. I had more energy and stamina, and the will, and the drive. I think that has definitely been affected by having a large family, and I think that after having the third and fourth, I think there are identity challenges.

It's not as easy to pursue personal dreams and pursuits right now as it once was. It's a sacrifice that I've made because I value having a large family, and I value every child as a gift. But I wouldn't be honest if I said it wasn't a struggle. And also, even on a financial level, feeling like after I had my fourth, instead of doing my music, I'm now working 9am-1pm every day to help support our family. So that's been really hard, feeling like I care a lot about being able to provide for my family. And I think I've had to sacrifice some of my own interests and pursuits at this time.

I don't think they're on hold forever. But I also think that creatively, there's only so much that a person has at any given time. I think as a mother of a large family, you have to understand sometimes things are on a back burner. It doesn't mean the burner is off. It means you're rotating priorities as needed, and I've done a lot of that.

I think our culture really values the sort of very rigid perception of success and work and has started to devalue a mother's contribution to society. And it's almost like radical and feminist to say that my contribution is healthy, well-balanced children and that is a contribution. Like it's not just about my music career or how much money we make or any of that, really. Those are all secondary to what you contribute to the world, which is the future of humanity.

Leah expressed a thematic pattern that emerged in many interviews. With the first couple of children, the 'old self' hangs on, and inevitably gets 'balanced' with motherhood. But this takes a level of "energy, stamina" that cannot be sustained. Eventually—if you keep having children—Leah says, some things practically go on the back burner, but your identity changes. There is a melding, or a settling, or a 'shift' as Leah called it: "I think that part of your identity just evolves into motherhood being a really big tenet of who you are and what you're giving to the world, like a shift..." One interpretation of this is that the tension between the mom-self and the old-self resolves when you're no longer balancing them: at the end there is 'one-self', herself, for whom motherhood becomes deeply who she is and what she gives to the world.

This appears to be the meaning of the passage about culture. Leah argues that it is customary to assign 'contribution' to professional work and career, but to motherhood rather something like 'consumption' in the way economists use the term—something which is chosen and consumed for personal benefit, as Gary Becker modeled children for the household (Becker 1991). In contrast, Leah's view is that children are a positive externality, if not more—a critical contribution to society. She concluded by saying:

... literally the future is about good people being in the world. People that will go on to raise their own, healthy, happy families and contribute positively. And yeah, coming from a divorced family, that was a big motivation for me in choosing this life, I think. Like valuing children first. The family unit being the priority above career and personal identity.

Following this portion of our conversation, Leah remarked, in another statement of values ordering gains:

It has gone by way too fast, honestly, even though it is hard and there are times that I feel really overwhelmed and like this is a really big responsibility I am bringing on my shoulders, bringing another child, starting from square one at age 40. I could be doing this another 18 years. I could be on the beach drinking margaritas. But that's just not what my life is about. And I just didn't build my life around sitting back and relaxing. I built my life around working really really really hard and bringing goodness and light into the world.

At this point Leah shifted and began connecting her values and choices to characteristics of her household, what I take to be an expression of domestic emergent order.

... if anything, children are light. Every child brings a divine gift into the world that nobody else can bring. Nobody else can do what that person is here to do. And yes, it takes so much self-sacrifice, but I ultimately feel like my husband and I are really happy. We are really really happy and fulfilled even though we have had to work really really really hard, to the breaking point at times. For sure, I mean, sleepless nights, endlessly. Both of us working. Both of us parenting. Putting aside some of our personal pursuits. But ultimately, yeah, we went out for our 16-year anniversary this past March and those moments are really really special. We appreciate them more, I think, because they're rare.

In this single passage Leah articulated three things: (1) the extraordinarily high value she places on children—each one is unrepeatable, irreplaceable, and divine; (2) the assertion that the opportunity cost of personal pursuits is well compensated for by that high value; (3) her marriage is stronger because of the shared project of raising a large family. In an adjacent passage she related:

... there are times when I'll be supporting my husband, for example, when he was getting his graduate degree, I was pregnant with my fourth. So that kind of had to take priority during that time. So we kind of support each other. There have been times where he really supported me with my music and things like that. So we kind of work hand in hand.

She elaborated on the connection between their shared project and the quality of their marriage, identifying growth in virtue as a part of that story:

What creates tenacity in a relationship, ultimately really? Because yeah, we have so many household duties. It really is overwhelming. The dishes and the laundry and the parenting. All of that is like... and yet you grow so much as a person. Your capacity grows. What I was capable of with one kid almost seems like probably looking back a vacation when you have five. And it seemed really hard at the time. Because my capacity as a person has grown so tremendously. And my tolerance and my ability to field stressful experiences and manage them differently—so, I think we grew a lot. We have a lot to give because we've learned how to manage a very full life.

Leah envisions the job of raising five kids as a thirty plus-year mission that she and her husband are committed to carrying through together, thick or thin. Her oldest is 15 and she says it will be at least another 18 years until her baby is launched. She thinks that the mission helps to create 'tenacity' or strength as a couple since they grow and become better and have more to offer each other.

Finally, Leah talked about her children, her teenagers, and reflected on how a household oriented to childbearing might provide benefits for the broader social order. This was a theme that came up often in our interviews:

I think it's interesting to think about "How will this influence the future?" I think there's a lot of value in being raised in a large family. ... My older kids are really learning about independence and responsibility and how to contribute and they already at 13 and 15 know that life isn't all about them and their self-fulfillment. They understand that life is about responsibility, give and take, giving back basically. It's not just take, take, take. And I feel like a lot of kids that grow up in a smaller family end up with the message that, "It is about me and what I want, and I get it". They don't learn how to give back in the same ways.

One of our subjects, getting at the same idea, called the large family a 'natural school of virtue'. The idea was that growing up with many siblings provided an organic—unintended—training in desirable character traits. Few subjects were as blunt as Leah, saying that smaller families couldn't achieve the same. But all who commented on it believed that large families had a strong natural advantage in producing children who had learned how to share, were tolerant of differences, had taken on responsibility from a young age, and were radically connected to others. This latter idea came up often—with many of the women commenting that their teens seemed happier—and easier—than expected. Leah continued:

Oh, it's so good. I think it really tempers [teenagers'] experience of the natural separation that takes place as a teenager ... And I can say for my son, he's having a radically different experience than I had at his age. He's living a much more wholesome life. He's spending Friday nights at home with a family meal and Saturdays in the synagogue with the community praying doing a prayer service. ... But family comes first. And also, that there's a community looking after him. He knows that he's accountable, whereas I think a lot of teenagers live in their own world and they're not accountable to a community. So, it's definitely good. And just the experience of contributing with the care of younger siblings is huge, learning how to be a caretaker. Not like a parent, just someone who is looked up to and influences.

I mean, I feel that my teenagers have never been easier, more independent, and self-sufficient. I mean, if anything, they've become so much easier with age. Of course, they say, "Bigger kids, bigger problems." The stuff on their minds is big, but who they are as people, how they behave is exemplary.

Leah's case study provides a narrative response to the research questions that motivated this study. Expecting her fifth baby at age 40, Leah describes a profound religious turn as a young woman (shared with her husband) and they are active in a local orthodox synagogue. She places a very high value on childbearing, which she describes as "bringing goodness and light to the world," with roots in her religious faith, and in her experience of family loss (divorce) as a child. She believes that children are blessings from God and a substantial contribution that a woman can make to society, "like radical and feminist to say that my contribution is healthy, well-balanced children." Childbearing is the manifestation of her propensity to mate and form a family, so that all things being equal, another child is desired despite the difficulties. Second, she articulates very clearly her subjective relative valuations, and how she weighs things in the balance. "I built my life ... around bringing goodness and light into the world ... the future of humanity." None of her personal pursuits (which she intends to pick up again as soon as she can), nor the effort and personal costs, outweigh the value she places on motherhood and the opportunity to bring "a divine gift into the world that nobody else can bring." Finally, she believes that there are characteristics of her marriage and of her children that discernibly correspond to having a large family—but were unintended by her, a 'domestic' emergent order. She further supposes that these characteristics are good for social order more broadly yielding stronger marriages, and children with prosocial civic virtues: independence, responsibility, tolerance, and connectedness.

Case 2. Angela, age 44, 5 kids, Catholic.

Angela welcomed us into her university office on a warm, early fall day. She taught at a liberal arts college, and her office, piled with stacks of books and papers, featured a child-sized table squeezed to one side, with tiny chairs and a plethora of tiny ‘masterpieces’ taped to the walls. Early in our conversation she described the challenges of balancing her work as a tenured professor with her lifestyle of openness to having children:

[Between my fourth and fifth] I just needed a break. But I think—I don’t think that’s the children. I think it’s because I work. I honestly think it’s work and children. I had four of the five on the tenure track. And it’s difficult, as you well know. And it’s—for me I think there’s so much stress going on here that that’s the real delay for us.

The stresses of work and a full house had caused her to wait longer between kids, she thought, than she might otherwise have done. But her family life had taken a toll on her professional work too, something she readily described in terms of trade-offs or relative values:

... Let’s be honest. I don’t have a published book. That’s not happening. I don’t care. But it’s not happening, actually. For some it’s fine. I’m not that person. Would I be a better scholar if I didn’t have children? For sure. For sure. Honestly. I mean, I used to work all the time before I had my children. So, for sure I would. Am I following all my passions? ... No. I’m not. Ok. I can live with that.

... This really is true. If you make a choice, you’re giving up one thing for another. But five-year-olds understand that ... If you can only have a choice between the chocolate and the Skittles, you’re not having chocolate and Skittles.

Reflecting on the fact that she was probably done having kids, she told us how sorry she’d be not to have another one:

Well, you know, I’m actually sad. Believe it or not, it’s ridiculous. I know I’m forty-four and the average forty-four year-old is not having another child. But nothing has wound down yet. I love children. And [my son] won’t have a sibling close in age. So, I’d love to have one more, just so he could have a little friend. I would. So, I’m not going to lie. I would enjoy that immensely ...

It’s just such a beautiful gift, I just never could have imagined. I said I did not grow up a baby person. I did not grow up around children. ... But it’s such a joy. Oh my gosh. Having children is such a joy that I do feel like it’s something God is doing for me. It seems like such a tremendous gift, and I can’t believe that I get to have it.

Later, when Angela elaborated on giving up some of her ‘passions’ for the sake of her children, her conversation naturally worked its way back to a statement of her values.

Well, if you think that career and passions are the only way that a woman can fully flourish, then obviously you’re going to think children are an impediment. Because your career will be diminished unless you rely on an army of other people. Which, if you have the capacity, more power to you. But most people do not have those economic means. ... It’s just, what do you value? So, I just think that our values are more for individual self-fulfillment than they are for anything collective.

Regarding reconciling her personal identity with having five children, she stressed that she didn't feel the presence of her children as a challenge to her sense of self:

I often wonder if I don't have a problem with this because I am African American. I mean, I'm obviously Western. But I wonder if it's not a little bit of a cultural difference... we're sort of overrun with a misbegotten sense of autonomy. And ... autonomy is not the first thing I would think of as the characteristic of the self. If it were, then I imagine that this would look absolutely dreadful. Because I don't have any time for myself. I can't exactly say that I'm a paragon of self-care. That is not happening right now. It can when you have a kid who's three, but it can't when you have a one-year-old. That's just reality. But since autonomy is not my primary value, it doesn't matter. People are actually my primary value. Persons are my primary value, and I have a home rich with persons.

Continuing along the same lines she related:

But I do think that deeply embedded in black culture is a sense of other people, a sense of interdependence. I do think that. There's no shame in sharing yourself with people, and reliance on other people.

People matter. People matter. And they also—my sense of identity is sort of co-related to all those other people. ... I have found that I'm most myself with my family—more myself than I ever even knew I could be with my family than I would be apart from them.

At this point, Angela began to lean into her religious values to explain her point of view:

I would most definitely make a connection between the culture of hospitality and children. If you have an openness to the other you have an openness to the other. And you don't have to fear the loss of yourself in the openness to the other. ... We are most ourselves when we give ourselves away—it's the paradox of the Cross, though ... That is, Christianity, I mean, that really is the Cross. That's just the paradox of the Cross. So, I do think that's a mystery.

Angela's appeal to what she called the mystery of Christianity contained an implicit ranking of goods, not dissimilar from Leah's. Children matter, above other things and even above personal pursuits, career interests, and personal comfort, because children—and people in general—are part of a divine plan to “prosper you, and not to harm you” as one of our subjects put it, quoting the prophet Jeremiah. Leah referred to children as “bringing goodness and light.” And Angela connected children with the salvation of the world.

Finally, Angela, like Leah and many of our subjects, believed that her rule, or propensity, to be open to children—an open home, an open table—had affected her marriage for the better, and her children too. I took these as expressions of domestic emergent order. She didn't have children *in order to* have a better marriage, or for the sake of virtues in her children, but she was convinced her decision to have five kids, and to be open to more, had produced those salutary effects. Like Leah, she thought her family size had improved her and her husband, and that growth in virtue had in turn improved their marriage.

I think we were used to doing what we wanted to do in the time frame that we wanted to do it. And in that sense, you are self-referential, even together. Children force you out of yourself. You cannot be selfish with a child.

In the same way, Angela believed that children in a large family effectively help to mature the other children as well as their parents.

...my five children certainly have their predominant faults. And I think the other children work on it. [...] someone described the family as a novitiate. The family is a novitiate. It is a proving ground, and a training ground where you learn how to be a decent human being. Actually. Truly. And a preparation for heaven even ...

She went on to describe how her nine-year-old son “has grown tremendously by having to live with other people” and how her eight-year-old daughter was learning to give up being the “center of attention.”

Before concluding our interview, Angela chuckled at the problem with answering typical questionnaires in medical offices and surveys: *Is this a wanted or an unwanted pregnancy? Planned or unplanned?* “Oh my gosh, it’s so irritating,” she said, “and I don’t even know how to answer the question. Well, of course they’re wanted. Well, was this all planned? What do you mean by planned? Planned by God.” Another subject, Moira, had retorted: “Three of our five kids weren’t planned by us. And every time we had a baby that wasn’t planned by us, there’s the faith that I didn’t plan this but that doesn’t mean someone else didn’t plan this. So, there’s that openness we were talking about, like the stewardship of your life. Your life isn’t yours to begin with...” Angela, as if she had heard this comment, added with a laugh: “some Protestant preacher said in a book sometime, I can’t tell you the name of the book, but I thought it was hilarious. But ‘it’s not your show. It’s not your show. You know you’re in it, but this is not your show.’”

Angela’s case study provides additional narrative support for the findings in Leah’s story. Angela places an exceedingly high value on childbearing, understood as a lifestyle of radical openness to the other, and intentional interdependence. Children are a great joy for her, and a gift from God. Like Leah, she talks about trade-offs or relative values. She hasn’t had as many children as she would have liked, and that’s because she also works as a college professor. But her subjective evaluation of the relative costs and benefits led her to choose a much larger family than most of her peers. Finally, she believes that her decision to make childbearing the identifying propensity of her family led to a stronger marriage and children who are less self-centered. None of this was related to her *purpose* in having children, but she counts it as an expression of God’s provident plan for her family. She believes that “human elements act according to secondary causality” in a “supernatural order” of things.

IV. DISCUSSION: DOMESTIC EMERGENT ORDER AND SOCIAL ORDER

Minimally, this paper aims to provide initial evidence of an intelligible path from the propensity to mate and form a family to elements of emergent domestic order and social order more broadly. The propensity to mate and form a family is manifested through diverse gender norms, customs, and traditions. This study examines the pathway for just one group of women: those who share ideals and customs in which childbearing is pursued as a purpose, a rule of life, the highest good of the domestic community, and the lived meaning of their gender.

Although these women constitute only the uppermost five percent of the birth-rate distribution, they are frequently misunderstood and caricatured in ways that threaten a normative social vision of female rationality, agency, education, and opportunity. Extensive transcript evidence from fifty-five interviews demonstrates that there indeed exists a narrative in which upper-tail birth rates can be explained on the same terms as declining ones, namely as the outcome of perceived tradeoffs between work and family, where the scales were tipped by their emergent sense of personal identity as mothers and evolving relationships with God. The data offered a picture of women with the same agency and rational purpose as lower birth-rate peers, but with a distinct scale of values. In general, across the interviews, childbearing took pride of place not because careers had relatively less value to the women in the study. Indeed, all women interviewed had finished college, many had graduate degrees, and a sizable portion were working full or part time. Rather, relative valuation tipped in favor of childbearing so often because children were described as having eternal value, as being a ‘divine’ gift, and a blessing from God.

Some might object that bringing a ‘supernatural’ or transcendent scale of values into a calculus of choice is to reject the rational choice framework. But this is not so. Subjective values are always immaterial, in the realm of the spirit and not easily measured except by what we are willing to give up to get them. The pure theory of rational choice does not require commensurability of goods in the objective function, but merely that agents can rank the goods in a meaningful way that guides choice. In this way human action is said to be purposeful. The women in this study provided a clear articulation of being motivated by perceived costs and expected benefits, and an explicit (or implicit) ranked valuation of goods. I did not find evidence of ignorance or religious irrationality. Moreover, the lone subject who described her husband as the driving force behind her family size (“he wants nine”) was the *least* religious subject that we interviewed—and one of the most well-educated (a PhD married to a PhD). Rather, the accounting of motives and action across our sample seemed consistent with what could be appreciated by any outside observer (intelligibility); an observer might not share their values, but it would be hard to say they had no reasons or behaved irrationally with respect to their stated values.

A further note about the role of religion is warranted. While religious zealotry¹¹ was not observed in these transcripts, what provided a scale of values in which childbearing was so highly valued was in all but one case (54/55) correlated with religious conviction not unique to any one creed. Women of every faith in the sample articulated a strikingly similar view of the supernatural value of children and the choice to make childbearing a lifestyle, or a rule, around which other, lesser goods (such as career) were adjusted. The commonality across faiths of childbearing as a lifestyle and not a limited phase of life invoked the notion of something like ‘mere motherhood’ in the way that C. S. Lewis wrote about mere Christianity (Lewis 1952). The women in my sample spoke of choosing or discovering a way of life which would certainly be described as ‘traditional’ in terms of gender norms, in which children are welcomed somewhat liberally, without a direct plan, but not haphazardly—‘not planned by us’. Women described the acceptance of children as accepting a gift (from God), but they felt securely in control of when the next child would come using the language of ‘readiness’.¹²

There were also tremendous similarities in how they thought about readiness for a next child (e.g. not being ready but praying to become ready, looking for signs of God’s will, using health as a sign to have more, spiritual peace as a marker, etc.) But they rejected almost categorically the language of being ‘done’. One subject said she personally felt done (holding her seventh baby) but knew that God might change her heart to feel ready again someday. “Am I really in charge?” she asked rhetorically. “I am not the planner of all plans,” she concluded. Another subject described three of her children as “not planned by us.” And Angela had invoked the preacher who said of this life “it’s not your show; you’re in it, but it’s not your show.” She also said, “What do you mean planned? Planned by God.” At the same time, when probed, the women in my sample rejected religious ‘natalism’—they didn’t think of themselves as having children *for God* or *for the church*. Rather, children were something that God was doing *for them*. They themselves were the primary beneficiaries—and the primary decision makers—even if they were “secondary elements” in a plan beyond their intention or control.

This paper can be only a preliminary statement of findings in service of the attempt to connect gender and emergent order. The language of “not planned by us,” uncovered in this data, provides an opportunity to outline hypotheses about the causality between family and civil society long articulated in the classical liberal tradition (Wollstonecraft 1790; Burke 1790; Tocqueville 1840; Hall 2014). The women in this study robustly and consistently connected their individual choices to an unplanned, or unintended order, emergent in the domestic community. This order included, in part, the ultimate size of their families; but it also included the character of their marriages, and the nature of the development of personality and virtue in

11 What I mean by zealotry here would be the tendency to neglect all comparisons of costs and benefits; to say, for instance, there are no competing goods or costs.

12 Subjects reported using a wide variety of methods of family planning to postpone a next child until they felt ‘ready’.

themselves and in their children. Subjects explicitly connected their choice to have many children to marital tenacity, personal growth, domestic tranquility, rootedness, connectedness, and the organic development of prosocial virtues in their children, especially independence, responsibility, tolerance, and selflessness. The effects upon their children arose, they said, because a big family has more the character of a small society, with greater division of labor, exchange, spontaneous governance, and so forth. One respondent called the large family a “natural school of virtue.”

Hayek took the principle of motion in a grown (emergent) order to be the “rule or propensity” governing human action in a society always or for the most part. In some cases, he argued, human elements (decision makers) may not even be aware of the rule they are following; what matters is that the rule or propensity provides information about the resulting social order. In a market society, economic order (prosperity) arises from the propensity of each member to ‘truck, barter, and exchange’ to meet his or her needs socially. The form of the society can be identified by finding the basic rule, or propensity—or the principle of motion providing a rationale for the pieces on the “great chessboard of human society” (Hayek 1982, p. 35). We might then define the form of the family, or ‘family form’, as the principle of motion for a domestic community: the relative ranking of goods sought by the principals of the household. The hypothesis generated by the subjects in this study is twofold: first, that domestic and social orders are emergent orders—‘not planned by us’—arising from family form; second, that family form has a more primitive expression than legal or political definitions, characterized by the rules or propensities that a family takes to be their reason for coming together. For women with upper-tail birth rates, childbearing itself, motherhood as a way of life, was the rule or propensity of the family, the highest valued good of the domestic community.

Such a hypothesis about family form, gender, and emergent order suggests the beginning of a research program and not the end, as many testable ideas manifest in this single hypothesis. To begin, what are the dominant variations in family form, the gender norms arising from the propensity to mate and form a family? If childbearing, or lifestyle motherhood, is one, what other forms might be identified? Observed variation in family form will be required to make strong arguments about the path from gender norms to types of domestic and social emergent order.

Regarding domestic emergent orders, women in this study connected a childbearing propensity to marriages with greater resilience and children who were better connected to parents and siblings. Regarding the emergent social order more broadly, testimonies of women in this study suggested that children from larger families might be more self-reliant (because parents focus on each child less), more tolerant (because of exposure to many personalities in the household), more generous or communitarian (because accustomed to sharing necessities), less lonely (because more family connections), and less likely to experience mental health problems related to loneliness (Cacioppo and Cacioppo 2018) such as depression and anxiety. In terms of present social dilemmas, each of these suggestions from study participants can be reformulated as a testable hypothesis relating the experience of larger families of origin to observables such as labor force participation, social or political polarization, prosocial behaviors, addictions and deaths of despair. These provide ample work for future study, validation or refutation.

In closing, if family form as defined in this paper gives rise to domestic and social emergent orders, it does so because the principle of motion—the ranking of goods sought by the domestic community—involves a rule or propensity about the meaning of gender in relation to the family. If this is true, then variation in lived rules (or propensities) about gender gives rise to the most basic pre-political order in society, the domestic community. Thus, as the basis of the family, gender may be understood to serve as the well-spring of the complex social orders derivative upon the domestic society and its goods.

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Gender as Essence and as Economic Choice

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Abstract: Present biotechnology does not allow a karyotypic transition from male to female or vice versa. Even a convincing phenotypic transition isn't always possible; "convincing" is generally in the eye of the beholder. Some capacities, such as pregnancy, cannot be supplied at all. These and other limitations have brought some gender critical authors to insist, or to write as if, a gender *essence* exists: masculinity and femininity are each unitary and immutable, all individuals belong to one or the other, and we are obliged to some degree to avoid crossing the lines that these categories establish. Efforts to the contrary may be thought futile, delusional, or worse.

Yet future gender transitions may be far more functional and convincing than our own. This inference follows both from the history of transgender medical care and from the rapid recent progress of biomedical engineering. Informed by these developments, I argue that one's gender presentation is best analyzed as a matter of choice under constraint—and that the constraints are rapidly easing. In the future, people may well transition for reasons much less than the deep questions of self-understanding that are typically said to motivate transition today. "Essence" thus appears to refer to those choices that are not yet available to us. But what happens to our understanding of gender when they are? Gender essences are analogous to an economic equilibrium: If they hold at all, it's only for as long as the technologies that produce them. As technologies change, so do the categories by which we organize our experiences and actions, our consumption and our labor.

THE ARGUMENT FROM IMPERFECTION

One of the most common arguments for restricting access to gender affirming care, and for denying the validity of the transgender experience, begins by asserting that there is no known set of medical procedures that can deliver a fully functional, completely indistinguishable body of the intended gender.¹ Some residue of the gender assigned at birth still

1 Throughout this paper, I use terms, including *sex* and *gender*, whose meanings are contested. It is often claimed that sex is biological, while gender is cultural, but this paper takes the view that sex itself is becoming a field of cultural production: As technology advances, we can manipulate more and more sexual characteristics in ways that the usual sex/gender binary seems to foreclose, and whenever we do, what had been our sex becomes to that extent a part of our gender. I have therefore chosen to favor the term *gender* in some cases where others would not. I have reserved the term "sex" for intercourse,

remains, and that residue is said to constitute a sufficient reason to consider the entire effort futile or delusional. Pundit Andrew Sullivan (2023) has been one of the more charitable and moderate voices to make arguments of this type. For example:

Protection from discrimination is essential—and is already the law. But that does not mean that biology has ceased to exist; that “trans” is always a stable identity; or that children need no more than affirmation and medical treatment to change sex when they violate gender roles.... To argue this is not hate. It’s just sanity.

On this view, biology—“sanity”—must have its say, and biology itself throws into doubt many if not all cases of asserted transgender identity. People who transition will inevitably keep some features and capacities of their birth-assigned gender, notably their karyotype, or chromosome makeup, but also (at least for some) the athletic abilities that they had as a pre-transition male. This asserted imperfection calls the legitimacy of the whole process into question, not just for athletes, but for all.

It is unclear, and it is never explained, how biology comes to have this limiting role more strictly for children, and less so for adults, although that would appear to be Sullivan’s view. Adults are of course equally subject to biology, and they should presumably be subject to any normative commands that biology may issue, if biology can do such a thing. Sullivan stops short of this conclusion, and he would tolerate transgender adults in some contexts. Many traditionalists and gender-critical feminists, however, would not. Elsewhere in the same essay, Sullivan worries that gay and lesbian identities may be subsumed in the transgender identity, and that tomboys, for example, will face social pressure either to transition or to abandon their relatively masculine behavior patterns. Even the very objects of male homosexual desire—men—might be abolished, he worries, if gender transition becomes widely accepted within the LGBTQ community, whose very existence he calls into question.

Sullivan’s approach is a common one. In it, both retained traits and those that cannot be supplied are used to assert that transgender individuals are behaving inauthentically, irresponsibly, or irrationally, and that this disqualifies them from participation, or at least equal participation, in many or even all gendered social activities, from beauty pageants, to sports, on down to restroom use. Some go still further and conclude that transition should never be attempted at all, and that those who have transitioned are not even entitled to change their pronouns. On Twitter, the hashtag #WeCanAlwaysTell has become a flashpoint pitting those who think they can always tell—and thus assign penalties—against those who quite often demonstrate the opposite: No, you certainly can’t always tell. Through all of these varied arguments, there runs a common thread—the claim that because transition is imperfect, it is illegitimate.

The shared premise of this family of arguments is undeniably true: transition technology remains imperfect. Disagreements concern whether various restrictive conclusions should follow: Must the imperfections of gender transition mean that gender transition should never be done at all? Might we instead conclude, not that trans women aren’t women, not that they are insane, not that they deny biology—but simply that we should improve our transition technology? Why should we draw a prohibitionist conclusion here—when, in the context of other technological barriers to human designs, we have chosen instead to innovate and overcome? The argument from imperfection doesn’t outright invoke the naturalistic fallacy, but it does seem to point in that direction: What is natural should not be changed; it was, and is, and must be, right.

sexual orientation, a few other clearly biological phenomena, and direct quotations from sources that I treat as primary.

CRACKS IN THE ARGUMENT

The imperfections of gender transition are likely to prove historically contingent. They are the products of our current technological frontier, and that frontier is in motion. We would therefore do well to consider the reality of that motion, and we might consider in the abstract some of its possible endpoints. In this section, I will suggest two models that might help, one from science fiction, and one from the history of science.

The Culture

Iain M. Banks's *Culture* novels offer a model of gender transition that's nearly perfect. In the Culture—an anarchic interstellar union of post-scarcity post-humanoids—medicine can give anyone a suite of gendered traits that are fully passable in society and also fully functional biologically. At least in this world, an outside observer can never distinguish a transitioned person from one who had been assigned the same gender at birth.

People in the Culture enjoy extensive, individual, and conscious control over many aspects of their biology in ways that we can only dream of. The Culture's citizens don't age unless they want to. Their bodies contain "drug glands" that enable a wide variety of standardized, non-addictive, on-demand alterations to consciousness. They can upload their minds to machines, and many of them do, particularly when they know that they will face a physically dangerous situation; a new body can be grown in the event of loss, and the mind can be uploaded to it. Culture citizens are only humanoid when they want to be; many other forms exist. Culture citizens have built autonomous machines that are vastly more intelligent than either humans or our own AIs. These so-called Minds can also take humanoid form; they pilot spaceships and administer the Culture's orbital habitats. The Culture is portrayed as having vanquished most if not all forms of disease, cruelty, and scarcity.²

Every single one of these advances would have major implications for gender theory that can't be fully discussed here. What's crucial for our purposes is that in the Culture, anyone can visit a clinic and undergo a set of procedures that will deliver anatomically and physiologically normal traits and capacities from a gender not assigned to them at birth. These procedures can modify skin, facial features, hair, height, voice, breasts, internal and external genitals, and even chromosomes. No hormone supplements are needed to maintain the transition; one's own cells are retooled to supply the necessary hormones in just the right proportions. In the Culture, post-transition reproduction through sexual intercourse is entirely possible. One's doctors and one's intimate partners need not even know about the transition unless they are told. *Detransition* is likewise fully convincing and physiologically complete.

In such a world, arguments implicitly premised on the inadequacy of present-day transition technology are moot: To count as a woman, must one have *female chromosomes*? Alice, who was assigned male at birth, has XX chromosomes, which she had installed at a Culture facility last year. To count as a woman, must one be *assigned female at birth*? What do we make of Bob, who was assigned female at birth, but who has fathered three children? Is being a woman defined by *having a uterus*, and being a man by *having a penis*? That's nice. Alice and Bob each qualify for their *intended* genders, and for no other; their genitalia can't be distinguished from those that might have been—but were not—present at birth. If the two of them ever have sex, a pregnancy might result.

I describe the Culture and its capacities to highlight a problem in the theory of gender: As biomedical technology advances, potentially all of our currently impassable barriers, and all of our post-transition

2 This description of the Culture draws on several books by Iain M. Banks, all set in a common fictional universe. The first is Banks (2009 [1987]); within it, the chapter "Dramatis Personae" provides details about the character Fal 'Ngeestra, who is described, among many other adventures, as having "changed sex several times," borne two children, and lived for nearly a century as a man.

residual traits, could one by one fall away. Today's technologies can't give perfect results, but biology isn't magic, and we're in the midst of learning better and better how to manipulate it. As we do, the markers that seem to denote a gender essence will grow increasingly negotiable, and we will be obliged to negotiate them, both in our self-presentations and in how we think about gender. That process will affect many features of daily life, and it will require adopting new concepts, values, and practices to make sense of a world of choices that are not yet open to us. Not all of our future choices will be as unconstrained as those in the Culture, but some of them might be. As we will see below, gender choice in the real world has already expanded considerably, and it will probably continue to expand. Trade offs will likely become milder, and new capacities will likely be added to the menu of transition's possibilities.

The roadmap of likely future gender technology therefore poses a problem for gender essentialists. To count as *essential*, a gender attribute, or a set of gender attributes, must always and correctly identify the gender of all those who have it: If you have essential attribute(s) X, your gender is Y, and from this inference we can make the accurate prediction Z. A rigorous and principled essentialist would hold that bright lines exist in nature, and that females will *all* have the special thing, or things, that make a person a female; whatever is lacking elsewhere in their presentation should then be supplemented—making someone more of a woman, perhaps, but only through a greater conformity with the essence that has already been established through a natural, biological process and discerned through medical science.³

Essentialists often present the process of gender assignment and formation as if it were ineluctable, and as if technology should not have anything to say about it—yet more and more, it absolutely does. At the extreme, the example of the Culture asks us to consider a world where every purportedly essential trait can be made to come and go at will. Should we ever arrive there, we may be unable to credibly call *any* attribute essential. Apart, that is, from one: the individual's will, which will be able to determine the question of gender in any way that it pleases.

It might not be so wrong, then, to suggest that the settled determination of the individual will is *already* the essential attribute of gender—and that the will, qua essential trait, ineluctably entails the *pursuit*, though not the *possession*, of other gendered traits. Gender might be better understood, in cis and trans people alike, as a continuous project of the will toward fashioning the self. Not a set of formal empirical criteria, and not a destination to be reached, but rather a constellation of settled preferences, each of which can be obtained at various costs and with various drawbacks and externalities. Gender in this view is a preference set that structures individual choice, and individual choice is further constrained by the available technologies with which to satisfy it.

Organic Chemistry

A close analogy exists between gender essentialism and the division in the history of chemistry between the organic and the inorganic. During the eighteenth century, the directed synthesis of organic compounds was unknown, as was quantitative chemistry in general. It was widely supposed that living creatures possessed some essential attribute, some animating force, which separated them from nonliving matter. Sometimes called an *élan vital*, this supposed life force was thought necessary both to produce life itself and to produce any of its then-mysterious chemical products, such as urea and methane.

These and many other compounds were first termed “organic” on the mistaken assumption that only living organisms could produce them. For many, it simply defied belief that living creatures might be *entirely* built from the mere atoms of nonliving matter. In the vitalists' defense, the chemistry of life did have many features that were not well understood, and that seemed at the time to go far beyond the chemistry of nonliving matter. The terms “organic” and “inorganic” were thus coined at a time when they appeared to

3 Although other definitions of the word *essence* exist in philosophy, this does seem to be the one at hand in debates about gender: “[A]n *essential property of an object* is a property that it must have, while an *accidental property of an object* is one that it happens to have but that it could lack” (Robertson Ishii and Atkins 2020).

denote two modalities forever separated by a natural barrier—much like our common intuitions about male and female.

But then, in 1828, German chemist Friedrich Wöhler first synthesized urea, an organic compound, from inorganic precursors. A deluge of later chemical syntheses eventually established that seemingly all “organic” substances could be made from “inorganic” precursors. Although we still can’t make artificial life, artificial organic compounds are so common that nowadays we tend to forget what a scientific and philosophical revolution it was to synthesize them. A seemingly natural barrier proved to be nothing more than conceptual, and the concept on which it rested was shown definitively to be flawed.

Before anyone reached that conclusion, however, attempts were made to save the old paradigm; perhaps some other attribute was the true essence of organic chemistry. Scientists had long ago noticed that organic compounds, so called, almost always seemed to contain carbon—although this was both imprecise and a bit mysterious: Some substances termed “inorganic” had likewise been found to contain carbon, and many compounds that are plentiful in living creatures contain no carbon at all. Diamonds are entirely carbon, but they are never produced by life. Water has no carbon, but all organisms contain it, and without water, there wouldn’t be life as we know it. Carbon and the organic don’t exactly line up. Nor do carbon and life. Nor do life and the organic.

Where did all of this leave “organic” chemistry? It wasn’t abolished, and it certainly wasn’t forbidden. On the contrary, the discipline surrendered a merely linguistic consistency, and that surrender freed it to invent many new molecules and processes that are described by a new, complex, fecund, and largely carbon-based chemistry. Today, cutting-edge organic chemistry concerns the manipulation of DNA and proteins, which are much more complex than urea, and which we are now harnessing to cure or prevent many diseases—and perhaps one day to treat gender dysphoria. We even insert new attributes into the DNA of living organisms in high school biology demonstrations. And it may be only a matter of time until the holy grail of fully synthetic life is within our grasp. These developments could only have happened thanks to the abandonment of the essentialist, *élan vital* model in chemistry. No essence ever existed, and that’s perfectly fine, actually. We never needed it.

In short, the term “organic” originated in a now-discredited scientific theory. It’s still used, but in practice its meaning has become ambiguous. As the current Wikipedia entry on “Organic Compound” notes, “any definition of organic compound that uses simple, broadly-applicable criteria turns out to be unsatisfactory, to varying degrees” (Wikipedia. n.d.). That’s just what happens to a term describing an intuitive but untenable concept. It still gets used, but its use is imprecise.

In like manner, there would seem to be no special essence, no *élan masculin*, that separates the male principle from the female, such that an individual will, or should, always remain on one side or the other. Some women possess many masculine traits; some men possess many feminine traits. Some individuals are not clearly men *or* women. And some move from mostly masculine traits to mostly feminine ones, or vice versa, over a period of time. Like the divide between organic and inorganic, an essentialist divide between masculinity and femininity may be a widely shared and intuitive concept, but ultimately it’s not one with an empirically rigorous foundation. For both of these conceptual schema, the boundary appears to have more to do with human preconceptions about how the world ought to work than it does with any specific empirical marker.

Organic chemistry remains a specialty field; classes are still taught; papers are still published; progress is still made. Like gender, organic chemistry’s boundaries are just less well-defined than some might have believed them to be in the eighteenth century. Organic chemistry has nonetheless contributed prodigiously to human wellbeing in the meantime. “Gender” could easily end up a lot like that—a term formerly applied in the mistaken belief that an essential barrier must exist, but a term now applied also, and unproblematically, to the supposedly forbidden crossings of the exact same barrier.

THE MARCH OF TECHNOLOGY

We're not the Culture, but many supposed bright lines between the genders have already fallen. There is every reason to believe that more are likely to fall.

Consider the uterus. In most eras, an essentialist definition might have declared, "A man is an adult human being who lacks a uterus," and that might have raised few objections (Sutton 1997).⁴ Yet the first abdominal hysterectomy on a surviving patient occurred in 1853. Since then, millions of hysterectomies have been performed—not always for reasons of real medical necessity, and not always with consent, as feminists rightly remind us.

For good or ill, though, hysterectomy remains a common medical procedure. More than 400,000 of them are performed in the United States in a typical year (Mostafavi 2018). Orchiectomy, the removal of the testicles, is much rarer, but the procedure is performed not only for gender affirmation, but for testicular cancer and torsion.

Whether or not any particular surgery is medically necessary, biotechnology has in recent years steadily improved its ability to safely produce organic absences. The question then arises of how to think and talk about those who have survived such procedures. "But he's still a man" and "but she's still a woman" have become commonplaces in the face of widespread surgery that removes seemingly essential sexual characteristics. A woman who has undergone a hysterectomy for cancer is of course presumed to be a woman; she remains, rightly, an object of concern for feminism, which keeps her interests in mind. When a cis man has surgery for testicular cancer, *he* still counts as a he, and standard medical practice involves hormone supplementation, and perhaps prostheses, to produce a body that continues to affirm his gendered self-understanding.

In short, organic absences aren't dispositive any longer, at least if you're cisgender. Meanwhile, however, and of great interest to us, when the person in question is transgender, we may meet with the argument that *all* organic absences throw doubt on their transness: The equally missing testicles of a trans man are said to prove that he has *not* transitioned to manhood, and that he is not, in fact, a man. Cis and trans men may both have prosthetic testicles, and both may get their hormones at CVS. Both say equally that they are men, and both wish to be counted as such; both have similar bodies. Like many of the rest of us, both find that their bodies are not entirely as they might wish. Only one, though, bears the stigma of not being a man. This disparity will only become starker as we acquire more skill with manipulating human biology, and as the residuum of biology that we can't correct grows smaller.

Yet patient outcomes among both trans men and cis men undergoing orchiectomy are *much* better when they are given a chance to receive prosthetic testicles, the better to match their own gender self-perception (Cappuccio et al. 2018). Likewise, prosthetic breast augmentation is sometimes available for transgender women—again with strongly positive outcomes (Schoffer et al. 2022). The existence of these technologies satisfies a genuine human need in both cases, and in both, it's a need that can be expressed with a simple, common expression: Recipients want to look like the gendered image that they have of themselves. At one time, that would have been impossible, but now it isn't. A need has been met. Not perfectly, of course, but maybe one day. We're working on it.

Other attributes seem to show similar trajectories. No one today would argue that blood hormone levels are an essential criterion that separates male and female, although one might have made a plausible—yet still not ironclad—case for it less than a century ago. Nowadays hormones are just too easy to manipulate, and manipulating them is a question of individual costs and benefits: Should I get hormone replacement therapy? Are the benefits worth the costs? Those are highly personal and highly individualized questions. They only arise in a society with the technology that can pose them. More such questions are undoubtedly in store for us.

4 The patient, however, was misdiagnosed. Hysterectomy has remained controversial owing to grave doubts about its frequent use.

For those inclined to find an essence, something else—not hormones, but something more restrictive—must surely be the essence of the matter at hand. Might it be having a masculine or feminine voice? But we can produce gendered voices with a combination of surgery, hormones, and vocal training (Mayo n.d.). Or realistically feminine breasts? Or a labia and vagina that passes a visual or tactile inspection? Again, each of these might have seemed like an essential characteristic at one point in medical history, but today, none of them is a candidate essence. Each is just another economic choice, with costs and benefits to be weighed by the patient. Such biological markers, which might once have seemed to capture the essence of the gender distinction, just can't do it anymore.

Even apart from medical or surgical interventions, nature supplies more complications than we might have expected. Spontaneous karyotypic abnormalities in the sex chromosomes are now known to be relatively common. They may go undetected for years or whole lifetimes. These abnormalities were unknown as recently as a hundred years ago. Individuals with androgen insensitivity syndrome—another twentieth-century discovery—typically have an XY karyotype. That's sometimes termed an essential attribute for maleness. But the outward, physical presentation of these individuals may be either partially or entirely *female* owing to an insensitivity in the receptors that would otherwise respond to masculinizing hormones. Individuals with AIS still make testosterone, but it's unable to do the job that it typically does (MedlinePlus. n.d.). Individuals who have AIS and whose gross anatomy is female will almost always identify psychologically as female; they are neither usually nor even notably inclined toward gender transition (T'Sjoen et al. 2011). If karyotype, or one's unaided hormone production, was supposed to be the essential, reality didn't get the memo.

The objection to this line of argument usually runs that such cases, which feature nonconforming yet putatively essential gender attributes, are rare. One might reply that hysterectomies are not rare; they are all too common. A stronger reply, though, is simply that, philosophically speaking, an attribute is either essential or it is not; there's no in-between about the matter, and even a single nonconforming case disproves the assertion of an attribute's essentialness.

That's why, rather than identifying some single, essential trait that will always reveal individual gender, contemporary biologists describe sexual differences as occurring in a *bimodal distribution*: Most people have lots from one of the two clusters of traits, and rather few from the other. Indeed, most people can be put into one of the two major gender categories by examining just one of their traits. Most men and most women are gender conforming in most ways. And the removal of just one or two gendered traits does *not* produce what anyone, whether sympathetic or not to the transgender experience, would term a full gender transition. We are left to wonder: Exactly how many traits, and which ones, does it take? No one seems to have a cogent answer to this question, and that should be unsurprising. It is largely congruent to the problem of the Ship of Theseus, and it too has no good answer.

When a physical trait can just as well be had through medical intervention as through unimproved nature, an essentialist must either accept that gender's essence is truly and profoundly mutable—that is, that gender *can* be changed—or else he must find a different trait on which to hang his essentialism. Essentialists commonly deny that there can be any such thing as an authentic gender change, but the alternative looks a lot like God-of-the-gaps reasoning. Essence becomes just a fancy name for our vague impressions about the things we don't know how to do yet.⁵ And when any account of a purported essence fails, one simply looks away. There are shiny objects elsewhere; maybe one of them is the essence.

The best that a gender-critical essentialist might hope for given the realities of our complexly sorted, complexly shifting array of gendered traits might nonetheless be to posit that the *essence* of a person's gender inheres in a stochastic view of the whole—a general, overall impression that does not depend on any one trait in particular, but that arises spontaneously from the consideration of a person's overall presentation. Yet this gestalt view, and appearances in general, are so commonly deceiving that we might wonder what good it does to postulate the existence of an essence here at all: It's often the case, but certainly not always,

5 For the god of the gaps, see Ratzsch and Koperski 2022.

that RuPaul looks like a woman. And in that capacity, she’s certainly fooled some people. But in reality she’s genderfluid, and she frequently presents as a man as well. Cases like hers call into doubt the existence of a stochastic essence, and such cases are likely to become more common as gender technology delivers better and better interventions: When an improved product offers better functionality and/or fewer tradeoffs, it’s reasonable that the quantity demanded will increase.

We should welcome this development, and not just because it would increase consumer welfare in a highly simplified economic model of gender. It will also give us a measure of individual liberation. When essence is just another name for “I know it when I see it,” and when knowing-by-seeing-it is unreliable, *essence* begins to look like nothing more than a grab for biopower in the service of protecting and vindicating an observer’s superficial impressions. It becomes nothing more than one individual’s rule over another individual’s life, mediated by laws that forbid medical intervention. In this mode, essentialism opens the gate to medical coercion while doing very little work of any other kind, and certainly none that would be recognized as scientifically useful. It’s a theory that makes few testable predictions, but it underwrites many prohibitions.

In response to stochastic essentialism, a transgender individual may reply that they know very well what their gender essence is; they know it by introspecting, which tells them directly. And what’s more, they know that their essence is exactly what it *ought* to be. They’re working on fixing the inessentials, thanks very much. We might call this the “Born this Way” theory of gender. As Lady Gaga put it, “I’m beautiful in my way ‘cause God makes no mistakes / I’m on the right track, baby, I was born this way.” The second assertion in the lyric—*I’m on the right track*—suggests that an introspective essence is the start, and not the end, of a journey. Many other human endeavors, and perhaps all of them, begin by introspecting and end by confronting the real world with a plan for improvement.

This is an interesting but difficult move; by definition, it affirms some individual trans experiences, but when it does so, it surrenders the definitionally necessary correlation between the essential attribute and a person’s gender as a whole: It is characteristic of the transgender experience to find that one’s deeply considered and constant self-image does *not* match one’s other gendered attributes. Even here, essentialism seems fatally flawed in that it does not make reliable, value-neutral predictions about the state of the world. It prescribes, but it does not predict.

New avenues of gender expression have opened up in the past, and they will continue to do so in the future. The field of genetic engineering is still in its infancy, but its possible contributions to gender transition technology are obvious. By editing the genome, it may eventually become possible to alter the hormone production of a human body so that it’s a good match with a gender not assigned at birth. This fit would not require any future hormonal supplements or other drugs—an obvious improvement in how this aspect of gender-affirming medical care is supplied. Advances in gene editing might even eventually swap an XX for an XY karyotype, or vice versa.

When that development finally happens, some people may be troubled about the collapse of gender’s essence, which they had situated in the chromosomes. Really, though, we ought to know better, both from the already extant empirical evidence, and from the sheer fact that it will have been human choice, and human ingenuity, that has brought us to mastery over this aspect of nature.

Gender’s essence would seem to be founded on heaps of sand. That’s why, for example, one question posed by Senator Marsha Blackburn to future Supreme Court Justice Ketanji Brown Jackson—“Do you know what a woman is?”—caused such an uproar (Bump 2022). In ordinary life, this question never needs much of an answer; almost all of us find gender categories intuitive, and there is much biological reason to expect that evolution has predisposed us to find them that way, rightly or (sometimes) wrongly. Evolution more often reproduces all those traits that favor reproduction, and the ability to sort individuals as to their mating potential is clearly a trait that would help. We likely bear such sorting mechanisms within us, which would often, although not always, steer us accurately toward reproducing. We know what a woman is because we are well disposed to believe in women as a category; such belief helped to produce us. An ordinary

life, and even a full and accomplished one like Justice Jackson's, seldom requires more than that, even if that understanding doesn't always hold up to a rigorous philosophical or scientific examination.

The future Justice Jackson was undoubtedly aware of some of the complications hereabouts, which she wisely chose to sidestep. When we see gender, we are intuitively, insistently, and even eagerly aware of a phenomenon that, on reflection, seems to inhere more in our own psychological impression of it than it inheres in any one of the traits that we observe. Gender's truest essence may just reside in the eye of the beholder—and evolution may just have put it there—but that's not easily reduced to a sound bite at a congressional hearing.

I welcome more attention to this state of affairs. As a gay man, I have always been gender nonconforming in one fairly significant area of my life: My ability to form romantic relationships seems so far to be exclusively oriented toward men, exactly as one might expect of a gender-conforming woman. But I'm not obviously feminine in any other ways. I am cisgender, and I commonly pass for straight.

Yet gender nonconformity, even in one attribute, can still be dangerous. Historically, and even in some present-day societies like Iran, a homosexual orientation has been strongly assimilated to being transgender both in law and in social practice. It has been reported that the Iranian government coercively reassigns genders based purely on sexual orientation. In this, the Iranian authorities, from the Ayatollah Ruhollah Khomeini to the fathers of individual families, would appear to be using sexual orientation as the sole practical criterion of gender identity; they are then marshaling biopower, in the form of coercive social sanction, surveillance, and surgery, to make a person's other traits conform (Eshaghian 2008). Andrew Sullivan has often expressed concern that if the transgender identity becomes widely accepted in the West, a similarly coercive regime may be adopted here. Transgender activists generally dismiss these concerns, of course, but neither they nor he will necessarily be around to write the rules for the future.

Many of us, and not just gay men, are less than perfectly gender conforming in some area of our lives. It seems remarkable and indefensible to me that the response to such a phenomenon should be repressive social policing, whether in Iran or the United States. I see no evidence that transgender activists desire coercive medical intervention for me or for others of this type. Thinking in this way seems to stem from a rationalistic insistence on an essentialist gender theory. Fortunately, there are alternatives.

CHOICE AND CONSTRAINT

Might there be a better analytical paradigm with which to discuss the phenomena of gender? Essentialism is a metaphysical dead end; without a reliable empirical referent, it can only reify gut feelings—and then moralize, after the fact and coercively, about their naturalness. As Laboria Cuboniks⁶ (n.d.) puts it in *Xenofeminism: A Politics for Alienation*:

Anyone who's been deemed "unnatural" in the face of reigning biological norms, anyone who's experienced injustices wrought in the name of natural order, will realize that the glorification of "nature" has nothing to offer us—the queer and trans among us, the differently-abled, as well as those who have suffered discrimination due to pregnancy or duties connected to child-rearing. [Xenofeminism] is vehemently anti-naturalist. Essentialist naturalism reeks of theology—the sooner it is exorcised, the better.

The manifesto also calls for an "explicit, organized effort to repurpose technologies for progressive gender political ends"; this effort would be "an arduous assertion of freedom against an order that seemed immutable."

I might add: We've done this before. We travel through outer space. We fly. We take vaccines. We cross the oceans. We read and write. We use fire. Absolutely none of that is natural. All of it is "an arduous as-

6 All citations to this work are from Cuboniks n.d.

sersion of freedom against an order that seemed immutable.” It’s in humanity’s nature, if we may use that word, to defy all those things that we once took for natural. Are there costs to be paid? Of course. Are the costs always prohibitive? Should they be? No. And no.

An anti-naturalist stance toward gender therefore isn’t so hard to imagine. We need only insist that technologically supplied gendered traits are *real* gendered traits. Traits that come to us as the products of free and conscious human choice are not delusions, nor are they the products of delusion; my immunity to COVID-19 may have come from injections, but it’s still real. A femininity that comes from a similar source must also be considered real. Both are the products of *desire*—but in this, they stand identically to the products of capitalist production in general, which seeks to satisfy consumer desire. Like other consumer products, gender technologies may have strengths and weaknesses, costs and benefits. Our desires are real, and so are the things we do about them, and so is what we pay for them. It is only in the area of gender, and perhaps a few others, that we insist that traits that came to us through artifice don’t count as *traits*. Let’s iron out that ontological wrinkle, which clearly shouldn’t exist.

The Manifesto continues: “Like every myth of the given, a stable foundation is fabricated for a real world of chaos, violence, and doubt.” That is, the world of gender: Essence may be false, but some do find it reassuring. Others find it much less so, and of course they will seek an escape. “When the possibility of transition became real and known, the tomb under Nature’s shrine cracked, and new histories—bristling with futures—escaped the old order of ‘sex.’ [...] The time has now come to tear down this shrine entirely, and not bow down before it in a piteous apology for what little autonomy has been won.” Encouraging and developing new ways to be sexual or gendered won’t erase the reality of sex or gender, not any more than encouraging sculpture will erase beauty. Successful sculpture is an *instance* of beauty. The artificial isn’t the unreal; it’s another flavor of the real.

Without recourse to the concept of essence, we face a landscape of changing possibilities, and we will inevitably have preferences among them. We also—perhaps also inevitably—come to terms with those possibilities by assigning a gender valence to some of them, even in the knowing absence of essence: If I get breast implants, or even a lab-grown uterus, it won’t be the one thing that finally, finally makes me a Woman. But it will be a *feminizing* step. It could be just one step of many, or it could be an isolated choice. I may find the costs or benefits prohibitive, or not. When we abandon essence, it’s unclear what role social stigma should play, if any at all, in negotiating our choices. Rather, an agent should look at the incentives that are posed by the physiological outcomes of the intervention: the matrix of costs and benefits, of capacities lost and gained, will help them decide according to their own values whether a given choice makes sense.

Desire, choice, constraint, incentive, action: These are none other than the foundations of *economic reasoning*. As with the psychology of the consumer in Austrian or classical economics, we need not delve deeply into the gender psychology of any individual to understand a great deal about the phenomena of choice among gendered traits. Rather, we can and should treat individual psychology as something of a black box: The question for us is not whether a person’s soul is really and truly masculine, or whether it was properly deemed masculine from birth, or whether it finally became masculine following a given medical procedure. We should say instead, and only, that the perceived benefit (for example) of facial masculinization, given our present technological limitations, was found sufficient for this individual at this time, such that facial masculinization became a part of his (or her) choice set—and we can say very little beyond that without presuming too much. We should resist the temptation to write gender essences onto people. Essences too easily become an excuse for coercion, particularly when they are assigned by an external agent, but perhaps in all cases.

As we have already seen, gendered and gender-affirming medical interventions can be of great value to cisgender individuals too. We can sometimes observe gendered choice sets that are quite thorough and complete rejections of the given, at least by the standards of our present level of technology. We also observe some gendered choice sets that reject only a few aspects of the given, again within that same technological frontier. Some individuals transition in every way that they can, and some transition in only a few. We

should not conclude that a person's choices are invalid, incomplete, deluded, or otherwise wrong, merely because they are different. Each individual's preference set will indeed be different. To reject some while favoring others is both at odds with the supposed value neutrality of good social science and also probably philosophically incoherent.

Indeed, we should banish the very idea of gender from our analysis whenever we find that it has become an essence imbued with the power to issue socially binding commands. Cuboniks (n.d.) writes:

“Gender abolitionism” is not code for the eradication of what are currently considered “gendered” traits from the human population. Under patriarchy, such a project could only spell disaster—the notion of what is “gendered” sticks disproportionately to the feminine. But even if this balance were redressed, we have no interest in seeing the sexuate diversity of the world reduced. Let a hundred sexes bloom! “Gender abolitionism” is shorthand for the ambition to construct a society where traits currently assembled under the rubric of gender, no longer furnish a grid for the asymmetric operation of power.

We opened this essay with a quote from Andrew Sullivan, who in the same post worried that “What the trans movement is now doing... is not about rights at all. It is about cultural revolution. It's a much broader movement to dismantle the sex binary, to see biology as a function of power and not science, and thereby to deconstruct the family and even a fixed category such as homosexuality.”

Yet Cuboniks seems to deny such a danger even as she embraces “gender abolitionism.” To her, feminine *traits* are welcome and unproblematic. They might even be erotic. To *abolish gender* does not mean to abolish men or women. It means to abolish a socially binding set of commands, an imposed order wielded by those in power, with obedience incumbent on ordinary people, and enforced by violence. Abolishing a system like that means that gender will become a more *spontaneous* order. It does not mean to abolish the individual's choice of attributes in favor of a genderless future.

One rejoinder to Sullivan's claim now becomes somewhat clearer: homosexuality doesn't rest on a gendered essence either. Exactly like heterosexuality, it rests on a combination of two preconditions. First, there is the seemingly spontaneous tendency of a large number of people to coordinate on a more-or-less shared idea of masculine (or feminine) gender presentations. We call these people men and women, and the tendency to sort into (at least) these two categories appears to be a human universal. Second, there is the seemingly spontaneous tendency of some within a given gender presentation group to experience sexual attraction to those of the same group. That, too, would appear to be a social universal, the objections of traditional moralists notwithstanding. Social universals are rare, but they seldom disappear. Homosexuality therefore seems unlikely to go away.

In short, it's not about being attracted to an essence. It's about being attracted to something akin to a style.⁷ Masculinity might be an enduring, ages-long, nearly universal style—but some styles are like that. It may be a style with some key elements that can't be supplied to everyone—but again, some styles are like that, too. As sex becomes increasingly cultural, and increasingly subject to technological manipulation, the masculine style will be increasingly open to all. And the feminine. And others as well; let a hundred sexes bloom. But there remains little prospect that masculinity or femininity will ever disappear. So many of us just want them so much.

Though we tend to forget it, we already exist in a world of vastly expanded gender possibilities; the realms of work, fashion, politics, education, the arts, sport, and even the military are gender-egalitarian and gender-open in ways never before seen in human history. We increasingly author ourselves, and while we may consult gender in doing so, we do not allow gender to author us. Will there be room in Cuboniks's world for homosexuality? Of course. Just find two more-or-less men, or two more-or-less women, each with

7 For an exploration of this idea, see Kuznicki 2017.

a tendency to attraction toward someone with a similar bundle of gendered traits. Put them together, and an attraction might well develop.

Indeed, there are many possible frontiers along which a larger role may exist for choice in the distant future. I will close with a few of them to illustrate how sex and gender may become more and more a venue for individual choice under constraint.

If I were born or adopted into the Culture, my own life would be a curious case indeed. I'm cisgender and exclusively same-sex attracted, and I've been in a decades-long partnership and marriage with another man. We've adopted a child together, but the Culture's technology would have given us another choice: If I could have transitioned and borne my partner's child biologically, I would probably already have done so. And after that, he would have done the same for me.

Why, in the real world, did I refrain from transitioning? The answer is simple: Subjectively, I found that the benefits were too low, and the costs were too high. Pregnancy, the one thing I'd most want from a transition, isn't currently available, and the process of detransition would not fully restore my naturally occurring male characteristics, which I remain fond of.

Remove both of those limitations, and I would transition... for a time. Would I *be* transgender? Not if it means having a transgender essence. And not if we judge by the subjective experience of the self, either; when I think of "me," I would probably still think of a male human being. I would only be visiting womanhood. Real though my visit might be, womanhood would not be my permanent home. It would be a place that I wanted to visit for a specific purpose. I might not even feel comfortable with feminine pronouns.

Bearing a child is a momentous decision. But with a similarly perfected transition technology, another cisgender man might choose to transition for reasons that we today would think were utterly frivolous, even irresponsible. For example, what would we make of an actor who chose to medically transition—just so that he could play Lady Macbeth? Nowadays, an actor would probably find the costs of that move prohibitive, unless she were already trans; such costs would dwarf any possible benefit to the actor's career. But when the costs, in the form of lost biological capacities, decline substantially or disappear—well, why not?

As the costs of gender transition decline, the reasons for gender transition will multiply. As indeed they should; that's just how economic choice works. When the price of a good or service goes down, the quantity demanded goes up; new buyers may enter the market, and new uses are found for the now less-costly production goods. In this case, the production good would be nothing other than the actor's gendered body, which would be used to perform a role.

Our choices are ultimately guided by the costs that we must pay for them, including changing costs to reputation, self-image, and biological functioning. We should therefore expect that the choices that individuals will make with regard to gender presentation will change as biotechnology advances. Many of us may only remain at our current gender frontier because we lack the ability to strike better bargains, at least as we would subjectively reckon them. At the end of the day, what remains are not gendered bodies whose accidental attributes must be harmonized with a sought-for but elusive essence. Rather, what we have are gendered *attributes*—and our individual choices govern which ones we'd prefer to have at various price points. In this, gender resembles an economic equilibrium, which may be equally disturbed by technological innovation.

Most people, when presented with new gendered choices at lower and lower price points, will likely stick with roughly the constellation of attributes to which they were assigned at birth. There are good reasons for believing as much, but there is no reason to think that when they do so, they are instantiating the essence of gender. They are keeping to a familiar set of choices, no more and no less. Maybe in the future, nearly all women will choose the masculine attribute of being somewhat physically stronger; maybe nearly all men will choose the feminine attribute of never having to shave their faces. But we seem to be in very little danger of losing the ideas of male and female, which evolution has probably been suggesting to us all along. Sexual attraction itself tends to bring them back to mind, and back to cultural predominance, and there is little reason to think that it will fail.

Every subject plays his part as such specifically through exploits or projects that serve as a mode of transcendence; he achieves liberty only through a continual reaching out toward other liberties. There is no justification for present existence other than its expansion into an indefinitely open future.

— Simone de Beauvoir

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