

'Gender-critical' feminism and the racial capitalist protection racket

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'The inclusion of men who claim to have a female 'gender identity' into the category of women in law, policies and practice constitutes discrimination against women by impairing the recognition of women's sex-based human rights. Organizations that promote the concept of 'gender identity' challenge the right of women and girls to define themselves on the basis of sex.'

This is an excerpt from the Declaration on Women's Sex-Based Rights, launched in 2019, and now signed by over 30,000 individuals in 158 countries, in collaboration with 427 organisations. The Declaration has become the manifesto of contemporary 'gender-critical' feminism¹, which positions itself against 'gender identity' and especially the ability to self-define one's gender (McLean 2021, Pearce et al 2020). It has roots in 1970s radical feminism and its concept of women as a 'sex class' defined by their ability to reproduce, but has become a banner under which feminists of all stripes gather alongside conservatives and libertarians. 'Sex-based rights' is a rallying cry of the movement, and the term is also now used by organisations such as Fawcett and in the mainstream media.

I am not a legal scholar, but I do not think 'sex-based rights' has formal legal meaning. As a political discourse it sounds similar to the 'sexual rights' demanded in first and second wave Western feminism (Richardson 2017), but it is more restrictive and exclusive. The UK Equality Act 2010 recognises nine protected characteristics, which include sex and gender reassignment, but does not grant specific rights to people possessing these characteristics, only the right not to be discriminated against. Feminism has a long history of fighting against 'sex-based rights' – for instance, the right of only men to vote – and *for* equal ones.

In gender-critical feminism, arguments against sex discrimination are replaced by *entitlements to possess sex-based rights*. This foregrounds the biology that has been used to deny women citizenship in the past. The movement has become so powerful in the UK that the government, based on advice from the Equality and Human Rights Commission, is now planning to change the definition of sex in the Equality Act from legal sex to biological sex, which would mean sex recorded at birth.

Rights are a way of distributing resources. In the gender-critical framework, extending rights to another group – trans people, and specifically trans women – erodes cis women's 'sex-based rights.' This territorial claim sits within what Nancy Fraser (2000) might call the rubric of recognition. It protects a piece of an imaginary pie, rather than attempting to enlarge the pie by tackling socio-economic conditions and the neoliberal mentalities that put us in competition for resources defined as scarce. It also does not question who is serving the pie, who baked it, what its ingredients

¹ I have employed scare quotes around my first use of this term, since (as I argue in this paper) so-called 'gender-critical' feminism is not critical of gender at all. For ease of reading, I have not used scare quotes all the way through - I will leave you to imagine them!

are and where they were grown: as Nadine El-Enany (2020) reminds us, rights mediate entitlements to, and exclusions from, the spoils of empire. Whatever rights we may have are granted against a backdrop of genocide, theft, slavery, and environmental devastation.

Citizenship is a mode of both belonging and bordering, demarcated by an 'outside'. Entitlements to 'sex-based rights' require the exclusion of others. Fair Play for Women, one of the UK's key gender-critical organisations, states: 'do not let it go unchallenged when someone says it is illegal to exclude a transwoman from a woman-only space or service.' The Equality Act allows service providers to offer a single-sex space without being in violation of discrimination law if such provision is justified. With the planned changes to the Act, 'sex' would mean biological sex and a potential blanket ban on trans women entering single sex spaces such as women's refuges, hospital wards, and toilets. This is exactly what gender-critical feminism wants: this movement has long formulated Equality Act exemptions as an entitlement to not have to share space or resources with a trans woman, and a right to exclude her (Jones & Slater 2020, Zangellini 2020).

The focus on biological, rather than legal, sex parallels the 'born this way' arguments for gay rights which have often proved successful for the wrong reasons (Hines 2017, 2020). Diane Richardson (2017) has interpreted these gay rights claims using Spivak's notion of 'strategic essentialism': in contrast, gender-critical essentialism is not strategic but constitutive. As a noun, gender-critical feminism denotes the creed of 'real womanhood' - criticality of 'gender' merely signals attachment to 'sex'. As a verb, gender-critical feminism means the tireless work of excluding trans women from the sisterhood. The 'real women' gender-critical feminism cherishes are also 'respectable' ones: it tends towards homonormativity (Duggan 2002) in its rejection of queer identities, and its equation of BDSM and sex work with violence against women echoes the 1980s feminist sex wars. This appeal to moral purity and the 'natural' order of things also reaches deep into colonial history.

As María Lugones (2008) writes, colonial capitalism simultaneously imposed the ideology of heteropatriarchy and invented the ideology of race to control land, production, and behaviour. Populations were systematically 'raced' so they could be hyper-exploited, and eventually discarded. Capitalism also required a model of gender in which women were subordinated to men and solely responsible for social reproduction, which was also being violently imposed on European women through the Early Modern witch hunts (Federici 2004). However, what Lugones calls the colonial/modern gender system had a 'light' and a 'dark' side. The light side ordered white bourgeois lives and constituted the meanings of gender and compulsory heterosexuality. Colonised people were expected to aspire to bourgeois gender, and genders that did not fit the Western binary were violently eradicated. However, colonised people of *all* genders were united in being reduced to less-than-human status and forced into 'such deep labor exploitation that often people died working' (Lugones 2008, p16).

In the 19th century, this brutal stratification system was underpinned by the sciences of sex and race. The Enlightenment, primarily a tool of white supremacist differentiation from the 'savagery' of the colonies, also biologised gender differences that had previously been cosmologically explained. Narratives shifted away from a 'one-sex' model (Laqueur 1990), to one containing two sexes that were fundamentally different. And deep in the intersections between gender, class and race, sex difference became a property of the 'civilised' white bourgeois classes, and white, bourgeois women were imagined as permanently under sexual threat from the racialised Others. Post-Enlightenment,

Kyla Schuller (2017, p27) argues, the achievement of civilisation and rationality was facilitated by 'the sex difference allegedly lacking' in the colonised. Racialised people were assigned the unsexed state of 'flesh' (Spillers 1987), be-numbered to pain and therefore readily available for abuse.

Claims for 'sex-based rights' are therefore always already racialised, as is the endangerment foregrounded in gender-critical feminism. 'Real' women are perpetually at risk, from 'female and/or lesbian erasure', and - mostly importantly - from sexual violence. The penis is the key object here, 'stuck' to the trans woman through an invasive and violent obsession with her surgical status, but also imagined as a separate entity which is itself responsible for rape rather than being, as Julia Serano (2013, p31) puts it, merely someone's genital organ (Phipps 2016). I have argued elsewhere (Phipps, 2016) that in these narratives the rape experience becomes capital, invested by gender-critical feminists within mediatised economies of victimisation and outrage, alongside a construction of trans women as predatory, dangerous, and immutably male.

In January 2019, at a joint panel with far-right think-tank the Heritage Foundation, Women's Liberation Front board member Kara Dansky claimed that if the US Equality Act (designed to protect sexual orientation and gender identity) was passed, the following would happen:

Male rapists will go to women's prisons and will likely assault female inmates as has already happened in the UK. Female survivors of rape will be unable to contest male presence in women's shelters. Men will dominate women's sports. Girls who would have taken first place will be denied scholastic opportunity. Women who use male pronouns to talk about men may be arrested, fined, and banned from social media platforms. Girls will stay home from school when they have their periods to avoid harassment by boys in mixed sex toilets. Girls and women will no longer have the right to ask for female medical staff or intimate care providers, including elderly or disabled women who are at serious risk of sexual abuse.

Pleas for protection from this dystopia conveniently disregard the fact that in countries that allow gender self-identification, such as Ireland, Malta, Norway and Portugal, none of these things have happened. Because the facts are not relevant - what is really being evoked here is the 'purity' and 'innocence' defended in white supremacist culture and the sexualization of the 'rabble' that stalked fears of anticolonial resistance.

Because of all this, and even though women of colour participate in gender-critical feminism, these pleas for protection may only be fully intelligible when articulated by and through bourgeois whiteness. What Wendy Brown (1995) calls the 'wounded attachments' of feminism, which I have argued are actually those of white feminism (Phipps 2019), peak in gender-critical discourse in what Sophie Lewis terms an almost auto-erotic commitment to misery (in Lewis and Seresin 2022). Although other groups, such as LGBT asylum-seekers, are forced to perform victimhood to gain recognition from the paternalistic state, in gender-critical feminism victimisation is eternal and essential rather than temporal and social, which shapes what Lewis sees as euphoric expressions of suffering.

The idea of trans women as violent space invaders (Puwar 2004), travelling next to the far-right notion of 'replacement', is not a new feminist narrative. Bourgeois suffrage campaigners argued that votes for women would prevent the system being 'overrun' by newly enfranchised African American or working-class white men (Phipps 2020). And as Lewis (2019) describes, many Victorian feminists

also supported other forms of containment, such as eugenic programmes in which bourgeois white women were encouraged to reproduce while other women were prevented from it. One of the key sites of contemporary gender-critical feminism is the online forum Mumsnet (termed 'Prosecco Stormfront' by the other side). This reflects an exclusive, jealously guarded and blissfully resentful focus on the cis female reproductive body and its labours, which conceals both the labour of social reproduction also disproportionately performed by queer and trans people (Gleeson 2019), and the global care chains that facilitate Western motherhood and which are often a site of violence (Yeates 2004).

Gender-critical feminism is attractive to the authoritarian powers currently attempting to generate consent through protection (Hall 1978) from any number of imagined dangers. Like the colonial regimes that preceded it, contemporary authoritarian populism stokes fear of sexual violence and entwines it with what Diane Richardson (2017) calls 'sexual nationalism', which positions sexual Others as sexual threats. As Judith Butler (2021) has argued, 'gender' is now linked with all kinds of imagined infiltrations of the national body (which is, of course, as Alyosxa Tudor (2021) writes, always stably gendered and heterosexed). Border walls and bathroom bills construct immigrants and trans people as potential rapists, and while purporting to protect the rest of us, create the conditions for mass exploitation and abuse (Smith & Mac 2018). In a context of social and economic crisis, this use of sexual violence as a bordering project recalls both the Cold War fuelling of homophobia and the use, in Fascist Italy and Nazi Germany, of what Bassi and LaFleur (2022, p319) call 'entangled figurations of perversion, degeneracy, and crisis' to control and curb dissent.

Gender-critical feminism is discursively aligned with the right- and far-right projects that foreground whiteness under threat from enemies without and within, and position 'gender ideology' as a repository for a cluster of resentments and fears (Doyle 2022, Graff & Korolczuk 2021). Listening to these narratives, which betray a fascistic tendency to invest the enemy with immense power, you would be forgiven for thinking that trans people (or as some call them, the 'trans Taliban'), are taking over the world. Gender-critical views circulate alongside white nationalisms, 'what-about-the-children?' moral panics, and other conspiracy theories, mainstreamed under the banner of 'free speech' and attractive to those casting about for people to blame. Gender-critical feminism has become a visible element of the Christian right's project to divide and rule the LGBT community by separating the 'T' from the 'LGB' (Parke 2016, Barthélemy 2017). The British Institute of Race Relations recently warned that gender-critical feminism was playing directly into the hands of the far right (Siddiqui 2021).

Recently, the movement has started to show cracks around its burgeoning far-right alliances: a recent fissure appeared after neo-Nazis attended a rally in Melbourne held by English gender-critical hero Kellie-Jay Keen, also known as Posie Parker. Keen's tour of Australia was sponsored by the Conservative Political Action Coalition, whose chairman, Matt Schlapp, has heralded abortion bans as a potential solution to the 'great replacement'. (Schlapp is also currently facing allegations of sexual harassment). Keen also appeared alongside prominent Australian anti-abortion campaigner Kirralie Smith (O'Thompson 2023). However, although a few prominent gender-critical feminists have distanced themselves from Keen, her antics have not inspired an 'are we the baddies?'-type epiphany. Keen also continues to have plenty of high-profile supporters and she is by no means the only gender-critical figurehead with material far-right connections.

The relationship between gender-critical feminism and the far right, whether material or discursive, repeats the history of colonial and imperial feminist entanglements (Ahmed 1992), and the more contemporary femonationalist ones (Farris 2017), in which powerful white men have professed their concern for women's safety only when it serves their quest for domination. The crusade against 'gender ideology' is ultimately a crusade against all sexual and gender minorities, against feminism, against reproductive rights and against women. In Hungary, Poland, Russia, the US and elsewhere, attacks on trans rights have quickly broadened along these lines. This is a process of excluding, expelling, or assimilating errant life, reasserting geographical and ideological borders, and defending the cis, white, enabled, 'economically productive' and heterosexually reproductive capitalist body against those on the outside. Gender-critical feminists are used as human shields for this process, cloaked in the garb of damsels in distress.

These agendas understand white women as property, to be abused at will but violently defended from the Others. Our bodies are worthy of protection, but only as a pretext for violence. This arrangement means that gender-critical feminism trades freedom for an experience of safety which is temporary at best. It echoes the heteronormative patriarchal contract in which women exchange submission for security, what Susan Griffin (1979) called the 'patriarchal protection racket' and a framework in which rape within marriage is not just allowed but expected. It also feeds the 'law and order' agendas developed through colonialism, that 'put away' populations deemed surplus to capitalist requirements.

I have called this the **racial capitalist protection racket**. The acts and threats of sexual violence that keep us afraid, that make us docile subjects of capitalism (and, most importantly, extract free social reproduction), also drive us into the arms of the carceral-colonial state and enable many other kinds of violence in the service of capitalist accumulation. At what Gargi Bhattacharyya (2018) terms the 'edge' spaces of capitalism, the most vulnerable populations are both subjected to extensive sexual violence and constructed as sexual threats.

This, of course, has the function of concealing the chief sources of sexual threat. Just as Donald Trump was able to violently and serially assault American women while telling them to fear 'those Mexicans over there', racial capitalism achieves social control through misdirection, enacts perpetration through protection. In March 2021 this was tragically embodied in the rape and murder of London marketing executive Sarah Everard by serving Metropolitan Police officer Wayne Couzens. CCTV footage appeared to show him using his police credentials to lure Everard into his car. The previous June, members of the same police force were suspended for taking selfies with the bodies of murdered sisters Nicole Smallman and Bibaa Henry. A vigil for the three women on Clapham Common, and almost 200 others who had died in police custody or prison in England and Wales, was subsequently led by feminist group Sisters Uncut and violently broken up by police.

Mainstream feminist demands following Everard's murder promised more power to the carceral system – calls for the criminalisation of street harassment and for misogyny to become a hate crime. In contrast, Sisters Uncut said: 'police are the perpetrators', and launched the Kill The Bill campaign, which opposed the expanded policing powers in the Policing, Crime, Sentencing and Courts Bill (now passed) and asked the public to withdraw their consent from British policing. 'Sisters Uncut maintain that more police powers will lead to more police violence and a society without police would be much safer,' they said. On the anniversary of the Clapham Common vigil, they set off 1000 rape alarms at

Charing Cross police station, a loud seizure of public space and an audible demonstration of who the real perpetrators are.

Withdrawing consent refers to the British tradition of 'policing by consent', and also to something much bigger. Even a cursory glance at the history and political economy of carceral systems tells us that they were not developed to keep us safe but to preserve state and elite interests, protect private property and resources, dispose of economically surplus populations, and ultimately ensure that racial capitalism functions unabated (Gilmore 2007, Vitale 2021). The origins of policing lie in an 18th century triumvirate of oppression: colonialism, slavery, and control of the new industrial working class. The social contract, which is a sexual, racial and settler contract (Pateman 1988, Mills 1997, Pateman & Mills 2013), is a covenant between white men that grants them control over and sexual access to women, and (with white women) the race supremacy that rests on dehumanising people of colour and imputing them with violence.

This underpins the template of policing, which as Rinaldo Walcott (2021) writes, was founded on the idea that Black people and other people of colour are always suspect. What Walcott (2021, p15) calls the 'big threatening Black man' is its archetype, with the vulnerable white woman as his foil. These archetypes have legitimated colonial genocide, lynching, and the growth of the prison-industrial complex. In the everyday, they facilitate what Walcott (2021, p16) calls 'white deputization', with its key players described by Jessie Daniels (2021) as the 'contemporary white women who call the police on black people sitting in a Starbucks, barbecuing in a park or napping in a dorm'. Mainstream feminism upholds white supremacy by subscribing to what Alex Vitale (2021, p37) calls the 'liberal fantasy that the police exist to protect us from the bad guys'. Gender-critical feminism carries liberal fantasies about authority into neo-fascism through its breathless pleas to be saved.

Gender-critical participation in the racial capitalist protection racket reveals exactly what it is. It is both a reduction of white women to the status of property and an attempt to protect what Cheryl Harris (1993) would call whiteness as *property*: a status property that confers rights denied to others, and entails a right to exclude. Recognising trans women as women, for gender-critical feminists, diminishes the value of womanhood – a value realised within white supremacy through narratives of endangerment and victimisation. Gender-critical feminism both mirrors and feeds white nationalist politics in enacting victimhood and domination at the same time.

The racial capitalist protection racket is one of the devices by which fear realises its use value, through being both instilled and misdirected. It is one of the devices by which life - and death - is stratified to support extraction, exploitation and accumulation. These are perennial questions: which lives are to be protected at all costs? Which are to be protected in order to protect the system? Which are already meant to be lost? In a neo-fascist moment, the racket seems particularly targeted at gender-critical feminists. As eager participants, they demand 'sex-based rights' that can only be fully claimed by bourgeois white women, part of a covenant between white men that constitutes and undergirds white supremacist patriarchy and allows the violent dehumanisation of its Others. In other words, 'gender-critical' feminism is not critical of gender at all.

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