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## Conceptual Engineering & Contextualism

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A thesis submitted in partial fulfillment of the requirements for the Doctor of Philosophy degree in Philosophy

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# Abstract

In this dissertation, I explore the relationship between conceptual engineering and contextualism in philosophy. Conceptual engineering evaluates philosophical theories about concepts against whether they meet normative and political objectives, while contextualism highlights the influence of context on meaning and truth. I argue that conceptual engineering is subject to contextualism, rendering theories about concepts applicable only in specific contexts.

The first chapter examines essentially contested concepts: concepts inevitably subject to contestation, owing to different, equally legitimate reasons philosophers may have for valuing them. Nevertheless, within specific contexts, these concepts serve particular purposes, and conceptions aligned with those purposes better capture their significance.

Chapter 2 examines the metaphysics of gender, challenging the view that gender categories are both subjective identities and objective social constructions. This view fails to address conflicts between how we subjectively identify and how we are objectively treated by others. I propose a contextualist perspective, according to which gender category meanings vary based on why we use them within particular contexts.

In Chapter 3, I compare the methodology used in the metaphysics of gender with that used in the literature on the moral status of animals. I argue that the justification for employing conceptual engineering in the former applies equally to the latter. Accordingly, endorsing conceptual engineering in one case should lead us to do so in the other. Finally, I propose a contextualist account of moral status.

## Keywords

Conceptual Engineering, Gender, Woman, Moral status, Ameliorative analysis, Contextualism, Essentially contested concepts, Animal rights, Animal welfare

## Summary for Lay Audience

Conceptual engineering is a method philosophers use to evaluate theories of what concepts mean based on their alignment with moral and political goals. On the other hand, contextualism emphasizes that the meaning of terms and concepts can change depending on the specific situations in which they're used.

Throughout my research, I examine how contextualism influences conceptual engineering. I study various cases where the latter method is used and argue that its effectiveness depends on the specific context and objectives at hand. In other words, a theory of what a concept means that works well in one situation might not be suitable for another, because the reason we're using the concept might vary depending on the situation.

I first explore 'essentially contested concepts': concepts whose meanings are inevitably debated because people value them for different reasons. I suggest that understanding these concepts should focus on why they matter in specific contexts, rather than relying on fixed definitions or the way people used the concepts historically.

I then examine different perspectives on the meaning of "woman", such as seeing it as a personal identity or a social construction. My research leads me to propose that the meaning of gender can shift depending on the situation and the purpose of using the concept. This approach helps to reconcile conflicting views about gender categories.

In the final chapter, I compare the method used in discussing the metaphysics of gender with the discussion of the moral status of animals. I find that philosophers often implicitly and inconsistently use conceptual engineering when exploring moral issues related to animals, such that they take a view of what makes someone worthy of moral consideration to be implausible if it might not include all humans, while failing to do the same for animals. I argue that we think conceptual engineering is an appropriate methodology for understanding the meaning of terms like 'woman' and 'man', it should be considered in debates about animal ethics too.

I conclude that a contextualist interpretation of revisionary projects provides a framework to navigate conflicting normative aims, allowing for a more nuanced and contextually

appropriate application of these methodologies in philosophical debates. I also emphasize the importance of considering how these concepts are *actually* used when attempting to realize goals pertaining to how we think they *ought* to be used.

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## Introduction

A substantive methodological approach within philosophy of language can be understood as a principally normative project, rather than a descriptive one. Rather than attempting to analyze existing representational devices as they are as a matter of fact used, philosophers belonging to this tradition attempt to revise these devices in order to realize certain normative aims. Consider as constitutive of this methodology:

(1) Frege's Begriffsschrift: 'If the task of philosophy is to break the domination of words over the human mind...then my concept notation, being developed for these purposes, can be a useful instrument for philosophers' (Frege 1879/1967)

(2) Carnap's explication: 'The task of explication consists in transforming a given more or less inexact concept into an exact one or, rather, in replacing the first by the second' (Carnap 1950, 3)

(3) Haslanger's ameliorative analysis: 'What is the point of having these concepts? What cognitive or practical task do they (or should they) enable us to accomplish? Are they effective tools to accomplish our (legitimate) purposes; if not, what concepts would serve these purposes better?' (Haslanger 2000, 3)

(4) Cappelen's conceptual engineering: 'no matter what topic a philosopher is concerned with, they should assess and ameliorate the meanings of central terms' (Cappelen 2020, 135)

Each of these philosophers are unified by the common goal of introducing new concepts or revising old ones in order to realize some sort of aim, whether that be greater conceptual precision for philosophical purposes or the accomplishment of cognitive, practical, or often political tasks. Intimations of this methodology are also endemic to other areas of philosophy. In political philosophy, for instance, one reason Pettit (2011) takes his account of freedom as non-domination to be superior to that of Isaiah Berlin's account of freedom as non-interference is that the latter might sanction a benevolent dictatorship that merely contingently refrains from interfering with its members' choices.



He notes, however, that Berlin would likely find such a regime ‘objectionable and repugnant on grounds of freedom alone’ (714). Implicit in these comments is the intuition that an account of what freedom is might be rendered implausible not strictly or solely because it fails to capture how people in fact use the concept, but rather, because it sanctions ‘repugnant’ regimes. Rather than relying on solely common uses of ‘freedom’, which sometimes ostensibly do comport with non-interference, such as in contexts lacking any identifiable authority figure, Pettit takes the normative aim of not sanctioning dictatorships to constrain which accounts we take to be plausible.

Meanwhile, in the philosophy of well-being, Tiberius (2018) rejects hedonism as a plausible account of well-being partly on the basis of its sanctioning the sexual abuse of a victim who finds the abuse physically pleasurable. She notes that for some, this implication is simply a ‘deal-killer’ (21-22). This reasoning does not rely on an examination of what people typically ‘mean’ when using the expression ‘well-being’, but rather, on the normatively undesirable implications of adopting hedonism as an account of well-being. It’s worth noting, however, that Tiberius and sometimes other philosophers more generally make use of both descriptive and normative desiderata, without explicitly stating that one ought to be prioritized over the other. Tiberius in particular argues that a theory of well-being must simultaneously ‘capture...as many as possible of our ordinary judgments about who has well-being and who doesn’t’ and explain ‘why we have good reason to follow the recommendations of the theory’(19). Accordingly, requiring theories of concepts to remain compatible with certain normative aims need not require outright abandoning descriptive considerations. Indeed, as will become apparent throughout the course of this dissertation and ultimately in its conclusion, sometimes these descriptive considerations must necessarily constrain even the most radical revisionary enterprise.

Regardless of whether we are favourable to a methodological approach that prioritizes normative desiderata or relatively more standard descriptive styles of conceptual analysis, that many philosophers treat normative aims as precluding certain theories about concepts from being plausible is hopefully clear. This former approach, though pervasive throughout philosophy, raises several questions: (1) how do philosophers justify its adoption; (2) what philosophical debates might warrant its

adoption; and (3) what happens when equally legitimate normative aims conflict? This thesis contends with these questions.

# 1 Outline of Chapters

## 1.1 Chapter One

The focus of the first of the three articles in this dissertation is on W.B. Gallie's 'essentially contested concept'; a kind of concept for which I argue this methodological approach is particularly suitable. Gallie frames these as concepts whose conceptions are 'inevitably' the subject of contestation on the part of their users (Gallie 1955, 169). Gallie takes such a concept to be evaluative and to possess a variety of features that give rise to its evaluative content (171-172). Democracy, for instance, is a good thing and the reason contestants might take it to be good will vary depending on what feature of democracy matters most to them. However, as he notes, 'prior to experimentation, there is nothing absurd or contradictory in any one of a number of possible descriptions of its total worth'; nothing in principle suggests that one person's reason for valuing democracy ought to subordinate another's. Crucially, what drives debates about these concepts aren't confusions about the descriptive features of members of their extension, but rather, conflicting beliefs about what renders them important.

However, if nothing in principle could adjudicate these beliefs, what suggests that participants are even forwarding plausible conceptions of the same concept to begin with, as opposed to merely talking past each other? Collier et al. (2006) term this question the 'disaggregation problem' (223). In chapter 1, I provide a response to this question by relying on the normatively grounded methodological approach discussed previously. By examining debates about essentially contested concepts, I show that their participants are not attempting to fix their conceptions of the concepts around descriptive facts, such as how the concepts have been historically used or are currently being used or around objective properties of features of their extension, but rather, are attempting to articulate why the concepts matter. Accordingly, I argue that a style of conceptual engineering termed 'radical functionalism' and pioneered by Nado (2019) best captures what

philosophers are attempting to accomplish in these debates. According to radical functionalism, a revision of a concept is plausible or successful so long as it meets ‘needed functions’, where functions correspond roughly to our purposes, goals, and aims in using the concept (1521-1522). I argue then that by fixing our conceptions of these concepts around our own purposes and aims in using the concepts, we can successfully articulate why they matter. Consequently, we can anchor proposed conceptions of a concept around the same concept so long as newer conceptions do a better job of meeting our aims than older conceptions. Ultimately, I argue that we can understand competing conceptions each laying legitimate claim to the same essentially contested concept so long as they each meet needed functions to the same extent as competing conceptions.

However, this conclusion is subject to an important caveat, which ultimately lays the groundwork for the dissertation’s successive chapters: whether a conception meets ‘needed functions’ depends in large part on the concept’s context of use. Our purpose behind using terms corresponding to concepts such as DEMOCRACY, ART, or FREEDOM ultimately will vary depending on context. For instance, consider a government that prioritizes economic liberty and the protection of property rights, but which nonetheless allows individuals to accumulate disproportionate amounts of wealth. In doing so, these individuals can exert significant influence over government policies via lobbying efforts. It would be flippant to consider this government’s citizens to be free in a meaningful sense, simply owing to the fact that their government typically abstains from interfering with their formal political freedoms; rather, the sense of ‘freedom’ operative in this context is one that gives heed to situations in which the wealthy are granted disproportionate influence over political processes; that is, in this context, Pettit’s account of freedom as non-domination best captures why freedom matters in this context.

Meanwhile, consider an alternative government, which aims to grant equal power to its citizens by strictly regulating the types of jobs in which its citizens may participate. Here too, it would be flippant to dismiss concerns over a lack of freedom, simply because this government has managed to ensure that individuals lack the capacity to dominate others. In this context, Berlin’s account, which emphasizes non-interference as the central condition of freedom best captures why the concept matters.

Accordingly, while, as Gallie notes, ‘prior to experimentation’ nothing suggests that one person’s reason for valuing these concepts is superior to another’s, within specific contexts our background purposes behind using the concept can illuminate certain features of the concept over others. In this sense, then, I argue that essentially contested concepts can be ‘decontested’ within context. In Chapter Two, I then apply this contextualist account of essentially contested concepts to the metaphysics of gender.

## 1.2 Chapter Two

Consider various gender-specific organizations, resources, movements, and domains, such as women’s shelters, women’s bathrooms, women’s sports teams, women’s scholarships, feminism as a movement, women’s prisons, and so on. Whether someone is considered a woman or man matters, as the gender people attribute to us governs whether we can participate in these organizations and the extent to which gender specific movements centre the issues that affect us. It also matters to the extent that we identify with particular genders and want others to recognize the legitimacy of this identification. Accordingly, a central question within the philosophy of gender is ‘what does “woman” mean?’. This question isn’t a facetious one, owing to Simone de Beauvoir’s introduction of the sex/gender distinction. Many contemporary philosophers of gender and even many lay audiences take there to be a substantive difference between sex and gender. While the former, broadly, concerns biological and physiological traits that demarcate males from females, the latter remains much more nebulous. To clarify the situation, consider a brief overview of three major philosophical camps that characterize gender:

1) Social class (e.g. de Beauvoir, 1972; Haslanger, 2000; Connell, 1987; Alcoff, 2006; Ásta, 2013, 2018; Millett, 1971; Okin, 1987; Witt, 2011a, 2011b): ‘woman’ is a social class, created and reinforced via cultural practices, norms, and institutions.

2) Identity (e.g. Bettcher, 2009, 2013; McKittrick, 2015; Dembroff, 2018; Chu 2019): ‘woman’ is an identity, which is largely subjectively determined.

3) Pluralism (e.g. Jenkins, 2016; Butler, 1999): ‘woman’ is simultaneously an identity and a social class.

Each camp is driven by various normative aims: while social class or constructivist views aim to emphasize the role of cultural norms in endowing others with forms of privilege or oppression, identity views aim to develop accounts of ‘woman’ that remain trans-inclusive. Meanwhile, pluralist views attempt to realize both aims.

I situate my perspective in response to pluralist views. In particular, I note that these views are marked by a deep and intractable tension: while identities are subjective and self-determined, social classes are objective and determined by others. Accordingly, these views cannot make sense of nuances that underlie some contexts in which the way we identify does not correspond with the way we are classed and consequently treated by others. For instance, such views cannot make sense of the idea that a trans man may not experience all the privileges of a cis man, despite sharing the same gender identity.

Clarity on how we ought to understand these situations is critical, as many gender-specific resources and institutions were developed precisely to mitigate the negative consequences of being classed a certain way by others. There’s a very real sense, for instance, in which trans men are classed as women by others and so are oppressed along similar dimensions; to deny them access to certain women’s institutions on the basis of their gender identity, then, seems irresponsibly reductive. To illustrate this point in greater detail, I examine a particular case illustrated by Jenkins, which she takes to support pluralism. I argue that a closer analysis of this case reveals the problems endemic to this class of perspectives.

In the example, Jenkins organizes a woman-only march against sexual violence. The reasons the march ought to remain woman-only are numerous. As she notes, doing so preserves the “symbolic value of conspicuously violating the social norm that a woman ought to be accompanied by a man when walking after dark” (419-420). Moreover, the strength of solidarity built amongst participants of the march depends in part on the extent to which people who are at greater risk of sexual violence don’t feel that their discourse is being surveilled or controlled by members of a class that is statistically more likely to perpetrate it. However, as she notes, excluding trans men on the basis of their gender identities would be a mistake, as they too are at greater risk of

sexual violence. Accordingly, she offers a pluralist account of “woman”, according to which trans men could be admitted owing to the term’s role as a socially imposed class, rather than an identity. However, I note that for trans men, this application of the term doesn’t seem to reflect pluralism, as the fact that they might be socially treated like women and thus prone to greater sexual violence is being given greater consideration than whether their gender identities match up with the gender for which the march is intended. An examination of the language she uses, discussed further in Chapter Two, reveals that she quite literally takes trans men to be women, ‘for the purposes’ of the march.

The example reveals several key normative aims, which cannot be rendered compatible on pluralist views: (1) the march ought to remain woman-only; (2) trans men ought to be admitted to the march; and (3) to consider trans men to be women is transphobic and thus something that ought to be avoided. Were we to account for conditions 1 and 2, we would undermine condition 3. Were we to account for conditions 2 and 3, we would undermine condition 1. And were we to account for conditions 1 and 3, we couldn’t realize aim 2.

I, however, attempt to reconcile these aims by advocating instead for contextualism, according to which the meaning of gender categories shift from context to context. Under this view, sometimes they function as identities, sometimes they function as social classes, and sometimes they could in principle function as something entirely new. I adapt my view, outlined in Chapter 1, to this debate and argue that gender categories too can be understood as essentially contested, yet nonetheless decontestable within context by examining our background purposes behind using them. In doing so I ultimately conclude that our background purposes behind making institutions and resources gender-specific should fix whether a gender category functions as a social class, as an identity, or as both.

## 1.3 Chapter Three

In Chapter 3, I extend the methodology underlying the metaphysics of gender to a seemingly unrelated debate about the moral status of animals. I then advocate for a similarly contextualist account of moral status, according to which someone is owed moral status in a context iff they are relevantly similar to most of those already possessing moral status in that context.

Philosophical literature on the moral status of animals seeks to identify what traits ground moral status, and in doing so, arrives at conclusions about what moral entitlements animals are owed. In the first part of this chapter, I arrive at a conditional conclusion: if we accept the methodology underlying the debate about gender, then we ought to be critical of the methodology underlying debates about moral status. My aim, here, is to illustrate that the ways philosophers of gender justify their use of conceptual engineering or ameliorative analysis could extend to other domains in philosophy, including literature on the moral status of animals. I, nonetheless, leave the question of whether that justification is plausible open. Part of the reason I frame this conclusion as a conditional is because I am agnostic on whether this methodology is one that ought to be endorsed. While, as a matter of fact, philosophers use this style of reasoning pervasively, whether they ought to is an open question I leave unanswered in this chapter. Instead, I want to target an audience that already takes the application of conceptual engineering within the philosophy of gender to be legitimate and more generally to call attention to the inconsistencies in our applications of conceptual engineering. Accordingly, I do not outright and unequivocally endorse the use of conceptual engineering in the domain of animal ethics, but instead only claim that if we are already partial to the approach then animal ethics serves as a good candidate for its application.

I begin by examining one widely accepted desideratum of accounts of gender categories: such accounts must legitimate the identities of trans people, by taking their subjective gender identities to, at least some extent, determine the gender category to which they objectively belong. Taking the satisfaction of a group's interests to be an obvious desideratum of some kind of conceptual or moral theory is a kind of privilege

afforded mostly to those already granted a degree of social or cultural consideration. For instance, that sexual assault is patently bad, is uncontroversial. This is why when Tiberius (2018) takes the potential sanctioning of sexual assault to be a ‘deal killer’ of theories of hedonism, few ask: ‘why?’ (21-22). The same, however, does not hold true for the desideratum of trans-inclusion. Indeed, the very question ‘what does “woman” mean?’, for many political and philosophical schools of thought stems from skepticism about the veracity of trans people’s beliefs about their gender. Accordingly, while conceptual engineering is a method employed pervasively throughout philosophy, within the philosophy of gender, trans-inclusive views are some of the few that explicitly state that (1) they treat the inclusion of trans people as a desideratum and (2) at least gesture as to why. This is why, in this chapter, I focus primarily on this particular desideratum.

I examine justifications by two major trans-inclusive philosophers: one, by Talia Mae Bettcher, and another, by Katharine Jenkins. Bettcher (2013) observes that while trans people are often tasked with justifying their identities, cis people are not. Accordingly, she concludes that ‘to accept this asymmetry is to effectively yield political ground from the very beginning’ (235). Meanwhile, Jenkins (2016) claims that she treats the inclusion of trans people as a ‘foundational premise’, owing to the various ‘harms’ misgendering them can cause.

I then note that parallel features are true of the literature on the moral status of animals. This literature, however, rarely explicitly employs revisionist methodologies. Indeed, the premise of many of these views is that whether animals are owed moral status is an open question, whose answer turns ultimately on (1) which descriptive trait grounds moral status and (2) whether a given species of animal, as a matter of empirical fact, possesses this trait. Crucially, for many these views, an understanding of what animals are governs what they are owed.

However, note that earlier, I claimed that these theories rarely explicitly *and* consistently employ this methodology. Many theories, ranging from dignitarian accounts of human rights and other theories that follow from Kantian moral traditions, to pro-animal accounts of moral status, such as Peter Singer’s, Tom Regan’s, and Will



Kymlicka's implicitly take various human-specific normative aims, such as the protection of human rights, the inclusion of vulnerable human populations within the scope of moral consideration, and so on, to constrain which theories of moral status are plausible. The fact that their commitments to revisionary approaches remain implicit, however, fosters a similar type of asymmetry as noted by Bettcher. In the moral status literature, philosophers constrain their answer to the question 'what grounds moral status?' by the desideratum of granting equal moral consideration to all humans. The same, however, does not hold true for animals; in their case, their moral considerability is treated as an open question.

I then observe that Jenkins claims that we can treat something as a 'foundational premise' if it allows us to avoid harms. Applying this principle, we can similarly argue that the inclusion of animals in a theory of moral status is a 'foundational premise' because failing to do so permits their systemic abuse and commodification. Although this argument risks circularity because animals require moral status to be harmed in the first place, a similar charge of circularity could be levelled against Jenkins' justification: to harm transgender people by misgendering them, they must actually belong to the gender with which they identify. If we accept this ostensible circularity in the latter case, we must provide explicit justification for why we ought not in the former. Moreover, this justification must not presuppose the moral inferiority of animals, as doing so would render it circular as well.

Finally, I conclude the chapter by offering a contextualist account of moral status, which parallels extant contextualist accounts of 'woman'. The intuitions driving both are the same: just as contextualist accounts of 'woman' are appealing, as they allow the most salient normative aims in a context to determine the theories of gender categories we take to be plausible, a contextualist account of moral status is appealing, as the most salient standards at work in a context fix which feature we take to ground moral status, within that context.

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# Chapter 1

## 1 Introduction

Consider various hotly contested concepts, such as DEMOCRACY, FREEDOM, or ART. While our understanding of these concepts routinely shifts over time, debates about how we ought to understand these concepts have remained largely unresolved. One explanation of this outcome is that these debates are ultimately resolvable, such that we take there to be an optimal account of, say, FREEDOM, that is currently overlooked. Under this view, conceptual change reflects a shift either towards or away from an objectively ‘correct’ understanding of a concept. Another explanation is that some feature of these concepts renders them essentially contestable, such that we could never converge on one optimal account. Under this view, conceptual shifts merely make salient different components of one broader, multi-faceted concept. The former approach risks favouring accounts of these concepts that are too narrow to capture the great variety of uses to which they might be put. The latter, however, provides little practical guidance, as policy decisions centering on these concepts often require the adoption of specific accounts, in order to determine to what or to whom such policies apply. More generally, the question at the crux of which approach ought to be adopted is this: (Q) how do we know if a proposed account of a concept in fact applies to that concept?

How do we know, for instance, that an account of non-interference really captures some crucial dimension of FREEDOM as a multifaceted concept and not something else? This chapter contends with this question. My response attempts to retain an understanding of these concepts as essentially contested while providing a methodological prescription that renders them practically useful. In particular, I argue that we ought to understand our context-specific purposes and goals behind using the concepts as determining whether a purported account of the concept applies, within context.

In section 2, I begin by describing Gallie (1955)’s essentially contested concept in detail. In doing so, I make salient the role purported accounts of such concepts play in

their debates. In particular, I take Gallie's comments to suggest that such accounts serve a particular requirement: rather than merely capturing strictly descriptive features of an essentially contested concepts, plausible accounts must identify why we take the concepts to matter. In section 3, I survey two alternative approaches to conceptual analysis, which fail to meet this requirement: the first, which grounds a response to Q in historical and contemporary uses of the concept (e.g. Gallie 1955; Collier et al. 2006) and the second, which grounds a response to Q in objective properties of paradigms of the concept (e.g. Sawyer 2018, 2020a, 2020b). Then, in section 4, I examine Nado (2019)'s view, which grounds a response to Q in the extent to which a purported account of a concept serves our purposes, aims, and goals. I argue that only Nado (2019)'s view meets the requirement, and accordingly, could serve as suitable grounds for a response to Q when analyzing essentially contested concepts, in particular. Moreover, I develop my view from Nado (2019)'s by emphasizing a unique feature of essentially contested concepts: the adequacy of a purported account of an essentially contested concept depends on the concept's context of use. Accordingly, I adapt Nado (2019)'s view to debates about essentially contested concepts by noting that some purposes, goals, and aims underlying a proposed account of an essentially contested concept are more salient than others in some contexts, and comparatively less salient in others. In doing so, in section 5, I conclude that when analyzing essentially contested concepts, we ought to take particular accounts as applying to that concept if and only if they better serve our context-specific goals in using the concept than other accounts.

## 2 Essentially Contested Concepts

An essentially contested concept is a concept that 'inevitably involve[s] endless disputes about [its] proper uses on the part of [its] users' (Gallie 1955, 169). While users might broadly agree that such a concept exists, they often emphatically disagree on appropriate,

more precise accounts<sup>1</sup> of the concept. Such concepts, Gallie argues, are defined by seven conditions, of which three are of particular relevance, for this thesis:

(1) Evaluativeness - an essentially contested concept ‘must be appraisive in the sense that it signifies or accredits some kind of valued achievement’ (171)

(2) Internal Complexity - ‘This achievement must be of an internally complex character, for all that its worth is attributed to it as a whole’ (171)

(3) Describability - ‘Any explanation of its worth must therefore include reference to the respective contributions of its various parts or features; yet prior to experimentation there is nothing absurd or contradictory in any one of a number of possible rival descriptions of its total worth’ (172)

Gallie identifies several of such concepts, including DEMOCRACY, ART, and SOCIAL JUSTICE, while contemporary writers have identified several additional candidates, including MEDICINE and RAPE (McKnight 2003; Reitan 2001).

Under Gallie’s view, the various accounts or ‘descriptions’ of these concepts in some sense serve as ‘explanation[s] of [their] worth’. For Gallie, these accounts serve a special role: they do not arbitrarily or impartially describe some concept, but instead provide grounds for why we take their concepts to matter. Consider, for example, two accounts of DEMOCRACY:

(1) ‘Democracy means primarily the power of the majority of citizens to choose...governments’ (184)

(2) ‘Democracy means primarily equality of all citizens, irrespective of race, creed, sex, etc., to attain to positions of political leadership and responsibility’ (184)

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<sup>1</sup> Note that I use the term ‘account’ here in ways analogous to the term ‘conception’, used by Rawls (1971), Dworkin (1972), Lukes (1974), and Swanton (1992). Very broadly, each of these philosophers draw on the distinction between a ‘concept’, which is the object of contestation, and a ‘conception’, which represents one particular interpretation of the concept. This distinction allows them to make sense of a concept being contestable, without being ambiguous or vague (Ruben 2010, 259).

Neither account serves solely to describe, impartially, the concept of DEMOCRACY.

Rather, implicit in the former, lies the claim that democracy is good by virtue of the fact that it allows citizens to ‘choose...governments’. Implicit in the latter, lies the claim that democracy is good by virtue of the fact that it supports ‘equality of all citizens’.

Presumably, a proponent of the former would consider a situation undemocratic if it doesn’t support our capacity to make choices, regardless of whether it secures relative equality. Meanwhile, a proponent of the latter would likely take relatively unequal circumstances that were nevertheless conducive to making autonomous choices to also be undemocratic. In this sense, particular accounts seem to be forwarded with specific, goals in mind, such as fostering autonomy of choice or equality. Accordingly, I argue that an adequate response to Q ought to account for these goals, as otherwise, we may advocate methods of conceptual analysis that aren’t sensitive to the dynamics of actual debates about essentially contested concepts to being with. To illustrate this consequence in more detail, I will now survey potential responses to Q, which I take to be inadequate for this reason.

### 3 Alternative, Inadequate Responses

#### 3.1 Historical Use or Contemporary Use

Consider Cappelen (2018)’s comments on what he terms the ‘representationally complacent’: ‘the representationally complacent uncritically take over the representational devices that are handed to them. They do their thinking and talking with whatever concepts they have inherited from their peers, teachers, and community’ (6).

The first style of response to Q is that endorsed by the representationally complacent. More specifically, this response takes the historical uses to which an essentially contested concept has been put to establishing the meaning of the concept. This sentiment appears in Gallie’s own paper, when he argues that

‘if we want to see just what we are doing, when we apply a given appraisive concept...we can best see more precisely what it means by comparing and contrasting our uses of it now with other earlier uses of it’ (198).

Under this view, concepts like FREEDOM, EQUALITY, and DEMOCRACY are partly defined by the historical uses and traditions and from which they developed.

Alternatively, Collier et al. (2006) seem to endorse a similar view, grounded in contemporary uses. When discussing DEMOCRACY, they argue that the

‘literature [that raises four accounts of DEMOCRACY] is indeed about democracy, and the scholars and political actors of concern here do indeed think of the struggles in which they are involved as being about democracy. Of course...Some components are emphasized more than others by certain authors...But these are routinely conceptualized as facets of democracy’ (223).

Implicit in these comments is the idea that, if ‘scholars and political actors’ think their endorsed accounts are accounts of an essentially contested concept, then such accounts simply are accounts of the concept. In either case, what ultimately defines whether an account applies to its concept is whether it has been or is currently being used as such.

I will now assess whether this response provides an adequate treatment of debates about essentially contested concepts, by examining one in particular: RAPE. Reitan (2001) traces a debate surrounding what should qualify as rape. On the one hand, feminist philosophers such as Pineau (1989) forward accounts of RAPE that admit a relatively wider range of behaviours, while writers like Podhoretz (1991; 1992) oppose this shift in meaning and advocate instead for a more traditional, relatively restricted account of RAPE that grounds the concept primarily in physical violence (Podhoretz 1991, 30). The source of the dispute lay in whether what Reitan terms ‘borderline cases’ of rape (e.g. date rape) should carry the same severely negative evaluations as standard cases. As Reitan summarizes Burgess-Jackson (1995)’s analysis of Podhoretz’s argument: ‘feminists have redefined rape beyond its ordinary range of use, but have preserved its traditional emotive meaning, thus attaching to instances of non-rape the same sort of negative connotation that has been traditionally reserved for rape’ (44). By taking an account of RAPE to be legitimate only if it remains within the confines of the concept’s ‘ordinary range of use’, Podhoretz’s view exemplifies the kind of reasoning endorsed by Gallie and Collier et al. However, recall that by Gallie’s own ‘describability’ constraint,



the measure of whether an account of an essentially contested concept is effective is whether it convincingly captures why we take the concept to be good or bad. Podhoretz' charge that feminists have counterintuitively qualified 'a whole range of sexual relations which have never before in all of human experience been regarded as rape' demonstrates only that their new usage of the term deviated from prior uses; it does not, however, answer the normative question of whether these proposed borderline cases of rape should be subject to the same censure as standard cases or, relatedly, whether these borderline cases possess the same descriptive features that render standard cases of rape bad. If, for example, the effects of date rape shared some similarities and some differences to those of standard types of rape, what ultimately suggests that the similarities are relevant enough to ground the same negative evaluations attributed to standard cases or that the differences are relevant enough to exclude date rape as a recognized form of rape? The question of whether these descriptive features of the act are relevant in grounding the concept's evaluative content remains open and ultimately gives rise to the concept's essential contestation.

More generally, because accounts of essentially contested concepts are intended to describe why we take those concepts to be good or bad, the strictly descriptive and empirical question of whether a proposed account happens to have evolved from some relevant historical tradition or, as a matter of fact, is thought by participants to be about that concept, cannot serve as grounds for taking the account to be plausible. Instead, adequate grounds must in some way incorporate normative considerations behind using the concept or forwarding its associated accounts. Before illustrating what such grounds might look like, I will raise and reject another alternative response to Q.

### 3.2 Objective Properties

Another major condition of essentially contested concepts, identified by Gallie, is the existence of a paradigm of the concept. In particular, he argues that essentially contested concepts are derived from 'an original exemplar whose authority is acknowledged by all the contestant users of the concept' (180). While contestants might disagree about what features of this exemplar are responsible for its status as something valued or disvalued,

they all agree on the exemplar's 'authority' as a standard case of the concept. A possible method of discerning the plausibility of an account of an essentially contested concept, then, might involve forming the account around objective properties of the concept. Sawyer (2020a, 2020b)'s view is something like this, however, her comments do not target essentially contested concepts, specifically (for similar views, see Putnam 1973; Burge 1979, 1986). Nevertheless, this sort of approach, while possibly effective for some concepts, is inadequate for essentially contested concepts. To illustrate the shortcomings of this approach, I will first begin by summarizing Sawyer's view and will then show how the view cannot be generalized to this particular kind of concept.

Sawyer (2020b) builds her view off of the distinction between objective properties of an object and our subjective or communal understanding of it by proposing that while

‘the meaning of a term is determined by communal linguistic practice, which can change over time...In a certain range of cases...objective properties contribute to the determination of our concepts and constitute the stable topics about which we think and talk’ (1006).

Under Sawyer's view, concepts corresponding to objective properties stand independent of our shifting conceptualizations and understanding of them. In what sense do these objective properties ‘contribute to the determination of our concepts’? Sawyer elaborates ‘there are concrete examples of [philosophical topics such as “colour”, “emotion” etc.] and it is through causal relations to such concrete examples that we acquire concepts that represent the objective properties they instantiate’ (1013). Nevertheless, she notes that we may disagree about the appropriate theories of these objective properties, and accordingly, our conceptualizations about concepts may remain unstable or evolve.

Sawyer's argument hinges on the notion that concepts are in fact largely determined by objective properties. While this may seem intuitive for natural kind terms, social kind terms are often taken to depend significantly on our mental states or collective linguistic practices. Nevertheless, Sawyer objects ‘they are not...stipulated into existence, and their nature is neither transparent to us nor determined by us...they are objective

kinds, open to empirical investigation.’ She then provides the example of social class, whose causes and effects correspond to objective, discoverable features of the world, and accordingly are not merely stipulated (1014). A potential response to *Q* developed from this kind of view might take a proposed account of an essentially contested concept to apply to that concept if the account integrates empirically determined causes, effects, and general empirically discoverable properties of the concept.

However, unlike social class, essentially contested concepts seem to require a far greater degree of stipulation; indeed, the very source of their contestation lies in theoretical, rather than empirical features of the concepts. This point can be made both by examining Gallie’s own view and by examining debates over particular essentially contested concepts. I will briefly discuss the former and will then move on to the latter.

Recall that Gallie takes essentially contested concepts to ‘inevitably’ involve endless disputes about their appropriate accounts. The nature of these disputes depend on which descriptive features of the concept contribute most to its overall evaluative content. Accordingly, these disputes cannot be resolved by appealing to empirical data, as what determines the plausibility of an account depends on whether it identifies the most evaluatively relevant descriptive feature of the concept; yet, as Gallie notes, there’s ‘nothing absurd or contradictory’ in various accounts, assigning various degrees of importance to these descriptive features, co-existing. In this sense, disputes surrounding essentially contested concepts do seem like importantly stipulative exercises, such that determining a plausible account of FREEDOM or ART isn’t an exercise in examining causal correlates of the concepts but instead in stipulating plausible explanations for why we take these concepts to matter (see Gellner 1967 and Freedman 1996 for similar arguments, targeted against Gallie’s exemplar condition).

To illustrate these ideas more concretely, consider a debate surrounding the meaning of ART. Schiappa (2003) traces a trial concerning the appropriate definition of the concept, in which the director of an ART exhibit was charged with obscenity, owing to a set of controversial, sexually explicit photographs displayed at the exhibit (116). The outcome of the trial turned on whether the work qualified as ART, as if it did, then it

couldn't be legally obscene. The question of whether it does in fact qualify as ART, however, cannot be answered by examining empirical, objective features of the world. Unlike social class, which does correlate with various empirical causes and effects, it's not clear what the causal correlates of art could be. Moreover, given the wide range of pieces that have historically been considered art, it's not clear what essential or objective feature, if any, could correspond to every instance of artwork and could determine whether the works in question qualified as such. Ultimately, it doesn't seem that ART is the kind of concept that could be determined by objective properties. Rather, considerations of whether to qualify the work as art seem both context sensitive (see Ziff 1953 for more on the context-sensitivity of art in particular) and normative, to the extent that, at least in this context, whether the works should be considered art depends ultimately on whether they possess features evaluatively important enough to outweigh the potential consequences of displaying them. Accordingly, like the descriptive question of whether an account of an essentially contested concept, as a matter of fact, is situated within a historical tradition, the descriptive question of whether the account integrates empirical features of paradigmatic cases of the concept also underdetermines whether the account is plausible. I will now turn to an alternative method of assessing the plausibility of these accounts, upon which I build my own view.

## 4 Radical Functionalism: a promising approach

Nado (2019) advocates for a view she terms 'radical functionalism'. In particular, she argues that we can understand an account of a concept as adequately capturing the concept so long as it serves all 'needed functions', where such functions roughly correspond to our 'purposes, goals, and aims' in using the concept (1521-1522). Importantly, these functions are non-semantic and not tied to the meanings of words. For Nado, an intended revision of a concept is successful only if it meets the necessary condition of better serving the functions served by prior accounts of the concept (1515).

Moreover, what makes her view 'radical' is that this condition is also sufficient. Nado defends this provocative and relatively strong claim as a way of responding to a style of objection against revisionary projects, most famously attributed to Strawson (1963),

which argue roughly that in offering a radical revision of a concept, we simply change the subject. For Nado, questions of whether a revision of a concept preserves the original ‘meaning’ of the concept and avoids an ostensible shift in subject are largely irrelevant. Instead, the only sense in which purported accounts of a concept must remain continuous with prior understandings is via the functions they serve; as long as these functions include functions served by prior accounts, along with improvements from revisions, such revisions are entirely plausible.

Nado’s rationale for disregarding concerns about changing subjects following conceptual revisions is as follows. Firstly, at least some revisions of concepts which ostensibly do change the subject could nonetheless be legitimate. As she notes, ‘should eliminativists [about mental states such as belief and desire] be right about the failings of folk psychology, the proper response would be to change the subject, not to retain-but-revise the concepts of “belief” and “desire”’ (1517). Secondly, she notes that we sometimes split concepts into sub-concepts which themselves are not identical or synthesize concepts by combining multiple pre-theoretic concepts. In such cases, it’s not entirely clear whether we have changed the subject and, if we have, concerns about subject-change might undesirably prohibit us from engineering concepts in these ways. An example of the former type of revision includes subcategories of truth: ‘ascending-truth’ and ‘descending-truth’ (Scharp 2013). Each category possesses different inferential properties than the other, and accordingly, would constitute different subjects. Nevertheless, they both roughly concern truth. Accordingly, Nado asks ‘if I “change the subject” when I replace an “ascending-true” statement with a “descending-true” one, can we make sense of the idea that neither “ascending-true” nor “descending-true” change the subject away from truth?’ (1518).

Finally, she notes that in some cases, entire sets of concepts are plausibly revised into new sets of concepts, in which constituents of the former have no corresponding constituents of the latter. Such an example includes a shift from biological taxonomies that classify species based on morphological similarities to those that classify species based on ancestry. In this case, the concept of FISH in the former classification system has no corresponding concept in the latter, as all fish share common ancestry with

humans. Accordingly, if an appropriate shift in an understanding of a concept required us to retain components of the semantic content of prior concepts, it's not clear that a shift between these classification systems could be justified. Nevertheless, Nado's view could make sense of such a shift, so long as the non-semantic functions corresponding to the former set of concepts would be retained by the latter. Indeed, shifts in classificatory systems seem to be justified rather intuitively by radical functionalism, as the purpose of the shift isn't to retain similarities between the conceptual demarcations fostered by older classificatory systems, but instead to achieve non-semantic purposes and aims, such as coherence or informativeness, that might be better realized by alternative classificatory systems. The shift from a morphology-based classificatory system to an ancestry-based classificatory system, for example, could be justified because the latter allows us to factor a greater degree of information into our classifications, such as genetic data.

In summary, Nado identifies three sorts of concepts which seem like plausible candidates for radical functionalism: concepts whose prior accounts are shown to be inaccurate or unsuitable to such an extent that their very existence is called into question; concepts which might be understood as either a synthesis of or a series of sub-concepts which themselves are non-identical in semantic content; and concepts whose conceptual boundaries depend on non-semantic considerations of classificatory systems. Each of these three categories of concepts share in common key properties with essentially contested concepts; accordingly, I argue that essentially contested concepts also seem suited to radical functionalism, such that considerations of which conceptions are plausible depend solely on the non-semantic purposes, goals, and aims underlying these conceptions. Moreover, my view builds on Nado's as I argue, also, that the kind of radical functionalism that ought to be applied to essentially contested concepts is context-sensitive, in nature. I will now discuss these key properties and, in doing so, will arrive at two main ways in which the plausibility of a purported account of an essentially contested concept is context sensitive and one way essentially contested concepts, much like concepts that depend on non-semantic classificatory considerations, also depend on non-semantic considerations.

## 4.1 Obsolete Accounts

In certain contexts, some accounts of an essentially contested concepts might be as irrelevant in capturing the meaning of the concept as, for instance, BELIEF or DESIRE if eliminativists about such mental states were correct. In other contexts, however, the same accounts might be highly suitable. Accordingly, whether a purported account of an essentially contested concept is taken to be plausible depends, partly, on context-specific features of uses of the concept.

Consider, for instance, the concept of FREEDOM. In *Leviathan* Hobbes broadly understands FREEDOM as non-frustration. In particular, he claims that ‘a freeman, is he, that in those things, which by his strength and wit he is able to do, is not hindered to do what he has a will to’ (139). For Hobbes, FREEDOM consists crucially in the choices we want to take, such that we lack FREEDOM only if we are frustrated in making these particular choices. Berlin (2002), however, rejects this view and instead forwards an account of FREEDOM as ‘the absence of obstacles to possible choices and activities’ (32). For Berlin, FREEDOM consists in non-interference with any potential choice, rather than ones we happen to prefer. Berlin’s rejection of Hobbes’ view is motivated largely by the observation that Hobbes’ view suggests, counterintuitively, that agents can make themselves free by forming their preferences around the options an interferer might interfere with. Hobbes’ view ostensibly implies that, if one of my preferences is frustrated, by learning to prefer an alternative preference I can make myself free. Berlin’s view is representative of views that generally understand FREEDOM as a kind of non-interference (see also Nozick 1974; Dworkin 2000). Finally, Pettit (2011) critiques Berlin’s view, arguing instead that FREEDOM requires ‘that each option be accessible and that no one have the power to block access’ (693) . For Pettit, neither having our preferred option open to us nor having all potential options open to us is sufficient for FREEDOM; instead, no power in principle should be able to restrict our options, or in other words, dominate us. Pettit’s rejection of Berlin’s view proceeds along similar lines as Berlin’s of Hobbes. Pettit notes that, just as Hobbes’ view implies, counterintuitively, that we can be free if we adapt our preferences to what an interferer wouldn’t interfere with, Berlin’s view implies that we can be free if we ingratiate ourselves with a potential

interferer, such that they consequently choose not to interfere with our options. Pettit's account is representative of views that understand FREEDOM as a kind of non-domination (see also Skinner 1998; Lovett 2010; Pettit 1997, 2014).

Consider, now, three contexts which each, in different ways, concern FREEDOM:

(1) I want to buy some avocados. I go to the only store near me, find some avocados, can afford them, and successfully buy them.

(2) Srinivasan (2021)'s comments on romantic and sexual preferences:

(a) 'I am not speaking about some pre-political, innate desirability. I am talking about desirability as constructed by our sexual politics, which enforces a racialised hierarchy that places the white woman above the brown or black woman, the light-skinned brown or black woman above the dark-skinned brown or black woman, and so on' (140)

(b) 'When I wrote that "desire can cut against what politics has chosen for us, and choose for itself", I was not imagining a desire regulated by the demands of justice, but a desire set free from the binds of injustice. I am asking what might happen if we were to look at bodies, our own and others' and allow ourselves to feel admiration, appreciation, want, where politics tells us we should not. There is a kind of discipline here, in that it requires us to quiet the voices that have spoken to us since birth, the voices that tell us which bodies and ways of being in the world are worthy and which are unworthy. What is disciplined here isn't desire itself, but the political forces that presume to instruct it.' (132)

(3) Barky (1982)'s comments on the choice to buy products from makeup and fashion corporations that constitute what she terms 'the fashion-beauty complex':

(a) 'The fashion-beauty complex refines and deepens feminine anxieties....it offers itself, its procedures and institutions, as uniquely able to diminish these anxieties' (137)



(b) 'Narcissistic satisfaction is to some degree conditional upon a sense of successful adaptation to standards of feminine bodily presence generated by the enemies of women' (136-137)

Just as a subject change might be warranted should the concepts of BELIEF or DESIRE be rendered obsolete, in each of these contexts, particular conceptions of FREEDOM are rendered obsolete, while others seem more relevant. In context (1), the Hobbesian account of FREEDOM seems the most appropriate. Berlin's account of FREEDOM as non-interference and Pettit's account of FREEDOM as non-domination seem largely irrelevant, here, as while I may not have been able to act on potential choices, such as the choice to buy pineapples or to run a red light, and while my capacity to buy these avocados was still restricted by the condition of remaining within the good graces of my grocer, describing myself as unfree seems at the very least counterintuitive.

It could be argued, however, that the mere fact that I was able to satisfy my immediate preferences in this highly specific context does not indicate that I am absolutely and completely free. However, such an objection prioritizes the relevance of fringe possibilities in fixing the meaning of the term, at the cost of more context-specific, relevant possibilities. In doing so, it advocates for an understanding of the concept that might not be useful in practical contexts; that is, in highly specific social, political, and legal contexts with their own, unique particularities.

To illustrate this point further, consider Lewis (1979)'s comments on linguistic accommodation:

'The "can" and "must" of ordinary language do not often express absolute ("logical" or "metaphysical") possibility. Usually they express various relative modalities. Not all the possibilities there are enter into consideration...Take [an] example. The commonsensical epistemologist says: "I know the cat is in the cARTon - there he is before my eyes - I just can't be wrong about that!" The sceptic replies: "You might be the victim of a deceiving demon". Thereby he brings into consideration possibilities hitherto ignored, else what he says would be false. The boundary shifts outward so that what he says is true. Once the boundary

is shifted, the commonsensical epistemologist must concede defeat. And yet he was not in any way wrong when he laid claim to infallible knowledge. What he said was true with respect to the score as it then was.’ (354-355).

Just as we might not take seriously a kind of extreme skepticism, born of the observation that it might be at least possible that we are victims of deceiving demons, I argue that an understanding of FREEDOM ought not be burdened unnecessarily by considerations of possibilities that fall outside the scope of what is relevant to agents involved in the concept’s particular contexts of use. This isn’t to say, however, that Berlin’s or Pettit’s views are implausible altogether, but instead that Berlin’s view ought to be taken seriously only in specific contexts in which the breadth of possibilities available to us becomes relevant in our use of the term FREEDOM, while Pettit’s becomes relevant when subservience to authorities that could restrict our freedoms is a particularly salient feature of the context. A context in which I consider whether I am free to buy avocados, however does not constitute either of these types of cases.

Context (2), however, does serve as a suitable candidate for Berlin’s account of FREEDOM. Srinivasan (2021) is predominantly concerned with the role social and cultural forces play in shaping our romantic and sexual preferences. She argues for ‘a desire set free from the binds of injustice’ in which, rather than having our preferences limited by, for instance, implicit racial biases or Eurocentric beauty norms, we might be free to choose from a wider range of people and in doing so our authentic desires could be realized. In this context, we might understand some of our choices as limited by these sociocultural forces of oppression, to the extent that they close us off from potential choices we might’ve made, but don’t currently prefer. We might think that these forces of oppression limit the freedoms of not only marginalized groups who typically don’t represent mainstream romantic preferences, but also the very people who have preferences to begin with, as they are limited by what ‘politics has chosen’ for them.

Berlin considers coercion away from making a particular choice to be a kind of limitation on freedom; accordingly, his account of FREEDOM seems most apt at capturing Srinivasan’s sense in which we lack the freedom to make choices about our

romantic or sexual partners, unmoored from the binds of oppression. Importantly, what makes Berlin's view so suited to capturing FREEDOM in this context is that the sense in which we lack freedom is in having our choices of potential partners limited.

Hobbes' account of FREEDOM falls short of the mark, here, as Srinivasan's point is that there is value in being able to consider people from a relatively wider range of backgrounds as potential partners, rather than in merely pursuing a smaller range of individuals we currently desire and whose apparent desirability may be the result of background cultural forces that glorify their backgrounds while marginalizing those of others. Meanwhile, Pettit's view also seems largely irrelevant, as there is no particular agent that has the authority to restrict people's romantic preferences in one way or another. Rather, the sorts of forces that restrict our freedom consist in the scattered and indistinct 'voices that tell us which bodies and ways of being in the world are worthy' and in ourselves when we unquestioningly taking our immediate preferences to be, as she puts it, 'pre-political' and 'innate'. While it might be argued that these 'voices', or effectively background forces of oppression, constitute this kind of authority, these pervasive forces of culture aren't exactly like the institutions or collectives imbued with a formal, legal authority to restrict freedoms.

To illustrate the ways in which these two kinds of forces are importantly unlike each other, it's worth observing that the thrust of Pettit's view and views like it is that to achieve true freedom, we ought to critically examine the powers to restrict freedoms given to authorities, regardless of whether they choose to exercise them. This kind of critical examination isn't, however, how we realize freedom from the kind of oppression that manifests in our preferences and implicit biases. These kinds of background cultural forces are far more nebulous than particular institutions that might restrict the freedoms of those they rule over. Unlike the latter, they cannot be identified, questioned, and overthrown by looking at a particular individual or set of individuals, but instead by questioning the patterns of thought and behaviour replicated by and promoted by even those who operate within it. Freeing ourselves from this variant of oppression isn't a matter of noting that culture ought not have the power it does to shape our thoughts, behaviours, and preferences, as it simply does have this power. Instead, we free ourselves from this kind of oppression by critiquing and changing our own thoughts, preferences,

assumptions and choices, and in doing so affect cultural change from the bottom up. Accordingly, the sense of FREEDOM that is more relevant here is one which emphasizes what is fundamentally restricted in this context; not our capacity to satisfy an immediate preference nor our capacity to make a choice without domination from some identifiable force with the power to do so but instead the apparent choices available to us.

Nevertheless, context (3) represents another way in which oppression manifests that is particularly conducive to being analyzed through the lens of Pettit's view. Bartky (1982) contends with whether women can make fully autonomous choices to participate in what she terms the 'fashion-beauty complex'; roughly, the series of corporations and institutions that provide women with commodified aspects of femininity, such as makeup, dieting supplements, and fashion. She argues that this very same complex induces insecurities about how women look naturally by setting ever-evolving, idealized standards of beauty. In doing so, while the complex offers women ways of realizing 'narcissistic satisfaction' with the way they look, the very complex itself made them dissatisfied with their appearance begin with. Accordingly, Bartky concludes that women cannot make a truly free choice to participate in the complex so long as they remain situated within patriarchy, as their choice was motivated by a kind of implicit coercion on the part of the fashion-beauty complex.

Bartky's view is worth mentioning in this paper as it represents a kind of view that is best analyzed under non-domination accounts of FREEDOM, such as Pettit's. Hobbes' understanding of FREEDOM wouldn't suffice, as the purpose of Bartky's view is to show that a person's capacity to satisfy an immediate preference, such as the choice to buy and wear makeup, doesn't necessarily indicate that that person was free. While Berlin's view can make sense of the idea that a woman under these conditions cannot be free, as she has been coerced by the fashion-beauty complex into having some options effectively closed off, such as the option to simply not participate in the complex without any kind of personal dissatisfaction, Berlin's view does not go far enough. As Pettit notes,

‘You cannot make yourself free...by cozying up to the powerful and keeping them sweet. That sort of deference—that sort of toadying, fawning, or kowtowing, to use some established terms of derogation—testifies to the unfreedom of your situation; it is not a strategy whereby you might overcome it. As freedom cannot be won by adaptation, so it cannot be won by ingratiating’ (705).

The thrust of Bartky’s view isn’t merely that women aren’t free to choose to opt out of the fashion-beauty complex, without consequences to their self-esteem or treatment in society. Instead, her point is that concrete, identifiable ‘enemies of women’, such as the individual corporations and media personalities that constitute the fashion-beauty complex, use their dominant positions in culture to goad women into paying them for the privilege of deferring to them. For Bartky, the choice to participate in the complex represents a kind of, as Pettit puts it, ‘cozying up to the powerful’, even if the choice masquerades as one of women’s own. Importantly, unlike Srinivasan’s style of oppression, which manifests in our unexamined implicit biases and preferences and is overcome by recognizing the legitimacy of other choices present to us, the way we ought to address the sort of oppression Bartky’s interested in is by refusing to yield power to the identifiable oppressors who exist independent of us. Indeed, Bartky claims that in order to make truly authentic, autonomous choices concerning bodily display, ‘the fashion-beauty complex must be ‘exposed at every opportunity and its idiotic image-mongering held up to a ridicule so relentless that that incorporation into the self on which it depends will become increasingly untenable’ and replaced with a ‘revolutionary feminist community’. Crucially, then, the purpose of Bartky’s view is to make salient the ways in which individual constituents of the fashion-beauty complex restrict women’s capacity to engage in a fully autonomous style of ‘self-ornamentation’ and to incite a kind of rejection and rebellion against these powers (140). Accordingly, Pettit’s account of FREEDOM, which stresses the role of authority figures in restricting freedoms, does the most justice to her view.

The prior discussion suggests that, while, as Gallie notes, ‘prior to experimentation there is nothing absurd or contradictory in any one of a number of possible rival

descriptions' of an essentially contested concept, in specific contexts some accounts better capture salient features of those contexts than others. Accordingly, just as we might be justified in disregarding a concept that is rendered obsolete in light of new information, we are also justified in disregarding certain accounts of an essentially contested concept in light of features of its context of use, while prioritizing other accounts. This isn't to say that the former do not capture the concept, but instead, that whether they plausibly do depends on context-specific features. It's in this sense that our treatment of essentially contested concepts ought to be context sensitive.

## 4.2 Granularity of Understanding

I will now move on to my second broad conclusion about essentially contested concepts, concerning the granularity of understanding, required for their meaningful use in a particular context. Just as we might understand the concept of 'truth' at varying levels of granularity, such that we might distinguish between ascending-truth and descending truth in some contexts while speaking only of general truth at others, essentially contested concepts might also be understood as relatively few or many of their conceptions, simultaneously.

Recall that Nado notes that sometimes concepts are synthesized into a broader concept or are revised into a series of non-identical sub-concepts, such as the splitting of 'truth' into the sub-concepts of 'ascending-truth' and 'descending-truth'. As she notes, while we may not be able to substitute these two variants of truth while preserving the meaning of the propositions of which they're constitutive, sentences concerning either sub-concept might still be understood as concerning the same topic: truth. Essentially contested concepts share a similar structure: while we cannot substitute, say, FREEDOM as non-interference for FREEDOM as non-domination, we might still understand proponents of either view as still principally concerned with FREEDOM, more broadly construed. Moreover, whether a revision of 'truth' into its sub-concepts is warranted, depends on the granularity of understanding of 'truth', required for its meaningful use in some context. If, for example, a person was merely claiming that it is true that it's snowing outside, it's not clear that this kind of revision of 'truth' is warranted, as it's not

clear that the distinction between ascending and descending truth is relevant for realizing conversational participants' goals of merely understanding that it is in fact snowing outside. Indeed, we might think that in this context, a synthesis of 'ascending-truth' and 'descending-truth' into a more general kind of 'truth' might be justified. However, if we are concerned about a very precise understanding of 'truth' in contexts requiring the sorts of 'serious theorizing' Scharp (2013) is concerned with, then such a revision might be warranted (134).

Similarly, I argue that whether we understand several, competing and non-identical accounts of an essentially contested concept as applying to that concept depends, in part, on the granularity of understanding required to use the concept meaningfully within a context. If I were concerned with whether someone was free, broadly construed, without paying particular attention to whether they have been restricted by the powers of an identifiable and illegitimate source of authority or whether they can satisfy their immediate preferences or whether they could, in principle, satisfy alternative preferences, it's not clear that adopting precisely a non-domination, non-interference, or non-frustration account of FREEDOM is warranted. Rather, in this context, it seems that I can understand FREEDOM as truly essentially contested, such that each type of account can lay equal claim to the concept. If, however, like Bartky, I am concerned with a particular sort of restriction on FREEDOM that derives precisely from the powers of an identifiable and illegitimate source of authority, then I am committed not to a relatively broad and multifaceted understanding of FREEDOM but instead to precisely non-domination accounts of FREEDOM. To suggest that Bartky hasn't adequately shown that women aren't free when participating in the fashion-beauty complex, as under a Hobbesian account of FREEDOM, they are free to satisfy their immediate preferences, is a move that obfuscates the underlying purpose of her use of the concept: to help us identify the and recognize the illegitimacy of a particular authority and the methods it uses to restrict our options.

### 4.3 Non-semantic Considerations

Finally, I will discuss Nado's third example of a concept suited for radical functionalism. Consider once again, the concept FISH, whose existence and boundaries depend on non-semantic considerations of classificatory systems. While we might identify something as a fish based on semantic and truth-conditional considerations, such as whether it possesses relevant morphological characteristics, whether these truth conditions are taken to be relevant depends on non-semantic considerations of background classification systems. If we decide that morphology isn't the ideal way to categorize species, then categorizing features of the world as FISH based on their morphological characteristics becomes irrelevant. Just as non-semantic classificatory considerations might justify adjusting or outright abolishing the concept of FISH, non-semantic considerations also ought to determine how we understand essentially contested concepts. Recall the Mapplethorpe trial from section 2.1. Jurors couldn't simply rely on a paradigmatic case of ART or an agreed upon set of truth conditions for determining whether something qualifies as ART, in order to determine whether the exhibit in question qualified as such. Instead, their decision was based on non-semantic considerations of how we ought to classify ART, such as the sorts of moral issues that might arise should we grant sexually explicit material the status of ART, along with all of its associated legal protections. Indeed, given the evaluative and often social and political nature of essentially contested concepts, non-semantic considerations must fix our understanding of the concepts, as prior meanings of such concepts might carry with them undesirable social and political implications.

It's worth noting one important point on the role of intuitions, here. We might think that an important consideration for accounts of essentially contested concepts is whether they capture our intuitions about the concept. Indeed, examining debates about such concepts does suggest that actors in the debates take intuitions to be relevant; the crux of both Berlin's and Pettit's views, for instance, rest on intuitions they take their interlocutors to have failed to capture. However, it's worth making explicit that these intuitions qualify as non-semantic considerations, as the intuitions we possess about a concept are context-sensitive, as well. Accordingly, they cannot determine generalizable



truth-conditions that typically fix semantic content. While we might think, for example, that Pettit's account of FREEDOM captures our intuitions about the concept in contexts in which someone's FREEDOMs are being restricted by an identifiable authority, his account becomes less intuitive when examining contexts in which there is no identifiable authority, yet the person in question still doesn't seem properly free, such as Srinivasan's individual who is beholden to their own culturally restricted preferences and implicit biases.

## 5 My View

Ultimately, then, the discussion in section two makes salient properties of both adequate and inadequate methods of understanding essentially contested concepts. Regarding the latter, empirical, descriptive considerations, such as whether a purported account of an essentially contested concept as a matter of fact has evolved from a historical tradition or captures objective properties of the extension of the concept ultimately underdetermine whether that account actually applies to the concept. These considerations fall short of the mark, as the purpose of forwarding the accounts is to capture the most relevant descriptive features of the concept that give rise to its evaluative content. Accordingly, an adequate response to Q must somehow account for whether and to what extent the account actually does identify these evaluatively relevant descriptive features. Yet, as Gallie notes, 'prior to experimentation there is nothing absurd or contradictory in any one of a number of possible rival descriptions of [the concept's] total worth' (172). If Gallie's right, then it seems that no metric could determine whether one 'rival description' does a superior job of explaining the concept's worth than another. This is a generally undesirable conclusion, as this would allow concepts to be defined so broadly that they couldn't meaningfully determine practical courses of action. If, for example, both the 'non-domination' and 'non-interference' accounts of FREEDOM were taken to apply to the concept, it's not clear whether specific situations that prioritized the range of available choices over a lack of an authoritative hierarchy or vice versa could be understood as conducive to FREEDOM. Similarly, an overly permissive account of ART would provide jurors in the Mapplethorpe trial with little guidance.

Regarding adequate methods, when making sense of the plausibility of an account of an essentially contested concept, we must consider features of the concept's context of use. When these concepts are divorced from context, I take Gallie's view to be largely accurate. However, when used in specific contexts, some accounts of the concepts do a relatively superior job of capturing why they matter. Broadly, this is because our uses of concepts in certain contexts are often driven by particular purposes and goals. Consider, for example, an ART scholarship offered by an interior design program. Suppose this scholarship is supposed to incentivize students with an eye for aesthetic design. In this context, the purpose behind offering the scholarship suggests that an account of ART that takes the concept's worth to derive primarily from its aesthetic value, is likely more relevant than one that, say, takes its worth to derive from the extent to which it's emotionally evocative. This example illustrates how the context-specific purpose behind using the concept of ART (i.e. to select people who have an eye for aesthetics) fixes what descriptive feature of the concept is ultimately the most relevant. Moreover, essentially contested concepts seem suited to a kind of radical functionalism, in which these context-specific features wholly determine which accounts apply, as concerns about preserving continuity in semantic content commit us to (1) adhering to accounts that emphasize purported features of the concept that might be relatively irrelevant, if not wholly absent, within some contexts of use, commit us to (2) understandings of the concept that are either overly precise or overly general, within some context of use, and (3) unduly emphasize descriptive features of the concept, at the cost of non-semantic background purposes behind using concepts whose understandings often carry with them political and social consequences. Accordingly, I argue that we ought to understand a proposed account of an essentially contested concept as applying to that concept if and only if the account better serves our context-specific motivations behind using the concept, compared to other accounts.

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## Chapter 2

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### 1 Introduction

Consider various hotly contested concepts, such as DEMOCRACY, FREEDOM, or ART. Debates about how we ought to understand these concepts have remained largely unresolved, despite garnering significant philosophical interest. One explanation of this outcome is that these debates are ultimately resolvable, such that we take there to be an optimal understanding of, for instance, FREEDOM, that is currently overlooked. Another explanation, proposed by W. B. Gallie, is that features common to these concepts render them “essentially contestable,” such that we could never agree on one optimal understanding of these concepts (Gallie, 1955–1956). In particular, Gallie claims that these essentially contested concepts “inevitably involve endless disputes about their proper uses on the part of their users” (Gallie 1955–1956, p. 169). These disputes are “inevitable,” as people ultimately disagree on what the most important features of these concepts are. For example, while one person might take the power to elicit emotions to be the most important feature of art, another might take the capacity to capture beauty to be the most important feature. Accordingly, these disputes cannot be settled via empirical investigation. Such concepts include DEMOCRACY, ART, SOCIAL JUSTICE, MEDICINE, and RAPE (McKnight, 2003; Reitan, 2001). In this article, I propose understanding gender categories this way, as well.

My proposal is motivated by the observation of a tension that partially marks the literature on the metaphysics of gender. This tension lies between trans-inclusive conceptions that understand gender categories as importantly partly self-determined

identities (e.g., Bettcher, 2009, 2013; Jenkins, 2016; McKittrick, 2015) and those that understand them as social or cultural categories imposed upon others as a tool of oppression, and thus not largely self-determined (e.g., Alcoff, 2006; Ásta, 2013, 2018; Haslanger, 2000; Millett, 1971; Okin, 1987; Witt, 2011a, 2011b). My proposal mediates this tension.

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

In Section 2, I show that WOMAN can and ought to be understood as essentially contested. I introduce and defend Nado’s radical functionalism as the best approach with which to analyze debates about essentially contested concepts. In Section 3, I argue that, while we ought to understand WOMAN as essentially contested, our understanding of the

concept is subject to a kind of context-sensitivity. I then show how this approach best captures the mechanics underlying the debate about WOMAN. Finally, in Section 4, I contrast my view with Díaz-León's alternative contextualist view and discuss how understanding WOMAN as essentially contested contributes to the literature. A brief introduction is suggested here.

## 2 WOMAN as an Essentially Contested Concept

Consider Gallie's seven criteria of essentially contested concepts:

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



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

## 2.1 The Debate About WOMAN

I will begin by tracing an extant debate about WOMAN between Sally Haslanger and Jenkins. Broadly, Haslanger takes someone to be a woman if and only if they’re subject to systematic subordination, owing to perceived reproductive features that “mark” them as someone who ought to be subordinated (Haslanger, 2000, p. 42). Haslanger’s view exemplifies an “ameliorative” approach to conceptual analysis, in which the measure of whether a conception of a concept is plausible is not in whether it accounts for how we in fact tend to use the concept, but instead in whether the conception helps us realize normative aims, such as emphasizing the ways in which oppression interacts with gender categories.

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

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

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

status as an identity), while others find another salient (e.g., its relationship to oppression). Indeed, these divergent reasons seem to be driving the debate described previously: those who want to be considered a woman largely because they identify as such would likely be sympathetic to Jenkins' view, while those who want to be considered a woman largely because they relate to the kinds of discrimination women face would likely be sympathetic to Haslanger's. In this sense, WOMAN meets Gallie's third condition of various describability. Finally, the "open" nature of WOMAN is demonstrated by the popularization of Simone de Beauvoir's (1972) sex-gender distinction. The conception of woman as a biological sex has fallen generally out of favour within mainstream philosophical literature in light of changing circumstances and increasing cultural recognition of the ways in which social norms and identity bear upon who has an interest in being considered a woman. Accordingly, the concepts of WOMAN and, by extension, other gender categories meet Gallie's semantic conditions of essential contestability.

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

## 2.2 Gallie's Exemplar

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

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

The exemplar condition, however, is a matter of controversy in the broader literature on essentially contested concepts, as it presents issues that undermine Gallie's own account of the concepts (Collier, Hidalgo, & Maciuceanu, 2006). Ernest Gellner observes that "Gallie is, implicitly, betraying his own idea: he talks as if, behind each 'essentially contested concept', there was, hidden away in some platonic heaven, a non-contested, unambiguously defined and fully determinate concept or exemplar" (Gellner, 1974, p. 97). Similarly, Michael Freeden argues that "[t]he postulation of such an exemplar is in effect inimical to the very notion of essential contestability, as it presumes an agreed or correct position from which deviations have occurred," while John Gray argues that "Gallie is mistaken in supposing that an agreed exemplar is always, or even typically, present in disputes of this kind" (Freeden, 1996, p. 60; Gray, 1978, p. 390). More generally, the existence of an uncontroversial exemplar suggests that such concepts need not be essentially contested at all; to derive the optimal conception of the concept, we can simply adopt an externalist metasemantic framework (see, e.g., Burge, 1979; Putnam, 1973; Sawyer, 2018, 2020a, 2020b) such that the optimal conception is that which best accounts for the objective properties of the uncontroversial exemplar.

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

## 2.3 Radical Functionalism and Essentially Contested Concepts

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

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

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

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

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

Gallie's point here is that participants in debates about these concepts each forward different accounts of why the concepts matter; however, nothing in principle suggests that one person's account better captures this. More generally, because of the unique framing of debates about particular essentially contested concepts, in which participants attempt to articulate why the concepts matter, a method of conceptual

engineering that makes salient the role of the functions of the concept, such as radical functionalism, does the most justice to these debates. Adopting relatively standard methods of conceptual analysis — such as fixing conceptions around objective properties of the concept’s extension, around how the concept is commonly used in ordinary language, or around some sort of similarity in semantic content with prior meanings of the concept — fails to capture what participants are attempting to accomplish in such debates. Returning to the exemplar condition, then, we need not identify a particular exemplar as anchoring debates about these concepts and can instead fix the debates around the functions served by the concept.

It’s also worth briefly distinguishing radical functionalism from a similar, alternative method of anchoring these debates. Understanding these debates as “metalinguistic negotiations” in which participants ultimately disagree about how the terms associated with these concepts ought to be used doesn’t quite capture the nuances underlying Gallie’s conditions two and three (Plunkett, 2015; Plunkett & Sundell, 2013). A proponent of “freedom” as non-domination, for instance, isn’t concerned with the “matters of language and thought” that concern metalinguistic negotiations, but rather, the “non-linguistic object-level matters” associated with freedom (Plunkett & Sundell, 2021, p. 158). Unlike Peter Ludlow’s speaker who, in claiming that “No, Secretariat was not an athlete,” is making a claim about how the term “athlete” ought to be used, when Philip Pettit argues that freedom requires “that each option be accessible and that no one have the power to block access,” he isn’t making a claim about the term “freedom” and how it ought to be used, but rather, is he endorsing a set of beliefs about object-level matters concerning freedom (Pettit, 2011, p. 693).

To illustrate the contrast in greater detail, consider David Plunkett and Tim Sundell’s comments on Ludlow’s metalinguistic negotiation about the term “athlete”:  
 “Think of some of what is at stake in whether Secretariat is called an ‘athlete’ or not. This might include who gets certain kinds of fame, praise, or recognition. For an animal rights activist, having Secretariat on the list might well change how people view animals” (Plunkett & Sundell, 2021, p. 148). An initial reading of these comments might suggest that debates about WOMAN are in fact about the linguistic term itself, and accordingly,

constitute metalinguistic negotiations, as an analogous argument might be made that participants in these debates are concerned with what is at stake in whether trans individuals are called “women” or “men.” However, an examination of what it means to identify with a gender category reveals that the debate is about more than strictly to whom the term ought to be applied. Recall that in this article, I am adopting Sawyer’s definitions of a “concept” as “mental representations” and “conceptions” as “the set of beliefs a subject associates with a concept” (Sawyer, 2020b, p. 1007). When we identify with a particular gender category, we do not merely, for whatever reason, decide we have a stake in the application of the term associated with that category; rather, we have some kind of mental representation of the term and a set of beliefs we associate with that representation, which allows us to recognize ourselves in the representation. What we are principally concerned with, here, is the concept of the category and whether our beliefs about it, or the conception we associate with it, determine that we belong to it. When I identify as a woman, for instance, I am not merely infatuated with the term, nor am I solely interested in it applying to me for the sake of various extrinsic consequences; rather, I identify with my mental representation of WOMAN. In short, the debate about WOMAN is ultimately a debate about a shared, yet contested, concept — not a debate about the term itself. More generally, debates about essentially contested concepts, though similar to metalinguistic negotiations, are ultimately about the concepts, rather than their associated terms. Accordingly, rather than being anchored around a shared term or an exemplar, I argue that we ought to understand these debates as being fixed around the functions of a concept, such that contestants offer a plausible “explanation of [the concept’s] worth” by showing that their conceptions better meet its functions than rival conceptions (Gallie, 1955–1956, p. 172).

### 3 The Context-Sensitivity of Essentially Contested Concepts

In Section 2.3, I argued that essentially contested concepts are best analyzed through the lens of Nado’s radical functionalism, as ultimately, participants in these debates attempt to identify why these concepts matter. Divorced of context, different participants may



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

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

Consider Díaz-León's distinction between between attributor-contextualism and subject-contextualism. While the former takes solely features of speakers — such as their beliefs or values — to determine the content of a context-sensitive term within context, the latter takes the term's content to depend on objective features of the term's context-of-use, such as moral and political considerations (Díaz-León, 2016, p. 250). Under this view, the relevant functions of the concept, though normative, are nonetheless objective and fixed features of the concept's context-of-use. Presumably speaker intentions go some way in determining what purposes are relevant; however, such purposes might still be constrained by what sorts of normative considerations are objectively justifiable. In

this sense, there is an important asymmetry between the context-specific functions of an essentially contested concept and its various competing conceptions, which ultimately allows a context-sensitive understanding of essentially contested concepts to render such concepts, in a sense and in at least some contexts, decontested.

### 3.1 Applying My Proposal to WOMAN

I will demonstrate how an analysis of WOMAN as a context-sensitive essentially contested concept can help mediate the tension between its competing conceptions. Divorced from particular contexts of use, essentially contested concepts should be understood under various competing conceptions, simultaneously. However, within certain contexts, we ought to understand only some of these conceptions as applying. Consider, for example, the following two contexts: a women’s march against violence; and the overturning of *Roe v. Wade*. The purposes underlying the march and discussions of abortion rights, respectively, ought to fix which conceptions are taken to apply.

#### 3.1.1 Context 1: A Women’s March Against Violence

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

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

who had been assigned female at birth and trans men who felt that they were regularly misgendered as women.’ (Jenkins, 2016, pp. 419–420)

In asking “who counts as a woman for this purpose?,” and in including non-binary people and trans men in her response, Jenkins rather explicitly notes that the conception of WOMAN operative in this context includes not just trans women and cis women, but also non-binary people who were assigned female at birth and trans men — that is, groups who in many contexts would not be considered women, yet in this one ought to be. Importantly, she does not merely involve both men (including trans men) and women as part of the march, as doing so would undercut the “symbolic value” of making the march women-only. Rather, she understands the march as women-only while recognizing that trans men might also be disproportionately likely to become victims of sexual violence. Ultimately, then, the conception of WOMAN most apt in this context is one that emphasizes their disproportionate vulnerability to violence, as the march was primarily organized around this very issue.

### 3.1.2 Context 2: The Overturning of Roe v. Wade

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

Harris administration uses both the expressions “women of color” and “birthing people,” stating that:

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

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

Rather than understanding victims of sex-based reproductive oppression as women, the move to “birthing people” attempts to introduce a term and associated concept used to pick out those sexed as female who are capable of giving birth. The function or background purpose met by this move is to remain gender-inclusive, as at first pass, framing abortion as a women’s issue seems to exclude trans men and non-binary individuals, who ostensibly are not women but who nonetheless may hold a significant stake in the issue. To come to my own stance, in introducing the term “birthing people,” we lose out on some of the functions met by understanding those affected as women. Moreover, by understanding WOMAN as essentially contested and interpreting those affected by abortion rights along similar lines as those around whom Jenkins’ “Reclaim the Night” march was organized, we can still understand abortion as principally a women’s issue, which nonetheless affects those who do not identify as such. In doing so, retaining an understanding of abortion as a women’s issue — while adopting a context-sensitive and essentially contested understanding of WOMAN — helps us best meet the various background purposes underlying our use of the concept.

Regarding this first point, the term WOMAN is indelibly tied to institutions that help protect the interests of those belonging to its extension. Women’s scholarships, women’s studies departments, feminism as a political movement principally concerning women, women’s marches, and so forth help identify marginalized subsets of the

population that can be understood as needing the sorts of protections offered by these institutions. While ‘women’s studies departments’ are increasingly becoming gender studies departments, analogous institutions for birthing people, however, do not exist. There is no birthing people department, for instance, that exclusively studies forms of sex-based oppression, or birthing people march that resists forms of sex-based oppression. Rather, the institutions mentioned previously all aim to resist forms of both sex and gender-based oppression. Accordingly, if we want to retain an understanding of these institutions as principally concerning women, then we must adopt an understanding of WOMAN that reflects this dichotomy. In relegating victims of sex-based oppression to the category of “birthing people,” however, we decentre them from the political concerns around which these institutions developed.

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

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

## 4 Why Essentially Contested Concepts?

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

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

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

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

Under Saul's view, the relevant standards that determine whether a purported woman is "similar enough" to others recognized as women are ultimately grounded in what participants in a linguistic community believe. However, Díaz-León's variant of the context-sensitive view manages to escape this sort of criticism by relying on the distinction between attributor-contextualism and subject-contextualism, introduced and discussed in Section 3 of my article. While Saul's point might undermine the former variant of contextualism, it does not undermine the latter, assuming that there is a fact of the matter regarding what sorts of political and moral considerations are justified or legitimate. Under the latter view, we can make sense of the proposition "trans women are not women" being false, despite being uttered in a linguistic community that believes it to be true by taking "our best normative and evaluative considerations concerning the putative subject" to determine that trans women are relevantly similar enough to others recognized as women (Díaz-León, 2016, p. 251).

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

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

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

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

By understanding WOMAN as essentially contested, however, we can draw on the “internal-complexity” and “various-describability” constraints to make sense of how



one of these normative considerations can subordinate another within a certain context, without undermining a person's status as a member of the gender category with which they identify. To illustrate this in greater detail, consider Gallie's comments on the essentially contested concept of DEMOCRACY:

'The concept of democracy which we are discussing is internally complex in such a way that any democratic achievement (or programme) admits of a variety of descriptions in which its different aspects are graded in different orders of importance ... these descriptions ... emphasize features of democracy which clearly can exist in greater or less degree and are therefore liable to be differently placed for relative importance.' (Gallie, 1955–1956, pp. 184–185)

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

Similarly, gender categories do not cease serving as identities simply because trans men might participate in Jenkins' "women-only" protest. However, that particular facet of these concepts plays a less relevant role in determining who ought to attend than

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

Ultimately, then, understanding WOMAN as essentially contested is an important addition to standard contextual and pluralistic accounts of the concept, as particular contexts of use are often characterized by a variety of sometimes competing and yet nonetheless legitimate normative considerations. In such contexts, we must make sense of how one normative consideration can be prioritized over another, without necessarily taking the latter to be outright irrelevant in fixing the boundaries of the concept. By understanding such concepts as essentially contested, we can understand some facets of the concept as genuinely belonging to the concept, while also playing relatively more or less significant roles in determining its extension, within various contexts of use.

Moreover, it's worth taking seriously the depth of this contestation in ways typically not acknowledged by standard contextualist positions. While I do take my view to sometimes "decontest" essentially contested concepts within some contexts, contextual segregation cannot serve as a consistently reliable method of settling all disputes. Even if,

as Díaz-León suggests, there is a fact of the matter regarding the objectively “correct” political and moral considerations that can fix a correspondingly correct understanding of a concept, disputes might nevertheless persist in contexts in which this fact of the matter remains obscure. Accordingly, the lesson to be learned by coupling my analysis of essentially contested concepts with my contextualist account is that contestation is sourced not in the meanings of the concepts themselves, but rather, in the background purposes driving our conceptions to begin with. In shifting the focus to these purposes, we can begin to ask more fruitful questions.

## 5 Conclusion

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

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

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## Chapter 3

### 1 Introduction

Whether members of a particular group are owed moral consideration is typically thought to depend on the features they possess. These features range from the capacity for reason (Kant [1798] 2010; Korsgaard 1996a, 1996b; Sussman 2003), to the capacity to form evaluative judgements (Buss 2012; Theunissen 2020), to the capacity to enter into reciprocal agreements (Gilbert 2018), to the possession of rudimentary cognitive capacities, such as sentience or basic emotions (Regan 1983; Singer 1975, 1979; Bentham [1780] 1982; Donaldson and Kymlicka 2011). Importantly, all views share in common two assumptions. Firstly, all views presume that descriptive traits of members belonging to social categories or collectives, such as ‘humans’, ‘animals’, ‘fetuses’, and so forth, determine the extent to which members of each collective are owed moral consideration. If, for instance, we understand non-human animals as possessing exclusively rudimentary cognitive capacities, then it is from this understanding of what animals are that we can determine what they are owed. Secondly, the grounds they defend are insensitive to context; if moral status is grounded in the capacity for reason, for instance, that capacity determines the moral consideration an entity is owed in all contexts. While some views admit of degrees of moral status, many views hold that whether an entity possesses lesser moral status relative to another is context-insensitive, such that the degree or type of moral status an entity is afforded relative to another is fixed in all contexts (DeGrazia 2008).

In this paper, I call these two assumptions into question. I undermine the first by observing that for some concepts corresponding to collectives, our social and political aims concerning their extension determine how we understand them, rather than the other way around. Accordingly, I argue that the process of selecting some feature thought to be unique to humans, and on the basis of this selection, determining that non-human animals are not owed equal moral consideration, rests on an ostensibly arbitrary methodological choice that ought to be defended by those who make it. I undermine the second by offering an alternative method of determining moral status, grounded not directly in a

fixed set of characteristics an individual does or does not possess, but instead, in the extent to which they're relevantly similar to members of another group already possessing moral status, where what qualifies as a relevant similarity is context-sensitive and variable.

I develop my view out of an examination of a particular case study: the moral status of dairy cows. Dairy cows at present are treated as commodities and would not be understood as possessing moral status equivalent to that afforded to humans in any context, under all dominant views in the literature, aside from some that ground moral status in rudimentary cognitive capacities. I, however, argue that the philosophical literature on the meaning of gender categories, and 'woman' in particular, reveals several key principles that bear upon how we ought to understand dairy cows: (1) who ought to be considered a woman depends on various normative aims; (2) some aims are more relevant than others, in particular contexts, and so play a more significant role in determining the extension of 'woman' within those contexts; (3) because these aims are context-specific, someone can be considered either a woman or at least relevantly like women in one context, and not in another. Based on these three principles, I argue that in some contexts, dairy cows are owed similar moral consideration as human women, to the extent that they possess the same relevant characteristics as human women. Accordingly, feminist texts on issues pervasive in these contexts and institutions built around these issues apply to dairy cows just as they do to human women, and a truly intersectional feminist movement involves not only recognizing the seriousness of issues affecting women of colour, disabled women, trans women, and impoverished women, but also those affecting women belonging to a different species. More generally, I conclude that the extent to which someone is owed moral consideration in some domain is dependent on whether they possess characteristics that render them relevantly similar to others already granted moral consideration in that domain.

In section 2, I begin by surveying the philosophical literature on how we ought to understand 'woman'. In doing so, I make explicit the three principles mentioned previously. In section 3, I contrast the method of argumentation underlying the debate about 'woman' with that underlying debates about moral status and argue that adoption



of the latter is a methodological choice that warrants explicit defense. In section 4, I argue that the principles gleaned in section 1 show that in contexts in which the reproductive capacities of cows are controlled and used by others, as is the case in the dairy industry, they ought to be owed the same moral consideration as human women, to the extent that they are reproductively oppressed as some human women. In section 5, I make explicit my view on the moral status of animals and contrast it with extant views in the literature.

## 2 The Metaphysics of Gender

Rather than developing accounts of the necessary and sufficient conditions of ‘woman’ by examining common-sense intuitions about how language-users as a matter of fact use the term, participants in the debate about ‘woman’ offer accounts that they take to be conducive to realizing various social and political aims. This shift in the underlying methodology of the debate was instigated by Haslanger (2000)’s seminal account of ‘woman’, according to which

‘S functions as a woman in context C iff

- i) S is observed or imagined in C to have certain bodily features presumed to be evidence of a female's biological role in reproduction;
- ii) that S has these features marks S within the background ideology of C as someone who ought to occupy certain kinds of social position that are in fact subordinate (and so motivates and justifies S's occupying such a position); and
- iii) the fact that S satisfies (i) and (ii) plays a role in S's systematic subordination in C, i.e., along some dimension, S's social position in C is oppressive, and S's satisfying (i) and (ii) plays a role in that dimension of subordination’ (42-43).

Haslanger’s view is not intended as an accurate depiction of how the term ‘woman’ is commonly used, but rather, is a kind of conceptual engineering or ‘ameliorative’ conceptual analysis, whose purpose is to develop and advocate for an understanding of a concept that people ought to use, owing to various normative aims (Haslanger 2012).

Accordingly, the first and most explicitly acknowledged principle to be drawn from this debate is that

- (1) who ought to be considered a woman depends on various normative aims.

While the view outlined previously ostensibly meets the aim of emphasizing the role of oppression in shaping the lives of those classed as women, Jenkins (2016) argues that it is trans-exclusionary, as it excludes trans women who either do not publicly present as women or whose gender presentation is not respected by others (400). Accordingly, to develop an account of ‘woman’ that both emphasizes the roles of gender as a socially imposed category and tool of oppression and as an identity, Jenkins argues that ‘an ameliorative inquiry that is attentive to the need to include trans people will yield two target concepts of gender. The first of these corresponds to Haslanger’s proposed concept and captures the sense of gender as an imposed social class. The second captures the sense of gender as a lived identity’ (397). Jenkins’ view, along with Bettcher (2013)’s and Díaz-León’s (2016)’s represent the broader class of ‘pluralist’ conceptions of ‘woman’, which generally take the term to have multiple meanings. Díaz-León in particular, however, defends a context-sensitive understanding of ‘woman’, under which only particular meanings apply to the term within particular contexts. To illustrate the significance of this context-sensitivity, I will first need to introduce Jenkins’ example of how her ‘two target concepts’ interact in practice.

Jenkins outlines her experiences coordinating a women-only protest, whose purpose was to emphasize ‘that violence and the threat of violence, especially sexual violence, are among the most significant ways in which women are subordinated’ (419). Importantly, she notes:

‘we agreed that we wanted to make the march women only due to the symbolic value of conspicuously violating the social norm that a woman ought to be accompanied by a man when walking after dark... But who counts as a woman for this purpose?...There was unanimous agreement that the sense of “woman” we had in mind included all trans women. We decided to use the term ‘self-defining women’ to highlight explicitly that this was the case. However... we recognized

that there might be some people who did not identify as women but who were...targets of the kind of violence...against which our protest was directed. We felt both that these people could legitimately expect to be included in our protest and that our protest could only be strengthened by their presence. The kind of people we had in mind were primarily nonbinary people who had been assigned female at birth and trans men who felt that they were regularly misgendered as women, thereby becoming targets for violence directed at women...Positive as their intention might be, having [cis men] participate in the march would undercut the symbolic power of our action, which we all agreed was very important' (419-420).

Jenkins raises this example to show that by adopting her account of 'woman' we can admit both those who identify as women and those oppressed as women to the same women-only march. On first pass, by claiming that 'we decided to use the term "self-defining women" to highlight that' trans women were welcomed at the march, it seems that Jenkins' understanding of 'gender as lived identity' is what allows trans women to participate, while her understanding of 'gender as an imposed social class' allows trans men, and non-binary individuals to participate. However, this analysis is unnecessarily reductive. Trans women, like cis women, trans men, and non-binary individuals are also at disproportionate risk of sexual violence, owing to their social class. Trans women are more likely to experience sexual violence than cis men and while Jenkins takes some trans women, such as those who do not publicly present as women or who aren't publicly recognized as such, to fall out of the scope of 'woman' as a socially imposed class, it's not entirely obvious that these groups are at a lower risk of sexual violence. A trans woman, for instance, who is routinely misgendered by her community might nonetheless experience discrimination by employers on the basis of their self-identification, and accordingly, might turn to professions involving sex-work that put them at an increased risk of sexual violence. While they may not be oppressed on the basis of their reproductive 'observed or imagined' bodily features, what unifies both their experiences and those of cis women are a shared susceptibility to sexual violence, owing to their social class.

Saul (2012) articulates and Díaz-León (2016) defends the general structure of a contextualist account of ‘woman’ as ‘X is a woman is true in a context C iff X is human and relevantly similar (according to the standards at work in C) to most of those possessing all of the biological markers of female sex’, and in this context, trans women are relevantly similar to cis women both owing to their identities and to the ways in which they’re socially oppressed (Saul 2012, 201). It’s in this respect, however, that an important asymmetry between trans women and trans men arises, and this asymmetry illuminates the importance of treating ‘woman’ as context-sensitive.

While admitting cis and trans women to the march does seem to allow for a truly simultaneous application of Jenkins’ ‘two target concepts’, as they each articulate the lived identities and experiences of oppression of members of both groups, only ‘gender as imposed social class’ seems to apply when admitting trans men and non-binary individuals. For the purposes of this paper, I will restrict my focus to trans men. Bettcher (2013) notes that a form of transphobia would occur if “‘Trans’ would flag something involving pretense and would perhaps have the force of “fake” (as in “fake woman”)’ (236). Accordingly, part of what it means to successfully identify as a gender is that the identifier is treated authentically as a member of that gender, and while Jenkins rightly was reluctant to ‘undercut the symbolic power of [the march’s] action’ by admitting cis men, by admitting trans men and not cis men, their identities as men are ostensibly undermined. However, nothing about Jenkins’ decision is transphobic. Indeed, excluding trans men on the basis of their identities seems more objectionable, as they too are disproportionately likely to be targets of violence and, as Jenkins puts it, ‘could legitimately expect to be included’ in the protest. How can we make sense of allowing trans men to attend a women-only event, while simultaneously avoiding transphobia?

I argue that contextualist accounts of ‘woman’ can help make sense of this situation. Recall that these accounts broadly take the ‘standards at work’ in a given context to determine whether an individual qualifies as ‘relevantly similar’ to those already considered women (Saul 2012, 201). Díaz-León argues that ‘what determines the salient standards of similarity in a certain context...is not a matter of what speakers have in mind, but rather a matter of which standards do in fact satisfy a series of practical and

moral considerations' (252). However, as demonstrated by Jenkins' march, sometimes these practical and moral considerations are at genuine odds with other practical and moral considerations, to the extent that realizing some involves undermining others. By understanding gender categories as terms whose meaning shifts from context to context, however, we can still understand a given consideration as subordinate in one context, while nonetheless dominant in another. We can understand, for instance, the admission of trans men to Jenkins' women-only march as indicating that, in that context, the normative consideration of building solidarity amongst potential and actual victims of sexual violence subordinates the alternative consideration of treating trans men as men, owing to their self-identification. Moreover, the subordination of this latter consideration seems justified, owing to background contextual features, such as why the march was organized and whose interests would be satisfied by participating in it. The decision to admit trans men indicates that when practical and moral considerations conflict, building solidarity amongst groups that are routinely targets of sexual violence in a march principally about sexual violence ought to be treated as a primary consideration. More generally, this decision reflects a second principle, on which the rest of this paper is grounded:

(2) some aims are more relevant than others, in particular contexts, and so play a more significant role in determining the extension of 'woman' within those contexts

Nevertheless, we can still make sense of the idea that trans men are men, as the normative consideration of legitimating lived identities dominates in alternative contexts in which such identities play a more salient role in governing who ought to participate in some context-specific domain. The mere fact that it was in the interests of trans men to participate in a women-only march does not suggest that they simply are women in all domains; rather, we can understand them as such only when doing so serves their own interests. Accordingly, the prior discussion suggests a third key principle:

(3) because normative aims are context-specific, someone can be considered a woman in one context, and not in another

Recall that Jenkins asks 'who counts as a woman...?' for the purpose of her march (419). Her response partly included trans men, and accordingly, I interpret her example as

suggesting specifically that the meaning and extension of ‘woman’ in that context included trans men. Nevertheless, one might object that taking trans men to be women in any context, even if doing so is to their benefit, is inherently transphobic. While Jenkins’ example does seem to explicitly take trans men to be part of the extension of ‘woman’ a softer argument that can be extrapolated from her example holds that even if the extension of ‘woman’ cannot include trans men, in some contexts, treating them like women is justifiable, as doing so does better justice to relatively pertinent normative aims, such as allowing them to participate in social movements that affect them. In this paper, I intend my arguments to draw partly from Jenkins’ own view, coupled with Díaz-León’s; accordingly, I ultimately argue that in some contexts animals, such as cows, can belong to the extension of ‘woman’ and in section three I defend against objections to this view. My ultimate goal, however, is to argue that in some contexts they ought to be owed similar moral consideration as humans. Accordingly, I am also friendly to the softer argument, which holds only that cows ought to be treated like human women, and more generally, that non-human animals ought to fall in the scope of various social movements that pertain to them. In section 5, I ultimately defend this latter view for all animals generally.

### 3 The Moral Status of Animals

Popular views on the moral status of animals, however, contrast significantly. Consider various representative philosophical perspectives on the moral status of animals:

- 1) ‘The fact that the human being can have the representation “I” raises him infinitely above all the other beings on earth. By this he is a person...that is, a being altogether different in rank and dignity from things, such as irrational animals, with which one may deal and dispose at one’s discretion.’ (Kant [1798] 2010, 239)
- 2) ‘animals possess inviolable rights in virtue of being sentient individuals with a subjective experience of their world’ (Donaldson and Kymlicka 2011, 15)
- 3) ‘The legal system of human rights protection in Europe (and more generally in the West) rests on the assumption that, as human beings, we are born with the unique quality

of dignity that distinguishes us from other beings (primarily animals), justifying and explaining the special protection of our rights.’ (Dupré 2015, 28)

4) ‘our ability to reflect on and act upon our moral obligations is indeed one of the very goods that make it true that people have, on the whole, more valuable lives than animals do. Along with such goods as deep relationships, more sophisticated and advanced knowledge, and more significant achievements, our ability to act out of moral conviction is one of the goods that give our lives their special value. (Kagan 2019, 123)

Each of these views proceed by identifying descriptive features of humans or animals, which they then take to determine the sorts of obligations we have towards one another. However, the debate about ‘woman’ illuminates an alternative method of granting special rights to members of collectives, grounded not in a descriptive analysis what members of these collectives are, but rather, in conceptual revision in light of the social and political ramifications of endorsing views about them. Rather than taking a descriptive analysis of what women are to determine whether trans women qualify as such, Jenkins, Bettcher, and most contemporary participants in the debate about gender categories take trans-inclusiveness to be a kind of desideratum of plausible conceptions of gender categories. While this latter philosophical approach presents pressing concerns (see, e.g. Barnes 2018) and while the legitimacy of trans identities need not rely on it (see, e.g. Srinivasan 2021) this paper is targeted primarily at those who take its application within the philosophy of gender to be justified.

Conceptual debates about ‘woman’ are intimately tied to political considerations, such as policy reforms and decisions about who might be eligible to participate in various women-only initiatives, such as marches, scholarships, organizations, and so on. Ostensibly, the purpose of debates about ‘woman’ seems to be to determine to whom these sorts of reforms ought to apply. On what basis might philosophers of gender defend the inclusion of trans women in these policies, if not an understanding of what women are? How do they defend trans-inclusion as a normative goal?

They simply do not, owing to a recognition of the social and political implications of their accounts of ‘woman’. Jenkins, for instance, claims only that ‘the proposition that

trans gender identities are entirely valid—that trans women are women and trans men are men—is a foundational premise of my argument, which I will not discuss further. Failure to respect the gender identifications of trans people is a serious harm and is conceptually linked to forms of transphobic oppression and even violence’ (396). Meanwhile, Bettcher (2013) observes that ‘by presupposing the dominant meanings [of gender identities]...accounts end up accepting the marginal status of trans people. This leads them to try to justify the view that trans people are who they say they are. This is a bad place to start trans theory and politics...since non-trans people do not need to justify who they say they are in the same way; to accept this asymmetry is to effectively yield political ground from the very beginning’ (235). Crucially, Bettcher recognizes that requiring philosophers to justify trans women’s status as women implicitly and assigns them a kind of lesser status, to the extent that their identities need justification where those of others do not, while Jenkins notes that she need not argue for the validity of transgender identities, should assuming the opposite result in serious harms. How do these observations extend to discussions of the moral status of animals?

I argue that these discussions are marked by the same two features emphasized by Bettcher and Jenkins, respectively. The same kind of asymmetry Bettcher observes is endemic to arguments that operate within the framework of securing rights for individuals based on features they are thought to possess. For instance, the ‘argument from marginal cases’, as summarized by Dombrowski (2006) and forwarded by Singer (1975, 265), Becker (1983, 226-227), and Regan (1978; 1983), broadly takes views that assign animals lesser moral status and contingent rights to be implausible, as whatever feature they identify as grounding moral status is typically neither present in animals nor in ‘marginal cases’ of humans, such as children or mentally challenged adults. Meanwhile, Anderson (2004) critiques this style of argument, by identifying species membership as a morally relevant trait that includes all humans and excludes animals from the scope of moral considerability. Regardless of whether they support the argument from marginal cases, each philosopher proceeds by treating the inclusion of all humans as being worthy of equal moral consideration as a kind of desideratum of a plausible account of moral status. Animals, however, are not granted similar assumptions in their favour. Rather than also taking a plausible theory of moral status to be one that includes



animals, animal rights and welfarist theorists are tasked with justifying the extent to which animals are owed moral consideration, by drawing parallels between their modes of experience and those of either a subset of humans or humans at relatively more vulnerable stages throughout their life. In doing so, they are subject to Bettcher's asymmetry and in operating within this framework they, as she puts it, 'yield political ground from the very beginning'. Indeed, these asymmetrical assumptions are endemic to our philosophical theorizing to such an extent as to be reflected in common expressions, such as the claim that we ought to include animals by 'widening the moral circle', which presupposes the moral centrality of humans while taking animals to remain on the margin. I argue that in failing to apply conceptual engineering consistently in this way, we commit a unique kind of injustice: a conceptual injustice. The wrong that lies at the heart of this injustice is the tacit adoption of assumptions that build the marginalization of particular groups into the conceptual boundaries and philosophical theories whose outcomes affect these very groups.

Donaldson and Kymlicka (2011) offer alternative comments on the argument from marginal cases, which illuminate the significance of Jenkins' comments, as applied to literature on the moral status of animals. They note the argument reveals that 'Kantian moral agency is, at best, a fragile achievement that humans have to varying degrees at varying points in their lives... To ground human rights in the possession of personhood in this sense would be to render human rights insecure for everyone' (27). One reading of these comments suggests that they too are subject to the kind of implicit asymmetry described previously. In critiquing a theory of moral status by its inability to secure human rights in a robust way, this argument still treats the protection of human interests as a kind of desideratum in ways that the protection of animal interests typically is not. However, the more relevant point made here is that giving rise to undesirable political consequences, such as rendering human rights insecure for everyone, is a legitimate basis of criticism of a theory of moral status. In much the same way Jenkins simply refuses to justify the claim that transgender people's identities are valid, as the alternative conclusion that they might not be gives rise to political harms, animal rights theorists might simply abstain from participating in discussions that frame the moral considerability of animals as an open question, as the conclusion that they have lesser

moral considerability also gives rise to various harms, such as rendering human rights insecure. However, maintaining the security of human rights or interests cannot serve as the sole or even principal reason for treating the protection of animal interests as a given and as a normative goal, as doing so would be analogous to claiming that we ought not question or justify the validity of trans people's gender identities, as doing so might render cis identities open to similar strands of criticism. The problem with this latter argument isn't simply that this consequence is unlikely to occur, but rather, that it decenters the very individuals who are likely to be most harmed by lines of questioning that threaten to invalidate gender identities. Accordingly, if we are to avoid the style of asymmetry Bettcher describes, by treating the protection of animal interests as a desideratum of theories of moral status, in much the same way we treat that of human interests, we must also take the tangible, moral, and political harms that result to animals as a result of perspectives that assign them lesser moral status at least as seriously as we take the consequences that might arise for humans. That non-human animals, including and especially domesticated farm animals, face innumerable harms at a massive scale owing to their comparative lack of legal and political rights I take to be generally uncontroversial and it is largely these harms that ought to motivate our reluctance to adopt a theory of moral status that marginalizes them.

It's worth dispensing with two objections. According to the first, there's a kind of circularity in claiming that we potentially harm animals by assigning them lesser moral status, as to be harmed they have to possess moral status to begin with. However, a similar ostensibly circularity exists in the metaphysics of gender, as to harm trans people by, say, misgendering them, we have to presuppose that they have legitimate claim to the gender identities to which they subscribe. If we're willing to make that presupposition in the latter case, then it's not clear why we wouldn't make an analogous one in the former.

At this point, an uncharitable reader may adopt a *modus tollens* of my conditional conclusion: rather than interpreting this chapter as a defense of animal-inclusivity, they may interpret it as a *reductio* of trans-inclusivity. However, I argue that even if readers are inclined to remain incredulous of conceptual engineering, applied in the domain of animal ethics, and on this basis take a critical perspective towards the methodology as

applied to the metaphysics of gender, doing so does not represent a threat to the status of trans identities. Strong arguments could be made to justify the status of trans women as women and men as men that need not rely on simply treating the claim as axiomatic, such as Srinivasan (2021)'s emphasis on the continuities in experience between cis and trans women. Interpreting my argument as a *reductio* ultimately it serves to undermine *conceptual engineering* as applied in this domain, rather than the legitimacy of self-determined gender identities, which could be actively defended in a variety of ways.

According to the second objection, (1) popular views about moral status could be construed as ultimately constitutive of the kind of methodology underlying debates about the meaning of gender categories and (2) granting animals equal moral consideration would ultimately give rise to greater political harms. Some philosophers, such as Dupré (2015) for instance, whose view was quoted earlier in this paper, along with Waldron (2012) and Kateb (2011), take a morally substantive distinction between humans and non-human animals to be necessary in order to make sense of distinctively human entitlements, such as human rights. Broadly, on this view, to avoid dehumanizing or marginalizing vulnerable human populations, a meaningful distinction between humans and non-human animals must be established. Accordingly, this view can be construed as aligning with the methodology underlying the debate about 'woman', such that rather than engaging in straightforward, descriptive conceptual analysis, philosophers beholden to defending entitlements such as human rights or equality ultimately fix their accounts of what features ground moral status around the normative purpose of defending human rights or defending the moral equality of marginalized human groups.

Presumably, the connection between establishing a morally relevant distinction between humans and animals and protecting the rights and equality of humans is an empirical one: if we emphasize morally relevant continuities between humans and animals, then, as a matter of fact, we might cause dominant groups to treat marginalized humans worse or 'like animals'. On this view, drawing analogies between, for instance, the experiences of Holocaust survivors and victims of industrialized agriculture or arguing that the latter experience oppression in similar ways as the former might, as a matter of fact, make us more likely to dehumanize the former. More generally, in

deemphasizing purportedly morally relevant features coextensive with humans, we run the risk of materially impacting comparatively vulnerable human populations by deemphasizing the ways in which they are morally equal to members of dominant groups. This view, however, faces serious empirical problems.

Kymlicka (2018) cites various studies into the consequences of establishing a sharp moral distinction between humans and animals (773). These studies show that those who subscribe to such a distinction are more likely to dehumanize marginalized humans (Dhont, et al. 2014; Taylor and Singer 2015; Roylance, Abeyta, and Routledge 2016; Amiot and Bastian 2017). Moreover, persuading others to adopt this distinction causes them to express greater prejudice towards marginalized humans (Costello and Hodson 2010, 2012, 2014). Accordingly, it seems that the empirical assumptions that connect the normative aims of defending human rights and equality with the endorsement of a moral distinction between humans and non-human animals are ultimately unsound. Moreover, these normative aims are better met by views that treat the protection of animals' equal moral status as a desideratum and in taking seriously these normative aims, while disregarding the aim of treating animals as being worthy of moral consideration, this body of literature nonetheless continues to exhibit the style of asymmetry Bettcher describes.

With that said, I will now draw on literature about the meaning of 'woman' to articulate a way in which we can secure context-specific rights and permissions for animals, by emphasizing the relevant similarities they share with members of groups already afforded such permissions. In particular, I will examine dairy cows as a case study and will argue that in contexts involving the appropriation of their reproductive capacities, such as in dairy farming, they belong to the extension of 'woman' and so are owed similar reproductive rights.

## 4 Animals and Reproductive Harms

The prospect of cows belonging to the extension of 'woman' as a gender category seems initially implausible: how can cows have genders if they ostensibly do not possess gender identities? While cows cannot be harmed in virtue of their gender identity, they

are harmed in virtue of their sex, and this latter observation ultimately motivates the view that they ought to be considered women. My goal, here, is not to collapse the sex-gender distinction, but rather, to highlight ways in which forms of sex-based, reproductive harms, to which cows are subject, are indelibly enmeshed with the feminist movement and institutions and rights concerning women. Moreover, the inclusion of an individual who suffers exclusively from forms of sex-based harms in the extension of ‘woman’ follows from extant trans-inclusive views in the literature, such as Jenkins (2016)’s and Díaz-León’s (2016)’s. Accordingly, while in this chapter I draw from their views on the meaning of ‘woman’ and do not offer my own, I ultimately argue that under their own views, cows ought to belong to the extension of ‘woman’. However, as discussed in section 1, I am also friendly to the idea that cows might not belong to the extension of ‘woman’ but instead are owed similar moral consideration in relevant domains and ought to be considered subjects around whom political institutions and movements involving women partly revolve. My final generalized view in section 5 ultimately draws on this latter interpretation. Nevertheless, to render my view in line with extant views on the meaning of ‘woman’, in this section I will defend the stronger claim that in some contexts cows can belong to the term’s extension.

Feminism, as a political movement and as a philosophical subject, encompasses various forms of oppression and harms that need not apply to all and only those identified as women. For instance, discussions about abortion and the rights pertaining to it evolved within the feminist movement. Accordingly, abortion is principally a feminist issue and is a form of oppression grounded not in gender but rather in the biological reproductive capacities many cis women, non-binary people, and trans men possess. Does this mean we ought to consider the prevention of abortion, and other instances of sex-based oppression, a women’s issue? The Biden-Harris Administration’s comments in their public health budget reflects cultural ambivalence about the answer to this question. The budget uses both the expressions ‘women of color’ and ‘birthing people’, stating that ‘the United States has...an unacceptably high mortality rate for...women of color. To help end this high rate of maternal mortality and race-based disparities in outcomes among birthing people...the Budget includes more than \$200 million’ (Office of Management and Budget 2022, 18-19). Their motivation in using the latter expression is to capture the

fact that abortion, and presumably other forms of sex-based oppression, do seem to apply to at least some individuals who do not identify as women, such as trans men and non-binary individuals. However, I argue that this move presents serious political issues, which Jenkins' march makes salient.

Recall that Jenkins included trans men and non-binary people in her women-only march. Her pluralist account of 'woman' allowed her to do so, as under her view, someone qualifies as a woman if they either identify as such or if they are oppressed in a relevant way. Accordingly, under her view trans men counted as women for the purpose of her march (419). There were two predominant motivations underlying her decision to include trans-men. Firstly, they too are socially oppressed in the relevant way; that is, they also are disproportionately likely to be victims of sexual violence. Secondly, they nonetheless needed to be considered women, owing to the 'symbolic value' of treating the march as women-only. I will draw on these two motivations to emphasize why a plausible account of 'woman' must be simultaneously trans-inclusive and sensitive to the role of sex-based oppression and harms.

Jenkins claims that restricting her march to women only has 'symbolic value', owing to the 'social norm that a woman ought to be accompanied by a man when walking after dark' (419). These entrenched social norms are not typically sensitive to nuances underlying personal identity; there is no social norm suggesting that women and trans men ought to be accompanied by cis men when walking in the dark, for instance. Rather, the sort of trans men Jenkins has in mind are ones who are regularly misgendered as women, and accordingly, are subject to the consequences of being treated like women in a patriarchal society, despite not identifying as such. Accordingly, for her, 'counting' trans men as women for the purposes of her march makes sense: while they may not identify as women, if they are misgendered as women, then they suffer the consequences of being treated as women and accordingly movements, like women-only marches, ought to include them. Jenkins' march reflects a more general principle: political movements and institutions developed to resist oppression evolve alongside social norms that typically do not in a substantive way respect the sex-gender distinction. The only institutions that support victims of forms of sex-based oppression, such as planned

parenthood, feminist philosophy departments, women's marches and so on, simultaneously focus on gender-based violence and oppression. While we can readily distinguish instances of oppression that are gender-based from those that are sex-based, we cannot pry them apart institutionally. There is no birthing-person lobby or academic department that studies issues pertaining to exclusively birthing people, such as abortion, surrogacy, their underrepresentation in scientific research samples etc.; rather, due to the historical tradition along which debates about these issues developed, feminist institutions are tasked with simultaneously resisting both sex and gender based oppression. Accordingly, to the extent that the feminist movement and feminist institutions are principally about women, an account of 'woman' that reflects this dichotomy is necessary.  $\neg$ Otherwise, we would either alienate many victims of patriarchy, such as non-binary people, trans men, and as I would like to argue, cows, from this movement, or we would deflate the sort of 'symbolic value' Jenkins attempts to retain, which is both born of existing social norms and yet also serves to resist them.

It's worth noting, however, that even if we are inclined to resist accounts of gender categories that are sensitive to forms of sex-based oppression, that feminism as a social movement and feminist philosophy as an academic discipline ought to be concerned with both sex and gender-based oppression is hopefully uncontroversial. Many forms of women's oppression, historically situated within the feminist movement, such as their exclusion from the workplace, abortion, rape, sex-blind studies on male bodies etc. to a significant degree stem from reproductive oppression. Accordingly, as the feminist movement and its constituent literature are tasked with directly dismantling forms of sex-based oppression, while cows are not oppressed as a matter of gender, they are oppressed as a matter of sex and so fall within the scope of feminist concerns.

Accordingly, I will now draw on Díaz-León (2016)'s contextualist account of 'woman' to make sense of the way in which cows can be understood as sometimes belonging to the term's extension. Recall the general structure of the view Díaz-León defends: 'X is a woman is true in a context C iff X is human and relevantly similar (according to the standards at work in C) to most of those possessing all of the biological markers of female sex' (Saul 2012). The condition that X be human, however, is never

explicitly defended by either Díaz-León or Saul nor does either author explicitly invoke this condition to exclude animals from the term's extension. Saul in particular, who originally articulated this contextualist definition claims that 'the thought behind [this definition] is to incorporate the commonsense view that the biological sex traits are somehow of central importance to womanhood and manhood, but without using these as necessary or sufficient conditions...according to [this definition] "man" and "woman" can each sometimes pick out a biological kind and sometimes a social kind' (201). Accordingly, it's not clear that Saul intentionally wove this condition into her definition with the purpose of excluding animals; rather, the focus is on the tension between understanding 'woman' as a biological kind or a social kind. As neither author takes seriously the speciesist implications of this condition nor do they defend it as an essential component of a contextualist view, I will instead entertain a slightly modified version of the contextualist account: X is a woman is true in a context C iff X is relevantly similar (according to the standards at work in C) to most of those possessing all of the biological markers of female sex.

Recall also the three principles gleaned from section 1:

- (1) who ought to be considered a woman depends on various normative aims;
- (2) some aims are more relevant than others, in particular contexts, and so play a more significant role in determining the extension of 'woman' within those contexts;
- (3) because these aims are context-specific, someone can be considered either a woman or at least relevantly like women in one context, and not in another

I ultimately draw on this modified contextualist position, as it most explicitly accounts for condition (3), which is necessary to make sense of conditions under which cows ostensibly should not be granted the same rights or permissions as human women, such as voting rights or permissions that depend substantively on gender identities. Accordingly, whether cows are owed similar moral consideration as human women in some context ultimately turns on whether they are 'relevantly similar...according to the



standards at work in' that context. What, then, are the 'standards at work' in contexts in which they ostensibly face the greatest harms: dairy farming?

I argue that cows are relevantly similar to major groups of human women in these contexts to the extent that their reproductive capacities are being appropriated. To understand this appropriation as a harm, it must be understood as morally objectionable. The notion of a 'harm' implicitly builds in an understanding of moral status, as to be harmed requires at the very least possession of basic moral status. Feminist philosophers who take issue with forms of reproductive harms, such as surrogacy and abortion restrictions have most famously done so on grounds of bodily autonomy (Thomson 1971; Dodds and Jones 1989). The right to bodily autonomy, however, like all rights, is a kind of deontological protection. Kagan (2019) and Killoren and Streiffer (2022) note, however, that if non-human animals were taken to have a different kind or degree of moral status than humans, it's not clear that they would be owed any such protections; accordingly, an argument that attempts to ground the moral badness of dairy farming in a violation of a cow's bodily autonomy would not hold. Under this view, taking cows to be relevantly similar to human women, as the bodily autonomy of both groups would be violated under conditions of forced birth, requires already assuming that they possess some sort of relevant trait that grants them similar moral status, in order to possess a right that could be violated in the first place. In summary, to be the sort of entity that can be reproductively oppressed or exploited, cows must already be relevantly similar to human women in some other respect.

Killoren and Streiffer (2022) articulate this style of reasoning, which grants deontic moral obligations to only humans on the basis of their purportedly exclusive capacity to view themselves as ends in themselves. They summarize the argument as follows: 'If, as someone who views themselves as an end in themselves, you are committed to being opposed to being killed in order to save [five other people]...then you must on pain of inconsistency oppose the killing of others who view themselves in the same way if they [might be sacrificed to save five other people]... It then follows that, if you regard yourself as an end in yourself, you are committed to being opposed to killing anyone who views themselves as ends in themselves' (18). Importantly, what drives our

moral commitments to others is that they, like us, regard themselves as ‘ends in themselves’; accordingly, we are not committed ‘on pain of inconsistency’ to oppose the killing of animals who purportedly do not. Extending these comments to dairy cows, we would not be committed to oppose the appropriation of their reproductive capacities for our own ends, as they purportedly do not see themselves as ends in themselves.

However, Kymlicka (2018) undermines this argument, as it pertains to the problem of solitary confinement. He contrasts two styles of critique of the practice of solitary confinement: one, which grounds the badness of solitary confinement in its material consequences and the lived experiences of those who experience them, including both humans and non-human animals, and another which grounds the badness of the practice in its ‘failure to mark species difference that makes solitary confinement a violation of human rights and human dignity’, as it involves treating humans ‘like animals’ (775). This latter approach is roughly similar to the style of reasoning described previously, as both arguments disregard the actual experiences of recipients of these generally objectionable forms of treatment. Kymlicka, however, argues that ‘the best way to get people to understand the wrongness of solitary confinement is to get them to be attentive to the wrongs involved in the social isolation of any embodied subject who belongs to a social species’ (775). He rebukes the latter approach, claiming that it ‘seems shallow, and almost willfully perverse’ and takes its blindness to the material consequences of solitary confinement, such as the ‘depression, withdrawal, mental illness, disorientation, or self-harming behaviours’ that it generates in both humans and non-human animals to render it ineffective. He claims, ultimately, that it ‘deadens our ethical sensibilities’ (776).

I argue that an understanding of reproductive harm that grounds the moral badness of appropriating an individual’s reproductive capacities in their perception of themselves as ‘ends in themselves’ or in some abstract feature not directly related to their experiences of having their reproductive capacities controlled is heavy-handed and obtuse in a similar way. Both cows and human women face serious medical consequences as a result of forced birth, including uterine infections, cystic ovaries, anxiety, permanent joint problems, and death during labour. Like many surrogates in the global contract

pregnancy industry, cows experience significant distress upon being permanently removed from their children, especially in virtue of possessing long term memories that span years. The lived experiences of both categories of victims are entirely obscured in an understanding of moral badness that stems principally from a nebulous understanding of the capacity to see oneself as an ‘end in themselves’.

Returning to the principles gleaned from section 1, there are various ways we could understand cows as belonging to the extension of ‘woman’ in contexts involving the appropriation of their reproductive capacities. The normative aim constraining our understanding of ‘woman’ could be fostering greater empathy towards all marginalized groups. Understanding the shared lived experiences of cows and human women as rendering them ‘relevantly similar’ is conducive to realizing this goal, as it establishes continuities between humans and animals that have been empirically proven to foster empathy for even marginalized humans, as discussed in section 2. Doing so, however, has two undesirable consequences: firstly, as discussed in section 2, this normative aim decenters cows from the practices that victimize them in particular to the greatest degree; secondly, as this aim is context-insensitive, to the extent that it does not depend on anything specific to the practice of dairy farming, the aim might result in an overly permissive understanding of ‘woman’ that gives rise to counterintuitive conclusions. Regarding the latter, there are presumably limits to the permissions that can be granted to animals on the basis of their similarity to humans. A view that claims cows ought to be able to vote on the basis of some similarities to human women, as doing so allows us to foster empathy for all marginalized groups, seems counterintuitive.

Accordingly, we might instead take the most relevant normative aim in contexts involving the appropriation of someone’s reproductive capacities to simply be avoiding the troubling and material consequences of doing so. This normative aim seems most directly related to context-specific features, such as what is actually being done to cows in dairy farming and what they experience as a result. As these experiences are typically shared amongst both women who are victims of forms of reproductive oppression and cows, these are the most relevant similarities that allow us to understand cows as women in such contexts.

## 5 A Contextualist Account of Moral Status

I have argued we ought to understand dairy cows as relevantly similar to human women in contexts in which their reproductive capacities are being exploited. Under contextualist accounts of ‘woman’, this means that cows belong to the extension of ‘woman’ in these contexts. However, my examination of dairy cows and the meaning of ‘woman’ is intended as a particular case study from which I want to draw a more general conclusion about moral status: we can make sense of the sorts of obligations we have to an individual whose moral status is a matter of contestation by examining whether they are relevantly similar to those already granted moral consideration in some context. While particularities of literature on the metaphysics of gender commit me to understanding cows as belonging to the extension of woman, other animals need not belong to the extension of social categories granted moral status; rather, I am committed only to the claim that if they are relevantly similar to those granted moral status, then they ought to be too. Accordingly, I will now make my contextualist account of moral status explicit by modifying the contextualist account of ‘woman’ once more: ‘X is owed moral status in a context C iff X is relevantly similar (according to the standards at work in C) to most of those already possessing moral status in context C’.

Nozick (1974), Kagan (2019) and Killoren and Streiffer (2022) all defend a kind of utilitarianism for animals while defending Kantianism for humans. Like my view, they can make room for the experiences of victims of morally objectionable practices in fixing what they are owed. However, unlike my view, they take the deontic protections afforded to humans to supersede the those afforded to animals. My view, however, does not take nebulous and overly general conditions of moral status, which do little to identify the precise moral wrongs of a given practice, to grant comparatively stronger protections. Rather, my view emphasizes the relevant continuities in experience between those granted moral status and those whose moral status is under question to fix similar obligations of similar force. In doing so, my view is also more conducive to fostering greater empathy towards various marginalized groups, as suggested by the empirical studies discussed in section 2.

The contextualist component of my view also renders it in a more practical sense superior to views that take the animals to be owed deontic protections, such as Regan (1983)'s. Kymlicka (2022) notes that while such views are philosophically compelling, they are not 'well-positioned to generate usable policy proposals' (215). He speculates that the lack of public support of these positions suggests that they will develop little traction in political spheres (220). Trying to reframe animals as persons in the eyes of those already inclined to objectify them may prove to be a lofty goal, partly owing to the force of the term 'person' and the universal commitments it entails. To see an animal as a person requires seeing them as serious moral equals, which may be difficult for those not naturally inclined to empathize with them. However, a contextualist account commits us only to explicitly identifying the precise ways in which animals may or may not be relevantly similar to us in a given context; in effect, it forces us to empathize with them in relevant ways, even if we instinctively do not.

Kymlicka (2022)'s own view, however, may suffer from similar concerns as Regan's. Kymlicka emphasizes the relationships we have with animals as members of the same society by granting them membership rights on the basis of belonging to our social groups. He argues that in reframing domesticated animals as members of our groups, rather than as property, we may come to empathize with them as we typically do with companion animals. He notes that 'for many people, companion animals are valued members of the family, and so should be subject to the same liability rules as, say, harms done by young children' and ultimately hopes to extend this style of reasoning to the most subjugated class of animals: domesticated farm animals (227). I argue, however, that the very same mechanisms that give rise to the public's reluctance to accept animals as persons may also drive a similar reluctance to accept them as members of our groups.

The recognition of companion animals as members of our family is ostensibly driven by features of our relationships with them not present in most people's relationships with farm animals. We are naturally inclined to empathize with companion animals as a result of living in close quarters with them, interacting with them regularly, and familiarizing ourselves with their likes, dislikes, habits, and idiosyncrasies. Domesticated farm animals do not have the luxury of being integrated into our homes;

rather, their experiences are obfuscated from the public eye. The few humans who do interact with them are typically those who profit from harming them. Indeed, as Adams (2010) observes, ‘once the existence of meat is disconnected from the existence of an animal who was killed to become that “meat,” meat becomes unanchored by its original referent (the animal)’ and it is precisely this alienation of the living animal from our culture and the rest of society that allows us to remain complicit with their systemic oppression (13). To that extent, it’s not clear that most consumers of animal products operate in conditions conducive to fostering the requisite empathy to take seriously domesticated farm animals’ status as members of our society.

However, my view departs from Kymlicka’s by forcing us to make explicit similarities between the experiences of animals and those of humans, as they relate to context-specific features of the practices to which they are subject. While we may never develop attachments to cows the way we do to our companion animals and so come to see them as fellow co-workers in a system from which we profit, owing to their alienation from most urban populations, we can nonetheless see in their experiences deep parallels to those of victims of sex-based oppression. It is our concern for and recognition of the latter, then, which can motivate the same concern and recognition of the former. In doing so, we have clearer grounds to adopt animals as part of our existing social movements and institutions and can accordingly effect practical change.

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## Conclusion

Conceptual engineering, ameliorative analysis, and similar methodologies aim to impose normative constraints on the philosophical theories we consider plausible. At the beginning of this dissertation, I posed three crucial questions concerning these methodologies:

1. How do philosophers justify these approaches?
2. What philosophical debates warrant the adoption of these approaches?
3. What happens when equally legitimate normative aims conflict?

Chapters 1 and 2 primarily addressed question 3, while Chapter 3 focused on questions 1 and 2.

In Chapter 1, I explored essentially contested concepts. These are concepts that are inevitably the subject of contestation because debates about them center on why they matter.

For instance, Philip Petit is particularly concerned with the capacity of others to dominate us, and so for him, this feature constitutes a crucial component of FREEDOM. Meanwhile, Isaiah Berlin is largely concerned with whether we can choose options for ourselves without being actively interfered with; this is why, for him, non-interference is the most salient feature of FREEDOM. The concept is essentially contested, because nothing in principle suggests Petit's reason for valuing freedom is superior to Berlin's. However, as I observe, within specific contexts some reasons are far more salient than others. For instance, in an ostensible democracy that secures various personal liberties on paper for its citizens, but in which some citizens in principle have far greater power over policy decisions, owing to wealth inequality and lobbying efforts, the most salient consideration in assessing whether these citizens are free is whether groups have the capacity to dominate others. In this sense, Petit's conception of freedom is the most

relevant. Meanwhile, in a highly restrictive country that ensures relative wealth equality by tightly controlling the pursuits of its citizens, the most salient consideration is whether citizens can actually do what they want without interference; to laud this country for having precluded the capacity to dominate seems premature. Accordingly, I arrived at a conclusion: essentially contested concepts can be decontested within context, as within certain contexts, some features of a concept are genuinely more valuable or represent more relevant considerations than others. In summary, I concluded this chapter by establishing the contextualist nature of conceptual engineering.

In Chapter 2, I applied the conclusion from Chapter 1 to a specific instance in which the normative aims underlying debates about gender conflict. I examined conflicts between two key aims of philosophers of gender: recognizing the ways in which socially-imposed gender categories confer oppression and privilege, and validating the identities of trans people. These normative aims are often compatible, however, the two conflict in situations in which the gender someone is ascribed (and contingently, the sorts of oppression or privilege they experience in virtue of this ascription) does not match the gender with which they identify. I examined one such situation, in which organizers of a woman-only march against sexual violence chose to admit trans men, as they were at disproportionate risk of sexual violence in virtue of the gender other people may ascribe to them. The intuition, here, is that the dynamics of oppression and privilege fostered by gender categories do not present themselves the same way for trans men and cis men: the former are likely to be oppressed in various ways the latter are not, largely in virtue of being classed as women or as something not quite male. I applied the style of contextualism discussed in chapter 1 to this debate and noted that in this context, the operative sense of “woman” in the “woman-only” march is one which aims to pick out whether people are oppressed in a certain way, and not whether they identify a certain way. Accordingly, in response to the broader question ‘what happens when normative aims conflict?’ I claim that the specific contexts in which philosophical theories are applied determine the most relevant ones and that those ought to, only in those contexts, subordinate the others.

In Chapter 3, I addressed questions not of how to apply conceptual engineering, but rather, of how the deployment of the methodology itself is justified. While the metaphysics of gender is explicitly characterized by the widespread use of this methodology, other areas of philosophy often employ it only implicitly. As a result, philosophers may invoke normative aims to halt philosophical discussions asymmetrically, by treating some aims as obviously worth considering while disregarding the presence of others. One such area concerns the moral status of animals. I observe that, while philosophers often invoke normative aims, such as the protection of human rights, the recognition of equality amongst different groups of humans, and so on, to justify theories of moral status that marginalize animals, most philosophers don't treat the protection of animals itself as a kind of desideratum of these theories. This asymmetry goes largely undefended, and indeed one wonders what kind of defense could be mounted, which wouldn't itself circularly rely on assumptions about the moral inferiority of animals.

The problem of circularity lurks behind many applications of conceptual engineering, as at least sometimes, the legitimacy of normative aims that constrain philosophical theories depends on the content of those theories themselves. For instance, while I claim that treating the protection of human interests as a desideratum, while not doing the same for animals, warrants justification, an interlocutor might claim that questioning this asymmetry presupposes the moral equality of animals to begin with. However, a comparable circularity exists in the metaphysics of gender: while Katharine Jenkins claims that we ought to treat the notion that subjective gender identities determine objective gender categories as a 'foundational premise' in order to avoid the harms associated with misgendering someone, to understand trans people as being misgendered in the first place, we must presuppose that gender categories actually are determined by gender identities. In this context, philosophers do not take this ostensible circularity to be an issue. Accordingly, the third chapter of my dissertation raises an unresolved question: why accept the circularity in the latter case, and not in the former?

Finally, while conceptual engineering is prevalent throughout many areas of philosophy, Chapters 2 and 3 illuminate some subtle limitations on revisionary projects,

which do not trace to the style of circularity described previously. Philosophers are justified in wanting to decouple the meanings of gender categories from how they're used in ordinary language, in order to achieve their political goals. However, I argue that taking into account these concepts' actual and not just desired applications is necessary to realize many of these goals.

I examine one such revisionary enterprise: the introduction of the neologism 'birthing people' as an expression that picks out those assigned female at birth. Proponents of this expression aim to emphasize that those who can give birth are not coextensive with those who identify as women; accordingly, we ought not use 'woman' to pick out those who possess sex-based reproductive capacities. I observe, however, that as a matter of fact, the term 'woman' is sometimes used to pick out those who possess sex-based reproductive capacities in important institutional contexts that materially impact people's lives. For instance, consider forms of sex-based reproductive oppression: the underrepresentation of females in samples of scientific studies; the denial of contraceptive and abortion services; global contract surrogacy; and workplace policies that disadvantage pregnant individuals. Many of the institutions and movements tasked with addressing these issues, such as women's health clinics and education centres, the feminist movement, women-only marches and so forth employ the term 'woman'. The history of the gender category 'woman' in the development of these institutions is deeply enmeshed with how people think and talk about the issues they were developed to address. Suppose, then, that we introduced the neologism 'birthing people' without developing corresponding birthing-people clinics, birthing people's marches, birthing people's studies departments, and so forth. What sorts of institutional supports exist to make the category of 'birthing people' a meaningful political one; that is, one that grants members of its extension material resources to resist the unique forms of oppression they face? I argue that in the absence of such supports, revising the concept of 'woman' to such a radical extent would be reckless, as doing so risks displacing large categories of the sorts of people many of these institutions exist to support. This, accordingly, is why I take contextualism to be superior to conceptual differentiation as a method of resolving conflicts between normative aims. More generally, this example also illuminates the significance of remaining attentive to ordinary language not simply as an obstacle to the

realization of normative aims but instead, as the means by which we can materially realize them.

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