

# Reconsidering the Socio-Scientific Enterprise of Sexual Difference

## The Case of Kimberly Nixon

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*L'auteure aborde le cas Kimberly-Nixon pour critiquer la construction socio-politique de la différence sexuelle. En confrontant nature et culture je vois que les transsexuelles lancent un défi au modèle prévalent qui est fondé sur l'assomption que le sexe détermine le genre.*

When I first viewed *Boys Don't Cry* (1999), I was struck by conflicting sentiments. On the one hand, I lauded the fact that issues pertaining to the experiences of a particular sexual minority group were finally making its way into popular culture. Hillary Swank's portrayal of the life, rape, and murder of Brandon Teena, vividly illustrated the lived reality of a female-to-male trans man. On the other hand, I could not help but ponder what impact Teena's legacy would have—and perhaps, more importantly, should have—on feminist and queer theorizing. At the crux of my inquiry rested the question: Was Brandon Teena reifying or transcending the male/female binary?

In this paper, I use the Kimberly Nixon case to consider the impact transsexuals have on the conventional socio-sexual paradigm. Nixon was prohibited from working at the Vancouver Rape Relief Centre—a women's only organization—after it was made known that she is a male-to-female trans woman. As a result, there was a complaint lodged with the British Columbia Human Rights Tribu-

nal (BCHRT), and two judicial cases were taken before the provincial court. Central to each of these proceedings was the question of the corporeal ontology of MTF transsexuals.

This analysis is primarily rooted in understanding that “sex” and “sex differences” have been intricately constructed through science and other cultural discourses. I provide a brief but critical account of how sex differences have been construed since the Enlightenment. Thereafter, I use to Nixon case to elucidate the fallaciousness of the nature/culture and male/female binaries and rethink the culturally-marked, scientifically prescribed ideology of sexual difference.

### Constructing Sexual Difference

Since the Enlightenment, social relations in the West have pivoted on a paradigm of sex dichotomy (Laqueur). Cohesive with liberal democratic theory and dictated by modern science (Schiebinger 1989: 244), sex dichotomy has become crystallized in language and pervades every institution signified by human authority. Its ideological fixation has proved so hegemonic that sexual difference is commonly experienced as part of ontology rather than epistemology, as part of nature instead of culture. Even many prominent feminist scholars have relied upon the two-sex model to endorse the project

for gender egalitarianism (Firestone; Chodorow; Gilligan; Dworkin, MacKinnon).

The sex dichotomy hinges on laws of gender, which have been succinctly abridged by Harold Garfinkel in his 1967 seminal text *Studies in Ethnomethodology*. These laws conclude that:

1. There are two genders, and everyone is/has one.
2. Gender is lifelong, invariant, and unchangeable.
3. Exceptions to two genders are jokes or abnormalities.
4. Genitals (penis, vagina) are the essential sign of gender.
5. The categories are created by nature, and membership in a gender category is assigned by nature.

In short, Garfinkel concludes that sex dimorphism is dictated by the presumption of genitalia; often understood to be immutable, stable, and above all “pre-social.” Indeed, since the mid-eighteenth century western civilization has been witness to an epistemic shift; a transition from the understanding that all individuals are “positioned on a single axis of ‘sex’” (Hird 18) to the rigid inference that two distinct sexes produce two essentialized genders. This epistemic shift, undergirded in the *natural* sciences, negated the ques-

tion of cultural agency in creating categories of “male” and “female.”

During this period there was a socio-political agenda supported by Cartesian and other classical liberal values which actively discredited previous appreciation for the one-sex continuum, denied alternative assertions for sex diversity, and strategically brought into mainstream focus what one scholar refers to as “The Triumph of Complementarity” (Schiebinger 1989: 214-244). Refuting the one-sex model of the human body that existed from antiquity to the Enlightenment was quintessential in cultivating a rationale that permitted, if not encouraged, the subordination of women while remaining consistent to the emerging creed of universal, inalienable, and equal rights (Shilling 44). In other words, providing scientific explanations for sex differences rooted in the natural world effectively eschewed demands for the rectification of social, political and economic injustices that emanated from being female without “self-constitution” (Scheman 350).

Moreover, the ontology of sex post-Enlightenment became a segment of a much broader endeavour. It relied on transcendental reason of the monadic subject to demarcate categorical truths from corporeal experiences.<sup>1</sup> Within this schema, science became posited into the privileged realm of nature, severed from cultural variables of subjectivity, interpretation, and nuance, and ultimately became mystified as the repository possessing factual answers to all questions human. Those who challenged science, and in this case ontological sex, were either dismissed, labeled “uppity,” or persecuted.

In recent years, academics from within and outside the feminist community have attempted to configure how and why we understand sex and the sex dichotomy. Historians Londa Schiebinger (1989) and Thomas Laqueur each provide a genealogy of sex construction in the past few centuries. Anthropologist Emily Martin

examines the reification of orthodox gender roles in research concerning the sperm and the egg, and sociologist Alan Petersen cites how sex differences are perpetuated in a seminal anatomy text. What is amplified by each of these scholars is the idea that the scientific understanding of sex differences is a corollary not of the Archimedean model of disembodied knowledge but rather of specific cul-

nial policies through the logistical enactment of the discourse, “white men saving brown women from brown men” (Spivak 296). In short, the intersection between the enabling paradigms of racism and sexuality that underlies the imperialist project, manifested as a crucial technology of colonial rule (Stoler; Yuval-Davis).

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tural manifestations. As such, the corporeal can never be defined solely within the domain of nature, as even nature’s very parameters—that is, what constitutes nature—have been circumscribed by cultural precepts.

This analysis shares an intricate nexus with power, righteousness and the politics of imperialism. Several postcolonial theorists, including Edward Said, have noted the methodical and, at times, discursive registers through which the racialized Other is produced at the interface of sexuality discourses. Ann Stoler has taken this examination further in her critique of Foucault. Borrowing from the thesis-claim put forth by Anne McClintock, among others, Stoler describes how during Western imperialism the governance of sexual relations was central in classifying the colonizer and the colonized into spheres of “distinct human kinds while policing the domestic recesses of imperial rule (145). This move was both strategic and calculated, and resulted in two occurrences worth mentioning here. Positioning the colonizer and the colonized into *distinct human kinds* on the one hand engendered “corporeal malediction” (Fanon 258) on the psyche of latter, and on the other hand, played a seminal role in implementing colo-

race of individuals from another—which would serve as the justification for imperialist conquest—was supported by *evidence* from scientific disciplines. This evidence, however, was encumbered by the fact that naturalists were unable to develop a universal criterion from which to categorize races into neat taxonomies. As John Haller Jr. explains,

[t]o visually identify differences is one thing, but to determine a method for measurement and an index for tracing affinities among various races is far more vexatious undertaking. (3)

By the nineteenth-century, anatomic measurement emerged as the preferential, albeit, essentialist source for the study of racial difference—interestingly, analogous physical traits were employed to champion the case for sexual difference.

Since the decolonization and civil rights movement, many of the premises of racial difference have been debunked. Indeed, it has been commonly accepted that “[s]tudies which purport to demonstrate the genetic basis for this or that behavioral characteristic observed among persons who make up popularly defined races are essentially non-scientific and

should be labelled as such” (Marshall 125). While racial difference has been adamantly repudiated, and the nexus between ontology and race similarly dismantled, differences relating to sex have unfortunately only gone reinforced.

This is perhaps because, in addition to being derivative of epistemological and political transformations, sexual difference is functional to the

on genital determinism. They can be read as follows:

Penis → Male → Masculinity  
Vagina → Female → Femininity

Sex complementarity’s stability is inherently dependent on society’s adherence to these equations; divergence from them is, as a result, portrayed as aberration. What requires

been a woman, and thus, had not been subject to those experiences—presumed monolithic—associated with being a woman. Nixon, subsequently, retained the services of Barbara Findlay, a legal and gay rights advocate, and filed a complaint with the BCHRT. In 2000, prior to the BCHRT releasing its decision, the rape centre went to provincial court—*Vancouver Rape Relief v. B.C. Human*

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socio-sexual paradigm of heteronormativity. As one scholar notes, “[h]eteronormativity, the hegemonic discursive and nondiscursive normative idealization of heterosexuality, played a leading role in establishing and then maintaining sex complementarity” (Hird 27). It is precisely heteronormativity and its institutionalization through patriarchal marriage that sustains dominant ideals of “family values,” which privileges and vigorously demands for “two biological parents” with a “stable relationship to male authority” (Stacey 69). Within this framework, often described as the “sexual contract” (Pateman), sex differences are reproduced whereby men and women *naturally* undertake distinct, however, complementary roles. Women are relegated to the private economy fulfilling domestic responsibilities, while men occupy the public sphere where decisions of popular morality, social norms, and public policy are debated and subsequently validated.

For sex complementarity—and thus, heteronormativity, family values and the patriarchal marriage—to stay intact, two strict equations that conflate biological sex with cultural gender must be maintained. These equations are structured by the laws of gender described earlier and pivot

acknowledgement here is that resistance to these equations in fact poses substantial challenges to the entire scientific enterprise that attempts to decipher and instill sex differences. Indeed, such challenges vividly disclose that “bodies are not static slaves to their biology” (Fausto-Sterling 31). Kimberly Nixon, a transsexual woman, is central to this resistance campaign.

### Contextualizing Kimberly Nixon

Kimberly Nixon was born a biologically-read male in 1957. At an early age, it was clear to Nixon that her gender identity was not congruent with her *naturally* assigned genitalia. After years of living as a woman, in 1990 Nixon underwent sex reassignment surgery, and had her birth certificate altered to indicate her sex as being female.

In 1995, Nixon began training as a peer counselor at the Vancouver Rape Relief Centre—a non-profit organization that provides services to women who encounter male violence. While attending a training session, Nixon acknowledged that she was a post-operative transsexual woman. On the spot, a representative at the centre terminated Nixon’s training, concluding that Nixon had not always

*Rights*—in an attempt to eschew the tribunal’s authority. The case was ultimately dismissed. Two years later, the BCHRT ordered the rape centre to compensate Nixon \$7,500 for injury to her dignity. In response, the rape centre filed a second case. In *Vancouver Rape Relief Society v. Nixon et. al.*, the rape centre made a successful petition to overturn the verdict of the BCHRT (Findlay; Boyle).

Both cases initiated by the rape centre, invoked notions of ontological-sexual difference. They contended that being born with male genitalia involuntarily consigned Nixon to certain privileges and experiences not delineated to those individuals born female. They failed to consider how identification with the opposite gender may have precluded Nixon from taking advantage of privileges designed to benefit men. In short, by denying a transitioned transsexual woman from working at their institution, the rape centre’s argument relied upon socio-scientific knowledge concerning sex articulated in the post-Enlightenment, which renders innate differences between males and females.

### Nixon’s Implications

Why is it important for feminists

to scrutinize the Nixon case? What value, if any, does it hold for feminist theory and practice?

Nixon's legal claim affectively "denaturalize[s] and resignifie[s] bodily categories" (Butler xii). It challenges the core of the traditional socio-scientific understanding of sex, as described by Garfinkel. Some may argue that that by undergoing sex reassignment surgery, Nixon simply moved from one end of the sex continuum to the other, thereby fortifying it. However, by attesting that her gender identity did not reflect her genitalia, Nixon refutes biological determinism and provokes disorder and anxiety to a cultural ideology that is reliant so heavily on *a priori* scientific and metaphysical claims. She exemplifies that *natural* genitalia do not have ontological meaning. Accordingly, Nixon becomes part of the feminist revolution, resisting masculinity and patriarchy, while simultaneously embodying "a subject of differentiation—of sexual contradictions" (Kristeva qtd. in Hekman 56).

In other words, Nixon affirms the claim that the scientific production of knowledge is congenitally affixed to the regulatory measures defined by cultural forces. Science, although it purports to otherwise, cannot think or act outside of culture (Schiebinger 1999). The dichotomies that science fabricates—nature/culture, male/female—are each part of a more conceptual political project that sustains the subordination of women through their relegation into devalued social spheres.

Science asserts that the dichotomies it supports are salient and pre-social. Nixon as a post-operative transsexual woman belies this claim. Her body, like other classified human aberrations, becomes the site of ambiguity for science. For this reason, when transsexuality was becoming more widely acknowledged in the modern West, the medical establishment rushed to discover its causes (Brown and Rounsley 22). After several endeavours to understand this

condition, the psychiatry discipline entered transsexuality as a psychosexual disorder into the *Diagnostic Statistical Manual III* (Whittle 197).

Patricia Elliot examines how the Kimberly Nixon case has divided members of the Canadian feminist community. From Elliot's argument, it is apparent that what has been neglected from feminist debate concerning this case is substantive dialogue on how science has created our understanding of what it means to be a woman, or man. If sex is a cultural manifestation, and the nature/culture binary is likewise a myth, then there is definitely great potential for alliance between trans and non-trans feminists. At a minimum, Nixon uses jurisprudence to illustrate the need for feminist scholars to engage with and critique the hard sciences, and reconsider their position on exclusion.

*The author would like to thank Myra J. Hird for her insightful comments on an earlier version of this manuscript.*

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<sup>1</sup>During this period it was deemed that unlike men, women lacked the faculties to ascertain transcendental reason because "[t]he conditions of women's embodiment were ruled by natural cycles associated with pregnancy, childbirth and menstruation" (Shilling 43).

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## FARIDEH DE BOSSET

### Farewell

Leaning on her walker  
she stepped out of her bed  
to the window  
looking at the snow falling  
(as white as her hair)  
and the snow-covered trees.  
Her eyes laden with nostalgia  
as if saying  
farewell;  
I will not see you again  
until I am part of you.

*Farideh de Bosset is a poet who sees  
the storm in each soul and the seed of  
beauty in each cell and wants to share  
it with the world.*



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