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Inquiring Minds Topic - March 23, 2017
Linda Forcey Moderator

Transgender Politics

"To a degree unimaginable a decade ago, the intensely personal subject of gender identity has entered the public square." So says the National Geographic in its January 2017 Special Issue entitled "Gender Revolution. An illuminating TV program with Katie Couric was an accompaniment to this issue.

The NG definition for Transgender: Sometimes abbreviated as "trans," an adjective used to describe a person whose gender identity does to match the biological sex they were assigned at birth. It can refer to a range of identities including transgender boys and men, people who identify as a boy or a man but were assigned female male at birth, and transgender girls and women, people who identify as a girl or women but were assigned male at birth.

One other definition might be useful for our discussion. "Identity Politics" refers to political positions based on the interests and perspectives of social groups with which people identify. Identity politics includes the ways in which people's politics may be shaped by aspects of their identity through loosely correlated social organizations.

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Since I could not copy the entire NG issue, I have selected 5 short current articles describing various controversial aspects of the topic. The first is a personal statement from a trans man. ~~The second is the introduction to a lengthy article from a feminist perspective.~~ The third describes Trump's rescinding of the rules adopted by Obama regarding bathrooms for transgender students. For the 4th article I have inserted a Breitbart piece on the "gender Identity" bill set for a NH Statehouse vote. And finally, the concluding article is on the Supreme Court's refusal to hear the case before it on transgender rights.

Questions for the discussion:

Is this issue much ado about nothing?

In what ways did it affect the recent presidential election?

Should transgender issues be considered a basic human rights issue?

The Politics of My Trans Identity (by Gavin)

How critiques of "identity politics" send the message that certain people just shouldn't exist.

On the morning after the 2004 Presidential election, I walked out into a cornfield in central Iowa where I was attending college and broke down in tears. I felt shaken and uncertain about my future under a second George W. Bush administration—an unfamiliar feeling for me given my relatively charmed life as a white, class-privileged, formally educated person. I knew nothing of the systematic violence and fear that people of color, immigrants, poor people lived under. That is why I was especially unprepared to navigate the political exploitation of my identity as a queer person. It destabilized me but it also motivated me to invest in a more extensive critique and understanding of structures of white supremacy and the history of political orders designed to maintain them.

I also grew more empowered to embrace my identity as a queer person and later, as a trans person. During the 2004 campaign, I wrote my father a letter imploring him not to vote for George W. Bush who had, in my view, campaigned against my queerness. I had never "come out" to my father though like everyone in my life he likely knew that I was not straight.

"Please, for me, your child, do not vote for a man who believes I am an abomination that should not exist," I wrote to my father.

He never responded and no doubt cast his vote for Bush that year and countless other politicians who reject or downright condemn my existence in the years since. During the few conversations about politics we have had in the 12 years that followed, his explanation is often something along the lines of "this isn't personal it is about the economy and national security." Forget that my father whose jobs in the last decade have included driving an Uber, working at Bass Pro Shops and Home Depot, will see no financial benefit from the politicians he votes into office, the idea that there is no "personal" impact flowing from our political structures or that our identities are not implicated in the social, economic and political structures we put into place is absurd. And while this reductive analysis of politics belongs in the trash heap of history alongside things like colorblindness and trickle-down economics, it has found new defenders among "liberal" commentators explaining the rise of Donald Trump.

In the past month, people have rushed to blame "identity politics" for Democrats' defeat. And at least New York Times columnist Frank Bruni, Saturday Night Live's Colin Hanks and Columbia University Professor Mark Lilla have explicitly suggested that a focus on the experiences of transgender people during the campaign somehow cost Hillary the presidency. To use Bruni's language, the argument goes that by focusing on such a "boutique" issue as transgender rights instead of issues implicating "the economy" and "jobs", Democrats alienated voters (implicitly—white, heterosexual male voters) and ensured the party's collapse at the polls.

There are at least three major problems with this argument.

The first, is that it assumes that white people don't have an identity or that class-based arguments don't implicate the so-called "identity politics" the framework critiques. When Trump claims a campaign slogan to "Make America Great Again" by institutionalizing a political paradigm of expelling immigrants, doubling down on racial profiling, and registering Muslim people, that is not "divisive identity politics, apparently," as Hadley Freeman explains in the Guardian because under this formulation, "white straight voters don't have an identity—they are just people." The critique of "identity politics" then, which is really just a call for people of color, queer people, trans people to be quiet, is an argument that just serves to further institutionalize and normalize the subject position of white, heterosexual, men as objective.

The second problem with this argument about "identity politics," is that, even accepting the premise that Democrats emphasized the "identities" of marginalized communities—a way overblown suggestion—it is simply false that it cost them votes. One need look no further than the likely ouster of incumbent Governor and 'sore loser' Pat McCrory in North Carolina. McCrory banked his political career on targeting oppressed communities—particularly Black people and trans people. Rather than silently accept his transparent suppression of Black voters and anti-trans fear mongering, the public, including Democratic leaders in state and nationally,

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pushed back and aggressively defended the humanity of the groups he targeted. And while Trump took North Carolina, McCrory—though he still won't concede—plainly did not.

And finally, this argument is morally indefensible because what it really does is tell people that it is their very existence that is the problem and they should wait until white, straight, men are comfortable enough with them to accept their demand to exist. I enjoy a joke at my own expense just as much as the next person but there is something quite unnerving when you are expected to laugh at the systemic forces at work to make it impossible for you to survive.

The idea that my health care, my ability to go to the bathroom, the core of who I am should be compromised and silenced is a request for me to succumb to the darkest impulses of self-hate that have plagued me my entire life.

I carried around enough fear and self-hate even before state legislatures proposed more than 50 bills targeting trans people like me. And when these bills come, and they will keep coming, what are we supposed to do?

If we listen to Bruni or Lilla or Jost, the answer would be to just accept that our lives simply are not important enough to defend against these attacks and we should focus on more important things like "jobs." But that, of course, means jobs for other people since there is no way I, for example, could have a job if I am forced to use a women's restroom as these bills would require. Not only would it be humiliating and dangerous for me to be forced into a space that directly undermines who I am, the mandate is really just a mandate that I not go to the restroom at all. And that, of course, is just a demand that I not exist in public space.

For as long as I can remember I have worked to overcome that same impulse within myself—the idea that I should not exist. Because of the health care that I have received, the jobs that have accepted me, the institutions that included me, the communities that have loved me, I have found my way to a sense of beauty and pride in who I am.

I absolutely do not accept the insistence that my trans body is grotesque and dangerous or that my health care is unnecessary or that I should simply not go to the bathroom. If challenging those narratives costs us elections, then those are elections I will gladly lose. We cannot be patient in our demand to lift up the humanity of our siblings in struggle.

When trans people demand safety in public or the ability to go to the restroom, that is a politics of survival.

When Black people demand not to be murdered in the street by agents of the government, that is a politics of survival.

When immigrants demand not to be held indefinitely in detention, that is a politics of survival.

When water protectors at Standing Rock or in Detroit demand clean water, that is a politics of survival.

When Muslim people demand to practice their faith without harassment, violence or forced registration, that is a politics of survival.

That people have an identity does not change the fact that they also have humanity. We all have both. Let us not be lulled into complacency by the thinly veiled calls for our silence by our so-called allies.

As I look ahead to the Trump administration, I know that I will put everything that I have on the line for my communities and for all other communities targeted by government policies or political discourse aimed to cut short life chances and survival opportunities.

When my father casts his vote in defense of a separation between the "economy" and "identity" he quite knowingly erases my identity and undermines my ability to participate in the economy that he so disingenuously defends. But more than that, he misses out on being a part of the beautiful, transformative vision that I, and others, offer for our future.

We will build beautiful spaces; we will claim collective love; we will unrelentingly stand up for each other.

Take away our rights but you won't take away my fight.

Transgender Politics: Controversial 'Gender Identity' Bill Set for N.H. Statehouse Vote

www.breitbart.com/big-government/2017/03/02/nh-transgender-bathroom-bill-set-state-house-vote/ by Dr. Susan Berry 2 Mar 2017 0

Parental rights and religious freedom activists in New Hampshire are battling a bill that would allow any male claiming to identify as a female to walk into and use girls' and women's restrooms, showers and other public facilities.

H.B. 478, which purports to prohibit "discrimination based on gender identity," currently has 11 co-sponsors, including eight Democrats and three Republicans. State Senate Majority Leader Jeb Bradley (R) is one of the co-sponsors.

The bill would add "gender identity" to the list of specially protected classes of individuals. It defines "gender identity" as "a person's gender-related identity, appearance or behavior, whether or not that ... is different from that traditionally associated with the person's physiology or assigned sex at birth."

Cornerstone, a pro-family advocacy group in N.H., says the bill, which is scheduled to go before the full state House next week, is "bad policy that prioritizes the feelings of one group over the serious safety and privacy concerns of thousands of New Hampshire women and girls as well as the constitutional rights of every New Hampshire citizen."

Cornerstone lists the bill's potential consequences:

- Any male would have access to women's and girl's bathrooms, locker rooms, changing rooms, and any other place where women and girls deserve safe, protected spaces.
- Safeguards for women and girls would be stripped away, increasing the risk of sexual assault, voyeurism, and privacy violation.
- Parents would be stripped of their rights and can no longer insist that their children's privacy be respected at school.
- Churches and other religious organizations would be forced to comply with radical gender ideology.
- Women's shelters would be forced to house and employ men who "identify as women," regardless of the feelings of the victims of abuse housed at the shelter.

According to the *Union Leader*, support for the bill is based in part on a survey by the National Center for Transgender Equality in Washington, D.C., which states that more than half of the 225 trans people living in New Hampshire surveyed avoided using a public restroom "because they were afraid of confrontations or other problems they might experience."

The population of New Hampshire is roughly 1.35 million, including roughly 190,000 K-12 students.

Rep. Edward Butler (D), the primary sponsor of the bill, says the measure is not a "bathroom bill," but one that bans discrimination. "Hopefully we will be able to clearly communicate...this legislation is needed and will provide protections that the rest of New Hampshire citizens have and that our transgender community deserves," he said.

According to the *Union Leader*, both the Business and Industry Association (BIA) and the New Hampshire Association of Chiefs of Police support the bill. 5

"We don't want to be on the wrong side of history here," said David Juvet, senior vice president for public policy at BIA.

Dover Police Chief Anthony Colarusso Jr. said, "It just makes sense to us that everybody should be treated fairly and not be discriminated against regardless of sexual orientation or gender identity."

In North Carolina in 2016, the progressives who are pushing the gender-fluid ideology rallied many major companies, sports associations, and celebrities to discriminate against the state because of its broadly popular HB2 legislation, which defines "gender" as the sex designated on an individual's birth certificate. The designation can be changed after a person undergoes medical procedures. The business boycott of the state intimidated business groups and helped Democrats to narrowly defeat the pro-business GOP Gov. Pat McCrory in the November election.

Since the election, GOP leaders, including Lt. Gov. Dan Forest, have protected the compromise HB2 legislation from continued Democratic efforts to blur legal distinctions between male and female.

In other states, including Texas, angry parents have beaten back many efforts by school officials to eliminate the biological distinctions between girls and boys. Students have also objected to the ideology and have walked out of schools when told they must share facilities with kids of the opposite sex.

In Washington D.C., Attorney General Jeff Sessions has reversed the justice department's 2016 promotion of the gender-fluid ideology. In a pending Supreme Court lawsuit, Sessions is expected to argue for preservation of the biology-based legal distinction between male and female.

In the marketplace, the Target retail chain has lost \$15 billion in investor value since it triggered a consumer boycott by supporting the pro-transgender campaign in April 2016.

Less than one-quarter of Americans support the "gender-identity" ideology pushed by gay activists and by former President Barack Obama. Policies associated with the ideology would allow transgender activists to sue single-sex institutions — such as sports leagues, public shower-rooms, and women's shelters — until both biological sexes are viewed as interchangeable.

Since the presidential election last year, Obama has twice admitted that his unpopular transgender policy helped to defeat Trump's rival, Hillary Clinton.

A recent poll from Crux/Marist finds that majorities of Americans support the traditional concept of biological men using men's restrooms and biological women using women's restrooms. Results of the poll show 66 percent do not think "someone who is transitioning to become the opposite sex" should be permitted to use the restroom or locker room of whichever sex they choose.

A recent Rasmussen survey also found only 38 percent of Americans favor "allowing transgender students to use the bathrooms of the opposite biological sex."

Another recent poll by a pro-transgender group at UCLA showed that only 23 percent of Americans think people should be allowed to switch their legal sex without any tests or approval by government agencies.

A Civitas poll conducted last April focused on younger children. Its results showed that only seven percent of 600 North Carolinians strongly supported a federal judge's demand "ordering girls and boys in public middle schools to share locker rooms, bathroom, and shower facilities." Of those surveyed, 72 percent strongly opposed the demand.

POLITICS

Trump Rescinds Rules on Bathrooms for Transgender Students

By JEREMY W. PETERS, JO BECKER and JULIE HIRSCHFELD DAVIS FEB. 22, 2017

WASHINGTON — President Trump on Wednesday rescinded protections for transgender students that had allowed them to use bathrooms corresponding with their gender identity, overruling his own education secretary and placing his administration firmly in the middle of the culture wars that many Republicans have tried to leave behind.

In a joint letter, the top civil rights officials from the Justice Department and the Education Department rejected the Obama administration's position that nondiscrimination laws require schools to allow transgender students to use the bathrooms of their choice.

That directive, they said, was improperly and arbitrarily devised, "without due regard for the primary role of the states and local school districts in establishing educational policy."

The question of how to address the "bathroom debate," as it has become known, opened a rift inside the Trump administration, pitting Education Secretary Betsy DeVos against Attorney General Jeff Sessions. Mr. Sessions, who had been expected to move quickly to roll back the civil rights expansions put in place under his Democratic predecessors, wanted to act decisively because of two pending court cases that could have upheld the

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protections and pushed the government into further litigation.

But Ms. DeVos initially resisted signing off and told Mr. Trump that she was uncomfortable because of the potential harm that rescinding the protections could cause transgender students, according to three Republicans with direct knowledge of the internal discussions.

Mr. Sessions, who has opposed expanding gay, lesbian and transgender rights, pushed Ms. DeVos to relent. After getting nowhere, he took his objections to the White House because he could not go forward without her consent. Mr. Trump sided with his attorney general, the Republicans said, and told Ms. DeVos in a meeting in the Oval Office on Tuesday that he wanted her to drop her opposition. And Ms. DeVos, faced with the alternative of resigning or defying the president, agreed to go along.

Ms. DeVos's unease was evident in a strongly worded statement she released on Wednesday night, in which she said she considered it a "moral obligation" for every school in America to protect all students from discrimination, bullying and harassment.

She said she had directed the Education Department's Office for Civil Rights to investigate all claims of such treatment "against those who are most vulnerable in our schools," but also argued that bathroom access was not a federal matter.

Gay rights supporters made their displeasure clear. Outside the White House, several hundred people protested the decision, chanting, "No hate, no fear, trans students are welcome here."

Individual schools will remain free to let transgender students use the bathrooms with which they are most comfortable. And the effect of the administration's decision will not be immediate because a federal court had already issued a nationwide injunction barring enforcement of the Obama order.

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The dispute highlighted the degree to which transgender rights issues, which Mr. Trump expressed sympathy for during the campaign, continue to split Republicans, even as many in the party argue that it is time to move away from social issues and focus more on bread-and-butter pocketbook concerns.

Within the administration, it also threatened to become another distraction for Mr. Trump after a tumultuous first month in office. And it showed how Mr. Trump, who has taken a more permissive stance on gay rights and same-sex marriage than many of his fellow Republicans, is bowing to pressure from the religious right and contradicting his own personal views.

Social conservatives, one of Mr. Trump's most loyal constituencies, applauded him for honoring a pledge he had made to them during the campaign. They had argued that former President Barack Obama's policy would allow potential sexual predators access to bathrooms and create an unsafe environment for children.

"The federal government has absolutely no right to strip parents and local schools of their rights to provide a safe learning environment for children," said Tony Perkins, president of the Family Research Council.

But supporters of transgender rights said the Trump administration was acting recklessly and cruelly. "The consequences of this decision will no doubt be heartbreaking," said Chad Griffin, president of the Human Rights Campaign. "This isn't a states' rights issue; it's a civil rights issue."

Bathroom access emerged as a major and divisive issue last March when North Carolina passed a bill barring transgender people from using bathrooms that do not match the sex on their birth certificate. It was part of a broader bill eliminating anti-discrimination protections for gay and transgender people.

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Gay, lesbian, bisexual and transgender issues became a point of attack for opponents of Ms. DeVos's nomination last month, as Democrats questioned her about the extensive financial support that some of her relatives — part of her wealthy and politically active Michigan family — had provided to anti-gay causes. Ms. DeVos distanced herself from her relatives on the issue, saying their political activities did not represent her views.

While Wednesday's order significantly rolls back transgender protections, it does include language stating that schools must protect transgender students from bullying, a provision Ms. DeVos asked for, one person with direct knowledge of the process said.

"All schools must ensure that students, including L.G.B.T. students, are able to learn and thrive in a safe environment," the letter said, echoing Ms. DeVos's comments at her confirmation hearing but not expressly using the word transgender. Ms. DeVos, who has been quietly supportive of gay rights for years, was said to have voiced her concern about the high rates of suicide among transgender students. In one 2016 study by the Cincinnati Children's Hospital Medical Center, for instance, 30 percent reported a history of at least one suicide attempt.

Mr. Trump appears to have been swayed by conservatives in his administration who reminded him that he had promised during the campaign to leave the question of bathroom use to the states.

But he had given conflicting signals on the issue, and on gay rights more broadly. He said last April, for instance, that he supported the right of transgender people to "use the bathroom they feel is appropriate," and added that Caitlyn Jenner, perhaps the most famous transgender person in the country, could use whichever bathroom at Trump Tower she wanted. He has also called the Supreme Court decision legalizing same-sex marriage settled law. "And I'm fine with that," he told CBS News after the November election.

Despite his personal views, Mr. Trump's decisions in office have been

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consistently conservative on social issues. And he has shown considerable deference to the religious right, naming many religious conservatives to top cabinet posts and pledging to fight for religious freedom protections and restrictions on abortion.

The Justice Department is eager to move quickly in laying out its legal position on transgender policy, to avoid confusion in cases moving through the courts.

The dispute has underscored the influence that Mr. Sessions, an early and ardent supporter of Mr. Trump, is likely to exercise over domestic policy. As someone who has a long record of opposing efforts to broaden federal protections on a range of matters under his purview — immigration, voting rights and gay rights, for example — he has moved quickly to set the Justice Department on a strikingly different course than his predecessors in the Obama administration.

Eric Lichtblau and Sheryl Gay Stolberg contributed reporting.

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POLITICS

Supreme Court Won't Hear Major Case on Transgender Rights

By ADAM LIPTAK MARCH 6, 2017

WASHINGTON — Prompted by the Trump administration's reversal of the federal government's position on transgender rights, the Supreme Court announced on Monday that it would not decide whether a transgender boy in Virginia could use the boys' bathroom at his high school.

The decision not to take his case, which came as the court is awaiting the appointment of a ninth member, means there will be no ruling on the highly charged issue of transgender rights this term. The issue will almost certainly return to the Supreme Court, probably in a year or two.

Until then, lawsuits in the lower courts will proceed, the political climate and public opinion may shift, and the court's composition will almost certainly change.

Monday's development was a setback for transgender rights advocates, who had hoped the Supreme Court, which established a constitutional right to same-sex marriage two years ago, would aid their cause.

Instead, in a one-sentence order on Monday, the Supreme Court vacated an appeals court decision in favor of the student, Gavin Grimm, and sent the case back for further consideration in light of the new guidance from the administration.

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The Supreme Court had agreed in October to hear the case, and the justices were scheduled to hear arguments this month. The case would have been the court's first encounter with transgender rights, and it would probably have been one of the biggest decisions of a fairly sleepy term.

"Thousands of transgender students across the country will have to wait even longer for a final decision from our nation's highest court affirming their basic rights," said Sarah Warbelow, the legal director of the Human Rights Campaign.

Kerri Kupec, a lawyer with Alliance Defending Freedom, a conservative Christian group, welcomed Monday's development.

"The first duty of school districts is to protect the bodily privacy rights of all of the students who attend their schools and to respect the rights of parents who understandably don't want their children exposed in intimate changing areas like locker rooms and showers," she said.

There are other cases on transgender rights in lower courts, including a challenge to a North Carolina law that, in government buildings, requires transgender people to use bathrooms that correspond with the gender listed on their birth certificates. The law has drawn protests, boycotts and lawsuits.

The question in the Virginia case was whether Mr. Grimm, 17, could use the boys' bathroom in his southeast Virginia high school. The Obama administration said yes, relying on its interpretation of a federal regulation under a 1972 law, Title IX, that bans discrimination "on the basis of sex" in schools that receive federal money.

The Department of Education said in 2015 that schools "generally must treat transgender students consistent with their gender identity." Last year, the department went further, saying that schools could lose federal money if they discriminated against transgender students.

The Trump administration withdrew that guidance last month, saying it

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had been formulated without “due regard for the primary role of the states and local school districts in establishing educational policy.”

The letter announcing the new policy, signed by officials in the Education and Justice Departments, said schools must still take steps to protect all students from “discrimination, bullying or harassment.”

Individual school districts remain free to let transgender students use the bathrooms of their choice. The practical effect of the Trump administration’s change in position was limited, as a federal court had issued a nationwide injunction barring enforcement of the Obama administration’s guidance.

It will now be up to the United States Court of Appeals for the Fourth Circuit, in Richmond, Va., to answer whether Title IX protects the rights of Mr. Grimm and other transgender students.

Mr. Grimm attends Gloucester High School. For a time, school administrators allowed him to use the boys’ bathroom, but the local school board later adopted a policy that required students to use the bathrooms and locker rooms for their “corresponding biological genders.” The board added that “students with gender identity issues” would be allowed to use private bathrooms.

The American Civil Liberties Union, which represents Mr. Grimm, told the justices that requiring Mr. Grimm to use a private bathroom had been humiliating and had, quoting him, “turned him into ‘a public spectacle’ before the entire community, ‘like a walking freak show.’”

After Mr. Grimm challenged the school board’s bathroom policy in court in 2015, a divided Fourth Circuit panel ruled the policy unlawful. A trial judge then ordered school officials to let Mr. Grimm use the boys’ bathroom.

A 1975 regulation adopted under Title IX allowed schools to provide “separate toilet, locker rooms and shower facilities on the basis of sex.” The

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Fourth Circuit said that the rule was ambiguous and that the Education Department's interpretation of it was entitled to "controlling weight."

Both sides had hoped the Supreme Court would decide the case, Gloucester County School Board v. G.G., No. 16-273, even after the Trump administration withdrew its guidance on the meaning of the regulation.

In a letter to the justices last week, Joshua A. Block, a lawyer with the A.C.L.U., said the administration's change in position did not render the case moot, as the basic question of what Title IX meant remained. "The underlying principle that discrimination against transgender individuals is a form of discrimination on the basis of sex has been widely accepted in the lower courts for years," he wrote.

"Delaying resolution would provide no benefit to the court and would needlessly prolong harm to transgender students across the country awaiting this court's decision," Mr. Block wrote.

In a second letter, S. Kyle Duncan, a lawyer for the school board, agreed that the case should proceed, though he suggested a brief delay to allow the Trump administration to weigh in.

A ruling on the meaning of Title IX, Mr. Duncan wrote, "will save the parties — as well as public and private parties involved in similar disputes throughout the nation — enormous litigation costs as well as needless and divisive political controversy."

The Supreme Court rejected those requests, apparently preferring to wait for a cleaner presentation of the issues in a different case.

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