

DELEGITIMIZING TRANSPHOBIC VIEWS IN ACADEMIA

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ACADEMIC FREEDOM and social equality are cornerstones of university life, cherished by many. Roughly, academic freedom involves measures to protect members of an academic community from undue social or political influence in the context of their research and teaching. An academic community is harmed by both undue restrictions of such freedom and the perpetuation of unjust social hierarchies. Unsurprisingly, then, things get tense when these two values come into conflict within academic institutions such as research universities, community colleges, and university presses.

Such conflicts appear to force us to pick a side, and many oblige. For some, academic freedom takes precedence over social equality. Perhaps this value schema best protects the marginalized in the long run, or perhaps academic freedom is just more important. Others counter that social equality is a prerequisite for genuine academic freedom, and without the former, the latter is a chimera. Of course, many simply feel stuck in a dilemma with no good option: become an enemy of academic freedom or an inhibitor of equality. What should we do?

Views that deny transgender people's claims to equal standing or otherwise warrant the disrespect of transgender people present us with important instantiations of the conflict between academic freedom and social equality with notable political implications, warranting further exploration. Many people, for example, defend views that imply trans people deserve less social or political power or respect than cisgender people.¹ I refer to such views as *transphobic*. Some transphobic views are clearly worthy of sanction, like the idea that being

1 In this article, I use 'trans' to refer to those whose gender modality is transgender. As Florence Ashley, Shari Brightly-Brown, and G. Nic Rider argue, someone's gender modality refers to how that person's gender identity relates to their gender assigned at birth ("Beyond the Trans/Cis Binary"). Transgender people are those whose gender identities do not correspond to their genders assigned at birth. Of course, the very concept of gender identity is subject to critical scrutiny. See Ashley, "What Is It Like to Have a Gender Identity?"; Andler, "Gender Identity and Exclusion"; Clare, *Nonbinary*; and Hernandez and Bell, "Much Ado About Nothing." When speaking of gender identity in this article, I follow E. M. Hernandez and Rowan Bell's deflationary account of gender identity, according

trans warrants assault. Others, however, are perceived to be more nuanced (at least to some parties) and less worthy of sanction. Take the stance of many “gender-critical feminists” who claim that while trans people deserve basic respect and care, their claims to gender self-determination should be rejected, along with the entitlements such self-determination would carry with it, such as access to certain gendered spaces.²

These supposedly nuanced transphobic views pose a unique problem for academics who cherish both academic freedom and social equality. It is generally uncontested whether, for example, explicitly white supremacist views ought to be published in prestigious academic journals: there is enough consensus, at least within academia, that such views are not viable candidates for belief (not to mention that they are harmful).³ However, trans-exclusionary views have recently been published in well-respected venues, and when trans-exclusionary submissions have been rejected, claims of unjust censorship are easy to find.⁴

Considerations of academic freedom seem to compel providing platforms of some sort to those advocating for supposedly nuanced transphobic views, even if those views are implausible and harmful.⁵ Considerations of social equality, on the other hand, appear to speak in favor of institutionally affirming the validity of trans people’s genders, which in turn calls for the explicit rejection of views that perpetuate the subordinate social status of trans people.⁶ Given this push and pull, it should not come as a shock that there exists significant disagreement about how we ought to respond to supposedly nuanced transphobic views from inside (and outside) academia.

Despite the appearance of a dilemma, I am optimistic that a path exists that, if successful, allows academic institutions to sufficiently honor both social equality and academic freedom. This path relies on distinguishing between a

to which one’s gender identity is “just the gender one identifies as” (“Much Ado About Nothing,” 3).

2 See, e.g., Lawford-Smith, *Gender-Critical Feminism*; and Stock, *Material Girls*.

3 By ‘explicitly white supremacist view,’ I mean to refer roughly to views that imply nonwhite people deserve less social or political power or respect than white people. Even on this rough view, however, there have been some plausibly white supremacist views published in academic journals, such as Bruce Gilley’s highly controversial paper “The Case for Colonialism,” which was ultimately retracted from its original journal. However, given the rarity of such examples and the outcry they reliably produce, I take it that such views are still generally taken to be institutionally illegitimate by most academics.

4 See Lawford-Smith, *Gender-Critical Feminism*; and Byrne, “Philosophy’s No-Go Zone.”

5 See “Open Letter of Solidarity with the University of Sussex from UK Philosophers,” October 11, 2021, <https://openlettertosussexfromukphilosophers.wordpress.com/>.

6 See “Open Letter Concerning Transphobia in Philosophy,” January 2020, <https://sites.google.com/view/trans-phil-letter/>.

view being *censored* and its being *institutionally delegitimized*. While a detailed exploration is forthcoming below, the rough idea is that a view is institutionally illegitimate when institutional actors do not consider the view to be worth taking seriously as a viable candidate for belief. To delegitimize a view is to take steps to ensure the view is not taken seriously as a viable candidate for belief by the institution.

In this article, then, I argue that academic institutions have a *pro tanto* obligation to *delegitimize* all transphobic views, and in many contexts, the obligation is undefeated. By this, I mean that academic institutions generally should not take such views seriously as viable candidates for belief, though in some cases, this obligation may be outweighed by other considerations. Three premises together justify this conclusion. First, if academic institutions do not delegitimize transphobic views, then they structurally perpetuate the subordination of trans people. (Institutions perpetuate subordination through their own practices and policies.) Second, institutions have a *pro tanto* obligation to avoid structurally perpetuating subordination, and this obligation can be defeated only when such avoidance is excessively burdensome. Third, academic institutions can delegitimize transphobic views in a manner that is not excessively burdensome, at least in many contexts. When it comes to academic institutions, plausibly the two most relevant burdens to avoid are unduly restricting academic freedom and compromising the integrity of the institution in question, so when focusing on the possible burdens of delegitimization, I focus on these two issues.⁷ While a similar argument could be made for nonacademic institutions like the news media, I choose a somewhat narrower scope so that I can focus on the unique nature of academic freedom, which is importantly distinct from free speech more broadly construed.⁸

I take the second premise of my argument to be relatively uncontroversial and so will not spend time defending it. When an institution is perpetuating

7 There are other burdens that can affect an institution's obligation to delegitimize. Administrative burdens or donor interests, for example, can be such that delegitimization constitutes an excessive burden in some cases. However, I suspect that considerations of academic freedom and institutional integrity pose the strongest challenges to delegitimization on philosophical grounds. As such, in this article, I choose to focus on only these two burdens.

8 For more on the difference between academic freedom and free speech, see Simpson and Srinivasan, "No Platforming"; Moody-Adams, "What's So Special About Academic Freedom?"; Van Alstyne, "The Specific Theory of Academic Freedom and the General Issue of Civil Liberty"; Simpson, "The Relation Between Academic Freedom and Free Speech"; Post, *Democracy, Expertise, and Academic Freedom*; and Fish, *Versions of Academic Freedom*. A detailed exploration of the differences between academic freedom and free speech can also be found in section 3.2 below.

the subordination of a group through its own doing, it has a *pro tanto* obligation to stop doing so. While this obligation may be defeated when stopping is too costly or strays too far from the institution's aims, it is still weighty—an institution must have a strong reason to continue operating in an unjust manner. I am not claiming that this obligation exhausts institutions' duties to redress subordination. It may be the case that institutions ought to stop perpetuating subordination *even if* it is very burdensome or that institutions have a broader obligation to redress more distant subordination. All that is required to motivate my conclusion, however, is the weaker claim that institutions ought to stop engaging in behaviors that structurally perpetuate a group's subordinate social status when stopping would not be too burdensome.

While it may be easy to accept that institutions ought to avoid structurally perpetuating subordination, determining the best way to ameliorate such subordination in the case of trans people is more controversial. In this article, I assume that trans people have the right to *gender self-determination* and are entitled to the goods and services that arise out of this right. In discussing the right to gender self-determination, I follow Florence Ashley, who argues that the right to gender self-determination “means that individuals have a right to define, express, and embody their gender identity as they see fit . . . and can be derived from and is supported by many long-recognized rights, including the right to free speech, equality, privacy, identity, and dignity, and to live and act with integrity.”⁹ Some of the entitlements that plausibly arise out of this right include having one's government identification match one's stated gender, access to gender-specific spaces that align with one's gender, affordable access to at least some forms of gender-affirming health care, and the ability to pursue legal recourse against gender-based discrimination in employment and housing.

Given my assumption that trans people have the right to gender self-determination, I further assume that to refuse trans people this right is in fact to deny trans people social and political power to which they are entitled, which in turn perpetuates trans people's undeserved subordinate social status. I acknowledge that such assumptions are contested, and what follows is unlikely to convince those who are not trans affirming.¹⁰ However, this article does not merely

9 Ashley, “Gender Self-Determination as a Medical Right,” 833.

10 As Ashley notes, a gender-affirmative approach “affirms the individual's gender socially and medically” (“Homophobia, Conversion Therapy, and Care Models for Trans Youth,” 361). Similarly, Hernandez argues that gender affirmation involves *perceiving* an individual on their own terms, which involves giving uptake to what Robin Dembroff and Cat Saint-Croix call someone's *agential identity*—“the part(s) of one's self-identity that one presents to the world that connects with their social position.” See Hernandez, “Gender-Affirmation and Loving Attention,” 8; and Dembroff and Saint-Croix, “Yep, I'm Gay.” Thus, in

preach to the choir. For many people who are trans affirming may nevertheless doubt that we should institutionally delegitimize transphobic views. Even if one grants the second premise of my argument, for example, the first and third premises may still raise eyebrows, particularly among those with strong Millian inclinations. There are also sure to be questions about what it means, exactly, to delegitimize a view.

So to begin, in section 1, I present an account of institutional legitimacy and briefly explore how one can practically delegitimize a view. After laying out my proposal, I begin to defend my first premise in section 2, drawing on the work of Sophia Moreau to argue that the institutional legitimacy of transphobic views structurally perpetuates the subordination of trans people.¹¹ This section comes with an account of what makes a view transphobic, to make clear the set of views I consider viable candidates for delegitimization. Then I defend the third premise in section 3, arguing that delegitimization, at least in many contexts, is not nearly as radical as some might think, nor does it run afoul of a robust notion of academic freedom. Along the way (section 3.2), I finish defending the first premise by addressing the objection that there might be viable alternatives to delegitimization.

While this article focuses on transphobic views, the argument presented has broad implications about how we ought to balance academic freedom and social equality, particularly regarding views that exacerbate a social group's subordination if given uptake. Delegitimization thus presents itself as a solution to similar conflict cases. At the same time, delegitimization as argued for here can avoid slippery-slope objections that warn of the potential demise of open discourse. As I show, my proposal does not entail banning discussion of abhorrent views in most institutional contexts. Additionally, what warrants delegitimization on my account is a clear link between legitimacy and subordination—not feelings of offense, moral repugnance, or political unpopularity. So my argument does not speak in favor of broad censorship of politically unpopular views. Delegitimization, then, is a flexible and reasonable solution that poses no threat to the flourishing of truth-seeking institutions.

1. INSTITUTIONAL LEGITIMACY

I claim that we ought to institutionally delegitimize transphobic views. In this section, I clarify this proposal by explaining what makes a view institutionally

speaking of a person's or an institution's being trans affirming, I refer to a commitment made to affirm trans people's stated genders, which can manifest on a variety of levels from institutional policies to interpersonal practices.

11 Moreau, "Discrimination and Subordination."

legitimate (section 1.1) and discussing what delegitimization might look like in practice (section 1.2). As I show, delegitimization can take many forms, some more radical than others.

1.1. Institutional Legitimacy

When it comes to views, we can speak of their possessing different types of legitimacy. By *view*, I mean truth-evaluable propositions, whether a single idea (e.g., the earth is flat) or a particular collection of ideas (e.g., an argument with the conclusion that the earth is flat). Normatively, we might talk about what I will call *epistemic* legitimacy. An epistemically legitimate view is, roughly, one that is worth taking seriously as a viable candidate for belief, relative to a community at a given point in time. Epistemic legitimacy is thus a purely *normative* category—such views warrant consideration based on their merits and the available evidence, regardless of whether they are, in practice, given such consideration. Contradictory views can be epistemically legitimate, such as those for which evidence supports different conclusions. As such, not all epistemically legitimate views are true. Epistemic legitimacy can also change over time as new evidence becomes available. The view that the earth is flat may have been worth taking seriously at one point in time, but subsequent evidence has since undermined its legitimacy. Nowadays, flat earth views just are not worth taking seriously as viable candidates for belief.

By contrast, we can speak of various kinds of *social* legitimacy. A view is socially legitimate if there are social practices in place that uphold the notion that the view is worth taking seriously as a viable candidate for belief. While epistemic legitimacy is a normative category, social legitimacy and its various subsets are *descriptive* categories grounded in the normative attitudes of a group's members. Consequently, socially legitimate views can be and often are epistemically illegitimate. Patently false antivaccine conspiracy theories are taken seriously among many social groups, for example, and are socially legitimate for them. There are various contexts in which a view can be socially legitimate. As such, views that are socially legitimate in one context may be socially illegitimate in another. While antivaccine conspiracy theories are socially legitimate in certain circles, such views are not socially legitimate amongst epidemiologists.

Institutional legitimacy is a subset of social legitimacy that can describe either the normative attitudes that members of an institution hold or certain institutional structures that signal that a view is a viable candidate for belief. A view is institutionally legitimate, then, when either: (i) the view is considered a viable candidate for belief by enough members of a particular institution, and there are various practices or policies in place to perpetuate this notion; or (ii)

the institution is structured in such a way that signals that the view is a viable candidate for belief (regardless of how many members of the institution actually consider it to be legitimate). In some cases, institutional decision-makers (e.g., deans or university presidents) may have enough power to make a view institutionally legitimate *even if* very few institutional members consider the view to be a viable candidate for belief. Thus, institutional legitimacy can arise through a variety of means, some more democratic than others. Institutional legitimacy also comes in degrees, with some views being taken more seriously than others.

It is worth emphasizing at the outset that all institutions consider some views to be institutionally illegitimate, and most people do not find this fact alone objectionable. For any institution, no matter its goals, some views just are not considered worthy of serious epistemic consideration by the institution's own lights.¹² Institutional members have limited resources, and some inquiries have simply been closed. Of course, whether a particular view *ought* to be ascribed legitimacy is often hotly contested. Furthermore, institutions can deny legitimacy to a view when no genuine justification exists, such as attempting to suppress views simply because they are politically unpopular. As such, there are also plenty of cases of delegitimization that are rightfully criticized as pernicious.

Institutional legitimacy does not neatly track social legitimacy broadly construed (i.e., public opinion), nor should it. Most truth-seeking institutions, for example, do not ascribe legitimacy to the view that Donald Trump won the 2020 election, even though as of September 2022 over 60 percent of Republicans and 25 percent of Americans still believed this claim.¹³ When it comes to vaccine efficacy, election security, and climate change, most American truth-seeking institutions do not include antivaxxers, Trumpian conspiracy theorists, or climate deniers on their panels of experts, despite the large number of Americans who hold such views. Such views are not considered viable candidates for belief, and advocates of such views are not considered competent experts.

Similarly, institutional legitimacy need not always aim to track epistemic legitimacy. An institution might have a legitimate goal that requires that certain views be rejected *regardless* of their viability. As I argue in section 3, for example, goals like racial integration or combatting misogyny might demand that some views be institutionally delegitimized, even if some institutional members consider such views to be epistemically legitimate or if the institution

12 Simpson and Srinivasan, "No Platforming."

13 Bump, "Nearly 700 Days Later, Most Republicans Still Believe Trump's Big Lie"; and Kahn, "53% of Republicans View Trump as True US President."

might normally remain neutral about such matters. In such cases, a view's epistemic status may be deemed irrelevant in determining how to treat it. However, many institutions (particularly those in the business of producing knowledge) believe it justified to delegitimize only views that are epistemically illegitimate and thus aim for maximal alignment between institutional legitimacy and epistemic legitimacy.

To understand institutional legitimacy in action, consider certain views about interracial marriage. In the United States, citizens are legally free to argue that interracial marriage is wrong because white people are superior to other races. In fact, as of 2021, 7 percent of white Americans still disapproved of interracial marriage.¹⁴ However, such views are not legitimate in most institutional settings, whether they be academic, corporate, or philanthropic. It is difficult to fathom a prestigious philanthropic foundation providing grants to organizations that publicly advocate for stripping legal rights from those involved in interracial marriages. Recent examples of such white supremacist arguments cannot be found in credible academic journals.

In other words, white supremacist opposition to interracial marriage is *institutionally illegitimate* in most American institutions, even though at one point, this was not the case. Over time, institutional actors within academia, the news media, and other organizations have come to consider such opposition to be unworthy of sincere epistemic engagement. Furthermore, most institutional members are on board with such views' illegitimacy—it is not common to hear people criticize such illegitimacy as a stifling of academic freedom, which I discuss in more detail below in section 3.2.

1.2. *On the Treatment of Institutionally Illegitimate Views*

So, institutionally illegitimate views are not considered to be worth taking seriously as viable candidates for belief. Let us now discuss, practically, how institutionally illegitimate views might be treated. Since there are competing, reasonable approaches regarding exactly how to best treat such views, I provide a general sketch without privileging one approach over another.

Let me begin by emphasizing that institutionally illegitimate views are not usually flat-out banned or even discouraged from being discussed. In fact, there are often valuable reasons for discussing such views. On the night of the 2020 presidential election, many news organizations aired a speech in which Donald Trump claimed he had won the election; however, most of the organizations were quick to clarify that such claims were false, with discussions focusing on

14 McCarthy, "US Approval of Interracial Marriage at New High of 94%."

the threat that such lies pose to American democracy.¹⁵ Trump's claims of winning were denied institutional legitimacy, even though they were discussed extensively.¹⁶

This illustrates that one might take a view seriously as a vehicle of harm, as a useful pedagogical tool, or as a necessary inconvenience—all without taking the view seriously *as a viable candidate for belief*. Similarly, *debunking* a particular view for epistemic, political, or moral purposes can occur without ascribing the view credibility. It can be beneficial to engage with white supremacist rhetoric or flat-earth theories to point out their flaws and show precisely why they are illegitimate. Thoroughly analyzing certain views may even be helpful for members of marginalized communities to counteract particular views (even if it is unjust that they must do such counteracting in the first place). So to institutionally delegitimize a view is compatible with the view's being discussed often, even within various institutional contexts.

However, because institutionally illegitimate views are not ascribed *credibility* by institutional members, there are reasons to treat them differently from institutionally legitimate views in at least some contexts. In academia, some means of expressing a view ascribe credibility to it while others do not. How institutionally illegitimate views are treated in a university thus depends on the context of expression. To illustrate this, I briefly touch on three prominent domains of action in academia that plausibly call for asymmetry in the treatment of legitimate and illegitimate views—publishing, hiring, and (at least some forms of) platforming.

When it comes to publishing, institutionally illegitimate views are not considered suitable for being advocated for or endorsed in academic books, peer-reviewed articles, or conference presentations (though such views might be discussed at length).¹⁷ Accepting an article for publication, at least in many

15 For example, see Goodykoontz, “Why Trump’s Fake Victory Speech Was the Worst and Most Dangerous tv of Election Night 2020.”

16 Of course, advocates of such views do not merely wish to have their views discussed—they want their views to be legitimized. As I argue in section 3.2, however, academic freedom does not require that we provide such legitimacy to all those who ask for it.

17 One might argue that any form of engagement with a view, even when arguing against it, entails that one is treating the view as a viable candidate for belief (and thus legitimizing it). I disagree. That a view is being discussed simply entails that the discussant sees value in directly addressing the view in question. It might be valuable for a public health official to directly address the myth that vaccines cause autism; however, by addressing such myths, the public health official does not thereby imply that such views are more credible than other conspiracy theories. Similarly, authors like Robin Dembroff see value in directly addressing trans-exclusionary views (“Escaping the Natural Attitude About Gender”). However, to directly engage with a view in order to debunk it does not imply

contexts, carries with it an undeniable ascription of credibility—for an article to be published in a prestigious academic venue says something about the legitimacy of the views being endorsed in the article at the time of publication. Thus, if a journal receives a submission advocating for an institutionally illegitimate view (e.g., a white supremacist argument against interracial marriage), then by the institution's own lights, the view's illegitimacy is a reason for rejecting it.

Institutionally illegitimate views are also considered unfit to serve as the research aim of a professor, given a university's interest in ensuring standards of quality control. In the context of a hiring process for the position of a tenure-track professor, if a candidate has research that advocates for institutionally illegitimate views, then such advocacy counts against the candidate, if not excluding them from consideration altogether. Hiring someone to perform research or teach classes in a particular domain of expertise ascribes credibility to the candidate's views in that domain, and institutions might want to avoid ascribing credibility to the views being advocated by certain candidates.

Providing an institutional platform for speakers can also call for asymmetrical treatment between institutionally legitimate and illegitimate views. Consider, for example, the practice of *no-platforming*, which Michael Veber refers to as “preventing or prohibiting someone from contributing to public discussion because that person advances ... objectionable views,” which, in academic settings, “amounts to preventing someone from publicly speaking either by disrupting the event or refusing to allow it to be scheduled in the first place.”¹⁸ There are reasonable arguments for and against the practice of no-platforming, given the complex relationship that such practices have with regard to academic freedom, free speech, and other institutional norms.¹⁹ Furthermore, different platforms carry with them varying amounts of credibility—invitations sent by student groups might not carry the same weight as those sent by faculty or administration. Thus, some institutions might deem it acceptable to allow institutionally illegitimate views to be platformed in a limited set of cases. While I do not advocate for a particular position on the relationship between delegitimization and no-platforming, I mention the practice here to sketch a picture of how institutionally illegitimate views might be treated differently from those that are institutionally legitimate in common university contexts.

Also relevant for our purposes is the question of what to do when a view is currently institutionally legitimate but should not be, as I take to be the case

an endorsement of the view as epistemically legitimate, the way that advocating for the view or, for example, including defenses of the view in an edited volume does.

18 Veber, “The Epistemology of No Platforming,” 1.

19 See Simpson and Srinivasan, “No Platforming”; Veber, “The Epistemology of No Platforming”; and Levy, “No-Platforming and Higher-Order Evidence, or Anti-Anti-No-Platforming.”

with transphobic views (at least for many academic institutions). When I speak of an institution being obligated to delegitimize a particular view, I am talking about a *pro tanto* obligation held by an institution to alter its policies and practices to clearly reflect the notion that the view in question is not a viable candidate for belief. One might wonder whether there is a difference between being obligated to delegitimize a view and being obligated to simply *not* legitimize a view. Such a difference can be relevant when a view is already institutionally illegitimate—in such cases, the relevant institution need only *maintain* its practices and policies to ensure the view does not become legitimized. Importantly, however, for views that are already institutionally legitimate, the only way for an institution to discharge an obligation to not legitimize the view is in fact to delegitimize it—to take steps to ensure the view is clearly not taken seriously as a viable candidate for belief by the institution. If a view is legitimate, institutional neutrality merely perpetuates this legitimacy. Thus, in such cases, the institutional obligation to not legitimize a view has the same scope as the obligation to delegitimize it.

With that in mind, the distinction between delegitimizing and not legitimizing is relevant when considering that an institution's obligation to delegitimize a view creates a set of corollary obligations for institutional actors that can vary in scope. In some cases, certain actors, particularly those with notable decision-making authority, are obligated to take steps to institutionalize the illegitimacy of the view in question. This corollary obligation to *actively* delegitimize might be contrasted with a narrower obligation held by other institutional actors to merely not legitimize a view, which requires them only to refrain from further legitimizing the view, without taking steps to institutionalize this perspective. There may be cases where the narrower obligation is all that can be required of an institutional actor, but I assume that in many cases, the more active obligation holds, especially for those with significant institutional authority.²⁰

2. TRANSPHOBIC VIEWS, SUBORDINATION, AND STRUCTURAL ACCOMMODATION

Having explained what institutional legitimacy is, in this section I begin to defend the first premise of my argument: if an academic institution does not delegitimize transphobic views, then it structurally perpetuates the

20 Lastly, delegitimizing *views* is quite different from delegitimizing *people*. One can delegitimize a view without believing that advocates for illegitimate views ought to be kept out of institutions in any and all capacities, treated disrespectfully, or denied any credibility whatsoever.

subordination of trans people. I first provide an account of what makes a view transphobic (section 2.1), explicating the set of views that I take to be viable candidates for delegitimization. I then introduce Moreau's account of social subordination (section 2.2) to argue that the institutional legitimacy of transphobic views works in tandem with negative stereotypes about trans people to perpetuate their lack of social and political power relative to cisgender people who are similarly socially situated (section 2.3).

The primary aim of this section is to present the centerpiece of my defense of the first premise: the claim that the institutional legitimacy of transphobic views structurally perpetuates the subordination of trans people. Of course, fully defending the first premise requires more than this claim, as the first premise implies that academic institutions continue to perpetuate such subordination unless they *delegitimize* transphobic views. Some may object to this implication, arguing that there are other effective strategies to stop perpetuating such subordination that do not involve delegitimization. To sufficiently address this objection, I save discussion of it for the next section (section 3.2), at which point I take the first premise to have been fully defended.

2.1. What Is a Transphobic View?

While many commentators focus on transphobic actions, people, or attitudes, here I focus exclusively on views (i.e., individual propositions and collections of propositions). I consider a view transphobic when it expresses or implies that trans people deserve either less social or political power (when compared to cisgender people who are similarly socially situated) or disrespect. More specifically, I consider a view transphobic when it expresses or implies that agent *A*'s being transgender (i) provides justificatory support for *A*'s receiving less social or political power than were *A* cisgender or (ii) warrants treating *A* with greater censure or lesser consideration (i.e., disrespect) than were *A* cisgender.²¹ I call these the *disempowerment* and the *disrespect* conditions, respectively. Either condition alone is sufficient for a view's being transphobic, and many views satisfy both.

Throughout this discussion, I employ a distinction between transgender and cisgender people. It is important to note, however, that the distinction itself is subject to critical reflection, and in using it, I do not thereby endorse a simplistic binary between cisgender and transgender people.²² While cisgen-

21 This account is loosely inspired by Moreau's discussion of discriminatory policy in "Discrimination and Subordination," 121–22.

22 For more engagement with the term 'cis' and the cis/trans distinction, see Aultman, "Cisgender"; Serano, *Whipping Girl*; Darwin, "Challenging the Cisgender/Transgender Binary"; and Zurn, "Crippling Cis."

der and transgender are among two of the most common gender *modalities*, as Ashely argues, these two categories do not exhaust people's experience of gender.²³ Furthermore, in making comparisons between transgender and cisgender people, I invoke the notion of someone's being *similarly socially situated*, given that many trans people can still occupy positions of privilege along a variety of axes, including (but not limited to) class, race, and disability.

Let us now say more about these conditions and some of the views that plausibly satisfy them. The *disempowerment* condition states that a view is transphobic when it implies that being trans (or not being cisgender) warrants others limiting one's social or political power. The expression of such a view need not actually reduce trans people's power in order to meet the disempowerment condition. Rather, all that is needed is that the view lends justificatory support to such disempowerment. While questions about the nature of power are tricky, and I make no attempt to answer them here, I follow Moreau in holding that diminished power in the relevant sense can manifest as a reduction of freedom or *de facto* authority, of which the latter involves "a broader set of powers, including the power to be listened to, to be taken seriously when one brings a complaint against another."²⁴

Views that imply that trans women's political claims to womanhood should be rejected but cisgender women's should not be rejected meet the disempowerment condition. A trans woman presents a political claim to womanhood—she wants to be considered a woman by her society and government—and to deny this claim is to grant her less social and political power than were she a cisgender woman of a similar social situation. The same can be said of trans men and nonbinary people. Why does this denial amount to a reduction in social and political power? Cisgender people are free to use the restroom congruent with their gender identities, have legal recognition of their identified genders, and can access a variety of other legal entitlements. In stating that trans people's claims to such equality are unreasonable, one claims that trans people should *not* be free to move through the social and political world *as* their identified genders, while cisgender people are free to do so. In speaking of a reduction of power, then, I am speaking of power *relative* to a cisgender person who is similarly socially situated making the same claim. The view that trans people's testimony is less credible (perhaps in virtue of mental illness or extreme confusion) than that of cisgender people also meets the disempowerment condition.²⁵ On

23 Ashley, "Trans' Is My Gender Modality."

24 Moreau, "Discrimination and Subordination," 128.

25 Such treatment is often referred to as *testimonial injustice*. See Fricker, *Epistemic Injustice*.

such a view, an agent's being trans justifies limiting their *de facto* authority, since one would take trans people's claims and complaints less seriously.

Importantly, many views that are supposedly more nuanced also meet the disempowerment condition. Take, for example, the view that all trans people are, at best, *reasonably mistaken* about their gender identity, while cisgender people are not.²⁶ Perhaps trans people are generally credible knowers, but they have all simply made a mistake about their gender—only cisgender people correctly know their own genders. However, even reasonable mistakes do not justify granting someone legal entitlements, such as the right to use a single-gender restroom. So a trans man's being reasonably mistaken about being a man implies that his political claim to using the restroom is on less stable ground than were he cisgender. If I make a political claim (e.g., to use the men's restroom), and this claim relies upon a false premise (e.g., that I am a man), then my claim is weaker than a claim resting upon a true premise, if my claim has any weight at all. Similarly, I suspect that the view that a person is a woman if and only if they are an adult human female, where female is considered an immutable biological category, also meets the disempowerment condition.²⁷ This view often makes no explicit mention of transgender people but implies *at best* that all trans women are reasonably mistaken about their gender and implies that cisgender women should be entitled to more social and political power than transgender women.

Many gender-critical feminists object to the above reasoning. Kathleen Stock, for example, publicly expresses support of trans women being legally recognized as women in the UK, at least under certain conditions (e.g., having gender-affirming medical treatments and a formal diagnosis of gender dysphoria), while denying that trans women are *actually* women.²⁸ For Stock, granting a trans woman legal womanhood is to engage with a fiction, though such engagement can be socially useful. Thus, Stock and others are likely to maintain that holding a trans-exclusionary metaphysical view about womanhood does not necessarily meet the disempowerment condition.

Furthermore, Stock claims to object more specifically to “the institutionalization of the idea that *gender identity* is all that matters—that how you identify *automatically* confers all the entitlements of that sex.”²⁹ When taken in isolation, this latter view is not necessarily transphobic since it is coherent to believe

26 I take this view to be among the most charitable positions that a trans-exclusionary person could take.

27 This view is analyzed thoroughly by Dembroff, “Escaping the Natural Attitude About Gender.”

28 See Stock, “Response to Christa Peterson’s Blog” and *Material Girls*, 178.

29 Moorhead, “Kathleen Stock” (emphasis added).

that trans people's claims to gender self-determination ought to be respected while also holding that, logistically, *some* requirements for legal recognition other than stated self-identification are warranted. However, Stock is ultimately committed to holding that all cisgender women are entitled to more political freedoms than trans women (particularly trans women who do not pass as cisgender or who have not had gender-affirming surgery). For example, Stock claims that when she refers to trans people with their pronouns of choice, she is simply being polite—for Stock, trans people have no *entitlement* to such treatment, let alone to access certain gendered spaces or other gender-based privileges.³⁰ Presumably, Stock believes that she herself is entitled to being referred to and viewed as a woman, both socially and legally. After all, she wants access to women-only spaces and other gender-based privileges.

To deny a trans person the same entitlements as a cisgender person in virtue of their gender identity is to give the trans person less social and political power. It is helpful here to recall the evolution of LGBTQ+ marriage rights in the United States. Having access to civil unions while being denied the full entitlements of marriage was inimical to the goal of affirming the social equality of heterosexual and nonheterosexual couples.³¹ Civil unions literally came with fewer political entitlements than marriage, and the mere distinction between the two affirmed that nonheterosexual couples were importantly (and to many, objectionably) distinct from heterosexual couples. While there are important disanalogies between LGBTQ+ marriage and trans rights, both cases involve an unequal distribution of political entitlements, with a subordinate group receiving less than a dominant group, where such a distribution is rightfully thought to run counter to social equality. So giving trans people some political entitlements while giving cisgender people more of those entitlements inhibits the ability of trans and cisgender people to relate to each other as equals, which many have argued is at the heart of social equality.³² Thus, merely to claim that cisgender women are actually women while trans women are not is plausibly transphobic on my account, since such claims justify the disempowerment of trans people.

The disrespect condition holds that being transgender warrants greater censure or lesser consideration than being cisgender. For example, the view that transgender people are sexually deviant and deceitful meets this condition since such traits mark trans people as uniquely worthy of censure.³³ Views that meet the disrespect condition almost always meet the disempowerment

30 Stock, *Material Girls*, 178. See Briggie, "Which Reality?"

31 Card, "Gay Divorce"; and Calhoun, *Feminism, the Family, and the Politics of the Closet*.

32 See, e.g., Anderson, "What Is the Point of Equality?"

33 See Bettcher, "Evil Deceivers and Make-Believers."

condition as well, so I do not spend much time on the condition here. It might be possible, however, for some views to meet the disrespect condition without necessarily meeting the disempowerment condition. One could perhaps believe that trans people should, politically speaking, have their right to self-determination granted but still hold them in contempt.³⁴ Other views that simply ignore the existence of trans people may also violate the disrespect condition. For example, expressing the view that only women can get pregnant might not justify limiting trans people's access to maternity wards but still ignores trans men and nonbinary people altogether, which is plausibly a form of disrespect (even if unintentional).

2.2. How Are Trans People Socially Subordinated?

Legitimizing views that justify the disempowerment or disrespect of trans people uniquely contributes to their subordination. To show how, let me first explain what I mean by subordination. Here, I follow Moreau, who provides four salient conditions that can be helpful in determining whether a social group is unjustly subordinated.³⁵ These conditions are neither necessary nor sufficient but rather serve as signposts that are present in most relevant cases of subordination. For brevity, I merely mention the first three conditions and focus on the fourth, though it should be uncontroversial that trans people successfully meet each.

The four conditions are as follows. First, the relevant social group possesses less social and political power relative to others. Second, the group possesses or is perceived to possess traits that “attract less consideration or greater censure than the corresponding traits of the empowered group.”³⁶ Third, the negatively perceived traits attributed to the social group contribute to stereotypes that rationalize the group's relative lack of power and lack of *de facto* authority.

One distinguishing feature of Moreau's account is her fourth condition, which concerns what she calls *structural accommodations*. A structural accommodation is a policy, practice, or even physical structure that works “by tacitly *accommodating* the needs or interests of one group and overlooking those of others—with the result that the needs of the dominant group come to seem normal and natural, whereas the different needs of the subordinate group come to seem exceptional and even odd.”³⁷ Moreau uses bathrooms as an example

34 As Hernandez notes, examples like these involve a failure of gender-affirming perception (“Gender-Affirmation and Loving Attention”).

35 Moreau, “Discrimination and Subordination.”

36 Moreau, “Discrimination and Subordination,” 137.

37 Moreau, “Discrimination and Subordination,” 132.

of a structural accommodation that disadvantages many trans people. Despite being designed without malintent, for some trans people, having only men's and women's restrooms has contributed to normalizing the binary-only gender schema, "rendering invisible those who do not fit on one side of it or the other."³⁸ When such structural accommodations work in tandem with stereotypes to justify an unequal distribution of power and *de facto* authority, the group in question satisfies Moreau's fourth condition for social subordination.

2.3. *Institutional Legitimacy as a Structural Accommodation*

The institutional legitimacy of transphobic views is constituted by institutional actors or structures upholding the notion that such views are viable candidates for belief. This legitimacy can be classed as a structural accommodation under Moreau's account. In the case of trans people, structural accommodations include practices and policies that tacitly prioritize the interests of cisgender people at the expense of trans people, which then work in tandem with stereotypes to rationalize trans people's continued lack of social and political power. To be clear, I am not arguing that the mere *expression* of a transphobic view necessarily subordinates trans people but rather arguing that the *legitimizing* of such views through institutional means is a structural accommodation that perpetuates subordination.³⁹

The continued legitimizing of transphobic views involves a system of practices and policies that leaves unanswered the question of whether trans people ought to possess social and political status that is equal to that of cisgender people. Such legitimacy tacitly prioritizes cisgender people's interest in having any and all of their expressed beliefs taken seriously over trans people's claims to social and political equality. By inviting advocates of transphobic views to write opinion pieces, speak on the issue at official university events, or sit on panels of experts, institutions advance the interests of cisgender people at the expense of the trans community. Moreau notes that structural accommodations need not be intended to prioritize the needs of a dominant group in order to be harmful. In academia, the legitimizing of transphobic views may be intended not to subordinate trans people but to foster an environment conducive to truth seeking. While truth-seeking intentions are admirable, legitimization in this context accommodates the interests of a dominant group while neglecting the needs of a subordinate group.

38 Moreau, "Discrimination and Subordination," 133.

39 This contrasts with views like Rae Langton's that hold that some speech acts (e.g., pornography) constitute acts of subordination. See Langton, "Speech Acts and Unspeakable Acts." See also discussion below.

One might be skeptical that legitimizing transphobic views could plausibly prioritize the needs of cisgender people over trans people. To draw from a classic example from John Stuart Mill, questioning the veracity of Newtonian physics does not relegate Newtonians to a lower social status.⁴⁰ However, there is an important disanalogy between standard Millian cases and legitimizing views that justify the subordination of a social group. We can draw on Rae Langton's work on pornography to further illuminate this asymmetry.⁴¹ In addition to arguing that pornography *subordinates* women, Langton argues that pornography *silences* women. In a sense, Langton argues that pornography inhibits women's *de facto* authority by making "certain actions—refusal, protest—unspeakable for women in some contexts."⁴² Subsequently, speech that silences "is not free speech," as it allows one form of speech (pornography) only at the expense of another (women's ability to perform certain speech acts).⁴³

A similar argument can be made when it comes to legitimizing views that rationalize the subordination of trans people. To take transphobic views seriously as viable candidates for belief silences trans people by making it more difficult for them to *do things* with words, such as self-identify, protest, and demand.⁴⁴ Why? In cases where transphobic views are taken seriously, trans people's subordination becomes plausibly justified—their lack of social and political power becomes plausibly warranted. To question the validity of trans people's status in such contexts *necessarily* opens a wedge between trans and cisgender people in which some of the former group's political claims plausibly ought to be denied, while the latter's are not up for discussion. As long as such an inquiry remains open about the status of a subordinated group, the claims of the possibly inferior group are not likely to be given the same uptake as the possibly superior group, even in cases where the possibly inferior group is in fact in an equal or superior epistemic position with regard to the truth of a particular proposition. Thus, such inquiries perpetuate a lack of social power and lack of *de facto* authority for the group whose status is in question.

Furthermore, the institutional legitimacy of transphobic views works in conjunction with stereotypes to rationalize trans people's diminished social and political power. For an institution to take seriously questions about whether trans people's claims to gender self-determination are invalid, trans

40 Mill, *On Liberty*.

41 Langton, "Speech Acts and Unspeakable Acts."

42 Langton, "Speech Acts and Unspeakable Acts," 324.

43 Langton, "Speech Acts and Unspeakable Acts," 327.

44 The idea of *doing things with words* (i.e., performing speech acts) comes from J. L. Austin, whom Langton draws on heavily in her arguments.

women are *actually* men (in the politically relevant sense), or trans people are pathologically confused provides evidentiary support to stereotypes that trans people are mentally ill, deceitful, or dangerous to society (in particular, cisgender women and girls).

Consider, for example, a university hosting a panel themed “Should trans women have access to women-only spaces?” that includes someone debating in the negative. Regardless of how respectful the reasons given may appear, the fact that a transphobic view is presented as a viable candidate for belief by the university’s own lights sends a clear signal to audience members that trans women’s political equality with cisgender women is importantly and *justifiably* contestable. For people who already hold prejudicial views about trans people, this contestability validates stereotypes—it presents itself as *further evidence* that transphobic stereotypes are accurate. Such contestability also provides direct evidence that such stereotypes are plausibly true to those who are undecided and looking to make up their minds.⁴⁵

One might object that while the imagined debate *may* rationalize stereotypes, the aforementioned connection between institutional legitimacy and stereotypes is not *necessary*. However, the link between institutional legitimacy and the rationalization of stereotypes does not need to be airtight on Moreau’s account—that such stereotypes are given justificatory backing through the debate is sufficient for the legitimacy to count as structural accommodation.

There is thus a clear link between the institutional legitimacy of transphobic views and the rationalization of trans people’s diminished social and political status. For these reasons, the institutional legitimacy of transphobic views structurally perpetuates the subordination of trans people. In order to successfully redress such subordination, we must redress the conditions that enable it to exist in perpetuity. One such condition is the institutional legitimacy of transphobic views. While some transphobic structural accommodations may be difficult or even impossible to address, institutionally delegitimizing transphobic views is in fact a possibility in many institutional contexts.

3. TRANSPHOBIC VIEWS, INSTITUTIONAL NORMS, AND ACADEMIC FREEDOM

Having addressed the first two premises of my argument, let me turn to the third: academic institutions can delegitimize transphobic views, at least in many contexts, in a manner that is not excessively burdensome. More specifically, I

45 Thus, having “balanced representation” (which is sometimes called *co-platforming*) still perpetuates the subordination of trans people because such balance implies transphobic views are on par with nontransphobic ones from the perspective of the curator of representation. For more, see Dembroff, Kukla, and Stryker, “Retraction Statement.”

argue that delegitimization aligns with widely endorsed institutional norms (section 3.1) and a robust notion of academic freedom (section 3.2). Along the way, I address the objection that encouraging *more* legitimized trans-affirming speech rather than *less* legitimized transphobic speech constitutes a viable alternative to delegitimization.

3.1. *Transphobic Views and Institutional Norms*

Delegitimizing transphobic views aligns with institutional norms and commitments that most academics, including many advocates for transphobic views, accept. Within an institution, a set of normative assumptions is required for the institution to achieve certain goals related to its flourishing (or even basic functioning). For example, in a racially integrated university, the premise that Black people are morally, politically, and epistemically equal to white people and deserve to be treated as such is taken for granted. Inquiry is closed with regard to the truth of this premise. Racial equality has become a *normative starting assumption*, one that has been deemed both true and necessary to successfully operate a racially integrated institution, with empirical and philosophical backing to justify such a decision. Such assumptions consequently commit the university to a normative ideal of racial equality, which carries with it various obligations regarding how to develop and enact institutional policies and procedures.

A university's set of normative starting assumptions and commitments is commonly thought to be compatible with its epistemic aims, even if a particular normative assumption is directed towards another goal such as racial integration. Robert Mark Simpson and Amia Srinivasan refer to these assumptions as "axioms that define the field."⁴⁶ While Simpson and Srinivasan refer to disciplinary subfields within academia, it is plausible that at least some premises (e.g., racial equality) are axiomatic from the perspective of not only disciplines like philosophy and sociology but also entire universities and other institutions.

Of course, many universities fail to live up to their stated normative commitments. Many universities vocally disavow white supremacy and express a normative commitment to racial equality. In such cases, I take it that the most blatantly white supremacist views, such as the view that people of European heritage are more intelligent than their non-European peers, are in fact institutionally illegitimate. However, within the purview of such institutions, there often exist practices and policies that nevertheless perpetuate white supremacist thinking, such as dismissing or otherwise undervaluing Indigenous or African scholarship. There might also be disagreement about whether a particular

46 Simpson and Srinivasan, "No Platforming," 201.

practice or policy indeed shirks a stated normative commitment. Thus, there can exist plenty of controversy surrounding an institution's normative starting assumptions, including the actions an institution must take to live up to the commitments that such assumptions entail.

However, what I take to be widely endorsed is an institution's making *some* normative starting assumptions and commitments, which in turn become axiomatic. We typically agree that there are contexts in which these assumptions and commitments are perfectly acceptable—namely, when these assumptions and commitments are needed to further a legitimate goal. Even if universities might not in practice behave in ways that perfectly align with their normative commitment to racial equality, we typically agree that the goal of racial integration justifies making certain normative claims about racial equality that are axiomatic from the perspective of the institution. In other words, *were* an institution to completely delegitimize white supremacist views, we would not view this as problematic.

To delegitimize transphobic views, then, is to place the validity of trans people's basic moral, epistemic, and political claims to gender self-determination within an institution's set of normative starting assumptions. Historically, whenever a new normative claim begins to make its way into this set, much resistance arises from those who do not stand to benefit from the addition. This resistance has occurred when considering whether to affirm the equality of cisgender men and women, Black and white people, and nonheterosexual and heterosexual people. Despite previous resistance, many institutions now consider assumptions of equality between these groups to be axiomatic. Such institutions have committed themselves to delegitimizing views that challenge these starting assumptions, even if they do not always perfectly follow through with this commitment. Views that explicitly contradict an institution's normative starting assumptions are not considered viable candidates for belief. If someone presents a valid argument that concludes or implies that women are morally, politically, or epistemically inferior to men, institutional actors assume the argument is unsound, and most do not bat an eye when they assume such unsoundness without carefully analyzing each premise.

So, there exists a set of normative starting assumptions that are required for an institution to meet certain legitimate goals. Such assumptions carry with them a normative commitment to deny legitimacy to certain views. Thus, there is an existing, commonly endorsed practice of institutions establishing a normative commitment to delegitimize certain views. This practice can be extended to include transphobic views. As Michelle Moody-Adams notes, the shared understandings of a particular community of academic inquiry “involve the notion that some ways of arguing, and some points of view, are simply not

worthy of recognition within the community of inquiry.”⁴⁷ Ultimately, then, the current normative commitments of an institution, along with the fact that the institutional legitimacy of transphobic views perpetuates the subordination of trans people, together justify the integration of trans-affirming normative premises into that institution’s set of starting assumptions.

3.2. Institutional Legitimacy and Academic Freedom

Delegitimizing transphobic views also aligns with a robust notion of academic freedom. It has been convincingly argued that academic freedom is importantly distinct from free speech broadly construed.⁴⁸ Theories about the value of free speech focus on the role of discourse in society and are often divided into three broad camps, which focus on how free expression underwrites truth-seeking processes, autonomy, and democratic values, respectively.⁴⁹ While theories of free speech inform approaches to academic freedom, the latter focus on a narrower set of protections with regard to academic teaching and research that protects academics from certain forms of political, administrative, or social interference.⁵⁰ Importantly, while the protections constitutive of academic freedom are broad, universities also give control to disciplinary experts in guiding various “communicative norms and practices” within communities of inquiry, creating an asymmetry between the scope of academic freedom and that of free speech.⁵¹ As Simpson notes, certain content-based regulations of speech are actually “integral to the form of intellectual work that the academic performs.”⁵² For an institution to consider some views to be unviable

47 Moody-Adams, “What’s So Special About Academic Freedom?” 106.

48 Simpson and Srinivasan, “No Platforming”; Moody-Adams, “What’s So Special About Academic Freedom?”; Van Alstyne, “The Specific Theory of Academic Freedom and the General Issue of Civil Liberty”; Simpson, “The Relation Between Academic Freedom and Free Speech”; Post, *Democracy, Expertise, and Academic Freedom*; and Fish, *Versions of Academic Freedom*.

49 For more on the relationship between free speech and truth seeking, see Mill, *On Liberty*; Brink, “Millian Principles, Freedom of Expression, and Hate Speech”; and Schauer, “Social Epistemology, Holocaust Denial, and the Post-Millian Calculus. For more on the relationship between free speech and autonomy, see Scanlon, “A Theory of Freedom of Expression”; Strauss, “Persuasion, Autonomy, and Freedom of Expression”; and Brison, “The Autonomy Defense of Free Speech.” For more on the relationship between democracy and free speech, see Meiklejohn, *Political Freedom*; Weinstein, “Participatory Democracy as the Central Value of American Free Speech Doctrine”; and Sunstein, *Democracy and the Problem of Free Speech*.

50 Simpson and Srinivasan, “No Platforming”; and Van Alstyne, “The Specific Theory of Academic Freedom and the General Issue of Civil Liberty.”

51 Simpson and Srinivasan, “No Platforming,” 196.

52 Simpson, “The Relation Between Academic Freedom and Free Speech,” 292.

candidates for belief is not only common practice, then, but inescapable given the nature of academic research. Some papers are not published because their content is considered unserious. Certain views are excluded from syllabi because they do not warrant serious consideration. In fact, plenty of views are institutionally illegitimate because of what Moody-Adams refers to as *practices of exclusion*, which “play a fundamental role in the structures that underwrite academic freedom.”⁵³

Those who seek to protect the promulgation of transphobic views in academic spaces frequently conflate a view’s institutional illegitimacy with a stifling of academic freedom even though these phenomena are not identical. I doubt, for example, that such people believe *all* research programs make a professor worthy of tenure, and *all* journal submissions are worthy of being published. As Simpson and Srinivasan emphatically note,

In the public square we tolerate the speech of flat-earth cranks, shills paid to undermine climate science, and revisionist historians who espouse conspiratorial misreadings of the evidence. As long as they don’t harass anyone we let them say their piece. But such people aren’t owed an opportunity to teach History 101 or publish in scientific journals, any more than they are owed a platform to address parliament or a corporate board meeting. It is permissible for disciplinary gatekeepers to exclude cranks and shills from valuable communicative platforms in academic contexts because effective teaching and research requires that communicative privileges be given to some and not others, based on people’s disciplinary competence.⁵⁴

Institutions need not deny people the ability to express their illegitimate views in certain contexts, including any and all noninstitutional ones. However, academic freedom does not entail that professors, speakers, and students are entitled to have every one of their expressed views taken seriously as viable candidates for belief, especially in contexts that imply institutional endorsement. Simpson and Srinivasan take things even further and argue that academics have a *responsibility* to determine which views should not be taken seriously as viable candidates for belief in service of promoting disciplinary knowledge.

Neither Simpson and Srinivasan nor I deny that a consequence of delegitimization is that some views are given less attention than others, and thus some instances of speech are stifled in the sense that they are less likely to spread and be adopted—that is often the point. This kind of stifling is ubiquitous and

53 Moody-Adams, “What’s So Special About Academic Freedom?” 106.

54 Simpson and Srinivasan, “No Platforming,” 195–96.

arguably necessary when it comes to academic work, even if such stifling is inappropriate in other domains of expression. A white supremacist's speech might be stifled in this weak sense when their article is not published in a philosophy journal, but their academic freedom is not, nor are their basic free speech rights infringed upon. Academics are entitled to effectively stifle white supremacist speech in contexts where institutional endorsement is implied, even if we are not entitled to stifle such speech in the public square. Thus, the distinction between academic freedom and free speech plays a crucial role in justifying the institutional delegitimization of certain views. Stifling academic speech by rejecting an article is not the same kind of regulation as legally suppressing or restricting such speech, the latter of which plausibly requires more justification than the former.

One might object in the following way. Perhaps not all journal articles should be published, and not all candidates should be hired. But what ought to determine our attitudes towards academic speech should have nothing to do with political or moral matters (including redressing subordination). Allowing reasons of subordination to influence whether a view is delegitimized, according to my objector, does not promote disciplinary knowledge. Worse, such permissiveness might even constitute a form of epistemic pollution, compromising the truth-seeking aims of academia. Rather, my objector might argue, views should be evaluated solely on their merits and other disciplinary standards like relevance, methodology, and clarity. I refer to my objector's position as *moral/political weightlessness*—moral and political reasons must not be given any weight whatsoever when evaluating academic speech.

The strongest defense of moral/political weightlessness leans on epistemic defenses of free speech, in particular those found in Mill's *On Liberty*.⁵⁵ Mill defends a robust model of freedom of expression, including the expression of views that we consider certainly false and patently reprehensible. Should either the government (through laws) or the public (through social stigma and sanction) persecute those who express unpopular opinions (including transphobic ones), a variety of deleterious epistemic, moral, and political effects will occur. Further, even though academic freedom is not identical to free speech, Frederick Schauer argues that given the uniquely epistemic aims of academic inquiry and research (which Schauer distinguishes from universities more broadly),

55 Of course, Mill does not present epistemic arguments for free speech only, and epistemic approaches are not the only ones around. However, I take other approaches to free speech, such as those based on autonomy and democracy, to more easily support delegitimization. So I focus here on views that give special importance to safeguarding truth-seeking processes, given that they pose the strongest challenge to delegitimization.

Mill's arguments lend support to relegating nonepistemic considerations "to a decidedly secondary status" in such contexts.⁵⁶

A supporter of moral/political weightlessness, drawing upon Mill, will likely say that if transphobic views are indeed unviable candidates for belief, then we should not be afraid of their being discussed in any context at any time, including those that imply institutional endorsement. The truth will eventually win out, they say, and free speech will have guided the way. Further, they say, it is to trans people's benefit to allow transphobic views to be published and taken seriously because without such vigorous debate, citizens might not truly appreciate the validity of trans people's identities.⁵⁷

This leads us back to the previously mentioned objection that institutions need not delegitimize transphobic views in order to stop perpetuating the subordination of trans people. For many Millians, the best solution to addressing transphobic speech's subordinating potential is not less speech but *more* speech. As the response goes, more transphobic speech will lead to more of what has been termed *counterspeech* from trans-affirming people, and the ensuing dialectic will end trans people's subordination that much faster.⁵⁸ If transphobic views are delegitimized, then the strongest versions of these views may go unexpressed, since academics would not be able to get them published in serious journals. Trans-affirming scholars would then be unable to successfully debunk the best arguments possible (i.e., produce the strongest counterspeech), which could have persuaded many people that transphobic views are false. So the consequences of delegitimization might actually be *worse* in the long run, even from the perspective of redressing the subordination of trans people. At the very least, encouraging counterspeech might be thought to provide a sufficient institutional alternative to delegitimization that could ameliorate trans people's subordination. For my objector, then, even if there exist reasons to institutionally delegitimize transphobic views, such reasons are reliably outweighed by a panoply of Millian reasons, which ultimately speak in favor of moral/political weightlessness.

56 Schauer, "Social Epistemology, Holocaust Denial, and the Post-Millian Calculus," 140.

57 Justice Antonin Scalia makes a similar point in his dissenting opinion in the US Supreme Court Case *Obergefell v. Hodges* 576 U.S. 644 (2015), arguing that the majority opinion granting same-sex couples the right to marry denied the American public the opportunity to be persuaded through vigorous debate.

58 This perspective is exemplified in Justice Louis Brandeis's opinion in the US Supreme Court Case *Whitney v. California* 274 U.S. 357 (1927). For more on counterspeech, see McGowan, "Responding to Harmful Speech"; Bowman and Gelber, "Responding to Hate Speech"; and Tirrell, "Toxic Misogyny and the Limits of Counterspeech."

I offer three reasons to reject moral/political weightlessness, of which the latter two engage directly with Mill. First, while I do not claim to provide an exact test for which moral or political reasons plausibly ought to be allowed into our deliberations about academic speech, at least *some* such reasons are generally already considered fair game for justifying certain content-based regulations of speech. For example, almost all sets of disciplinary norms and practices include normative expectations surrounding respect and professionalism. Even if justified epistemically, norms of respect and civility in academic conduct are undeniably moral. We expect our fellow academics to avoid personal attacks, the divulging of sensitive personal information, and objectionably dismissive tones when performing academic work, even when doing so does not make a difference to the plausibility, novelty, or clarity of a given argument.

Philosopher Stewart Cohen, for example, resigned as editor-in-chief of the journal *Philosophical Studies* because an article by trans philosopher Robin Dembroff contained perceived “unprofessional personal attacks” against philosopher Alex Byrne, who advocates for (on my account) transphobic views.⁵⁹ The “attacks” presumably appeared to violate moral norms that Cohen considered integral to the discipline of philosophy. Similarly, gender-critical feminists objected to the inclusion of the word ‘TERF’ (Trans-Exclusionary Radical Feminist) in an article for the journal *Philosophy and Phenomenological Research*, arguing that the term “denigrate[s] and dismiss[es]” those who advocate for trans-exclusionary policies.⁶⁰ Clearly, then, even those who are not trans affirming believe that certain norms of respect ought to be enforced, and those norms can even warrant public denouncement, calls for apology, or social sanctions for those who violate them.

Enforcing norms of respect falls squarely within the disciplinary control that academics possess over certain instances of academic speech. In other words, such enforcement does not violate standard approaches to academic freedom. Enforcing such norms is generally considered a good thing, even though such enforcement may lead to fewer papers with novel, interesting contributions being published in the style in which some researchers prefer.

To delegitimize transphobic views is arguably a way of enforcing a norm of respect. Trans people are subordinated and disrespected, and they should not receive such treatment. The legitimacy of transphobic views perpetuates their subordination and justifies their being disrespected. Thus, enforcing the delegitimization of transphobic views is a way of enforcing norms of respect

59 The article in question was Dembroff, “Escaping the Natural Attitude About Gender.” For more on the resignation, see Weinberg, “A Resignation at Philosophical Studies and a Reply from the Editors (Updated with Comments from Cohen, Dembroff, Byrne).”

60 Flaherty, “TERF’ War.”

for trans people. Those who object to enforcing norms of respect in this case but agree that *some* norms of respect can be considered when engaging in regulatory deliberation must provide a principled reason as to why *their* favored norms of respect are admissible while norms of respect for trans people are not.

The advocate for moral/political weightlessness may push back by distinguishing between *procedure* and *substance*. Perhaps norms of respect apply to only *how* we argue, not *what* we argue. Word choices might be regulated, but the premises they represent cannot be. Yet certain premises are *necessarily* disrespectful, regardless of how politely phrased. Claiming that white people are most likely just the slightest bit better than members of other races (though those people are great, too) still advances a white supremacist view. To advance a white supremacist view disrespects people who are not white. Additionally, in the case of Cohen, the apparent disrespect that led to his resignation was not specific word choice but Dembroff's decision to call into question Byrne's potential political motivations and critique Byrne's lack of engagement with relevant academic literature. In doing so, Dembroff explicitly employs a suggestion Byrne himself makes in his original paper—to urge caution when someone is personally invested in the truth of a particular claim and then testifies that the claim is true.⁶¹ These argumentative moves play a substantive role in the paper and are not only a matter of *how* Dembroff is arguing. I do not think that Dembroff is actually disrespectful for making the moves they make. Rather, I use this example to illustrate how, at least in some cases, it is *substantive content* that is arguably disrespectful according to disciplinary norms, irrespective of how such content is expressed. Enforcing a norm of respect, then, might warrant a content-based restriction of speech.

Second, delegitimizing transphobic views can plausibly be thought to *advance* disciplinary knowledge and promote a healthier epistemic environment, despite accusations of the contrary. As argued above, there is a disanalogy between questioning the axioms of Newtonian physics and questioning the validity of trans people's political claims to gender self-determination. Normative cases that question the moral, epistemic, or political status of subordinated groups are unique because truth seeking *itself* is compromised when such inquiries are open. Regardless of whether a particular transphobic view implies that trans people as a group are less credible, part of what it is to be subordinated is to have less social power and less *de facto* authority. Thus, as long as such a power differential remains, trans people's ability to have any of their views taken as seriously as cisgender people's in relevant social situations

61 Dembroff, "Escaping the Natural Attitude About Gender."

is undermined. They are, to use Langton's word, silenced.⁶² This undermining of credibility subsequently compromises an institution's broader epistemic environment, as it "presents a conflict within liberty itself," between the right to speak (and be taken seriously) of the silencing group and the silenced.⁶³

David Brink makes a similar argument regarding the effects of hate speech from a Millian point of view—the victims of hate speech are effectively silenced when such speech "contributes to a hostile environment that undermines the culture of mutual respect necessary for effective expression and fair consideration of diverse points of view."⁶⁴ As Brink argues, Mill's defense of free expression is based on the immense value (including epistemic value) of one's being able to exercise and develop one's various *deliberative capacities*. Policies regulating hate speech can plausibly be considered a way of safeguarding such capacities and, as such, carve out "a well-motivated exception to the usual prohibition on content-specific regulation of speech."⁶⁵ While I neither argue that all transphobic speech is hate speech nor advocate for the legal regulation of transphobic views, institutionally delegitimizing transphobic views can be similarly viewed as a way of protecting the deliberative capacities of an institution's members, including those who are not transgender. Such protection carries distinctly epistemic benefits without undermining anyone's fundamental rights.

There is thus an important sense in which advocates for moral/political weightlessness, who often claim to be paragons of unadulterated truth seeking, protect a narrow conception of academic freedom while undermining many valuable epistemic goods, at least within our nonideal world. As long as an agent's social identity objectionably undercuts their epistemic authority, dominant social groups remain one step ahead in the supposed free marketplace of ideas. The marketplace, then, is free only for those whose epistemic status is not in question and for those whose speech acts are reliably given uptake.⁶⁶

These considerations cast doubt on the Millian claim that more speech is reliably better than less, considering the aims of *either* redressing subordination *or* truth-seeking. As Mary Kate McGowan argues, when certain forms of speech epistemically disable members of marginalized groups, it is far from

62 See the argument in section 2.3 above.

63 Langton, "Speech Acts and Unspeakable Acts," 329.

64 Brink, "Millian Principles, Freedom of Expression, and Hate Speech," 141.

65 Brink, "Millian Principles, Freedom of Expression, and Hate Speech," 142.

66 For more thorough critiques of the epistemic problems with a free marketplace of ideas, see Goldman and Cox, "Speech, Truth, and the Free Market for Ideas"; and Ingber, "The Marketplace of Ideas."

clear that the group's attempts at counterspeech are even remotely likely to succeed.⁶⁷ Simpson builds on McGowan's earlier work to argue that it is far easier to insert discriminatory speech into a debate than to remove it because it is easier to make something salient in speech than it is to make it unsalient.⁶⁸ This concern is especially relevant when considering speech endorsed by academic journals or universities, given the authority of such venues to make speech salient in a lasting way.⁶⁹ So long as transphobic views remain legitimized, then, merely encouraging counterspeech is liable to be an unreliable strategy at best and counterproductive at worst. Delegitimization, on the other hand, is a viable strategy when it comes to both protecting an institution's deliberative capacities and ameliorating the subordination of trans people.

Furthermore, we do not need to legitimize transphobic views in order to reap the epistemic and political benefits of discussing them, even in journal articles. Many people continue to hold white supremacist views, for example, but the solution to changing such people's minds does not lie in publishing more papers advocating for such views in well-respected journals. Counterspeech can be produced that discusses (and debunks) discriminatory views without thereby considering such views to be viable candidates for belief. It is true that such arguments come from those who believe they are false, which might make the arguments less passionate and carefully crafted. It may also be the case that those of us in the business of academic publishing ought to be more sensitive to the public relevance of journal submissions, since otherwise articles combatting discriminatory views might be seen as uninteresting or obvious from a disciplinary perspective. However, we can be sensitive to such matters and adjust accordingly without thereby endorsing discriminatory views as viable candidates for belief. So one can embrace the idea that generally, more arguments ought to be published that *discuss* transphobic views while rejecting the notion that accomplishing this goal requires institutionally legitimizing such views.

67 McGowan argues that the "more speech" response, as she calls it, generally fails to accurately depict how language is used in many of the contexts in which counterspeech is claimed to be the optimal solution ("Responding to Harmful Speech").

68 Simpson, "Un-Ringing the Bell."

69 There is also an empirical question about the efficacy of counterspeech, of which there is simply insufficient high-quality scholarship with which to make any conclusions (Cepolaro, Lepoutre, and Simpson, "Counterspeech"). If robust empirical evidence were to arise that counterspeech is highly effective at counteracting transphobic attitudes, then perhaps this could weaken the obligation for some institutions to delegitimize transphobic views. Without such evidence, however, I remain highly skeptical of counterspeech as a genuine solution for either redressing subordination or cultivating an epistemically just environment.

In order to cultivate a more epistemically healthy environment, then, institutions ought to create and sustain an epistemically *just* environment, which requires eliminating the association of arbitrary traits like race or gender identity with reduced epistemic credibility (i.e., eliminating epistemic injustice).⁷⁰ An epistemically just environment is significantly harder (if not impossible) to cultivate while transphobic views are institutionally legitimate, even with the production of counterspeech. There is thus a higher-order epistemic reason for institutional actors to allow considerations of subordination to impact whether transphobic views are ascribed legitimacy. Additionally, we can soundly reject the plausibility that counterspeech serves as a viable alternative to delegitimization, completing the defense of my first premise: if an institution does not delegitimize transphobic views, then it perpetuates the subordination of trans people.

The third reason to reject moral/political weightlessness is that many contemporary forms of academic speech arguably cross a line from *speech* into *conduct*, opening such actions up to limits that Mill himself establishes in the fourth chapter of *On Liberty*. According to Mill, once “a person’s *conduct* affects prejudicially the interests of others, society has jurisdiction over it, and the question whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion.”⁷¹ Publishing a journal article, hiring a job candidate, and inviting a speaker are all actions that, while involving speech, cross a threshold from allowing public-square soapboxing to explicit acts of endorsement. Officially endorsing a view as legitimate (e.g., publishing the view in an academic journal) is notably distinct from merely providing a platform for the view to be expressed (e.g., allowing the view to be published on social media). Acts of endorsement are plausibly conduct of the sort that Mill mentions, which implies that delegitimizing transphobic views does not fundamentally undermine anyone’s basic rights to free speech that Mill himself advocates for.

So, if the institutional legitimacy of transphobic views prejudicially affects the basic interests of trans people, while the institutional delegitimization of such views does not undermine anyone’s basic rights to free speech, then on Millian reasoning, institutional actors are in fact warranted in acting upon such moral and political reasons in academia. Considering academic conduct to be more than traditional speech thus speaks against moral/political weightlessness on Millian grounds.

70 See Fricker, *Epistemic Injustice*; Anderson, “Epistemic Justice as a Virtue of Social Institutions”; and Langton, “Speech Acts and Unspeakable Acts.”

71 Mill, *On Liberty*, 127.

The reasons above favor an approach to academic freedom that allows reasons of subordination to be considered when making decisions about academic speech. A trans-inclusive approach to academic freedom is robust and does not involve undue restrictions of freedom by the standards and practices established by most academics with relevant expertise.

4. CONCLUSION

Transphobic views, according to my account, are those that express or imply that being transgender either (i) justifies being denied power and *de facto* authority on par with that of cisgender people or (ii) warrants greater censure or lesser consideration (i.e., disrespect) than being cisgender. Institutions ought to stop taking such views seriously as viable candidates for belief for three main reasons. First, unless they delegitimize transphobic views, academic institutions structurally perpetuate the subordination of trans people. The institutional legitimacy of transphobic views upholds the subordination of trans people by acting as a structural accommodation that works in tandem with stereotypes to rationalize trans people's lack of both power and *de facto* authority. Second, institutions ought to stop perpetuating subordination through their own behavior when stopping is not too burdensome, i.e., it would not compromise the integrity of the institution nor violate norms of academic freedom. Third, institutional delegitimization aligns with both common institutional practices and a robust notion of academic freedom, though it does require abandoning an approach to the latter that demands moral and political reasons be given no weight whatsoever in determining which speech to take seriously. Ultimately, then, the *pro tanto* obligation to delegitimize transphobic views generally outweighs reasons for neutrality. I have sketched a picture as to what delegitimization might look like in practice, while leaving many questions unanswered regarding exactly how this process is best achieved.

It is worth emphasizing the *pro tanto* nature of the obligation I have defended. While delegitimization is not always excessively burdensome, in some cases it might be. Warranted delegitimization should not compromise the integrity of an institution, and in some cases delegitimization could risk doing exactly that, making the obligation to delegitimize defeasible. Take journals that publish empirical views. The integrity of a social science journal may be at risk were it to reject outright any empirical result that lent justificatory support to transphobic policies, such as a high-quality study that finds trans identity to be associated with criminality. As such, it is plausible that empirical journals ought to evaluate findings based exclusively on the quality of methodology and other disciplinary factors in order to maintain social trust and scientific integrity.

There are also important logistical challenges to consider when contemplating how exactly to delegitimize a view, which might speak in favor of delegitimizing with notable caution. For example, there might be strategic incentives from certain parties to push for more views being considered transphobic rather than less, which could lead to unjustifiable censorship. This is a serious worry, as institutions should actively prevent a view's being suppressed merely because certain people in power disagree with it. Proponents of delegitimization must take such challenges into account.

However, there are reasons to suspect that such logistical challenges can be overcome. As I have argued above, institutions already delegitimize views whether we like it or not, often rather subtly. To explicitly delegitimize a view as I have suggested allows for similarly explicit *contestation* when we suspect someone is merely trying to suppress unpopular speech. Decision makers in turn must be prepared to justify their categorizing a view as transphobic with genuine reasons relating to the view's connection to subordination. In cases where such reasons cannot be presented, they may be unjustified in refusing the view uptake. While there may be reasons to delegitimize views, there are also reasons to be cautious when employing this tool and to take corrective action when we suspect it is being abused. Avenues for contesting a view's status as transphobic must exist, then, to maintain a sufficient level of transparency and accountability for institutional decision makers.

It is also worth emphasizing that in arguing for an institutional obligation to delegitimize transphobic views, I do not mean to dismiss the work that trans people themselves have done and will continue to do to foster social equality.⁷² While institutions have a valuable role to play in this liberatory project, trans people themselves deserve to influence and guide these developments. As such, any institutional project of delegitimization should be taken up in a collaborative and deferential manner with and for trans communities, empowering trans people and never behaving in a paternalistic or otherwise condescending manner.

Delegitimization as a strategy to redress subordination should be considered viable not only in the case of transphobic views. Something like delegitimization has already occurred when it comes to overt white supremacy and extreme forms of misogyny. Most universities simply do not consider such views to be viable candidates for belief. Delegitimization may likewise prove to be a useful tool in fostering social equality for other groups. In fact, if my arguments are successful, universities (and other institutions) may have strong reasons to delegitimize *all* views that justify the disempowerment or disrespect

72 See Zurn, "How We Make Each Other."

of any unjustly subordinated group, at least when the legitimacy of such views works in tandem with stereotypes to rationalize the group's lack of social and political power. Such an implication is quite broad.

Nevertheless, as with the case of transphobic views, I urge caution when embarking on any delegitimizing project. Given the second premise of my argument, we ought to delegitimize only when doing so does not constitute an excessive burden. Additionally, we should take care to ensure that we delegitimize only those views that actually perpetuate subordination. We should perhaps risk delegitimizing too few views rather than too many while ensuring sufficient transparency with regard to institutional decision-making. With proper care, however, delegitimization can prove a valuable strategy that sufficiently honors the imperative of social equality alongside the value of academic freedom.⁷³

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