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■ Also in this issue: “Biblical Lessons on Third-Party Reproduction” by Richard Whitekettle ■

## THE INCOHERENCE OF GENDER AS A SOCIAL CONSTRUCT

John Skalko



People can certainly attempt to create new words or try to convince others that the well-known sounds or written squiggles that signify terms and ideas have taken on a new meaning. This is the essence of a social construct, that is, an entity whose meaning “is based on the collective views of a [given] society rather than existing naturally.”<sup>1</sup> However, the new understanding of a term does not mean that its older meaning has gone out of existence or is false.

Say there was a society in which 20 percent of the population began using the word *red* in a novel manner. For centuries everyone in that society had used *red* to indicate a particular color. But then a group decides that *red* is distinct from the color spectrum. When asked what is meant by *red*, members of this group reply, “It is not a color, but used to indicate that we are members of the labor party.” What would the other 80 percent of language users say about the 20 percent who insist on this novel meaning of the word *red*? They certainly would not say they are using *red* in the same way as the labor party is using *red*. The two groups are using the terms in an equivocal manner, much as how for the Italians *burro* means butter, but for the Mexicans it means donkey.

Today many people are attempting to use the word *gender* in a novel way. The majority (54 percent) of English users in America take it that the term *gender* can indicate biological sex.<sup>2</sup> A single individual alone cannot create a new word until other linguistics users understand his or her meaning. Likewise, a biological man with transgenderism may use *gender* in a purely private manner only definable by him, but nobody could understand his meaning unless other linguistic users understand it. What could he mean by

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claiming his *gender* is female? And what do people mean by *gender* when they speak of transgenderism, gender identity, genderqueer, gender questioning, cisgender, and pangender? A prominent answer given by many both inside and outside of the academy is that gender is a social construct.<sup>3</sup> But if gender is a social construct, what differentiates it from other social constructs such as money, citizenship, caste systems, and the special Italian police force called the Carabinieri? What then is gender? In this short piece, I argue that whatever this difference may be, there are compelling reasons to deny that it is a social construct at all.

### What Is a Social Construct?

Before analyzing the view that gender is a social construct, we must first analyze what a social construct is. We need not give all the details of what distinguishes one social construct from another or of what purportedly makes gender a social construct. We merely endeavor to show what a social construct in general is. Social constructs are entities whose meaning is based on agreement by members of a given society. The value of a specific currency, the role of a sheriff, and the nature of Santa Claus all are social constructs. That is not to say all of these entities are complete fictions. Your local street gang knows as well as you that the sheriff is not a complete fiction. He is real. But what makes someone a sheriff is (at least in part) a social construct. The exact requirements for becoming a sheriff are, of course, dictated by law, but many of these requirements legitimately vary from jurisdiction to jurisdiction and from country to country. What a sheriff is varies greatly depending on whether you are in the United States or the United Kingdom. A given society then defines what a sheriff is; sometimes a small number of individuals, such as elected officials, will suffice for specifying the role of the sheriff, but sometimes a larger number may be required, for example, if it is decided by popular vote.

### Cultural Relativity of Social Constructs

Social constructs vary from society to society. Sheriffs in Scotland are judges; some sheriffs in Ireland oversee elections; and in the United States sheriffs are law enforcement officers.<sup>4</sup> Which version of sheriff is correct? All of them, of course. Since social constructs are relative to any given society, any two societies that differ over the same social construct are both right. How does this apply to the case of gender? If gender is a social construct, then what it

is can vary from society to society. Furthermore, each given society must be right about its definition of *gender*. If the social construction of gender in Nigeria is identical with biological sex,<sup>5</sup> then the Nigerians are right no matter how much you wish to disagree with them on the basis of your American biases. To say they are wrong would be much like arguing that the Irish construction of sheriff is wrong or that Australians cannot let Santa Claus wear red swim trunks during Christmas.

### Geographic Relativity of Socially Constructed Gender

The social relativity of gender is only the first of our difficulties. If gender is a social construct, then every species or kind of gender—pangender, cisgender, bigender, transgender, genderqueer, and so on—is socially constructed. But as social constructs they would only be relative to any given society in which they exist. This means that if you moved to a society—say Nigeria—where transgender is not considered to be a distinct gender, then transgenderism in that society would not exist.

So while in certain social groups within the United States a man with transgenderism could truthfully say “I am a woman” prior to his surgery—*woman* here refers to the socially constructed gender and not the biology—when he travels to Nigeria, that statement would be false relative to Nigerian culture. Even within the United States, if enough people dropped out of the trans movement and identified gender with biological sex, Jenner could no longer truly be said to have the gender of a woman. In short, if gender is a social construct, then a person’s gender could change depending on physical location and the surrounding culture, even without his or her consent.

### Instability of Socially Constructed Gender

Many who support the transgender movement claim that gender is innate and unchangeable.<sup>6</sup> But social constructs are not innate, nor are they unchangeable.<sup>7</sup> No Irishman was born a sheriff, nor has the social construction of the Irish sheriff always existed. Furthermore, what a sheriff is has evolved over time. If gender is a social construct, then gender must change over time relative to the given society in which it occurs, and over different times, the same society could hold contradictory views about the details of the social construct. If gender is a social construct, it cannot be completely unchanging, since any given society can change.

### Paradoxical Equivalence of Gender and Biological Sex

A final difficulty looms for the social-construction view. A society is always right about its social constructs; for a given society is by definition the one who defines what a given social construct is. As much as we may not like the Irish version of sheriff, the Irish are right about their definition. We may argue that they have not paid their sheriffs adequately, that their sheriffs should take on another function, or that they ought to abolish the office of sheriff

altogether, but even then their current social construct would not change unless the Irish society decided it would change. Even if the Irish went out of existence, the Irish construct of sheriff would still exist in historical memory. Even if the Irish fired all sheriffs, the social construct could still remain within social or historical consciousness. Even if the Irish redefined the office of sheriff to take on radically new roles, the old office would have still existed as a social construct and would continue to exist in historical memory. A given society can never be wrong about its definition of its own social constructs.

Likewise, if a given society defines gender as identical with biological sex, then they are right. We may argue with them that they ought to change their social construct or that their social construct is hateful in our particular circle of friends, but we have no more right to our socially constructed definition than they do to theirs.

### An Incoherent Position

In short, if gender is a social construct, then (1) gender is culturally relative, (2) any society that defines gender as identical with biological sex must be right, (3) transgenderism does not exist in all places, and (4) gender is not unchanging. Some things are truly culturally relative. If gender is one of them, then your claim that gender is a social construct is true only relative to your particular social group. But it is not true for mine.

### Notes

1. See MacMillan Dictionary, s.v. “social construct,” accessed February 25, 2020, <https://www.macmillandictionary.com/us/dictionary/american/social-construct>.
2. See Anna Brown, “Republicans, Democrats Have Starkly Different Views on Transgender Issues,” Pew Research Center, November 8, 2017, <https://www.pewresearch.org/fact-tank/2017/11/08/transgender-issues-divide-republicans-and-democrats/>. “Overall, roughly half of Americans (54%) say that whether someone is a man or a woman is determined by the sex they were assigned at birth, while 44% say someone can be a man or a woman even if that is different from the sex they were assigned at birth.”
3. “What Does Transgender Mean,” American Psychological Association, accessed February 26, 2020, <http://www.apa.org/topics/lgbt/transgender.aspx>.
4. “Sheriffs,” Judiciary of Scotland, accessed February 24, 2020, <http://www.scotland-judiciary.org.uk/36/0/Sheriffs>; and “Explainer: Who and What Are Ireland’s Sheriffs?,” *TheJournal.ie*, August 5, 2012, <https://www.thejournal.ie/explainer-irelands-sheriffs-541570-Aug2012/>.
5. See Immigration and Refugee Board of Canada, Research Directorate, *The Situation of Sexual and Gender Minorities in Nigeria (2014–2018)* (Ottawa: IRB, 2019), §2(6) and (8).
6. See “Transgender FAQ,” Human Rights Campaign, accessed February 26, 2020, <https://www.hrc.org/resources/transgender-faq>; and Alyssa Rosenberg, “Bruce Jenner Interview Proves the Unpredictable Power of Coming Out,” *Washington Post*, April 27, 2015, <https://www.washingtonpost.com/news/act-four/wp/2015/04/27/bruce-jenner-interview-proves-the-unpredictable-power-of-coming-out/>.
7. This section is based on Adam Groza and Ben Arbour, “3 Fatal Flaws in the ‘Gender as Social Construct’ Position,” Ethics and Religious Liberty Commission of the Southern Baptist Convention, May 25, 2018, <https://erlc.com/resource-library/articles/3-fatal-flaws-in-the-gender-as-social-construct-position>.

## BIBLICAL LESSONS ON THIRD-PARTY REPRODUCTION

Richard Whitekettle



A friend wrote to me recently about someone she knows who is “celebrating the new baby of his son and his son’s husband on social media.” For this to occur, a woman had to contribute the ovum, and a woman, perhaps the one who contributed the ovum, carried the child for nine months and gave birth. This brought to mind a broadcast on National Public Radio several years ago: “The sperm came from Israel. It was frozen and flown to Thailand, where a South African egg donor awaited. After the egg was fertilized, the embryo traveled to Nepal and was implanted in the Indian woman who agreed to serve as the surrogate mother.”<sup>1</sup> These stories illustrate third-party reproduction, a process which uses donated eggs, sperm, embryos, and surrogate gestational carriers to create a child for heterosexual couples, same-sex couples, or even individuals to raise.

In her note about her acquaintance’s social media celebration, my friend observed that there was “zero mention of a mother. Some woman bore that child for 9 months and gave birth. The woman exists. The woman matters. The woman should not be erased.” But erasing the surrogate woman is, in almost all cases, what happens with surrogacy.<sup>2</sup> Once their contribution is made, sperm donors, ovum donors, embryo donors, and surrogates all disappear.<sup>3</sup>

### Four Biblical Stories

The Bible provides us with some insights about how to think about third-party reproduction in today’s world, specifically the erasure of the third party from consciousness following birth. This comes through four stories in which a third party is enlisted to conceive a child for a childless couple. This reproductive strategy was intended to deal with problems childlessness created in ancient Israel involving the disposition of property and inheritance, the preservation of a patrilineage, and the need for female honor, status, and affection. Tellingly, the biblical writers never associate the child with the childless person, but with his or her biological mother and father. The people we today would call third parties were—contrary to contemporary convention—the real parents of the child from the perspective of the biblical authors.

In the first story, God promised Abraham that he would have descendants (Gen. 12:2). Unable to conceive a child,

Abraham’s wife Sarah gave her female servant Hagar to Abraham as a wife, saying, “It may be that I shall obtain children by her” (Gen. 16:2). Hagar then conceived and gave birth to a son named Ishmael. Notably, the biblical writer speaks of Hagar, not Sarah, as having a son for Abraham, and Ishmael is called the son of Hagar, not Sarah (Gen. 16:15–16).

In the second story, Jacob’s wife Rachel was unable to conceive, so she gave her female servant Bilhah to Jacob as a wife. Bilhah then bore two sons with Jacob. Jacob’s other wife Leah bore several sons with him, but when she stopped having children for a time, she gave her female servant Zilpah to Jacob as a wife to bear children for her. Leah’s rationale for this was presumably similar to Rachel’s. Zilpah would bear children for her. Zilpah then bore two sons with Jacob (Gen. 30:3–13). Rachel and Leah thought of Bilhah and Zilpah as surrogates to bear children for them and as people through whom they could build families. The biblical writer, however, refers to the children whom Bilhah and Zilpah bore as the sons of Bilhah and the sons of Zilpah and lists them alongside the biological sons of Rachel and sons of Leah (Gen. 35:23–26).

In the third story, Judah’s son Er was married to a woman named Tamar. God put Er to death for his wickedness, and he died childless. Judah indicated that another one of his sons named Shelah would eventually take Tamar as his wife—presumably to raise up offspring for Er—but this never happened. Tamar then disguised herself as a prostitute and orchestrated a sexual encounter with her father-in-law Judah to produce a child for her dead husband. She conceived and gave birth to twin sons, Perez (who was an ancestor of Jesus) and Zerah. But the biblical writers identify the twin boys born from this liaison as the children of Judah not of Er (Gen. 38:11–30, 46:12; Matt. 1:3).

In the fourth story, Boaz indicated that a child born to him and Ruth would be understood as the son of Ruth’s dead husband Mahlon. And when Ruth and Boaz had a son, Obed (who was an ancestor of Jesus), the local women said that the childless Naomi (Ruth’s mother-in-law) now had a son. The biblical writers, however, refer to Boaz and Ruth, not Mahlon or Naomi, as the child’s parents (Ruth 4:10, 21; Matt. 1:5; Luke 3:32).

The biblical writers regard a woman who gestates and gives birth to a child to be the mother of that child. This is also seen in Psalm 139 where God is described as forming a human being in its mother’s womb. (See also Job 1:21.) Nor is the woman merely a vessel or gestational carrier for patrilineage. Rather, within her body is a spring or fountain (Lev. 20:18). The Hebrew word for fountain is *māqôr*. Unfortunately, the nuance of spring or fountain is often lost in translations of these passages. The blood which originates in this spring, and which flows from the female body during menstruation, is understood to contribute to the formation of a new human being. *Māqôr* springs are associated with life and with living water (Ps. 36:9; Prov. 14:27; Jer. 2:13). Thus, as a mother, the woman contributes material to the formation of the child she carries in her womb.

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Similarly, the biblical writers regard a man who inseminates a woman with his seed (Gen. 38:8-9; Lev. 15:16-18) to be the father of the child. This is also seen when Isaiah and his wife (the prophetess) have sex; she conceives and gives birth to a child. A forecast is then given about what will take place before the child knows how to say “my father” and “my mother,” a reference to Isaiah as the child’s father and to his wife as the child’s mother (Isa. 8:3-4).

### Parenthood and Reproductive Technology

If one approaches third-party reproduction in today’s world from a biblical perspective, then (1) the woman who is both the ovum donor and the surrogate is the mother of the child; (2) the woman who is the ovum donor and the woman who is the surrogate are the mothers of the child; (3) the man who is the sperm donor is the father of the child; and (4) embryo donors are the mother and father of the child they have already procreated.<sup>4</sup>

Third-party agents are erased from the consciousness of those who raise the child because these children are produced in a laboratory that deliberately excludes and de-identifies the maternal and paternal lineages that are given such stress in the Bible. But the child was created and given life by a mother and a father (and God, of course), and they should be remembered as such and so honored. This is done with an adopted child’s biological mother and father when they are recognized and remembered as the child’s birth, or biological, parents.

Furthermore, third-party individuals should not willfully ignore or erase from their own consciousness the fact that they are parents, nor should others try to convince them to do so. They did not, after all, contribute some inert substance or sterile space from which a child was mechanically

constructed. Rather, a living, bodily, individual human being was created and nurtured out of their own living, bodily, individual human selves. Some third-party agents cannot erase from their consciousness the child they helped to create, and they come to regret their roles.<sup>5</sup>

The biblical writers identified the child’s biological mother and father as his or her parents. Given that these writers were divinely inspired, then God identifies and remembers them as such too. We should do the same.

### Notes

1. Emily Harris, “Israeli Dads Welcome Surrogate-Born Baby in Nepal on Earthquake Day,” *National Public Radio*, April 29, 2015, <https://www.npr.org/sections/goatsandsoda/2015/04/29/403077305/israeli-dads-welcome-surrogate-born-baby-in-nepal-on-earthquake-day>.
2. See Selena Ewing, “The Suffering of Surrogacy: A Veteran Feminist Spells It Out,” *MercatorNet*, January 15, 2018, <https://www.mercatornet.com/features/view/the-suffering-of-surrogacy-a-veteran-feminist-spells-it-out%C2%A0>.
3. See Katy Faust, “It’s Time to Put #ThemBeforeUs: The Global Movement for Children’s Rights,” *Public Discourse*, January 20, 2019, <https://www.thepublicdiscourse.com/2019/01/48302/>.
4. The fact that a child could have more than one mother is, of course, another problem with third-party reproduction. This, along with other problems associated with and created by third-party reproduction, is beyond the scope of this essay. A good resource for information regarding the problems associated with and created by third-party reproduction is “Issues,” Center for Bioethics and Culture Network, accessed February 25, 2020, <http://www.cbc-network.org/issues/>.
5. See Jennifer Lahl, “Same-Sex Marriage and the Baby Business,” *American Interest*, October 30, 2015, <https://www.the-american-interest.com/2015/10/30/same-sex-marriage-and-the-baby-business/>; and Linzie Janis and Chris Murphey, “‘I Felt Like Someone That Sold My Child’: When Women Regret Being Surrogates,” *ABC News*, August 20, 2014, <https://abcnews.go.com/Health/felt-sold-child-women-regret-surrogates/story?id=25042805>.

