

UNIVERSITY OF OKLAHOMA  
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HOW THE MEDICAL, LEGAL, AND RELIGIOUS SYSTEMS SHAPED GENDER FOR  
HERMAPHRODITES AND GENDER NONCONFORMISTS TO SUPPRESS TRANS  
PRESENCE AND ENFORCE HETEROSEXUALITY

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## **Abstract**

Although sexuality is widely accepted across the United States, being transgender or a gender nonconformist is not. Those across the LGBTQ+ spectrum are not on equal footing and many wonder why. Members of the transgender community are often subject to immense backlash, both socially and systemically. There are hundreds of anti-trans laws active in the United States, ranging from topics such as healthcare to sports. Many believe that being transgender is a new trend caused by the passing of gay marriage. However, this is far from the truth. Although being transgender is not a new trend, it is a historically quieted one. This paper seeks to look at the ways that the medical, legal, religious systems suppressed the transgender presence in order to enforce heterosexuality. To examine this, the memoirs of Herculine Barbin, and 18th century hermaphrodite are used. Other works used include Michel Foucault's *History of Sexuality Vol. 1* and *Herculine Barbin: Being the Recently Discovered Memoirs of a Nineteenth-century French Hermaphrodite*, Judith Butler's *Gender Trouble*, and *Pleasure and Efficacy* by Grace Lavery. Through the analysis of these works, I come to the conclusion that the medical, legal, and religious systems, represented through their individual actors, worked in conjunction with one another for mutual advantage in order to suppress the transgender presence for the enforcement of heterosexuality. I also conclude that these systems are still operative today in similar ways. The conclusions of this study show that being transgender is not a new trend, but rather one that has been historically suppressed.

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## **Background**

Being transgender, or a gender nonconformist, is at the front of public discourse. Expressing differences in gender often leads to harassment, harm, and in many cases, death. The topic of transgender rights can range from healthcare laws to the role of gender in sports. The conversation on transgender existence has escalated since gay marriage has been legalized. With the rise of acceptance of different sexualities, many believe that gender would follow the same course. However, the views on gender and sexuality vary drastically. Whereas sexuality is a protected class, transgenderism is quite the opposite. There are currently 539 anti-trans legislation bills in place across 41 states, with 426 of those being active (2024 Anti-Trans Bills: Trans Legislation). The world has not taken kindly to the rise of the trans presence. Many politicians and other political figures, such as Donald Trump and Ben Shapiro, have openly criticized the trans community, stating that these figures have something of a “DSM mental illness” (Youtube). Gender is not viewed in the same way as sexuality; rather, it is seen as somewhat of a “problem”--as something that needs to be taken care of or hidden. To this end, many of these figures work to suppress the trans presence. Recently, Oklahoma representative Tom Woods has been quoted as calling the trans community “filth” when questioned on a trans student's death--Woods wanted nothing to do with this student as this shows how while the government may be accepting of different sexualities, the question of gender is still unsolved (YouTube).

The difference in the acceptance of gender and sexuality comes because many of these figures believe that gender is something that cannot be changed, such as height. Gender is a fixed object, a fixed point-- and nothing can be done about it. The argument for sexuality revolves around the concept of those who identify with a sexuality other than heterosexuality claiming to

be “born this way.” Those who are gender nonconforming often experience dysphoria, causing them to want to transition in order to ease the mental pain. Similar to how those on the LGBTQ+ spectrum feel when acting heteronormative, this same pain is felt by the trans community when forced into a gender that is not their own due to a legal inability to transition. Despite the similarities, the two communities are not on equal footing.

In order to suppress the trans presence, many systems governed by the aforementioned figures and others of power are in place to enforce this idea of heteronormativity—that of a cisgender being. Governing bodies have these systems in place in order to enforce the idea of cisgenderism—to solve their supposed problem. Institutions take form in many ways and in many places—such as schools. Recently, Nex Benedict, a nonbinary student in Owasso High School in Oklahoma died from injuries acquired from three cisgender students. There have been many cover ups in place in order to make their death vanish and to wash the blood from their hands, but truthfully, Benedict’s death is not the only case of its kind<sup>1</sup>. The negligence and laissez-faire attitude presented in this case is something that has been learned and repeated throughout history.

Throughout history, many institutions have worked in order to enforce the idea of heterosexuality by suppressing the transgender and gender nonconformist presence. Although differing sexualities are more accepted now, it was not always this way—many systems worked to protect heteronormative ideals. While there are many different ways that systems enforce these rules, for many, the most powerful tend to be religious, medical, and legal institutions. Whether this be from the lack or banning of trans healthcare, to the legal prosecution of gender nonconformists, or even the lack of religious acceptance within the LGBTQ+ community, these systems typically encapsulate the most challenging for the trans community. It is imperative to

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<sup>1</sup> On February 8, 2024, Nex Benedict died from what was later ruled as suicide. This occurred the day after Benedict was beaten in the school bathroom by three cisgender students, landing them in the hospital. There had been multiple reports of gender based violence on Benedict prior to their death.

recognize the spider web of connections between these systems and how they work and have worked to suppress trans individuals. While they can operate separately, together they provide more power, and thus control, over these communities. Together, these systems work to suppress the trans presence and enforce heterosexual and cisgender ideals.

Notably, this idea comes to light in *Herculine Barbin: Being the Recently Discovered Memoirs of a Nineteenth-century French Hermaphrodite* by Herculine Barbin and Michel Foucault. Barbin was a hermaphrodite, someone who is born as both male and female. This individual was a victim of the religious, medical, and legal systems which enforced heterosexuality. These institutions demanded that Barbin transition, despite Barbin's reluctance. This in turn led to Barbin's death, a fate that is familiar for many gender nonconformists. In order to analyze how the religious, medical, and legal systems worked against the transgender community, I will analyze how Barbin was subject to the control of these realms and the influence that these systems had on them. The case of Barbin, who lived in the 18th century, demonstrates how the recent push for anti trans-legislation is not a new movement, but rather one that has deep historical roots and is now resurfacing.

Building on the works of Michel Foucault in *Herculine Barbin* and the *History of Sexuality Vol. 1*, Judith Butler's *Gender Trouble*, and Grace E. Lavery's *Pleasure and Efficacy*, I will dissect the connections between the religious, medical, and legal systems and the way they worked to enforce heterosexuality in order to mute the transgender and gender nonconformist presence. I will use Butler's identification of Foucault's misstep, Lavery's theories of trans criticism and egg theory, and Foucault's ideas of the power dynamics within gender to explain how religious, medical, and legal systems actively suppress trans presence to enforce heterosexuality. It is imperative to use these theories in order to explain Barbin's embodiment of



shame, their ignorance towards their physical differences because of the nature of shame, and the nature of power on gender. Foucault's argument, while substantial at the time, miscategorizes Barbin by asserting that they lived between the lines of gender. I will identify how Barbin in fact lived a gendered existence as a victim of the institutions around them.

### **Ethical Considerations and Terms to Note**

It is important to identify the terms in use within this essay. These terms can have a different meaning than their denotation and how they may be used in popular media. Defining these terms will provide clarity as well as context towards the later parts of this paper.

Gender conformity/confirmation is a large part of the transgender and gender nonconformist community. Within this essay, gender-confirmation simply means an act that helps those who have different genders feel that their chosen gender is being reflected. This can be accomplished through dress, the use of pronouns, etc. Gender-confirmation can be self employed or used by others. For Barbin, this will be shown through their use of names towards themselves (different than called by others) as well as their relationships with other females. By referencing gender nonconformity, I am looking at the place between genders—not identifying as either male or female.

Hermaphroditism is also another important term at play in this work. Hermaphrodites are born with both male and female sex organs. Although hermaphrodites are not transgender, they exist between the lines of gender. They are neither male nor female, thus are often subject to gender construction, like many in the trans community. Many of those in the past and present who are born with hermaphroditism choose to live as neither male nor female, thus disrupting the systems put in place to define their gender. Although being a hermaphrodite and being transgender are not the same, the ways in which systems seek to define gender are.

Transgender, in the context of this paper, does not explicitly mean one who has changed gender, as it is often used in popular media. I use this term to mean someone who identifies as a gender other than the one they were legally assigned. This is important to note as I will refer to Barbin as transgender, despite never having procedures or work done to initiate a change of gender.

Furthermore, in order to capture the true essence of Barbin's spirit, I will be exclusively referring to Barbin with they/them pronouns. This is for a multitude of reasons. First, Barbin's gender fluctuates throughout their memoirs. They are different genders at different points in their story. By using they/them pronouns, this will help clear any confusion that may arise due to fluctuations in gender when referring to these different periods. Furthermore, as many in modern contexts do not define themselves as either male or female, leading to a lack of pronouns, they/them has been taken on to refer to a "middle ground" of gender rather than referring to a plurality, as it is used historically. Although neopronouns that refer to the lack of gender do exist, they/them is most commonly used.

### **Context**

Herculine Barbin (also referred to as Abel, Camille, and Alexina), was born in 1838 in France. Upon birth, Barbin was assigned female, but in their early 20s, was reassigned male to due to pseudohermaphroditism (a term coined in the search for true sex to hide a doctor's misstep). The initial female assignment would later be regarded as a "mistake" by doctors. Barbin primarily identified as female, but did show concerns and awareness of physical differences in comparison to the other females in their life, as noted later. Barbin was raised in convents and excelled in this regard. They showed remarkable progress and were beloved in school, even later gaining a teaching certificate upon recommendations to do so. Their only

inadequacy in school was noted in needlework. However, Barbin was noted to have loved to learn, being especially adept in fields such as classic literature and philosophy.

Barbin, throughout their time at school, was very well loved and formed many relationships. As heterosexuality would have been the norm at his time, Barbin never openly identified themselves as having homosexual or homoerotic feelings. However, throughout Barbin's memoir, they engage in two relationships, both with women. As will be discussed later, this is in turn what led to their gender reassignment. Barbin had openly homosexual feelings, something that would have been a disgrace not only for the time period, but in their place in the convent as well.

Although assigned female at birth (as it was unknown that Barbin was a hermaphrodite), Barbin was reassigned as a male at the age of 20. This was after Barbin had confessed to a priest as well as having been caught with another woman during this time. Because of this, the convent in which they resided turned against them, leading to their reassignment. After their reassignment, which they then became known as Abel, Barbin was unable to hold a job (despite being an excellent student and acquiring a teaching license) and was later found dead inside their home, with their memoirs in their vicinity. What transpired from these memoirs is a clearer look into the true meaning and power of gender and its submission to the controls of the religious, medical, and legal systems. In order to examine how these discourses enacted trans suppression on Barbin, I will analyze the ways in which they bled into each other and affirm their actions in order to gain mutual advantages.

## **Theory**

In order to get the full scope of the circumstances for transgender individuals and gender nonconformists, it is important to engage with theory to understand and comprehend the tools used. The three main theorists I engage with are Michel Foucault, Judith Butler, and Grace E. Lavery. I seek to use Foucault and Butler in conjunction to get an understanding of the gender sphere in which Barbin inhabited. Lavery helps contextualize the idea of transition as well as criticism within the trans community.

Both Foucault and Butler have a number of ideas regarding Barbin and even more so regarding the ideas of gender and identity. The complete analysis and examination of gender and the roles it plays within society is outside the scope of this paper. Instead, I will focus on the information pertaining to Barbin as it is critical in the analysis of their existence and their circumstance. Although I acknowledge the importance of the nuances of both Butler's and Foucault's argument, I choose to focus on the ideas pertaining to Barbin and the limbo of gender identity and ideas of true sex. This allows me to focus on Barbin without weighing down the argument with nuances regarding the general idea of gender and identity. I look at Foucault's contribution to the idea of non-identity and true sex as well as Butler's criticism of Foucault.

To begin, Foucault's work on *History of Sexuality* can be read in contrast with *Herculine Barbin*. In *Herculine Barbin*, Foucault defines Barbin as existing in a "happy limbo of non-identity" (xii). However, *History of Sexuality* directly contradicts this. Throughout volume one, Foucault claims that the Victorian era was one of the most societally obsessed times with sex, stating that society was sure to "...be especially careful in repressing useless energies, the intensity of pleasures, and irregular modes of behavior" (9). Foucault explains that while society, during the Victorian era, was actively repressing sex, they were also obsessed with it at the same time—much of public discourse focused on who, why, and where sexual behavior was occurring.

To state that Barbin's existence could exist within a realm of non-identity is false—as Barbin came of age in an era that was obsessed with sex, there is no possibility for them to exist outside the realm of it.

Butler identifies this misstep in her book *Gender Trouble*. Butler argues that if *History of Sexuality* ties sex to power, then Barbin's identity must have been influenced by this (128). Foucault, in this way, has committed an error. Butler claims that Foucault “romanticizes” Barbin—as seeing her in a world outside of sexed existence (130). She identifies this misstep as his identification of “bucolic and innocent” (131). She goes on to define this as Barbin's existence before and after the legal intervention that changed Barbin's gender—however, as Barbin was always subject to the nature of power, this proves to be false for Barbin. Butler's dissection of Barbin serves to push the boundaries of Foucault's argument—it serves as a way to read him against himself.

One of the most important contributions Foucault makes in the case of Barbin is the proclamation of their gender identity. Rather than forcing an identity, Foucault argues that Barbin existed in a “happy limbo of non-identity” (xii). This means that rather than identifying as either man or woman, Barbin identified as neither and existed in somewhat of a neutral ground. This is groundbreaking for the time as gender was seen as being male or female rather than a combination of both. This means that gender was seen as something that is either male or female instead of a gender that can fluctuate. In modern times, this would be akin to being genderfluid or genderqueer— but during these times, this term did not exist. Foucault is not weighing down Barbin with the notion of having one gender identity, but rather acknowledges the idea of gender being on a spectrum and thus Barbin not having to choose a gender with which to identify.

Furthermore, Foucault's ideas about Barbin are rooted in his notions of true sex. Foucault argues that there was a fascination during this time of finding "true sex" of hermaphrodites (10). This is contradictory to his previous ideas of Barbin's identity being in a limbo. However, the idea of there being a "true sex" during this time, was fairly recent. Foucault states that "For centuries, it was quite simply agreed [they] had two" (7). This means that in the case of people such as Barbin, they were allowed to exist in the limbo of non-identity. They did not need to choose either male or female. In this way, Foucault dismantles the idea of there being a need for true sex—past ideas had created an obligatory space for those with differing gender identities. Indeed, those who were neither male nor female existed in their own limbo-- in their own gender category. The need for true sex, in Barbin's case, was therefore unnecessary in a multitude of regards, but assigned due to medical authority;

Furthermore, Butler challenges this idea of Foucault's persistence to place Barbin in a "true sex" category and perceives Foucault as not understanding Barbin. Foucault, in his interpretation of Barbin, pins a true sex on Barbin (Butler 120). He places Barbin in a category by not assigning a category and opts for the limbo of non-identity. By saying that Barbin did not have a true sex and existed in this limbo of non identity, he puts Barbin in a category and radicalizes their existence. Furthermore, by saying that doctors were trying to uncover a true sex for Barbin, he implies the belief that there is a true sex inside of them. Butler believes that Foucault indulges Barbin's youth too much (a period in which Barbin romanticizes being a female heavily in their memoir due to being able to exist in a state of gender peace) and therefore omits the essence of Barbin- as someone who does not conform to gender binaries.

Furthermore, Grace E. Lavery's discussion in *Pleasure and Efficacy: Of Pen Names, Cover Versions, and Other Trans Techniques* serves as a way to understand Barbin's view of

themselves. Lavery identifies egg theory as a foundational principle of trans existence—egg theory is the idea of there being a “fruitlessness to transition”—as there being no point to transition and change gender— that “they cannot transition” (116). The idea of egg theory for trans people is the question of—can I change? Would it be worth it to change? The idea of hatching is the idea of transition— going from an egg into a chick, or a man into a woman. Barbin, existing physiologically between the lines of gender, was heavily subjected to this realm. Foucault claims that Barbin existed in a limbo of nonidentity, but egg theory pushes on this and sees this as somewhat of a launching point for gender transition. Early on, Barbin had identified the strangeness of their body—their voice, although generally feminine, had “masculine tones”, they had an “upper lip is covered by light down”, “a few beard hairs”, and lived “without a trace of breast” (Barbin 125). They knew something was wrong with their body and remarked upon it often. However, egg theory served as a way of keeping Barbin restrained. Although Barbin knew something was wrong with their body, what were they to do with it? As discussed later, Barbin had been raised under Catholic ideals—to live a clean and pure life. This identification of their body would have been unwelcome—for being pure is not identifying with their body. In the *Clement of Alexandria*, it is stated that misusing the body will inevitably (using it as something other than a vehicle for your soul) be a sin (Havey). Barbin would have seen the attempt to change their body as somewhat fruitless—as sinning through attempting to change it. Thus, with egg theory, Barbin remained in their assigned gender as changing would have gone against Catholic ideals and provided fruitlessness

Furthermore, Lavery offers transgender techniques of criticism. Rather, she offers the idea of shame as a tool against the transgender community. Lavery identifies criticism as a “..mechanism and weaponizing [of] a particular kind of shame” (100). Criticism, in Lavery’s

sense, is used to shame the trans community. This shame comes from “... a socially embedded act of responding to the primary condition of being—and, no less importantly, feeling—criticized” (98). Here, the author identifies ways in which the trans community is controlled by the public. If public discourse can bring shame to gender nonconformists, then the public can control them—to shame them into fitting into their views. In the case of Barbin, this tool is immeasurably important. Shame, at many points, was used against Barbin. Barbin would have embodied this shame and thus would have learned to keep their problems—their perceived bodily shortcomings—to themselves. Criticism has always been used as a tool against the trans community and Lavery identifies this as a public way to ensure gender nonconformists fit into a cisgender ideals.

Considering both Foucault’s and Butler’s work, it becomes clear that Barbin was doomed by the framework of gender. Gender constraints failed Barbin— they further oppressed them from engaging in gender confirmative acts. If we take Lavery’s points into thought, it becomes clear that gender is a construct and social theory aims to oppress the trans presence. Although Foucault and Butler may disagree, it becomes clear that the gender constructs in which Barbin exists were ahead of the thought of gender at the time and can be assumed that Barbin existed not quite in nonidentity, but somewhere near the female gender.

### **Case Study**

In order to gain a complete understanding of the violence made towards transgender individuals during this time, it is imperative to recognize the systemic movement of oppression towards them. During this period (with mirrors towards the current day) the religious, medical, and legal systems worked to silence these individuals’ presence. Silence here is an act to keep them in a gender that is deemed most suitable for them. This could be the one that they are



assigned at birth or one they are found to have (as though hermaphroditism). Lavery's idea's of criticism are crucial here—these systems criticized and shamed these individuals in order to keep them suppressed. By keeping gender nonconformists suppressed, these institutions could maintain heterosexuality. These systems worked to maintain heterosexuality during this time—someone who occupied both genders broke this system. Herculine Barbin, a hermaphrodite (who looked female), being in a relationship with a woman, became a problem.

As transgender was not a term in use during this time, hermaphrodites, a character within society who played both roles, filled this gap. Hermaphrodites were seen as an “error” in history (Foucault x). That is, a problem needing to be solved. Remarkably, history had waves of acceptance of hermaphrodites. However, in *History of Sexuality*, Foucault states that in the 18th century “...hermaphrodites were criminals, or crime's offspring, since their anatomical disposition, their very being, confounded the law that distinguished the sexes” (38). Notably, authors such as Christof Rolke claims that no such persecution has existed beforehand. Instead, whatever sex was mainly presented, prevailed (187). Thus, gender was accepted as whatever the individual chose it to be. Despite the changing waves of acceptance, hermaphrodites have always occupied a niche space within the world. As hermaphrodites existed between the lines of gender due to their physicality they were undefinable by law—the law could not tell them which gender they could marry. If the law were to change to allow hermaphrodites to marry any gender, this would then question the ideals of heterosexuality. To change gender, in this sense, is to change the basis of marriage. For this reason, the criminalization of hermaphrodites was a far easier route as it confirmed heterosexual ideals.

Prior to the 18th century, European thought recognized hermaphrodites as having more than one sex—as containing a plurality within them. It was only in the 18th century that a search

for true sex came to answer the “problem” of sex (Foucault). If one is not assigned one sex, then they become privy to the intricacies of both, an act that must be sedated. Building on Foucault’s *History of Sexuality*, European thought during the 18th century was focused around the idea of sex and thus acted towards this. European law was fascinated with the idea of sex ruling the world and made laws to control it (Foucault 71). It can be deciphered that because hermaphrodites had the privilege of having both genders, thus becoming unenforceable to the rules of sex one must obey, they became a problem to be solved. The idea of true sex becomes key—the idea that one must have one gender/sex in order to enforce the ideals of heterosexuality. Barbin was just a character within this search for true sex. Barbin, within their memoir, notes that they were not the first example of this experience— they state that a previous case had occurred in 1813 “in the Midi” (Barbin 89). Thus, they were neither the first nor last in this search.

Barbin’s case was heavily foreshadowed by Marin le Marcis. In the case of Marcis, they were also subjected to the search for true sex. Marin le Marcis, identified as a Catholic woman until their engagement, in which they then chose to identify as male. This request prompted a forceful examination not just by a doctor, but by an apothecary, and two surgeons. However, on open examinations, no signs of “virility” were found in them (Long). Marcis was then sentenced to be burned alive and flogged. Marcis, in trying to marry, was forced to undergo forceful examinations. This case shadows Barbin’s—both were deeply religious and found problems within their gender when it came to their sexuality. Doctors here served as the judge, court, and jury. They found no signs of what they wanted to find (traces of manhood) and such lead to Marcis’ demise (Long). This shows how Barbin was not alone in this search for true sex—rather, they were just one of many.

Foucault defines Herculine Barbin as existing in a “happy limbo of nonidentity” (xii). Thus, excluding them from the realm of a sexualized and gendered existence. However, it is quite the opposite. In *Gender Trouble*, Judith Butler contends that Foucault has taken a misstep—rather, Barbin’s very nature was intricately gendered due to their upbringing (128). This view is a complete contrast to his view in *History of Sexuality*. Barbin’s story is thus a chance to read Foucault against himself. Barbin grew up in a convent and had intimately intertwined themselves with religion. This in turn is what led to their downfall, with the religious systems feeding into both the medical and legal systems. These systems, focusing on doctors, priests, and judges, worked to enforce the idea of a singular gender on Barbin in order to put them in a singular, heterosexual, role.

As this work focuses on systems and the balance of power, it becomes worthy of defining how these terms are used. When I talk about power, I do not use power from the perspective of Foucault. That is, seeing power as being fundamentally created and coming from all directions (Felluga). While this view is necessary within Foucault’s works, it is not tangible to my point. Rather, I take a top-down approach to power—as power being a force enacted by those on top (in this case, doctors, teachers, lawyers, etc.) onto everyday people, such as Barbin. This distinction must be made as it views power as a method of unwilling control, rather than something free flowing as described by Foucault. For Barbin, this is of the utmost importance. Barbin was not a willing participant of this process—Barbin simply was a victim of this power. Barbin had fully accepted their life as a woman and desired to continue to live that way. It was this top down power that forced itself onto Barbin.

Furthermore, the terms systems here are used to define the main actors within these groups. Rather than focusing on all the characters in conjunction within a given area (such as

hospitals with nurses, administration, doctors), I choose to focus on the people who would have the most direct contact with the public in the scenarios following—these actors would represent the places, wishes, and motives of their institutions. They would be acting to achieve an end goal for these given places—thus when I say systems, although I refer to these individual actors, I do this to show how they work on behalf of their given institutions. Following, although the term system is in use, I aim to show an interconnectedness between these organizations. Thus, rather than being systems, it is more of a system—a singular force acting for the same purpose. This is imperative as it shows the enforcement of one goal—here being the goal of enforcing heterosexuality.

The religious system is one that had the most control over Barbin. Barbin grew up in a convent from the age of 7 (Barbin). As previously noted, Barbin excelled within this realm and showed much potential. It is noted in Oscar Panizza’s “A Scandal at the Convent” that the girls within this school were “...consonant with the strengthening of the Catholic disposition” for this would “...give them a foretaste of the true life” (Panizza 155). Rather, the ideals of Catholicism would be heavily ingrained within them. These girls were trained and expected to live out this ideal of Catholicism. The religious ideal, in this scenario, was to be entrapped within “a suitable marriage” (Panizza 156). The girls in this convent were shamed into the idea of heterosexuality. As Elizabeth A. Clark notes in *1990 Presidential Address: Sex, Shame, and Rhetoric: En-Gendering Early Christian Ethics* for Christian writers “...shame attaches itself especially to sexual behavior” (230). Clark defines how sexual behavior was taught through shame—it was used as a tool by these writers. Thus, those leading the religious school Barbin attended, would have learned this notion. Barbin, being part of this convent, had this ideal exerted upon them. They were trained to act under these rules in order to fit into the religious ideals. Barbin would

have behaved to this end—to be a functioning member of this society—this group of girls. The religious realm, early on, showed a foundational control of Barbin—to cast control upon them and whatever future they may live. That is, as long as it was in a suitable, heterosexual marriage.

After Barbin's admission to the convent, they began to shine academically. They befriended many teachers and became somewhat of a favorite among the teachers and students (Barbin 122). Paired with their academic skills, Barbin became a tool to the school, grooming them as a future teacher for the institution (Barbin 40). As a teacher, Barbin would have been the primary actor of these “rules”. That is, the rules of the convent and thus Catholicism. As a teacher, Barbin would have been a representative and groomed the young girls to follow within their footsteps—one of a virtuous, moral, woman. Barbin's training to be a teacher is crucial—the religious system was not against them—rather, they had seen Barbin as a success of the system. Barbin was proof that this education system was working—that it showed what good this could do. As previously discussed, the convents sought to keep these girls pure and ready for a “good” marriage—Barbin, having been smart and supposedly moral, was a prime example of this.

With the main goal of these convents (and thus, institutions) to protect the girls' chastity as well as secure them a good marriage, the ideals of heterosexuality were enforced. Heterosexuality was the ideal and the only acceptable option, any deviance in this regard was considered to be unacceptable. Heterosexim, in this case, was prevalent. As defined in *Religiosity, Religious Fundamentalism, Heterosexism, and Support for Lesbian and Gay Civil Rights: A Moderated Mediation Approach*, Richard S. Henry states that “...heterosexism fully mediated the relationship between religiosity and level of support for [homosexual] civil rights”. Henry defines how religious organizations will not show acceptance, or even toleration, for these homosexuality as it is a fundamental disregard of their beliefs. The convent, operating on the basis

of heterosexism, enforced the idea of heterosexual relationships among the students. Barbin was loved among many in the school, thus nothing was ever suspected of them (Barbin 60). They would have been expected to have known and embodied these rules—Barbin was not seen as a point of concern. However, this was far from the truth.

Although Barbin never expressly uses the word girlfriend/partner/lover, they indeed had one—a girl named Sara (Barbin 48). Presumably from religious shame, Barbin never fully recognizes what their partner is—they would have been taught not to. Throughout Barbin’s memoirs, Sara is consistently referred to as a “friend” ( Barbin 34). The choice of this term lacks any homosexual context. For convents preached upon the idea of chastity and a “true marriage” (one that perpetuates heteronormative thinking), Barbin would have known better than to express their homosexual desires, or maybe not known about the intricacies of homosexuality and what that entailed. Barbin describes their relationship with Sara as having a “...terrifying secret that bound us to each other” (Barbin 51). Barbin never defines this secret, but it is obvious as to what this is—the secret of homosexuality. Barbin during this period was sneaking into Sara’s bedroom, openly kissing her, and proceeding with relationship-like behavior, all within the walls of the convent (Barbin 50). This behavior, homosexual tendencies, were the ones to launch the war against Barbin. As noted in Foucault’s *History of Sexuality*, the threshold of sexuality was one that had no walls—rather it was the obsession of humanity and fulfilled itself in many regards—in this regard, within the walls of the convent.

Barbin had a long relationship with Sara—one that had been perceived by many. Upon receiving the news of Barbin’s fluid sexuality, the nuns of the convent began to speak to the other girls (Panizza 177). These girls reported that Sara and Barbin’s behavior towards each other was well-known—they described it as “...disgraceful...horrible...filthy... it’s everything foul you can

think of!” ( Panizza 167). Despite their disgust, the other girls in the convent kept the secret of Barbin from the nuns. The nuns only discovered this secret when the girls in the convent were acting unruly. The nuns immediately questioned the girls on what they knew—on what they had seen (Panizza 177). For while Barbin’s act was immeasurably bad, the fact that the other girls of the convent had known and witnessed these events, was worse. The nuns were accustomed to using control over these girls—by demonstrating the perfect, chaste, life. By having someone like Barbin who was regarded so highly be found of having a homosexual relationship, something that would have caused tremendous disgrace, this broke the rhetorical ideals of control for them. As noted in *Energy and Structure a Theory of Social Power*, Richard Newbold Adams observes that “man’s survival depends on a continuing control over the environment” (100). Adams defines how control must be used in order to maintain the consent—if the nuns did not have control over the convent, and thus the girl’s actions, the convent was subject to fall apart. The idea of having a perfect, heterosexual convent was a method of control, a rhetorical tactic, and Barbin’s public disgrace had shattered this for them. Although Barbin’s relationship was bad, the fact that this relationship was public was worse.

From this revelation, came the problematization of Barbin. Although Barbin was a star student, they were also now a problem. The ideals of heterosexuality were pushed onto the girls in this convent—the idea of being in a perfect marriage was incredibly overwhelming. Barbin, feeling overwhelmed with guilt from the discovery of their relationship, wrote “Do you fear God?...Aren’t I your husband?” (Barbin 185) in a letter for Sara. It is worth noting that although Barbin refers to themselves as a husband (and thus a male), that Barbin most likely did this out of shame and to signify the importance of their relationship with Sara— not because they believed themselves to be male. Lavery’s idea of trans criticism became present within Barbin— Barbin

had embodied the ideas of shame and cast them upon themselves. Despite this, the quote shows how Barbin, although she knew that their relationship with Sarah was wrong, still wanted her. Thus, the church had to fix such a problem. The church was losing its control on Barbin. By figuring out a way to solve Barbin, the church would enforce heterosexuality and gain back the control they had over the convent.

Barbin, flooded with guilt, took to the only realm they knew to save them—raised by nuns, they wanted to absolve themselves of their wrong doings. Barbin went to see a priest in order to confess and gain more clarity to God (Barbin 61). Barbin saw themselves, from this point, as having a problem—as needing a change that could be solved by religious practices. Because they had their life torn apart, they needed to make amends—to get things on track. Barbin had viewed themselves as sinning, as being immoral and thus the meeting with the priest became crucial to them (53). Although they loved Sara, the church had taught them that this relationship was wrong. Barbin described themselves as “...guilty...criminal...a gross mistake” (54) and so they went to confess. As outlined in Foucault’s *History of Sexuality*, confession to the priest was a method of control at this time. Foucault states that families were often driven to confess in order so that the priest may “...suddenly discover the dreadful secret of what had always been hinted at and inculcated in it” (111). The priest, in Foucault’s view, was central to the method of control. They were the ones to discover the secrets that the families had been keeping. They were the enforcers of the religious code of heterosexuality. Barbin, coming to confess their homosexuality was precisely feeding into their purpose. Unlike a typical confession, Barbin was not resolved of sin. Instead, Barbin’s sin was recognized and expanded—not only did they commit this crime, they knowingly and willingly did so. Thus, the priest, an actor in the system of religious control,



took this as a problem to be solved. Barbin described the priest as having “...vindictive horror” upon confession (55).

The confession to the priest was a method of controlling Barbin. Barbin, overwhelmed with guilt from the church, had admitted their sexuality to the priest—they admitted they had a problem (54). As defined in “Religious Benevolence as Social Control: A Critique of an Interpretation”, Lois W. Banner explains religious control as a “desire for ‘social control’, not social improvement” (23). Banner identifies the religious exertion of control as one to set the ideals for social matters—as ones to not make the world better, but to make the world in their ideal image. Paired with the ideas of sex and shame from Clark, the religious ideals of social control would have reflected heteronormative ideals. Barbin’s confession led the priest to realize that the act of social control had not worked upon them—Barbin was having homosexual desires. The priest thus was not acting for Barbin, but rather to control them.

Unbeknownst to Barbin, the priests then went to talk to the head of the school (Panizza 180). The priest, acting to enforce heterosexuality, and the head nun, disgraced with the public portrayal of homosexuality, ordered a medical examination for Barbin (Barbin 61). They needed medical intervention. Although drastic, this was seen as a necessary measure for Barbin. Barbin was a star student, groomed to be a representing member of the convent. To have such a member be caught with homosexual desires and confess to them was of the utmost importance—Barbin needed to be resolved. Thus, the priests and the nuns of the school decided to have a medical examination performed. This was to find “...the well-known marks and stigmata of diabolic possession” and cure the problem by “exorcism” (191). The doctors, in this case, were searching for the possibilities of homosexuality. If marks were found upon Barbin’s body, an exorcism could be performed in order to save Barbin—to cure them from the disease they must have

possessed (191). As noted in M.W. Ross's "Exorcism as Psychiatric Treatment: A Homosexual Case Study", exorcism was seen as a viable treatment for homosexuality as the priest embodied the physician; in other words "the physician has replaced the priest" (382). Priests were seen as a viable option for being doctors—for they understood the feelings of their patients, they were able to mimic and help them. Barbin was a victim of the religious nature of the medical field.

The connection between the medical and religious system here is undeniable—the medical system, in this case, was a way to absolve the church of guilt and embarrassment. If the church was able to have the doctors find "proof" of possession in Barbin then the church would have a way of absolving themselves of the situation. Doctors, in this case, acted on behalf of the religious systems—they served as a way of finding the truth for the church. The church, at 8 in the evening, had a physician arrive in order to inspect Barbin for these signs so that the church and the medical system may absolve themselves of the shame that was Barbin (Panizza 184).

In Barbin's case, the doctor did more than just to inspect for signs of homosexuality (and thus, the devil). They performed a full medical examination of Barbin and declared them a "pseudohermaphrodite" (Goujin 128). Barbin, was indeed, a hermaphrodite, but the term pseudo here was used as a method of guilt resolution. Foucault states that this term here was used to implicate a method of "disguise" among hermaphrodites—as a way of hiding their true nature (ix). Hermaphrodites were seen as being "criminal offspring" during the 18th century, despite how they had been viewed in the past. (Foucault 38). Thus, in the law's opinion, it would be explicitly in their nature to hide, to not show their true form. This would shift the blame of Barbin's sexuality away from the church—for Barbin would have been simply wearing a disguise and tricking the convent.

As Barbin had now shown themselves to be male, transition became unrelentingly necessary in this case. After all, the church was still acting on behalf of heterosexuality. If Barbin was deemed to be and forced to transition to male, the church would thus be free of all guilt. The relationship between Sara and Barbin would be an innocent one—the relationship between male and female. The identification of Barbin served as a way to not only clear Barbin of being possessed with homosexuality, but also cleared the church's public image. The doctor, wanting to clear the church's name, took to the legal aspect, As Barbin was now found to be obtaining a secret, they must be resolved within the public eye.

The medical system forced Barbin's transition. Barbin identified as a woman, the gender in which they were assigned at birth, for all of their life until they were forced to change to a male. Barbin's examination was forced and thus was nonconsensual. This was not a wanted nor welcome change by Barbin. In Barbin's memoir, it is stated that

As it is known, a doctor enjoys certain privileges with a sick person that nobody dreams of contesting. . . . His face was distorted, betraying extraordinary excitement. 'I beg you to leave me alone,' I said to him. 'You are killing me!' 'Mademoiselle,' he answered, 'I'm asking you for just one minute, and it will be finished.' His hand was already slipping under my sheet and coming to a stop at the sensitive place. It pressed upon it several times, as if to find the solution to a difficult problem. It did not leave at that point!  
!! (58)

Barbin's examination by the doctors lacked consent. In this way, the doctor acted as the law— as though he worked towards the greater good of the people and thus acted as if he removed a problem— that is, the problem of Barbin's true gender. The problem was instilled from the church— the doctor was working on behalf of them. The lack of consent here was a side effect of

the true issue—Barbin’s homosexuality. In seeing Barbin as a somewhat problem that needed to be solved, the doctor took on an authoritative role, such as a police officer. Barbin clearly and thoroughly denied the doctor access, but still, the doctor persisted. With this act, the doctor became an overarching figure of power and authority over Barbin.

Furthermore, in the examination of Barbin’s medical records, doctoral intent proves a large concern. Doctors, in common knowledge, work to serve the good of the world—as previously established, this would clear the church of Barbin’s homosexual accusations. As Barbin was found as a pseudohermaphrodite, a change of gender was needed. As a female, Barbin posed a threat—a disruption to the moral system of the church. It is reported that “Doctor H had already prepared a voluminous report, in the medical style, intended to endure before the courts a petition of rectification...” (72). The word rectify is used here as if to signify a solving of a problem— as previously mentioned. These documents served as the tool in which to change Barbin's gender to male. This was a dangerous weapon to Barbin, but something that they could not stop. Barbin was a problem that needed to be solved, an issue. The doctor armed himself like an officer against a criminal. The doctor prepared these documents as if he were preparing a case against Barbin. Like a lawyer in front of a jury, the doctor set out to seal Barbin’s fate as a male.

Furthermore, doctors during this time believed that they were to act on behalf of God and the church. In “The Academic Analysts of the Relationship Between Religion and Science” John H. Evans explains how “Victorian era scientists often thought they were investigating the details of God’s creation, and thus there was harmony in religious and scientific knowledge.”(44). The doctors, by investigating Barbin, were creating religious harmony. Evans acknowledges that the scientific discovery process helps strengthen the scientific world with the religious world. Thus,

by the doctor acting on behalf of the church, their actions became two fold—to grow closer to the church and unite natural harmony.

Thus, the medical system bled into the legal system. This stemmed from the church's insistence on an examination, and led to a complete reassignment of Barbin. In "A Critical Theory of Medical Discourse: Ideology, Social Control, and the Processing of Social Context in Medical Encounters" Howard Waitzkin explains how "doctors...reinforce their particular ideological conceptions about social life" (221). Waitzkin demonstrates how medical discourse was used to shape social life—by proving Barbin as a male, the doctors reinstated the expected social order of the world. In order to ensure that this transition happened, the legal documents were prepared in order to ensure Barbin's reassignment.

Discourse, in this sense, was not the capital truth. However, it was treated as such. The current public beliefs were treated as the truest sense of the law—as if they were doing a public good. Discourse was meant to reflect public belief and as public belief wanted true sex from hermaphrodites, this was to be done. As stated in "Medical Rhetoric and Rhetoric Medicine", Bernard Dan defines the doctor's job as "...providing arguments that prove a truth or an apparent truth" (916). Dan states that doctors here seek truth in whatever form it may come. Given the 18th century's search for true sex, it can be inferred that doctors in this regard are working to prove the apparent truth—the truth of a singular identity with hermaphrodites. So, although discourse may not have been law, doctors worked for it to be provided as such. Barbin, although fully embodying the life of a female, had to be a male for this would have affirmed the apparent truth of hermaphrodites during this time—that they were hiding their true sex. Barbin decided to have been hiding their true sex and thus was interfering with public discourse.

In order to bring the truth to light, the doctors prepared medical documentation to assign Barbin as male. Upon the medical records being turned into the judge, Barbin had no choice but to wait; to wait for the results of the court. Barbin was not permitted to fight, or protest, but to just wait for the results of their medical examination. Thus, the choice of their gender was stripped from them. They had no right to their medical records. This was not a fair game for Barbin, though. Barbin was told by the attorney and the judges, who unsurprisingly represented the church, “The rest will be done without you” (Barbin 88). Barbin’s presence within the case of their gender was unnecessary—they had no say in the court’s decision. Through this reassignment, came explicit psychological damage—they were not allowed to decide their gender. Rather, that decision was left to the lawyers on behalf of the church.

Following the doctor’s and church's lead, the judge ordered another examination for Barbin. During the second examination the doctor told Barbin “If you’ll take my advice, you’ll go along with me to the prefecture. The prefect wants to see you, and I don’t doubt that he will be supposed to help you. He can do everything for you, especially at this time.” (Barbin 91). With this, the doctor was acting on behalf of the law. Despite Barbin’s long history as a female, the doctor was concerned with operating on the court’s interest—the interest that wanted Barbin to be male. The interest of the church. Stemming from the church's desire to recoup their public image. The legal, medical, and religious systems here were all serving under the same guise—the connectedness between all gave power to each of them in order to enforce the heteronormative ideal. Because Barbin had been caught in a homosexual relationship, they were now a problem to be solved.

Furthermore, the legal system served as a way to enforce the beliefs of both the church and the medical system. The legal system has always been designed to work on the behalf of the

public good—in their perspective, listening to the church and the hospital. As defined in Russell Hardin’s *Law and Social Order*, “the central program of law to create social order is itself commonly guided by mutual advantage” (62). Hardin defines how using the churches and hospital wishes to restore their social order is of benefit to the court— it puts them in a position of power and gain.. The court obeys the church and the hospital in order to keep this in good faith with both. With the gain of mutual advancement in mind, the court, on the advice of Barbin’s doctor, ordered that a “...rectification be made on the civil status register” (Barbin 89). This assignment, later registered in the *Annales de médecine légale* (Archives of forensic medicine), assigned Barbin to the male gender. This decision sealed Barbin’s fate. From that point on, Barbin was expected to fully live their life as a male. As the court had ordered it, it was now the law for Barbin.

The weight of these decisions came heavily for Barbin. Barbin was subject to enormous psychological damages—these were inflicted both by public shaming as well as their work life .As previously noted, Barbin’s looks were the subject of fascination as a child. Barbin possessed male-like features as well as womanly features, such as their “aquiline nose” and their “slender frame” (123). Due to their looks and their previous gender identification as female, it was presumed that Barbin was a female. However, after their reassignment, they were forced to dress in male clothing (112). Barbin, upon revealing themselves in typical masculine wear, notes that

This girl, who has a reputation for her talents no less than for her modesty, last week suddenly appeared dressed as a man in the church of Saint-Jean, between her mother and one of the town's most respectable ladies. Some people who had come to attend the mass, surprised by such a travesty in such a place and in such company, and being even less

able to explain it on the part of persons who are known for their piety, could not restrain themselves from leaving the church in order to spread the news. (112)

Barbin, in order to meet the wish of the law, dressed as a male. However, with their natural looks, the court was unknowingly inflicting psychological damage upon Barbin. Barbin became the talk of the public and was shamed in the community. Society saw Barbin as a female—as a woman. The identification of and the dress as male distinguished Barbin as a male. They became the focus of public shame—they were viewed as a woman dressing as a man. Thus, they became the subject of public ridicule.

This further went on to impact their work life—Barbin went from being a star student to struggling to find employment. Barbin was denied many jobs—being a waiter’s assistant, shipping companies, to railroad companies ( 108-110). Barbin had to explain repeatedly to these companies that “...my real sex had been discovered” and cites this as having “consequences...for my peace of mind” (108). The decision to reassign Barbin’s gender changed the gravity for their life. They had gone from a star student with a vast career in front of them to being unable to get a job in even the most entry level of positions. Barbin’s memoirs end with them being denied from yet another job.

Thus, with the burden of being assigned a gender that is not one’s own, Barbin eventually committed suicide (115). The weight of this decision came from the effects of public shaming and humiliation on Barbin—they were no longer able to function as a human being. Barbin notes that being a male was an “absurd role” (114). Barbin was found dead by a charcoal stove with their memoirs by their side. From the united role of the religious, medical, and legal system, the end of Barbin’s life was a tragic one. By being forced to live in a body that was not their own, Barbin’s life came to an end.



## Conclusions

The sphere in which hermaphrodites inhabited during the 18th and 19th century was full of difficulties. In looking at the life of Herculine Barbin, it becomes of the utmost importance to examine the connections between the religious, medical, and legal institutions. This system is what ultimately led to their death by forcing them into a gender that they did not choose. Having lived as a female until the age of 20, Barbin's life was undoubtedly ruined when they were assigned male. Cases like this are of the utmost importance when considering the trans community in the present day—many of these same systems still fail and persecute these individuals. With the rise of the banning of trans healthcare, churches leading protests against these communities, and doctors serving as law for trans individuals, one must wonder what the outcome of this will be. A case study on Barbin allows us to see how these systems have failed and resulted in death. To be facing the same problems nearly 200 years later can end with the same results. By examining the religious, medical, and legal realms, it becomes clear how the spiderwebs between these institutions shaped gender in order to enforce heterosexuality. These institutions still serve similar roles in modern day to suppress the trans presence.

Notably, the religious realm is also still active in the transgender community. Many of those on the LGBTQ+ spectrum struggle with their identity inside religion. While the view on gender identity changes based on religion, many religions take a stand against transgender rights. Organizations such as the Christian Institute have stated that

A man cannot become a woman. A woman cannot become a man. It is not loving to affirm the idea that a person is 'trapped in the wrong body' – especially when this could encourage them to undergo medical interventions that are dangerous both physically and psychologically. (Transgender Ideology)

These institutions do not believe in the ability to switch genders. Thus, they are ignoring the existence of transgender individuals. This ignorance can be assumed to come from the enforcement of heterosexuality—switching genders would question the ideals of marriage. Just as Barbin was shaped by their convent, other religious organizations work to shape gender as well.

The impacts of the medical and legal systems are especially relevant when examining transgender rights in the current day. Similarly to Barbin, the law makes many major medical decisions for transgender individuals. Recently, US HB 3329 has been introduced. This bill would ban the use of federal funds for any healthcare or transition related needs. The bill states that

No funds authorized or appropriated by Federal law, and none of the funds in any trust fund to which funds are authorized or appropriated by Federal law, shall be expended for any gender transition procedures [or...] for health benefits coverage that includes coverage of gender transition procedures” (Equality Federation)

Simply, this law would ban access to healthcare and coverage for any gender confirming acts. This would in turn keep transgender individuals trapped in a body that does not belong to them—force them to be in the wrong body. This echoes the case of Barbin. This inherently comes with massive psychological effects. In a study on mental health in transgender youth, it was found that the patient's mental health improved by receiving gender affirming care (Tordoff). If allowing care increases mental health, then banning it must decrease it. By banning trans healthcare, negative psychological effects are imminent. As seen in Barbin’s case, if left untreated, if forced to be in a body that is not your own, these effects could increase in severity, leading to death.

The institutions that shaped Barbin’s gender in the 1800s are still active today. Although times have changed, the view on transgender and gender nonconformists still echoes the past.

The religious, medical, and legal institutions continue to work against transgender individuals in order to oppress them. These damages come at a cost— for many like Barbin, this means negative psychological impacts that can lead to lasting effects such as death. Although Barbin wasn't the first in their situation, they most certainly are not the last. It is interesting to note that although transgender rights are viewed as an activist cause, the institutions that crushed Barbin remain an oppressive force today.

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