Phil 324: Law and Morality

Module 12 Reading Guide

# CN Lester, *Trans Like Me: Conversations for All of Us*

## Chapter 4

1. What is the assumption that underlies attempts to persuade trans people out of being trans or out of *doing* anything about it? What is Lester’s response?
2. What explanations do cis people give for why trans people are trans? What resolutions do these explanations point to? What is Lester’s response?
3. What does Lester make of the question of surety?
4. **What is bodily dysphoria? What is social dysphoria?**
5. What is Lester’s response to the criticism that trans people are liars?
6. What is Lester’s response to the worry that gender is *merely* a social construct?
7. How are trans people treated by society? Are trans people just asking for pity?
8. **Which three approaches has Western society tried in response to the existence of trans people? Which one works?**
9. **Why doesn’t the “ignore it” approach work?**
10. **What are the barriers to access to gender-affirming medical care?**
11. What are the consequences of lack of access to gender-affirming medical care?
12. **Why doesn’t the “change it” approach work?**
13. How is gender policed socially?
14. How does Lester respond to the skepticism about gender-affirming medical care?
15. **What are Lester’s responses to the worry about regret?**

## Chapter 10

1. What truth are trans people telling?
2. What laws have been proposed or passed in response to trans people’s access to public facilities such as restrooms?
3. **What is Lester’s response to these laws?**
4. **How do the experiences of gay, lesbian, and bisexual people shed light on the bathroom issue? Are bathrooms safe as long as trans people are kept out?**
5. **What are the consequences of denying trans people access to public bathrooms?**
6. What are trans people’s actual experiences using public bathrooms?
7. For what reason does Lester argue bathroom laws are self-defeating?
8. What is trans panic? What do the experiences of incarcerated trans women tell us about trans panic?
9. How is trans panic perpetrated by popular media? How is it tied up with heterosexuality and masculinity? What role does disgust play in this?
10. How does trans panic become a legal defense in cases of transmisogynistic murders?
11. What is the failing of current racial justice, feminist, and LGBT movements?
12. What do “sex by deception” cases tell us about the policing of trans people’s genders?
13. What evidence do states require a trans person provide to prove the realness of their gender?
14. What do trans communities tell us about authenticity, understanding, love, and solidarity?

## **Doe v. Boyertown Area School District (3d Cir. 2018)**

## Introduction

1. **What is the question the Court considers?**
2. Who are the plaintiffs? What legal grounds do they appeal to?
3. What is the district court’s holding?
4. What is this court’s holding?

## Background

1. What does it mean, according to the court, to be a trans boy? And what does it mean to be a trans girl?
2. Why is the school district’s policy important for trans students? What are the harms of not having the policy?
3. How does the court respond to the objection that cis students might also avoid using bathrooms if trans students are allowed in there?
4. Under the school district’s policy, which sex’s restrooms/locker rooms can a trans girl use?
5. Skim pp. 14–16.

## Discussion

1. What are the four requirements for granting preliminary injunctive relief?
2. What is the “underlying act” in this case?
3. What is the touchstone of constitutional privacy protection?
4. **What is the appellants’ first argument?**
5. **To what standard of review does the court subject the school district’s policy?**
6. How does the school district’s policy survive that standard of review?
7. **What does the court make of the appellants’ “much more narrowly tailored” policy?**
8. What is the appellants’ second argument? (Hint: the last paragraph on p. 27.)
9. What is the court’s response to that second argument?
10. Skim pp. 29–32.
11. Skip pp. 32–42.

## Conclusion

1. Please skim the conclusion.

# Note, “Doe ex rel. Doe v. Boyertown Area School District,” *Harvard Law Review*

1. Please *don’t* skim or skip the summary of the case. Use this part to examine what you did or did not get from reading the opinion.
2. **Why is strict scrutiny not the appropriate standard of review?**
3. **Why is BASH’s preapproval policy unnecessary?**
4. **How does BASH’s preapproval policy restrict transgender students’ autonomy?**
5. After reading *Harvard Law Review* note, please watch the Aidan Destefano video. You can find the link to the video on D2L.

# U.S. Department of Justice Civil Rights Division, Memorandum on the Application of *Bostock v. Clayton County* to Title IX of the Education Amendments of 1972

1. What is the purpose of this memo?
2. What is Title IX of the Education Amendments of 1972?
3. How does Title VII precedents inform courts’ interpretation of Title IX?
4. What is the DOJ Civil Rights Division’s view on what *Bostock* implies about the legal permissibility of discrimination on the basis of sexual orientation or gender identity in educational contexts?
5. What do circuit courts that have considered the issue think?
6. What is the Division’s ultimate answer on the legal permissibility of discrimination on the basis of sexual orientation or gender identity in educational contexts?