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APPROACHING TRANS DEBATES AS FASCISTIC SITES OF ENGAGEMENT

By

Sarah Jump
B.S., University of Louisville, 2017

A Thesis
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July 21, 2021

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ABSTRACT

APPROACHING TRANS DEBATES AS FASCISTIC SITES OF ENGAGEMENT

Sarah Jump

July 21, 2021

For the past decade, trans rights issues have been a legal topic of discussion and are still discussed publicly in 2021. This thesis researched how arguments surrounding anti-trans issues were successful in the United States. The arguments surrounding these issues are important to study to see how they pass within society and if traditional rules of argumentation are changing. This thesis proposes that traditional dialectical argument is no longer occurring and has taken a post-dialectical turn. The purpose of this thesis is to describe the kinds of arguments used in these issues and build the case that they are evidence of an emergent problematic for argumentation and rhetorical studies: fascistic argumentation. This thesis argues that specific ‘masks’ are used to facilitate fascistic argumentation in the public sphere undetected.

TABLE OF CONTENTS

	PAGE
ACKNOWLEDGEMENTS.....	iii
ABSTRACT.....	iv
INTRODUCTION.....	1
LITERARY REVIEW.....	24
METHODOLOGY.....	47
ANALYSIS.....	62
CONCLUSION.....	84
REFERENCES.....	94
CURRICULUM VITA.....	99

INTRODUCTION

Transgender rights have been an ongoing issue in the United States for the past decade. Several public figures such as Caitlyn Jenner and Elliot Page have come forward to express their transitions and the need for social justice with proper representation in the public eye. Not only have public figures come forward, but standard U.S. citizens have as well. This project takes up trans issues from an argument perspective by studying how arguments surrounding trans communities seemingly do not follow traditional rules of argumentation with unreasonable evidence. I believe a fascistic field of argument motivated by desires to dominate bodies can help explain why these arguments can pass through society. This fascistic field is an issue for argumentation because it goes against traditional standards of dialectical argumentation. Dialectical argumentation uses discussion and reasoning to reach a joint consensus in finding the truth and creating policy. I believe we are straying away from dialectical argumentation. Society has taken a turn to post-dialectics, where arguments with hostility, insufficient evidence, and one-way thinking are accepted. The theory of fascistic argumentation is a way to explain this post-dialectical turn. I also propose that anti-trans people use certain grounds (that I call masks) to conceal their fascistic desire to dominate bodies and successfully pass these arguments in society. I focus on three argumentative issues related to trans rights that typify this troubling emergent form of argumentation: 1. The Housing and Urban Development's Equal Access Rule. 2. Previous constraints on transgender people joining

the U.S. military. 3. Bathroom bill proposals. Through an analysis of these issues, I show how desires to dominate trans bodies operate argumentatively in the public sphere and show evidence of fascistic argumentation.

This opening chapter will introduce the three specific trans debate issues this thesis will analyze. My purpose is to describe the kinds of arguments used in these issues to build the case that they are evidence of an emergent problematic for argumentation and rhetorical studies: fascistic argumentation. However, before engaging the theoretical underpinnings of fascistic argumentation, this chapter must explain the issues at hand. The first issue identified is the Housing and Urban Development's newly proposed amendment to the Equal Access to Housing Rule that would give single-sex shelters the power to reject trans people from staying in quarters that match their gender identity and instead put them in shelters based upon their biological sex at birth. This information was made public by Secretary Ben Carson through a press release on July, 1st 2020. The arguments surrounding this issue were both praised and rejected by many, but the proposal did not pass and was overruled in April 2021.

The second issue this chapter will look at is former President Donald Trump's ban on transgender people serving in the military in July 2017. This ban was made public on Twitter through three tweets. The ban was in response to the Obama Administration making it legal for trans people to serve and receive health care in the military starting June 30, 2016. Though the Biden Administration has recently revoked the ban, it is still essential to analyze the arguments surrounding the rejection of trans people in the military.

The third issue addressed in the chapter is concerning “Bathroom Bills.” Explicitly focusing on North Carolina’s Public Facilities Privacy and Security Act or House Bill 2 that went into effect in 2016. This bill is the first and only bathroom bill that was passed through legislators, making it illegal for a person to use a restroom that does not coincide with their biological sex and requiring all public restrooms to be single-sex restrooms. Though this bill is no longer standing, it erupted a public argumentation on trans rights, and many states tried to follow in North Carolina’s path. I will give examples of arguments for and against “Bathroom Bills.”

After unpacking these issues, the end of this chapter will explain why these arguments are important and both how and why they are problematic for argumentation. I then probe a few possibilities for analyzing these arguments, such as the public sphere approach and fields approach. These approaches will help set up chapter two that will argue debates surrounding trans issues are best interpreted as fascistic.

Trans Issues: Three Argumentative Issues about Trans Rights in the Public Sphere

Before unpacking these issues, it is important to note why people should care about these issues. The arguments surrounding the matters of trans people in shelters, military, and restrooms are significant because lives are at stake. Arguments about trans person may appear innocuous, but there is an effort to dominate bodies by forcing people to live as the sex they have been assigned to at birth. These three issues are strong examples of where trans arguments occur and how people can use masks to hide behind their true intentions. If people do not follow their assigned gender at birth, they could be assaulted in a single-sex facility or be refused from serving in the U.S. military. With the

public sphere being exposed to trans issues more commonly, the issues at hand present several forms of argument. While living in a heteronormative cisgender culture, deviating from this norm can cause public argumentation. Public arguments began to arise of who can legally change their sex or use a restroom that reflects gender identity instead of biological sex. These arguments are significant because they challenge traditional rules of rhetoric. These arguments are also important because they bring to light people who were once invisible and still do not have proper representation. Not only are homeless people seen as invisible, but trans homeless are even more invisible and have homeless rates that are disproportionately large. Invisibility surrounding homeless people introduces the first issue regarding homeless trans people.

HUD

The Housing and Urban Development Department (HUD) was established in 1965 by the Department of Housing and Urban Development Act 42 U.S.C.. This department is responsible for the United States of America's housing needs, fair housing opportunities, improvements, and development of U.S. communities. HUD is a principal federal agency and supports communities with federal money. The president appoints the head of the department with the advice and consent of the senate. The title of the head of the department is the 'Secretary' who will directly supervise HUD. The secretary advises the president toward federal program policies for urban area growth and consults with state governors and agencies on urban development (The Public Health and Welfare, 2018).

Equal Access Rule 2012

On February 3, 2012, a rule was passed titled Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity. This rule would ensure the core programs are open to all eligible individuals and families regardless of their sexual orientation, gender identity, or marital status. This rule came about following a proposal from 2011 showing evidence that lesbian, gay, bisexual, and transgender people are heavily discriminated against in private sectors (Equal Access to Housing, 2012). By creating this rule, HUD hoped to ensure that the federally funded programs would not support such discrimination. No organizations funded by HUD would be allowed to ask about sexual orientation or gender identity unless it was an emergency shelter that requires people to sleep in the same room or use the same restroom facilities. The specifications revolving around emergency shelters imply that trans people would be required to stay in a space that does not align with their gender identity. A person's biological sex would be exposed in the shelter because their biological sex does not match their gender identity. For example, a male to female trans person would be forced to stay in a male emergency shelter though they are female performing. This enforcement would automatically reveal to others that they were born a male.

During this time, the public commentary was more so in support of this rule. HUD collected 376 comments from various groups until March 25, 2011. The public comments contain statements anywhere from the public layman to local government, many agreeing that it has been an overdue rule and HUD should be preventing discrimination with federal housing. Of course, not all agreed. Some statements indicated that this would overstep the rights of the federal government. People anti-Equal Access

Rule also stated that the housing department has many other things to assess before LGBTQ discrimination.

The federal registry kept all 376 comments regarding the HUD rule but released several quotes to reflect the opinions based upon this rule:

One commenter stated that lawful inquiries of a consumer's "sex" where housing involves the sharing of sleeping areas and bathrooms leave transgender individuals, who may need the most protection, particularly vulnerable to discrimination. Another commenter stated that even inquiries of individuals who have obtained legal gender change documents would lead to harassment and discrimination. For this reason, the commenter suggested that inquiries about sex for sex-specific housing should be made in reference to an individual's gender identity sectors. (Equal Access to Housing, 2012. para. 6)

HUD responded to these comments by stating that they were aware of the situation and needed more time to, "determine whether setting national policy is appropriate" (Equal Access to Housing, 2012. para. 89). If HUD needed more time to discover if this is a real issue or not, it would potentially be leaving more trans people without emergency shelter and denied housing. Anonymous commenters also raised concerns about how these discriminations will be reported and urged HUD to have a specific procedure in the legal rule of what to do when discrimination occurs. HUD stated that other program requirements would have to be implemented in response to giving specific protocol, taking more time.

There were anonymous comments that concerned religious freedoms as well:

The rule, by infringing on religious freedom, may have the ultimate effect of driving away faith-based organizations with a long and successful track record in meeting housing needs. The commenter concluded that given their large role in serving unmet housing needs, it is imperative that such faith-based organizations not be required to compromise or violate their religious beliefs as a condition of participating in HUD-assisted housing programs and receiving government funds to carry out needed services. (Equal Access to Housing, 2012. para. 129)

Hud responded to this comment by stating that they respect their religious organizations but not accepting a human because of their sexual orientation is not acceptable and would not be tolerated. There was a continued disagreement regarding the terminology used in the rule as well. Commenters wanted more definition toward family, sexual orientation, gender identity, marital status, and sex.

Equal Access Rule 2016

Though people would be protected from discrimination under other core HUD programs such as assisted living, discrimination protections did not apply to emergency shelters until September 9, 2016 (Equal Access in Accordance, 2016). After much research, HUD found that gender non-conforming and transgender people would face more discrimination and violence in shelters, therefore adding equal access for individuals concerning their gender identity in programs and emergency shelters funded by HUD. Adding to the original rule of 2012, HUD's definition of gender identity became more clearly defined and elaborated. Special accommodations could be made or proposed to protect the person based upon their gender identity, such as using a private restroom or facility (Equal Access in Accordance, 2016).

From November 20, 2015 to January 19, 2016 HUD collected 184 public comments and mass mailing regarding the change to the Equal Access Rule. Though again, most people were for the rule, there were a few outliers. Comments against the change to Equal Acces stated worry for women's safety in single-sex shelters and being exposed to violence or rape from transgender folk. The comments provided by the federal registry were once again anonymous. However, they provided an overview of the anonymous comments: “the rule should not open female, single-sex spaces to individuals who were born male, citing their fear that individuals could deliberately misrepresent their gender identities and compromise the privacy or safety of vulnerable women and children..... the rule does not respect legitimate safety and privacy concerns of biological women, and that the rule treats women's fear of being assaulted in a shelter as unreasonable “bigotry” (Equal Access in Accordance, 2016. para. 40). There were also fears that people would take advantage and act as a different gender though they are not serious. Anti-Equal Access commenters suggested that HUD created separate facilities for trans people to stay and not in single-sex facilities.

Equal Access Rule 2020

Ben Carson, who is now the standing secretary for HUD sent out a press release on July 1st, 2020, stating he would give power back to single-sex shelters to deny gender nonconforming or transgender people from staying in their facility. Though the shelters are required to give information regarding other places to stay, this does not solve problems. The shelters must obey public and state law but can still create their own policy if a resident's gender does not reflect their biological sex. HUD reports that, “The proposed rule modifications also better accommodate religious beliefs of shelter

providers” (HUD Public Affairs, 2020. para. 1). The rule is still under proposal, and HUD argues that federal institutions must respect the law of local and state and how these laws will vary upon location. For example, Anchorage, Alaska requires evidence that “the gender identity is sincerely held, core to a person's gender-related self-identity, and not being asserted for an improper purpose” (HUD Public Affairs, 2020. para. 3). Anchorage has different laws compared to New York, which excludes discrimination towards a person’s gender identity in a shelter. It does not matter if the NY shelter believes the person is ‘serious’ or not about their gender identity. The person is still accepted into the NY shelter. The proposed rule will give power back to the state and shelter to use sex or gender identity as a basis for admittance into housing. This rule would make the laws inconsistent throughout the country, meaning transgender people would not know if they could seek shelter depending on the state they are in. This proposal also raises a question: Who gets to decide if someone is serious about their gender identity? Who is there to judge if someone passes their gender identity?

Comments on Equal Access 2020

HUD accepted public comments concerning the proposal until September 22, 2020. The comments from the HUD proposal will be analyzed in a further chapter. There are many statements released by organizations with concern about shelters turning away transgender people, such as Nan Roman, who is the CEO of the National Alliance to End Homelessness. Roman stated that the COVID-19 pandemic is causing more sheltered homelessness, and it is immoral that the Trump Administration would allow federally funded facilities to deny shelter to the people who need it the most (National Low Income Housing Coalition, 2020). In support of the proposal, Ben Carson made it clear in his

press release that there would be more support for religious obligations if being transgender is against their religious beliefs. This comment made by Ben Carson is an instance of how religion is being used as a mask for a valid argument in the public sphere and adding to the ongoing debate if religious beliefs should be kept to the personal sphere when making laws.

Gregory S. Baylor who is the senior counsel with Scottsdale, Arizona- Based Alliance Defending Freedom (ADF) released a public comment on September 22, 2020 regarding the proposed Equal Access rule:

In the event HUD elects to maintain a rule, ADF agrees that the 2016 Rule should be changed to permit HUD-funded shelters to make admission and placement decisions based on biological sex rather than gender identity. To that end, ADF recommends that HUD eliminate the superfluous requirement that shelters maintain policies consistent with state and local law to be eligible for the HUD programs in question (Targeted News Service, 2020. para. 4).

This legal organization is devoted to protecting religious freedom, free speech, and the sanctity of life. The concerns coming from ADF include violation to shelters' religious rights, privacy, and safety problems. Senior councilman Baylor from ADF also states that "None of this is to condone the unjust treatment of individuals based on their sexual orientation or gender identity. Individuals who identify as LGBT, like all men and women, are created in the image of God; they thus have inherent value and should be treated with respect" (Targeted News Service, 2020. para. 23). Baylor also believes that a federal rule should not offer compliance based upon state and local laws. He argues that some state and local laws do not align with HUDS proposed rule and would still put

people in shelters based upon their gender identity and not biological sex. Baylor gave an example from the Downtown Hope Center in Anchorage, Alaska during 2018 when an intoxicated man demanded to stay in a women's shelter but was taken to the hospital instead. The man then filed a gender identity discrimination charge and the Hope Center in result filed a lawsuit in federal court claiming this violated their constitutional rights. In August 2019, the federal courts found that the center was not a place of public accommodation, therefore, protecting the shelter. Baylor used this example to also bring the point across that it is difficult to have federal compliance with state and local laws. He also declared that forcing women's shelters to accommodate "gender dysphoric" men stating they are women, could threaten biological women's physical safety and privacy while also violating the Religious Freedom Restoration Act along with the First Amendment.

The Family Research Council (FRC) seems to share similar arguments for the HUD proposal under a public comment written in September 2020. Nary E. Waddell, the senior legislative assistant, and Peter Sprigg, the senior fellow for policy standards, collaborated in their statement. The FRC is a non-profit organization that engages in research, education, and advocacy regarding marriage, family, human sexuality, human dignity, and religious liberty. FRC claims that HUDS 2016 rule did not have support from statutory authority to accept people based upon their gender identity and not biological sex. Services such as emergency shelters are mainly run by religious programs and accepting people who do not identify by biological sex puts a burden on their religious values, "They should not be required to choose between forfeiting government aid and violating their religious convictions about the nature of human sexual identity"

(Targeted News Service, 2020. para. 4). Waddell and Sprigg are using religious freedom as their grounds in support of this rule proposal.

FRC is also concerned with privacy and does not agree with accidental exposure by persons of the opposite sex in private places such as changing rooms, shared living quarters, showers, or other places where a person would be vulnerable. Waddell and Sprigg continue to represent the FRC by stating:

A policy that divides sex-specific facilities on the basis of psychological "gender identity" rather than biological sex--as mandated by the 2016 rule--is irrational. It ignores the fact that the very reason why single-sex or sex-specific facilities are permitted in such circumstances is because of differences in the biological anatomy of males and females identity (Targeted News Service, 2020. para. 7).

They claim that many women who have been exposed to traumatic events from men seek refuge in a homeless shelter or emergency facility and would not want to sleep in the same room as a man. This safety concern remains regardless of one's gender identity. The FRC claimed they compiled a list in 2017 of 25 publicly reported incidents where men posed as women to violate others in private spaces, though the list was not provided in their public comments and is not posted online. By making such statements the FRC is suggesting and warranting that trans people are inherently dangerous and should be feared.

The FRC representatives also explain that this is not a view represented by one conservative political party but across the entire political spectrum. They give an example from the radical feminist organization, The Women's Liberation Front (WoLF), and specifically stated that some of the members are "self-identified lesbians." FRC

recommends that HUD eliminates in its entirety the 2012 rule for “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity,” stating there is no statutory authority from Congress and a federal agency should not enforce without direct instruction from Congress. FRC does specifically state that they are not against LGBTQ community but single-sex or sex-specific facilities should not be forced to accommodate someone based upon their gender-identity (Targeted News Service, 2020. para. 10).

Through these public statements are arguments regarding HUDS Equal Access proposal we can see a common trend with concerns about religion, safety, and privacy. HUD’s proposal was not the only occurrence challenging trans rights in the past decade. On July 26, 2017 former President Donald J. Trump banned transgender people from joining the United States military. The following section considers this issue.

Military

When the U.S. military was formed, there was no law stating trans people could not serve. In the 1960s, a blanket ban was produced, excluding people who identified as trans from serving or enlisting. For decades trans people were not allowed to join the military or followed the “don’t ask, don’t tell” rule implemented by the Clinton Administration. It was not until June 30, 2016, Defense Secretary Ash Carter made a statement during a Pentagon news conference, “As a result of the yearlong study, I’m announcing today that we are ending the ban on transgender Americans in the United States military. Effective immediately, transgender Americans may serve openly, and they can no longer be discharged or otherwise separated from the military just for being transgender” (Crook, 2016. para. 2). Carter stated that the U.S. should have access to

100% of the American population for voluntary recruitment and protect the 7,000 trans people who serve in the U.S. military at this point. Until 90 days after June 30, 2016, transgender people paid out of pocket for private doctors with medical treatment for their identity while serving the United States.

When this announcement was made, many public groups expressed their support or anger for ending the ban of trans people in the military. These public comments are important to review and get a sense of the opinions surrounding the new law. One example of public commentary against ending the ban of trans people in the military was from a group called Chaplain Alliance for Religious Liberty. This group was formed in 2011 to provide the military with religious chaplains. Ron Crews is the executive director of the Chaplain Alliance for Religious Liberty. Crews claimed that allowing trans people in the military to receive medical treatment regarding their gender is “.....a gross misuse of military medical dollars” (Parry, 2016. para. 8). He also explains that forcing people who belong to the military to be educated on trans issues and trans education is a waste of the U.S. military's time. Republican Congressman Mac Thornberry also released a public statement stating the lift on the ban would keep troops from deploying because of medical issues and “This is the latest example of the Pentagon and the president prioritizing politics over policy” (Parry, 2016. para. 35). Thornberry feels that the troops must be medically ready to protect our national security and be ready to be deployed at any time. Giving examples of public comments surrounding trans people being able to serve in the military helps to identify reasons why the ban is later enforced.

Trans Military Ban 2016

It did not take long for former President Donald J. Trump to respond to anti-trans military and publicly post on social media through several tweets due to the nature of Twitter only allowing 280 characters per post.

After consultation with my Generals and military experts, please be advised that the United States Government will not accept or allow [sic]...Transgender individuals to serve in any capacity in the U.S. Military. Our military must be focused on decisive and overwhelming [sic]...Victory and cannot be burdened with the tremendous medical costs and disruption that transgender in the military would entail. Thank you. (@realDonaldTrump, 2017)

A month after these tweets, Trump released a Memorandum for the Secretary of Defense and the Secretary of Homeland Security prohibiting openly transgender people from enlisting and authorizing the discharge of trans people already serving (Trump, 2017). He stands on the grounds that the previous administration did not have sufficient evidence to terminate the policy originally in place, affecting the military's effectiveness and taxing military resources.

There was both praise and rejection for former President Trump's decision to ban trans people from the military. People claimed they had lost their rights due to the trans military ban. People also claimed that the military should not expense gender reassignment surgery. A Republican member of the House Armed Services Committee, Duncan Hunter, claimed, "The president's decision was the absolute right decision. ... It's about time that a decision is made to restore the warrior culture and allow the U.S. military to get back to business" (Burns, 2017. para. 11). The House Armed Services Committee is a standing committee of the House of Representatives. It is responsible for

the Department of Defense and the U.S. Armed Forces oversight, meaning Hunter directly connects with the United States military. Tony Perkins, who is the President of the Family Research Council, also agreed with Trump's decision "keeping his promise to return to military priorities - and not continue the social experimentation of the Obama era that has crippled our nation's military" (Family, 2017 para. 2). The Family Research Council is a pro-marriage and pro-life non-profit organization in Washington DC whose mission is to advance faith, family, and freedom in public policy and the culture from a Christian worldview (Family Research Council, 2021). The organization is dedicated to spreading the voice and views of people who follow the same mission statement. The common theme for people supporting the removal of trans people from the military seemed to be that the military does not have a priority or the money to support transgender individuals.

Though Trump had support for this ban, most Americans did not support the trans U.S. military ban. According to Reuters, a claimed nonbiased international news company, 58% of Americans did not support this ban from a poll taken in July 2017. The poll was conducted online from 1,249 Americans, 533 reported part of the Democratic party, 434 reported part of the Republican party, and the others did not report a political affiliation. Roger Kaikko, who is an average Trump supporter from Cleveland, Ohio disagreed with this ban stating, "Even the president shouldn't be able to take rights away from some people just because he may not like them. They're people too. Unless they're causing problems, they should serve just like anybody else" (Kahn, 2017. para. 11). If the opinion was not supporting this ban, why would the president go against common consensus? It seems that the grounds for this argument were based upon national security

and military budget. The trans military ban continued until the Biden administration came into power during 2021.

Bathroom Bills

The issue regarding transgender bathrooms has raised arguments in the public sphere that have been prevalent in the United States for the past decade. “Bathroom Bill” was a common saying in 2016 when the debate about gender and bathrooms exploded in public discourse. The term references legislation that prohibits people from using a bathroom or other private single-sex facilities that do not match their biological sex. North Carolina’s Public Facilities Privacy and Security Act or House Bill 2 (H.B. 2) created a massive public debate reflected across multiple forms of communication. H.B. 2 was the only bathroom bill that successfully passed state legislative and was put into effect on March 23, 2016. This bill was directed towards Ordinance 7056 in Charlotte, North Carolina, against discrimination of gender identity. The Ordinance permitted trans people to use whichever public restroom they felt coincided with their gender while in Charlotte, North Carolina. H.B. 2 forced people to use same-sex facilities that corresponded with their sex assigned at birth or the sex reflected on their birth certificate. This bill brought a lot of attention to North Carolina and impacted their economy since NC is known for tourist destinations. The economic impact caused the bill to be revoked on March 30, 2017. There are currently no federal laws stating that transgender people may not use the bathroom of their choice, though many states proposed such laws. In 2017, 16 states proposed some type of bill that would prohibit transgender people from using the bathroom that matches their gender. Not only is this a concern for the public, but

what does this mean for private employers and single-sex facilities? Are they allowed to create rules restricting trans people and single-sex facilities?

Title VII of the Civil Rights Act of 1964 describes anti-discrimination regarding 'sex' in the private workplace. Some say that this protects trans individuals, and some say it does not. The Equal Employment Opportunity Commission (EEOC) states that Title VII would protect the rights of trans people in private employment. EEOC is a federal agency that enforces Title VII. Some people disagree and think that these agencies and courts are going above their heads and they do not have the authority to apply this title. This belief is because the policy was not made to protect trans individuals but for discrimination against males vs. females. Attorney General Jeff Sessions made this apparent on the public record (Bader, 2018).

Transgender bathroom access in the United States does not have clear laws and can become rather complex. Again, though there is no federal law outright stating that people must use a single-sex facility that corresponds with their sex on the birth certificate, local and state laws find ways around the federal law. For instance, in some states, using a restroom that does not correspond to a person's legal sex will have repercussions. If some type of authority asks a person to leave the bathroom, such as a police officer or a security guard, there is a chance they could be cited or fined if they do not follow instructions. In other states, there are no legal repercussions for using whichever restroom is preferred and even have non-discrimination laws passed with no consequence to using a restroom that does not match a person's biological sex.

Though North Carolina is the only state that successfully passed a Bathroom Bill, other states have tried to pass a different bill. Florida, Arizona, Texas, and Kentucky have

considered a bill requiring people to use single-sex facilities that match their legal sex, or they will be forced to use a single-stall bathroom. In addition, some states such as California and Vermont passed a law stating that all single-stall or private restrooms be considered gender-neutral. Though the laws vary across states and are not clear, there are many public opinions and arguments that reflect these ideals.

For instance, in 2015, former Arkansas Governor Mike Huckabee released a public statement regarding trans students being able to use a single-sex locker room, “I wish that someone told me that when I was in high school that I could have felt like a woman when it came time to take showers in PE.” Continued the comment with “I’m pretty sure that I would have found my feminine side and said, ‘Coach, I think I’d rather shower with the girls today’” (Kohn, 2015. para. 4). The public debate became more apparent as well in 2016 during the presidential race. Former President Donald Trump claimed that he had no problem with Caitlyn Jenner using the women’s restroom in Trump Tower. Caitlyn Jenner’s story was disseminated across many public platforms during this time for her transition from Bruce Jenner to Caitlyn Jenner. Ted Cruz, who was running for Presidential candidacy against Trump in 2016, announced on CNN that he disagrees with this and will not back down:

In my view, this is not a matter of Right or Left or Democratic/Republican. This is common sense, doesn't make sense for grown adult men — strangers — to be alone in a restroom with a little girl. And frankly the concern is not the Caitlyn Jenners of the world. But if the law is such that any man if he feels like it can go in a women’s restroom and you can't ask him to leave, that opens the door for predators (Medina, 2016. para. 2).

Cruz's comment exemplified the concern for public safety and the assault of children or women.

While Texas was trying to pass a bill much like North Carolina's H.B. 2, Lt. Governor Dan Patrick claimed that the new bill would, "be a tough fight," but, "The forces of fear and misinformation will pull out all the stops, both in Texas and nationally. But we know we're on the right side of the issue, and we're on the right side of history" (Fernandez, 2017. para. 3). On the other hand, Chris Wallace, the president of the business association, disagreed with Governor Patrick, "If it's like H.B. 2 in North Carolina, it's discriminatory, and it's bad for business" (Fernandez, 2017. para. 5). Wallace believes the bill would discourage corporations from moving to Texas, specifically millennials, and could jeopardize the Texas brand. When Patrick proposed the Bathroom Bill the NFL released a statement urging the bill not to pass or future Superbowl's may not be held in Texas, threatening the economy of the state. Though the bills are not enforced, The Bathroom Bill debate is still prevalent in 2020.

Making Sense of Nonsense Arguments

Through Bathroom Bills, HUD proposal, and the ban on transgender folks in the military, there seems to be a common theme of thinking trans people are deplorable or do not need recognition. A common theme is that trans people are inherently dangerous and threaten multiple spheres such as the military, religion, and public restrooms. There are absurd similarities in that people fear their safety in shelters or restrooms because of trans folks. The military, religious, and public spheres come together to dominate and control a private personal body. The public sphere is controlling the privacy of a person's body.

These arguments do not have sufficient evidence or have a common consensus, yet they are still impacting laws or spreading hate. Is this an example of post-dialectic argumentation? Instead of including civil rights for everyone, many rights are being taken away from trans people or in the process of being taken away. Instead of letting people control their private bodies, there are proposals to dominate these bodies by excluding them from public and governmental places and spaces.

How should one make sense of these public arguments? There were some common themes between the arguments against trans people serving in the military, using the restroom that does not match their biological sex, and giving single-sex shelters the right to turn away trans people. The notable common themes in these arguments were safety, religious freedoms, and public health. There is also a common theme to dominate bodies and space. By taking control of space and bodies, these arguments are using space and bodies as a weapon. To explain how this weaponization is happening, we can look through several aspects of argumentation, such as fields, spheres, and fascist argumentation.

The following chapter will engage several theoretical possibilities for making sense of these arguments to explain the reasoning behind them. For instance, it is a possibility that we can look at fields of argument to make sense of the structure and why they are important. Fields were made most famous by Stephen E. Toulmin, and that different fields of argument will have a specific way of analyzing and judging opinions based upon which field they belong. Toulmin looks at fields as more technical areas and professions, while Willard will look at fields as communities. These arguments can be looked at through Toulmin and Willard's theories of argumentation.

I can also look at these arguments through the sphere of argument perspective. Spheres are based on fields of argumentation and came about mainly through G. Thomas Goodnight. The three main spheres of argumentation are personal/private, technical, and public. Spheres can play from field limitations to help explain why these arguments that are anti-trans are significant. The sphere argument perspective also includes counterpublics, an umbrella term describing groups that do not coincide with the majority public. For counterpublics, Communication scholars Kyle Larson and George McHendry created the term ‘parasitic public’ to expand on counter public in the public sphere.

I will also look at these public statements through fascist argumentation and the five elements that make up fascist argumentation. This thesis does not argue that we belong to a fascist state completely; however there are ideals from how these arguments are formed that have alarming fascistic qualities and need to be addressed. As a sort of “wolf in sheep’s clothing,” argumentation can be disguised as a tool for dominating bodies.

Conclusion

This chapter introduced three argumentative issues about trans rights in public spaces and places. This chapter's concerns set up a further analysis of the arguments being used for anti-trans rhetoric. Public argumentation is being used to dominate certain bodies, and ultimately argumentation is doubtful to scholars of rhetoric because it theoretically assumes people are reasonable actors without sufficient evidence. The issues at hand are HUD’s new proposed rule that will give shelters the legal right to not accommodate transgender people, Donald Trump’s ban on trans people joining the U.S. military, and states still pushing for a Bathroom Bill excluding trans people from using the bathroom that coincides with their gender identity.

The following chapter will engage several theoretical possibilities for assessing these arguments. Although these arguments may be able to be analyzed from traditional argument perspectives on fields and spheres, I will make the claim that these issues are evidence of a fascistic form of argumentation due to post-dialectics.

LITERATURE REVIEW

The previous chapter looked at issues in the United States regarding trans rights and the arguments surrounding these issues. The first issue is HUD's new proposal to give single-sex homeless shelters the right to turn away trans gender people from staying. The second issue is Former President Donald Trump's ban on transgender people serving in the military. The third issue is "Bathroom Bills" and laws that prohibit trans people from using the restroom that matches their gender identity. This chapter will engage several theories of argumentation to help determine how to analyze these arguments. I will present the argument that although this argumentative situation can be analyzed from traditional (fields and spheres) approaches-it seems something else is happening here that exceeds reason, namely the refusal to adhere to basic standards for normative (reasonable) debate. Because of the seemingly shared argument purpose to dominate bodies under the guise of legitimate public argument I argue recent trans argumentation is an example of fascistic argumentation.

Argument Perspectives: The Uses (and Limits) of Fields and Spheres

By using the traditional fields and spheres approaches we can see how trans argumentation is beyond the scope of traditional deliberative rhetoric. Deliberative rhetoric aims to find a consensus through difference of opinion. I will show that the use of these techniques will show how types of spheres and fields are eclipsing into each

other. The boundaries are no longer definite between types of spheres and fields. These traditional approaches also face limits such as not being used to study trans arguments in the past. It is also essential to look at how these arguments are formed and how they can be evaluated using a model of argumentation. Specifically, this thesis will be using the Toulmin model of argumentation, which consists of six parts: claim, grounds, warrant, qualifier, rebuttal, and backing (Toulmin, 2003). Every argument will begin with the claim, the ground, and the warrant. The main argument and what the arguers would like to prove to the audience is the claim. The facts and evidence to support the claim are the grounds. The warrant links the ground to the claim and is the assumption either stated or implied. Differing fields may have different warrants and assumptions of a particular argument. The purpose of a claim will also vary depending on the field of argumentation. The Toulmin model is important because it can show the framework behind a well-executed argument and help to see evidence and reasoning.

Fields

Argumentation fields are disciplines, communities, professions, or even situations that have a shared set of norms or purposes. Using argument fields, we can see that different professions or discourses will develop varying views. The arguments stated in the previous chapter will be tested at the end of this section to see if they are engaging in field argumentation. To understand and test these arguments, we will review fields as well. The definition and categorization of fields have changed over time and are not black and white. Many scholars have researched fields, such as Stephen E. Toulmin, who created the terms field-invariant and field-dependent.

Toulmin believes that arguments will vary from field to field, and the standard of judgment will vary (Toulmin, 2003). Some fields may be more technical, persistent, or formal than others. Factual claims and grounds will differ between these discourses and may even have their own set of terms or language. Therefore, both field-invariant and field-dependent are essential when studying arguments. Field-dependent is referring to an argument that would only make sense in that particular field or discourse. There would be no way to assess the argument from a different field because they would not have the same understanding, logic, or technical language. For instance, in the field of Mathematics, an argument within this field may not have the same rules, vocabulary, understanding, or warrants as the field of literary studies. Mathematics will have a definite answer with concrete data behind it, while literary studies may have different scopes, evidence, and logical ways of thinking to back argumentation.

Field-invariance is not the same as field-dependence. If an argument is field-invariant, it can be transcendent through various fields with a shared meaning. Field-invariance are generalizations that apply to all fields. For example, all arguments will have a claim or a conclusion and will apply to all fields as field-invariance. A simple example of field-invariance is the word 'possibility' this word has the same meaning across all disciplines, that something may or may not occur. Take for instance the word 'bark'. Bark would mean something different to a veterinarian than it would to an arborist. The word bark is dependent on the field and instance of use. Toulmin argues that formal syllogistic argumentation follows field-invariance and that argumentation is more complex and cannot carry the same ideology across all fields. Thus, he created the Toulmin Model model of argumentation (claim, grounds, warrant) using field-

dependence. Field-invariant does not apply to all fields because goals or vocabulary may differ depending on fields as well. An argument may be judged differently if it comes from a mathematic field vs. literary studies. Therefore, we must look at the arguments about trans people on equal housing, military, and bathrooms through field-dependence to understand how people formed their arguments for or against trans rights.

Charles Willard is also known for his work in argumentation fields and helps to clarify Toulmin's notion of argument fields. Willard focuses on fields as communities, so the claims and evidence would vary depending on the community of a well-executed argument. Willard's work on fields would include a wide range of communities and more of a social category that set their own rules compared to Toulmin's idea of fields.

Argument fields still seem vague through Willard and Toulmin, and communication professionals have turned towards field theory to clarify the concept. There can also be different levels of variance within the same field, creating subfields of fields. These various levels can make field theory too simple in some instances and too complex in others.

During the 1970s and 1980s, communication theorists created five ideas to define what fields are and clarify the term (Rowland, 2008). Robert C. Rowland proposes these ideas in his article titled "Purpose, Argument Fields, and Theoretical Justification" (Rowland, 2008). The first idea was brought to Rowland's attention by scholar James F. Klumpp to try to define a certain type of field as the specific subject that the field is discussing/studying. The acceptance of the argument must depend on the subject at hand. Subjects can vary across endless possibilities, anywhere from an argument on how to build a bridge to an argument on global warming. There is no way to accept an argument

without acknowledging the topic itself and how that applies to the data, warrant, and logic. Klumpp's approach is one of the more self-explanatory ideas for defining a certain type of field.

The second idea Rowland expresses comes from Raymie McKerrow and Charles Willard, noting the importance of the community or the audience when defining the field's procedures. Willard would agree with this rule because he focuses on the people and social aspects when defining a field. The audience will vary depending on the argument and who cares about the argument. The way an audience will evaluate an argument depends on their perspectives and community culture. For instance, someone from the social sciences may evaluate an argument and have a different set of standards than someone from the STEM community.

The third idea is based upon Toulmin's perspective that, "fields were best defined as a universe of discourse in a particular context" (Rowland, 2008. p. 241) meaning there are knowledge structures that specific fields will depend on. Some fields will use more technical knowledge and people in that specific field will understand the knowledge structure. For instance, environmental scientists. There is a shared purpose of studying the environment and factors that impact the environment for environmental scientists. An argument in environmental science would have the same purpose of identifying and solving problems within that specific category of science.

The fourth idea to define a field comes from a sociological or psychological perspective. This idea is also coming from the influence of Willard, "who treated fields as both a kind of personal psychological perspective and as sociological constructs defined by disciplinary bodies" (Rowland, 2008. p. 241). These bodies are disciplined into

having the same perspective and social constructs, therefore creating their field. The fourth idea coming from a sociological perspective can make fields more complicated because there are several different levels of social constructs and perspectives. Fields could be something as small as a neighborhood to a field as large as a country. These fields would all share the same communicative rules.

The fifth and last idea that Rowland pointed out in his essay to define and clarify fields is purpose. This idea came into existence from Rowland himself and was later extended by scholar Jim Hanson. The purpose is the rationale that drives people to form a field in the first place. The field itself has the same purpose in mind and will form an argument based upon this shared objective. With the same purpose in mind, the arguers in this field will develop their own set of rules and evaluations to decide acceptable facts, warrants, and the truth in general.

These five approaches to fields Rowland observes in his article are complementary, creating a general consensus regarding field theory. Due to the consensus of field theory, the focus on fields died off during the '80s. Trans arguments can be looked at through fields theory, especially when looking at a shared purpose in a field. When analyzing the arguments surrounding HUD, military, and bathroom bills I am looking for a shared purpose that I believe will reveal a specific field.

Fields will also resolve arguments in different ways, making categorizing fields more troublesome and limited. For instance, scientists have different standards when evaluating claims than lawyers do. Both of these fields use differing vocabulary and are built upon separate frameworks, thus they reach a consensus differently.

Another limitation to field argumentation is the frequency of use today. After the '80s, the study of fields fell off due to a genuine agreement on defining the characteristics of a field. If there is a genuine consensus, then there is no point in arguing the concept or publishing work regarding fields. The concept of fields is still used frequently to explain argumentation but there is no contention around the concept, therefore argument surrounding fields does not appear at conferences or disciplinary debates. Though a standard agreement limits modern-day research on fields, this thesis will still use fields to analyze the arguments surrounding trans issues and what I believe is a new field emerging: fascistic argumentation.

How do the issues presented in the previous chapter make sense from the field's approach? For example, applying fields to one of the previous arguments outlined in chapter one, the president of the Alliance Defending Freedom (ADF) sector in Arizona, Gregory Baylor- made a public statement regarding The Department of Housing and Urban Development's proposed rule in July to give shelters the power to turn away trans folks. Baylor used religious freedom as his grounds for shelters to turn away trans people. The ADF group shares the same purpose of protecting religious freedom, free speech, and the sanctity of life. The ADF would be considered their own field due to sharing the same purpose to protect religious freedom in this argument.

Ben Carson, the secretary of HUD, released a press release on July 1st, 2020, stating that the proposed Equal Housing rule would help shelters align with their religious ideals, protecting religious freedom. A decisive factor in this is that many shelters funded by HUD are religiously affiliated. Both Ben Carson and the ADF share the same purpose

of protecting religious freedom and, therefore, agree upon the argument. Would this make them a part of the same field? The same religious freedom field?

This field application would be more focused on Willard's ideals of field arguments than Toulmin's due to being a part of a religious community ideal and not a technical discipline. However, it is still applicable to bring up field-dependence and field-invariance in this example. This argument would be field-dependent because not all people share the same religious views. There could be religious fields that want religious freedom but also support trans people. This argument is not field-invariant because it will not apply across all religious fields, and we can see that in counterarguments regarding HUD's proposal.

There are limitations to using Fields because there are no clear-cut lines regarding them. How do critics define the field of Ben Carson and Gregory Baylor? Are they their own fields? Alternatively, perhaps they are subfields of the conservative anti-trans religious field. There is no definitive marker on how large or small a field can be in this context. The quality of fields cannot be determined because they vary, and critics cannot evaluate a field based upon the same criteria. There are limitations due to clarity. These trans arguments are beyond reason and are not fully explained by fields, so they must be further analyzed using another traditional approach, argument spheres.

Like fields of arguments, spheres of argument can be applied to these trans issues as well. Using spheres to test these arguments can help with the limits of fields. Fields have limitations due to clarity and having no set boundaries, making fields vague and more complex than needed. Spheres came about because of the study of fields. Therefore, if there was no study of fields, there might not have been a study of spheres.

Spheres

Spheres of argumentation are broad categorizations of how people form and evaluate arguments. Traditionally, these categories would be consistent with the personal, public, and technical spheres. In this transgender issue instance, the theory is going beyond the traditional view of spheres and showing how the understanding of spheres must broaden through different types such as religious or military. I believe there must be more than three types of spheres, how these new spheres intertwine need to be studied, and these loose boundaries create a different form of argumentation. While the traditional spheres (personal, public, technical) are intertwining and losing boundaries public argumentation is also usurping personal in this instance.

It is first essential to know where the idea *public sphere* originated from. This term was coined and created by German Philosopher Jürgen Habermas to explain the public space where people would sit down and talk about the problems and needs of society and try to solve them. These public spaces would include coffee shops or an environment that the bourgeois society would congregate to discuss the world. Scholar Thomas Goodnight expanded on this concept and gave the world a better understanding of spheres themselves. G. Thomas Goodnight is known for his concept of argument spheres, and also used spheres to expand on the concept of fields. Goodnight believes that arguments are built in different ways depending on how they fall into the personal, technical, or public sphere. Each sphere has its standards and sets of rules when evaluating and creating evidence for an argument.

Goodnight has since elaborated on Habermas's concept of bourgeois public sphere. These are arguments that are made to the general audience and arguments that

laymen should understand. The public sphere may evaluate and create arguments based upon societal norms and culture. Goodnight also claims that spheres are not permanent, and norms can be changed over time, such as white, privileged women being able to come out of the personal sphere and into the public with working and not being confined to the home. The public sphere is also the site for deliberative rhetoric, a space where the public take action or debate.

According to Goodnight, the personal/private sphere is between a small group or a small number of people. The personal is a widespread sphere for most people, considering how persons in everyday private lives interact with family members, partners, families, and friends. The personal sphere can vary from person to person, meaning an argument someone has with a friend may not have the same evidence or evaluation as an argument between a different set of friends (Goodnight, 2012).

The technical sphere is a site of engagement with meticulous standards for evaluations. It mostly consists of professionals, such as scientists, professors, researchers, and experts on a specific subject. How an argument is formed and evaluated in the technical sphere is different from an argument in the personal sphere. For this thesis's sake, the technical sphere that would mostly be focused on is policymakers and the medical sphere. The difference between the technical sphere and personal becomes obvious when it pertains to vocabulary. The technical sphere will use language in a way that the personal sphere would not. The technical sphere uses language that a layperson may not understand or needs to be specialized in the area to understand.

These spheres may eclipse into the others, or a private argument could turn into the public argument. Goodnight uses the example of 19th-century people living in

poverty. Initially, people thought that God made them poor. Humans were born poor, and there was no escaping poverty. Humans could only be wealthy if they were born into it, and that was a private argument between themselves and their God. Eventually, finances were discussed in the public sphere, humans were no longer forced to live in poverty their whole lives, and a person could make a living by earning more wages. This financial change was discussed within the public sphere through deliberative rhetoric. This shift in belief is an example of how the private religious sphere can eclipse into the secular public sphere.

A modern example of the technical sphere and public sphere eclipsing into each other is the environmental science movement directed at saving the environment. Scientists have been talking about global warming and how human life is impacting the environment for decades, and in the '70s the environmentalist movement went from the technical to the public sphere when advocating for change. Environmental scientists were successful in some ways, yet some people still do not believe that climate change is real though there is scientific proof. Is this because of the way the public sphere examines arguments differently than the technical sphere? The technical sphere requires proven facts, while the public sphere may not believe them.

Goodnight's arguments surrounding spheres concern the technical sphere threatening to overtake the political public sphere. Through this, he believes that deliberative rhetoric may die off. Deliberative rhetoric is when the public discusses and persuades an audience that there needs to be a change to help the greater good. He uses news dissemination as an example. Instead of news advocating for a change in policy or a

call to action, it merely reports a problem with no solution or debate, therefore killing off deliberative rhetoric.

Many scholars and theorists have built off of Goodnight's sphere perspective to look at case studies and make sense of them. For instance, Robert C. Rowland used the Challenger Seven disaster as a case study example for when the technical sphere could possibly usurp the public (Rowland, 1986). Through this article, Rowland claims that there is no clear line between the public and technical sphere, and this relationship is incredibly complicated.

Though Goodnight and Rowland may give examples of when the technical sphere can threaten the public sphere, there have been other arguments that would state otherwise. Edward Schiappa, a Communication scholar, used spheres to understand the same-sex marriage law debate in the state of California during 2008. Schiappa compares and contrasts the arguments in the technical sphere and public sphere regarding proposition 8 (California Marriage Protection Act). Schiappa argues that the gap between the technical and public sphere is enormous and, "produce dramatically different performances of rhetorical reasoning and how scholars of argument might respond" (Schiappa, 2012. p. 1).

The major difference between technical and public arguments in Schiappa's article was the emphasis on religious beliefs from the public sphere. The technical sphere regarding law cannot use religion as the basis for creating a law or arguing for a law. The public sphere was using religion to push towards keeping same-sex marriage illegal. Discourse in the public sphere also revealed that using fear based upon religious beliefs influences the argument, and the people in the public sphere will often use "passion"

instead of “reasoning” as judgment. Schiappa believes that cases such as this one where the gap between the technical and the public sphere is so large are a chance for argumentative scholars to inform and educate the public on argumentative competence.

Rachel Avon Whidden expands on Goodnight’s theory of spheres by using vaccinations as a case study on how the public, technical, and private spheres can interact and become even more complicated. Whidden uses examples of anti-vaccination mothers who take advice from other parents instead of professionals, blurring the lines between the technical and personal spheres. Many mothers will take advice from their neighbors, friends, or other moms they meet online because childbearing is a personal experience, making the ‘expert’ the layperson (Whidden, 2012). She also gives examples of how corporations can colonize the personal sphere, such as the Gardasil campaign. Gardasil is an HPV vaccination manufactured by Merck that had a vast public campaign that disseminated the message that it is a motherly duty to have your child get the HPV vaccination or a regular person’s duty to notify as many people as possible about the vaccination. In the end, it was an extremely successful campaign that used the personal sphere for corporate profit. Whidden’s analysis enforces the idea that spheres are a complex argumentative idea that continues to evolve.

How can these sphere perspectives be used to study arguments surrounding trans issues? Goodnight claims that the technical is eclipsing into the public and demolishing deliberative rhetoric, but other scholars show that spheres are more complex than this. Through examples of trans issues in the previous chapter, it is shown that the grounds for appeal are not exclusive to the public argumentation. However, the understanding of spheres must be broadened to include other spheres and not force them into three

categories because of traditional argument spheres collapsing. The previous chapter's public statements regarding trans issues will be used to analyze the warrants and show how these boundaries are more complex. When these traditional ideas of spheres collapse, they may be examples of fascistic argumentation.

Consider the following comment by Ted Cruz as an example of this troubling argumentation:

In my view, this is not a matter of Right or Left or Democratic/Republican. This is common sense, doesn't make sense for grown adult men — strangers — to be alone in a restroom with a little girl. And frankly the concern is not the Caitlyn Jenners of the world. But if the law is such that any man if he feels like it can go in a women's restroom and you can't ask him to leave, that opens the door for predators (Medina, 2016. para. 2).

This comment is assuming that the public would be able to tell that the person entering the women's restroom was biologically born a male and will still look like a male after transitioning. It is also the public overtaking private by assuming that they will see someone else's genitals in this private space. Women's restrooms have stalls where no one would ever know, especially if the person in question is passing. The term passing means a person fits into the gender they identify with and there is no questioning if the person is male or female; they are passing as that gender.

Another theme made evident throughout these arguments in the public sphere is the assumption that trans folks are sexual predators or that the general public will prey on women or young girls if a Bathroom Bill is not passed. If someone is a predator, a bathroom bill will not restrict them from acting upon it, and to assume that men do not

have the strength to keep themselves from preying on women and children is problematic in itself. This public argument has no specific backing and is coming from an unproven assumption and imposing on the personal/private sphere of one's own body.

Another concerning argument in the public sphere is when Mike Huckabee released a public statement regarding trans students being able to use a single-sex locker room, "I wish that someone told me that when I was in high school that I could have felt like a woman when it came time to take showers in PE" (Kohn, 2015. para. 4). Huckabee used this statement to keep trans students from using the locker room that cosigned with their gender. Is he stating that he would watch vulnerable women in a locker room in a private space where they should feel safe? Is he stating that boys would change their gender identity just to attack others?

Public arguments such as Huckabee's and Cruz's are examples of how the public sphere does not have the same views or values collectively or does not have the same education on the trans rights topics. Therefore, the public sphere should not be making decisions on the private sphere of gender, and the public sphere is overstepping its boundaries. This eclipsing also applies to the HUD Equal Access Rule, and the forms of public argumentation surrounding this Rule are concerned with women's privacy in single-sex shelters or facilities where they would have to change clothing or sleep in the same quarters. Yet, trans folks are exposed to violence, assault, and rape the same as a cisgender woman can be. For instance, The Place is a shelter for underage youth in Colorado Springs, Colorado. On October 29th, 2020, the executive director issued a public comment stating awful things can happen when staff and volunteers decide where trans people can and cannot stay inside the shelter. They took in a woman who was 22

and the cutoff for their shelter was 20. The woman was biologically born a male, so the staff sent her to stay in the male dorm. She was then raped in the showers (Targeted News, 2020). Yet, parts of the public are still fighting against Equal Access though there is documented proof that trans folks are more susceptible to violence than cis gendered folks. Is creating rules based upon someone's sex instead of their gender an example of the public sphere overstepping its boundaries and eclipsing into the private sphere? Or are people making anti-trans comments part of a parasitic public?

Communication scholars Kyle Larson and George McHendry created the term "parasitic public" to expand on counter publics in the public sphere. The term counterpublic has several definitions but is an umbrella term that includes any group that differs from the social norm majority. Larson and McHendry made the point, "If one can use "counterpublic" to identify black feminist publics and white nationalist publics, then the conceptual framework lacks sufficient recognition of power, privilege, and oppression" (Larson & McHendry, 2019. p. 520). There must be more detail into the umbrella term of counterpublics to show different power dynamics within society. If trans people may be considered a counterpublic, it is also possible that anti-trans would say they are being oppressed the same as other counterpublics.

Parasitic publics think they are oppressed and feed off the counterpublics who are being oppressed in the public sphere. Parasitic publics will exploit the dominant public while protecting the dominant public against counterpublics in the hope of making themselves part of the status quo. Parasitic publics want to modify the public sphere and at the same time challenge other counterpublics that question the public sphere. The dominant public will also use the parasitic public to fight off counterpublics. Larson and

McHendry used a white supremacist group to convey how the parasitic public works, but it is also possible that arguments surrounding trans issues can be used. By anti-trans groups inciting fear of military budget or safety in private spaces, they are attacking other trans counter publics, and the anti-trans group can use fear for policy change. Parasitic publics help us to understand how counterpublics work within the public sphere. There are several limits to argumentation spheres. Habermas' original concept of the public sphere was on a smaller scale when people would congregate in a local spot to discuss deliberation and societal problems. These people would be part of bourgeois society leaving out the poor. At the time, it was the bourgeois who would create policies or have a voice in society. It is now more complex to characterize the public sphere due to conflicting ideas and backgrounds. The solution to the limits of elitist publics is subaltern counter publics that share ideals outside of social norms.

There may also be a problem with public deliberation creating domination. Sub alternative counter-publics may not be able to express themselves in the larger public sphere or become silenced from policies created or representation in the public sphere. A policy may be created, and as a result, the counter-public's culture or voice would be lost inside the policy due to an overgeneralization or populism. Goodnight also did anticipate public argumentation being taken too far by weaponizing public argumentation to not only usurp the personal sphere but to use public argumentation to dominate the personal sphere. Goodnight believed that the public sphere was eroding, but I would argue the opposite, that the public sphere is too far into the personal. A way to make sense of these arguments is through fascistic argumentation. I argue fascistic argumentation can be understood as a unique argument situation when spheres and their standards collapse,

resulting in fascistic argumentation turning into a field itself. By dominating the personal sphere, it creates its own field with a shared purpose to dominate, and this unique field is called fascist argumentation.

Fascist Argumentation

When spheres collapse into each other and fields have no clarity, it is possible that fascistic argumentation can help explain the aspects of argumentation that spheres and fields cannot. If the public, personal, and technical spheres merge, fascistic argumentation may emerge into its own field to help understand the conversations surrounding trans issues. This fascistic field would represent a community that uses the same standards when evaluating whether an argument is reasonable or not. These fascistic arguments would share the same purpose or subject matter, accepting the same warrants. Dominating and controlling these spaces and bodies from having access to serve in the military, stay in a homeless shelter, or use the appropriate bathroom could be an example of fascistic argumentation as a field. To understand how this could emerge as its own field, fascistic argumentation must be explained in detail and where it comes from.

While I have been studying fascistic argumentation I believe there may have been a shift to post-dialectics from a traditional way of argumentation. It is now seen as acceptable for an argument to be based upon aggression, hostility, and fallacies. There is no longer a need for facts or reasoning to create policies. For instance, former President Donald Trump stating trans people can no longer serve in the military through a tweet without providing evidence to support his claim. He stated that this was due to cost yet did not provide the public with any type of proof. Many people agreed with the

statement, and he received a lot of praise from conservatives. We may also see these unreasonable arguments when looking at Bathroom Bills and stating that women and children will be targets for sexual assaults when there are no facts to support this. There is more proof that trans folks will be victims with Bathroom Bills than there are cis gendered people.

Dialectical standards of argumentation are the basis for the rules of argument. The logical discussion of ideas and opinions is the traditional way of solving a difference of opinions in a sensible manner, through the truth. The post-dialectical plane can help to understand how fascistic argumentation is occurring. When looking at fascistic argumentation, it is not necessarily the traditional way we think of fascism, as in a dictatorship, but the way arguments are expressed for a desire to control or dominate bodies. In these fascistic arguments, there is no consensus or alternative. There is just one way of thinking to control policy. There is no recognition for marginalized groups, and these groups are disregarded in policy and/or arguments in the public sphere.

Five elements are used to define fascistic argument, the first being aesthetics (Paliewicz & McHendry, 2020). Aesthetics is used to describe the argument will assume a consensual opinion that all people will agree with and that there is no alternative with one perspective. Aesthetics is a facade used by arguers to make their audience believe they practicing reasonable decision making but actually limiting the argument to one perspective. It uses this stance to control what people think and that any other way of thinking is wrong. For instance, when religion is used as an argument point for trans rights there seems to be no other alternative. Some people did not agree with the HUD Equal Access rule because it went against the shelter's religious freedom to allow trans

people in a single-sex facility that is not based upon their biological sex. To assume that the general public agrees on this view with no other alternatives for trans individuals would fall into fascist argumentation. By only showing one perspective, the argument is disregarding sub-alternative views.

The second element to fascist argumentation is affect, “Fascistic argumentation draws from specific affective states that “precede cognition” to gain argumentative advantages prior to argumentative processes” (Paliewicz & McHendry, 2020. p. 142) the arguer will use emotions to gain advantages in the argument before the process of argumentation occurs. In examples stated in the first chapter of argumentation regarding trans rights, there is evidence that arguers tried to use fear as an 'affect' not to support trans rights. There was fear that the military would spend too much of their budget on trans service members, they struck the emotion of fear when questioning if a man will come into the restroom with a little girl, and they used fear that women whom men abused would not feel safe in a single-sex shelter if trans people were allowed to use the same facility. Using fear instead of reasonable evidence, these arguments are trying to dominate views so people will favor the new Equal Access rule, promote Bathroom Bills, and settle with trans people not joining the military.

The third element of fascistic argumentation is territorialization. The arguments will use space as a site of domination and the argument will exclude people from existing in a particular space or speaking in a certain space. The new HUD proposal rule will exclude trans people from a shelter or force them into a space where they are at a higher risk of being attacked or raped. Former President Donald Trump forced people out of the military altogether, creating another space that trans folks cannot be in or exist. Lastly,

the Bathroom Bill will exclude trans people from a private space and use space as a weapon to force trans people into other areas where they could be exposed to violence or ridicule.

The fourth element of fascist argumentation is bodies. The fascistic arguments will hold a specific body to higher standards as the norm. Biological sex on bodies would be considered the ideal type in this instance. Biological sex is seen as normal and trans bodies are intruders that are deviants of society. Again, public restrooms can be a site for this type of fascist argumentation. The human body must look a specific way to pass- assuming that the body in question is the same as it was born if one finds out that this is not an ordinary body, the person in question may be found as an intruder and exiled.

The last element of fascistic argumentation is existential denialism. Fascistic argumentation denies any other ground that does not match the arguers will be instantly rejected. There is no possibility of difference and any opinion that is different will be denied of having a voice. Stating that trans people will not be allowed in the shelter that aligns with their gender denies them of their voice and private spaces.

The main factor in fascistic argumentation is the desire to dominate bodies and domination in general. The fascist elements listed above are important, but this thesis will focus on the masks being used to smuggle fascistic desires into the public sphere. The desire to dominate can come across as a ‘wolf in sheep’s clothing’ or using masks to hide fascistic desires. We can see an example of this from Donald Trump. On October 30th, 2016, while on the campaign trail Trump unraveled a rainbow Pride flag with the message “LGBT’s for Trump” in black marker handwriting. The internet quickly took to this message stating that this is the first candidate who has ever shown any care towards

LGBTQ issues and that the message was revolutionary. But does Trump care about LGBTQ rights, or was this a ploy to get votes right before the election?

Trump also made a public statement that he would let Caitlyn Jenner use whichever restroom she would like in Trump tower, again sending a message to the public that he cares for trans rights. Why then would he outlaw trans folks from serving in the military? Why would he express this message through social media and not have enough transparency to express it through a press release or a public meeting? These public statements are examples of using false ideals for domination and being a 'wolf in sheep's clothing.' After the horrific Pulse Nightclub shooting in 2016, Trump did not mention the LGBTQ lives taken that night. Instead, he used the shooting to spread Islamophobia, another form of fascistic argument to bring fear and hate towards Islam. Trump tweeted, "Appreciate the congrats for being right on radical Islamic terrorism" (Eastmond, 2016. para. 4), outright ignoring the fact that 49 people were killed and 53 injured in a hate crime massacre.

It is also deceiving that Trump would hold a Pride flag when his vice president showed anti-LGBTQ signs in early 2000. He stated that donations to his website should not be going towards people with HIV but instead to organizations, "which provide assistance to those seeking to change their sexual behavior"(Eastmond, 2016. para. 7). In support of conversion therapy. Not only is Donald Trump's law to ban trans people from joining the military an example of dominating bodies and space but acting as if he cares for the LGBTQ community while spreading false information towards his actual feelings towards this community is an example of fascist argumentation.

Conclusion

This chapter outlined different ways of making sense of the troubling forms of trans arguments identified in the previous chapter. I began by probing fields and spheres and applying them to some of the arguments surrounding trans issues with the Department of Housing and Urban Development's new proposed rule, the exile of trans folks from serving in the U.S. military, and Bathroom Bill proposals. Through this probing, I found that a fascistic field emerges as its own when spheres collapse.

METHODOLOGY

This thesis will try to make sense of three issues surrounding the trans community in the United States: HUD, military, and bathroom bills. First, the Toulmin model will be used to analyze these arguments from a traditional dialectical standpoint using the three main components of the model: claims (conclusion), grounds (data), and warrants (assumptions); these elements help to see how arguments work. This model will also show how data and assumptions vary depending on field perspective and how different fields will have a shared purpose/meaning when evaluating arguments. The Toulmin model is used to map out arguments and all their components. In the process of this mapping arguments, you can see how they operate and if they are reasonable: reasonable in the sense of having sufficient evidence or a strong premise. If arguments are deemed unreasonable but are still passing through society, there must something else going on. Post-dialectics theory can help understand why and how the traditional rules of argumentation are no longer a standard. Post-dialects are a way of explaining how arguments have changed. Aggression and hostility seem to be accepted as part of a sound argument. Fascistic argumentation is one way to explain a post-dialectical shift. The second step in my method begins at the point that an argument is mapped out with the Toulmin model and deemed unreasonable. I will turn to the elements of fascistic argumentation to try and explain how these unreasonable arguments are passing through society. By turning to elements of fascistic argumentation I am not stating that all

arguments are fascistic if they do not follow traditional rules of argumentation. Fascistic argumentation is simply another way of studying argumentation. I am on the hunt to find how these hostile arguments pass. How has argumentation changed to accept unreasonable methods of evaluating arguments? Has something changed within the ways arguers argue? A theory I have for explaining how these arguments pass is that arguers hide behind a ‘mask’. The mask is the grounds the arguer stands on. The grounds may seem reasonable but are actually hiding a desire to dominate others. This thesis will contribute to the Toulmin model and fascistic argumentation by explaining why and how these arguments work in a proposed post-dialectic world, specifically pertaining to three issues surrounding trans issues.

To identify how fascistic arguments are passing in society, I will rely on the five fascistic planes of argumentation that will be explained in detail. I will analyze argumentative artifacts surrounding HUD, military, and bathroom bills. These artifacts will be discursive rhetoric disseminated to the public and explained in full detail— artifacts such as documented public comments and federal statements to dissect and expose how argumentation may possibly be changing. First, the Toulmin model will be explained, followed by an explanation of fascistic argumentation, an explanation of the artifacts being analyzed, and lastly, what facilitates the success of fascistic argument passing within society that I refer to as ‘masks.’

Toulmin Model

The Toulmin model of argumentation was touched on in the previous chapter. I will now explain how each component of the Toulmin model will be used to infer if some arguments are reasonable and then be advanced from the Toulmin model to see if a

fascistic field is emerging. This model was created by the British philosopher Stephen E. Toulmin to analyze arguments with a logical structure that can be applied to any argument. Toulmin was not satisfied by the traditional syllogism model of argumentation and believed that an argumentation model must explain the relationship of data and conclusion. The Toulmin model has been successfully used in communication and argument theory for decades to help users isolate specific parts of an argument and how they work with other components.

In *The Uses of Argument* Toulmin starts with a simplistic form to diagram an argument, the claim, ground, and warrant. The claim of an argument, in my humblest explanation, is the conclusion. The claim is the notion that the arguer would like to persuade the audience to believe is true. When analyzing the artifacts surrounding trans issues, the first aspect to point out would be the claim. The statement at hand that the arguer is trying to persuade people. A reasonable argument will not have a claim without grounds.

The grounds are the facts behind the claim, the proof of why the conclusion is true, the specific data being used in an argument. A warrant must connect the claims to the grounds. The warrant assumes that the stated data will support the claim and can be implicit or explicit. The warrant can be stated or left for the audience to decipher in an argument. The warrant is very important for this thesis because it can reveal a shared purpose and be a marker of fascistic argumentation. The warrant will be used to reveal the assumptions and beliefs of shared ideals within the argument.

It is important to note that the Toulmin model goes into more detail than just identifying the claim, warrant, and ground. Toulmin emphasized that not all arguments

are this simple. Some may be more complex than three components. The next addition Toulmin added is the qualifier. The qualifier will imply that a claim may not be valid in all circumstances. There may be times when a claim is situational and can change, and a qualifier can either strengthen or weaken a claim. Toulmin's book *The Uses of Argumentation* describes qualifiers as words such as "unless" or "lest" (Toulmin, 2003).

The qualifier also leaves room for rebuttal, which would go directly below the qualifier if the argument were to be mapped out physically. The rebuttal would be a statement within the argument that specifically expresses an instance when the claim would be restricted. The Toulmin model's last component is backing, which may be used if the warrant is not explicit or credible enough. The backing may reinforce the warrant for persuasion of the claim, which is especially important if the warrant is dependent on a particular field.

Though Toulmin's model as a whole is significantly important, this thesis will focus explicitly on the claim, ground, and warrant for the arguments surrounding trans issues. This structure will help reveal if these arguments make sense and identify the specific reasons in the grounds that could be used to hide true desires of control. There needs to be an advancement beyond this model because absurd arguments are passing through society without question. The Toulmin model falls short of how arguments in today's society work because several are far from reasonable and there must be some type of explanation.

The Toulmin model suggests an ideal world of argumentation that seems to no longer apply, a model with rules and reasonability. To explain how traditional methods of argumentation are no longer the standard, I argue that we as a society took a post-

dialectical turn. Dialectical argumentation seeks truth through debate between differing opinions with the goal of a rational conclusion. Yet, consensus seems not to fuel public policy in today's standards but arguments built upon hostility and lack of sufficient evidence work. For example, the global climate change debate: The Intergovernmental Panel on Climate Change (IPCC) is a United Nations governmental group that is dedicated to providing the world with scientific evidence on climate change. IPCC is dedicated to discussion between environmental scientists with detailed research and debate on how to help the environmental state of the world. Yet, parts of the public believe that these scientific facts are up for discussion while the earth is suffering. IPCC is an example of how argumentation has seemingly changed. The IPCC has created a good argument from the Toulmin standpoint with evidence, research, and debate but the IPCC is being silenced by outrageous arguments skeptical to the IPCC climate change thesis. One example of this denial was in 2017 when Donald Trump tweeted the following:

In the East, it could be the COLDEST New Year's Eve on record. Perhaps we could use a little bit of that good old Global Warming that our Country, but not other countries, was going to pay TRILLIONS OF DOLLARS to protect against. Bundle up! (@realDonaldTrump, 2017).

Denying the existence of climate change with no real evidence besides saying that the East will have the coldest New Year on record leads his followers to deny climate change. It is evident that Trump does not understand how global warming works and does not care to listen to scientific facts. This Tweet is just one example of the denial towards climate change. Trump also withdrew America from the Paris Agreement in

2017, a treaty to bring nations together to fight against climate change. Trump argued the treaty would cost America too many jobs and money while denying scientific evidence (Aldy, 2017). Trump's disregard for global warming is an example of post-dialectics because many people took his side without reasonable argumentation and scientific denial. Trump's large following and influence on his followers made his claim accepted by supporters.

Another example is Donald Trump's Tweets that announced the ban of trans people from the military. Using the Toulmin model, the claim itself would be that trans people should be banned from the military. Trump's grounds behind this is because the military needs to be focused on victory, while the warrant is that trans people are a burden to military costs and disruption (@realDonaldTrump, 2017). A month later, the official memorandum was released to legalize the ban on transgender people joining the U.S. military. The argument that trans people are a threat to the U.S. military is wholly unreasonable, and this argument passed through society without sufficient evidence and backing. Cases such as Trump Tweets are why the Toulmin model is lacking, and there must be an explanation on why illogical arguments can pass and be taken seriously. Arguments such as this one do not follow the dialectical process of reasoning. So what is a new way for arguments to be studied? What happens to an argument when there is no longer a debate or consensus in society? These arguments must now be looked at on a post-dialectical plane, not following traditional models of argumentation. These unreasonable arguments passing are symptomatic of something else that has contaminated argumentation and the public sphere: fascistic argumentation.

Unreasonable arguments are passing, and that is why fascistic argumentation could help to explain this post-dialectical turn.

Fascistic Argumentation

Argumentation fields are disciplines, communities, professions, or even situations with a shared set of norms or purposes. Using argument fields, we can see that different professions or discourses will develop varying views. In this thesis, arguments are being looked at to identify a certain new type of field that may be emerging: the fascistic field. Using the Toulmin method to identify the claim, grounds and warrants will help identify the newly emerging fascistic field, specifically within the warrants or implications. These warrants will show a type of field because of shared reasoning. These warrants will show elements of a fascistic field if there is a shared hidden meaning of control. First, fascistic argument must be explained in detail and the characteristics that embody a fascistic argument.

The five planes that have been used to define fascistic argument, according to McHendry and Paliewicz, were briefly touched on in the previous chapter. These elements will now be explained to show how I will use them and contribute to them. The first element of fascistic argumentation is aesthetics, meaning the argument will assume a consensual opinion that all people will agree with and that there is no alternative than that one perspective. It uses this stance to control what people think and that any other way of thinking is wrong. By only showing one perspective, the argument is disregarding sub-alternative views. There is no general consensus because no other option is included, and that shows a dominance of aesthetics because different perspectives are not taken into account. The aesthetic element also gives a facade of reasonable argumentation.

The second element to fascist argumentation is affect, “Fascistic argumentation draws from specific affective states that “precede cognition” to gain argumentative advantages prior to argumentative processes” (Paliewicz & McHendry, 2020. p. 142). Affects describe how the arguer will use emotions to gain advantages in the argument before the process of argumentation occurs. For example, the arguer will build off feelings that may be present and manifest the strength of these feelings for persuasion by taking control and heightening affects to gain power without questioning.

The third element of fascistic argumentation is territorialization. The arguments will use space as a site of power. The argument will exclude people from existing in a particular space or speaking in a specific space. The fourth element of fascist argumentation is bodies. The fascistic arguments will hold a specific body to higher standards as the norm. Biological sex on bodies would be considered the ideal type in this instance. Biological sex is seen as normal and trans bodies are intruders that are deviants of society. The human body must look a specific way to pass, assuming that the body in question is the same as it was born. If someone finds out that this is not an ordinary body, the person in question may be found as an intruder and face exclusion or worse.

The last element of fascistic argumentation is existential denialism. Any other ground that does not match the arguers will be instantly rejected. There is no possibility of difference. Anything different will be denied of having a voice. Stating that trans people will not be allowed in the shelter that aligns with their gender deprives them of a voice and private spaces. Existential denialism leaves no room for counter-voices even to enter the argument. There is no debate because it is a one-way argument disguised as a dialectical argument.

These planes of fascistic argumentation are used discreetly and hidden by a specific reason that the arguer believes is sufficient evidence or common sense. I am contributing to both the Toulmin method and the planes of fascistic argument by analyzing arguments and showing how they pass within society as reasonable dialectical arguments. I contend that these fascistic arguments pass because they hide behind a ‘mask’ such as public health, religion, and safety.

This thesis must identify the mask (actual argument or reasoning) used in grounds and look at the warrant to identify fascistic elements hidden behind this ‘mask’. By contributing to Toulmin and fascistic argument, I will be finding these performances (masks) and explaining how they pass through society with a hidden agenda. Ervin Goffman’s theory of Facework can help to understand masks as a performance. The theory of Facework explains how people maintain their own identity by choosing a specific persona and carrying out the faces/characteristics of that identity (Goffman, 1967). It is a performance or a mask to maintain how a person wants to be perceived. We can also see this executed in arguments by wearing specific masks (reasons) to create and sustain what is thought to be rational grounds. Fascistic argument can be seen as a performance for wearing these masks that hide desires for domination—for instance, arguing for trans people not to use a restroom that coincides with their gender because of safety issues. The argument itself is using safety as the performance mask, but in reality, the argument is controlling bodies and spaces but passing as public safety. The emphasis is on safety; therefore, the fascistic element can trick its way through undetected. The following sections will identify the artifacts that will be analyzed and the masks that are found within these artifacts.

Artifacts

The text being analyzed regarding Bathroom Bills is HB2 legislative transcripts from the North Carolina Middle District Court during a general assembly (Exhibit A, 2016). These transcripts were recorded on March 28, 2016. These manuscripts are discussing if the proposed Bathroom Bill should be put into effect or not. The bill would force transgender folks to use the restroom of their biological sex. These transcripts contain county representatives, LGBT advocacy groups, and personal testimonies from North Carolina citizens. These transcripts are significant because they show real life arguments in a public setting with various opinions. The specific comments being analyzed will show privacy/public health concerns to hone in on the real implications of fascistic desire to dominate bodies in the public sphere. It is essential to point out the field of argument during this general assembly. Since this assembly has state representatives and everyday citizens, the fields could be mixed. Representatives may be held to a different standard or norms than community members. Representatives may also have other grounds than a community member would.

The artifact that will be analyzed for Housing and Urban Development's proposed change to the Equal Access Rule is public comments submitted through The Regulations.gov Beta. This U.S. Federal government website allows the public to comment on the rulemaking of several government-funded agencies. HUD received 20,482 public comments until the cutoff date of September 21, 2020. For the sake of timely research, this thesis will analyze the first 200 comments listed. There are currently no public records of legislative discussion concerning this issue. The arguments will be analyzed using the Toulmin model to test if the argument is reasonable and will be

further analyzed to see if there are common themes within the arguments, such as religion. These comments are significant because they are open to the public, and anyone can make an argument, causing a diverse opinion. The field of argumentation will be interesting in the fact that these comments are submitted online. Is it possible that people will have different arguments if comments are submitted online vs. making public comments at a general assembly?

The text that will be analyzed for Donald Trump's ban on transgender people in the military is the Presidential Memorandum titled *Military Service by Transgender Individuals* signed on August 25, 2017. This particular document was directed towards the Secretary of Defense and the Secretary of Homeland Security. A presidential memorandum is a document issued by the United States president addressed to the federal government. A memorandum is not the same as a law because it is not required to be published in the Federal Registry, but it holds the same weight as federal law. A presidential memorandum is also not the same as an executive order and does not require justification of presidential authority. Nevertheless, this document is essential to analyze because it is a direct order from Trump and should unveil his reasoning behind the transgender ban. The memorandum will be dissected using the Toulmin model for the claim and ground to see if it is sound, and the warrant will then be analyzed further to see if the argument reveals planes of fascistic argumentation or if a mask is being used to pass fascistic argumentation.

Masks in Question

While looking at arguments surrounding bathroom bills, HUD, and the military, there is obvious repetition between each issue on why people are concerned for trans

folks to have civil rights. The masks in question are religion, public health, and safety. These masks may also be known as a ‘wolf in sheep’s clothing’ since they are a performance that is hiding a true aspiration to control space and bodies. Arguments will use a specific mask, but in reality, the claims are trying to control. There is also a possibility that all three masks are found in the text being analyzed and not just one mask belonging to one issue. The Toulmin model will be used to identify the warrant, claim, and ground to identify if the argument makes logical sense. The grounds may reveal a performance/mask, while fascistic argument elements may be found in the warrant. Each mask must first be explained in detail and how this would be an example of fascistic argumentation.

Religion

Religion can be applied to all three issues of military, HUD, and bathroom bills. Religion was specifically used as grounds in HUD’s proposed rule that would allow shelters to reject trans people from their facility unless they matched their biological sex at birth. Many shelters are faith-based, meaning churches or religious organizations administrate them. Some religions may condemn people who do not follow their sex at birth and therefore believe they should not have shelter. Using religion as the reason why trans people cannot have shelter would be considered a mask because, in reality, they are trying to dominate how a person can express themselves or how a person may use their body. The claim that trans people should only be accepted to a shelter based upon their biological sex and using religion as the mask or grounds for the reasoning behind this argument could show specific warrants or shared purpose to be revealed in the analysis.

Depending on the religion or sector, people may share the same ideals or norms when criticizing an argument.

The Housing and Urban Development press release for the new proposed Equal Access Rule Ben Carson states explicitly that this rule would help “accommodate religious beliefs of shelter providers” (HUD Public Affairs, 2020. para. 1). Though these shelters are being federally funded and should serve all, they use the mask of religion to dominate bodies and smuggle fascistic argumentation into the public sphere. In the following chapter, HUD's arguments will be analyzed with the Toulmin model to show precisely where these masks are being used and show a shared purpose.

Public Health

The second relevant mask that has been used to hide fascistic desire is public health/privacy. This mask is most relevant for the arguments surrounding bathroom bills. The arguments surrounding bathroom bills seem to concern women's public health/privacy in restrooms specifically. Ted Cruz made the public comment that he would have posed as a girl growing up so he could shower with other women, warranting that he would invade others' privacy/health to see women exposed. Cruz uses a public health mask, stating that people would worry about privacy in the restroom, but it is an excuse to dominate a body.

Why is public health/privacy an example of a mask in this instance? A restroom is a private space with separate stalls. If someone is transgender, it would be unnoticeable unless they were forced to use the bathroom that pairs with their biological sex. This reasoning is a health/privacy issue covering the fact that a person wants to control another's body and weaponize this private space. For example, using Cruz's argument,

the claim that trans people should be forced to use a restroom based upon biological sex because the grounds of public health is inferring that cis people will be violated. This claim connects the reasoning of public health to potentially reveal using a mask of public health to warrant control of space and bodies who can occupy that space.

Safety

The final mask identified in this thesis is safety pertaining to the ban of trans folks from the military by Donald Trump. Though this ban was revoked in January 2021, it is still essential to look at the mask/reasons Trump used to force this fascistic argumentation onto the public. In the three tweets posted, Trump specifically referenced a fear for American armed forces' victory if trans people continued to serve in the military and were a burden on the military budget. By making these statements, Trump was inferring that the U.S.'s safety is at stake, but this is a mere mask to dominate the bodies that serve the U.S. country.

Safety was a mask that can be seen in every issue as well. Public comments referenced safety for people in restrooms, military, and shelters. This mask is concerning national safety, and individual safety is included in public health. Trump claimed that trans people are banned from the military on national safety grounds, connecting the claims to the grounds and using the reasoning of national safety. Trump's statement warrants that trans people threaten national safety, but he is actually taking control of what bodies may serve in the military.

Conclusion

This chapter laid out the framework or method of how textual artifacts will be analyzed using the Toulmin model to expose the claim, grounds, and warrants. The

Toulmin model will test if these arguments are reasonable and sound. If the arguments are deemed unreasonable, I will then look at fascistic argumentation to see if fascistic elements are held in the warrant and if certain masks are used in the grounds. The grounds in question for Housing and Urban Development's new proposed rule to turn away trans people from emergency shelters is religion. The text being analyzed for HUD are public comments submitted through Regulations.gov Beta. The grounds in question for Bathroom Bills are public health/privacy. The public health/privacy mask also includes individual safety. The text being analyzed for Bathroom Bills is legislative transcripts from the North Carolina Middle District Court during a general assembly in 2016. The grounds in question for the trans military ban is safety on a national scale. The text that will be analyzed for the military ban is former President Donald Trump's actual memorandum banning trans people from the military. The following chapter will proceed with this analysis of textual artifacts. Following this analysis will be a conclusion to tie the research together with additional findings. This thesis aims to inform the public on how traditional argumentation may be evolving and question fascistic argumentation in their daily lives with critical thinking.

ANALYSIS

The previous chapter explained the method that I will use to analyze unreasonable arguments that pass within society. This chapter will carry out this method by analyzing these argumentative statements surrounding Bathroom Bills, HUD, and the trans military ban. The first step to dissect the arguments using the Toulmin model and pointing out the claim, grounds, and warrant. If these arguments are deemed unreasonable without sufficient evidence by the Toulmin model, I will turn to fascistic argumentation to try and explain how they pass through society. The text analyzed for Bathroom Bills is legislative transcripts from the North Carolina District Court in 2016. The text studied for HUD is 200 public comments from Regulations.gov Beta, a federal website that allows the public to leave comments towards federal policy proposals. The text analyzed for the trans military ban is Donald Trump's memorandum that specifically banished trans people from the U.S. military. The Toulmin model will aid in finding the warrant, and the warrants will be looked at even further to see if fascistic argumentation is present. This thesis is meant to take the Toulmin model a step further and connect the claims and the grounds with a specific mask such as public health, religion, or safety that is being used to hide an implicit agenda. The warrants will then be looked at to see if they reveal a fascistic field with the same purpose to dominate bodies. The warrants will be analyzed with the five planes of fascistic argumentation that were explained in the previous

chapter. This thesis will create its own rhetoric and add to the argumentative community by going beyond the Toulmin model and adding to post-dialectical fascistic argumentation theory.

Bathroom Bill Analysis

This section will analyze Bathroom Bill arguments. The text that will be studied for Bathroom Bills' arguments is HB2 legislative transcripts from the North Carolina Middle District Court during a general assembly (Exhibit A, 2016). These transcripts were recorded on March 28, 2016. They are discussing if the proposed Bathroom Bill should be passed for the city of Charlotte, NC. This bill would have penalized people for not using the restroom that matches their biological sex. These transcripts contain statements from county representatives, LGBT advocacy groups, and personal testimonies of North Carolina citizens. The specific comments being analyzed will be selected if they show signs of using privacy/public health as the grounds to why the bill should pass as a law. These grounds can also be seen as a mask because the warrants will reveal something much deeper that explains why unreasonable arguments are accepted. Dissecting these arguments through the Toulmin model will help hone in on the real implications of fascistic desire to control thoughts and bodies. I will use the five planes of fascistic argument explained in the last chapter to study the warrant and explain something else going on in modern argument. It is important to note that privacy and safety are both included in public health, and safety deals with individual safety, not national safety.

The Bathroom Bill Claims

After reviewing 75 pages of HB2 legislative transcripts from the North Carolina Middle District Court during a general assembly on March 28, 2016, several arguments emphasized public health, privacy, and individual safety concerns. The HB2 bill would have outlawed transgender people from using the bathroom that matches their gender identity. The only way transgender people could use the restroom of their gender identity is to take action by paying for gender reaffirming surgery and legal action by changing their birth certificates. Going through gender reaffirming surgery and legally having gender changed on a birth certificate is expensive, challenging, and timely.

Representatives and North Carolina citizens made public comments during the general assembly. During the assembly, the majority of the testimonies gave the claim to pass the HB2 bill outlawing transgender people to use the restroom of their gender identity. However, throughout individual testimonies, the claim was not clearly stated at the beginning of the argument. Still, people would encourage others to vote yes on the HB2 bill at the end of the testimony. So, what is the reasoning behind these claims? It is then necessary to look at the grounds as to why North Carolina representatives should vote yes on the HB2 bill and then look at the warrants behind the grounds and claims.

Bathroom Bill Grounds

The grounds or reasoning behind the claim to pass the HB2 law differ depending on the testimony but had a common public health reasoning theme. Public health encompasses privacy and individual safety as well. The grounds being used in these testimonies also use fear as a tactic to convince North Carolina representatives to vote yes on the HB2 bill. The grounds use personal stories to ‘what if’ situations to support their claim.

One ground in the legislative transcripts from the North Carolina Middle District Court comes from a high school student named Chloe, who fears that male students will attempt to identify as female students only to stare at girls in the high school locker room. Chloe stands on the ground that teenagers are self-conscious about their bodies, and male students will make the female students even more self-conscious about their bodies. Chloe uses reasoning that allowing a person into a locker room based upon their gender identity would threaten teenage privacy. She also mentions that parents would not allow their children to use the restroom if a man was waiting for them because the parents would fear the child's safety. Chloe's claims are supported by scenarios that she believes would happen if the HB2 bill is not passed. However, these stories are not experiences that have happened to her personally or actual evidence (Exhibit A, 2016. p. 18).

Chloe is not the only person who gives 'what if' situations. Dean Arp, a North Carolina House of Representatives member, gives reasoning that males could threaten a women's privacy in locker rooms. Arp tells a 'what if' story of a mother and her children changing in a locker room while a man watches in the corner. This man in the locker room makes the family uncomfortable and ruins their pool day. Arp's story also uses public health privacy as grounds to connect to his claim of voting yes for the HB2 bill but does not use objective evidence, just 'what if' stories to scare others (Exhibit A, 2016. p. 46).

A few testimonies in the legislative transcripts from the North Carolina Middle District Court used life experiences to explain why the HB2 bill should be passed. For example, Eliana Smith, a North Carolina resident, told her story of being assaulted at a young age by a male and reasoned she would not feel comfortable sharing a restroom

with another man. Eliana used safety as a reason why the bill should have passed “How will I be able to go into the bathroom, knowing that at any moment a man, or someone pretending to be a woman, could walk in?” she stands on the grounds that public health will be threatened because men will pretend to be women (Exhibit A, 2016. p. 24).

The grounds listed above of being fearful for public health's safety and privacy can be seen as a mask and may even seem reasonable to most people, but the warrants must also be looked at to determine if the reasoning of public health is hiding a more profound implicit desire. The warrants will help reveal a shared purpose or understanding of these claims and possibly reveal elements of fascistic argumentation. The testimonies from Eliana, Chloe, and Arp all share grounds and explicitly state that it is common sense for it to be illegal for men to be in the same restroom as women. All of these testimonies made a clear statement that this should be common sense. These claims do not have sufficient evidence, yet they still passed in North Carolina. How did these arguments pass? The warrants must be looked at next.

Warrants for Bathroom Bills

Studying the warrants of these claims and grounds may help reveal a fascistic desire and the shared ideals for the people in favor of Bathroom Bills. The warrants become an essential part of this analysis because they are the underlying assumptions people have when making arguments and can reveal planes of fascistic argumentation.

In the Toulmin model, the warrants can be stated implicitly or explicitly, and there are several warrants to unpack in the arguments stated above. The warrants connect the ground to the claim and can be dependent upon the field of argumentation. Different fields may have different warrants. One warrant that is stated excessively throughout the

75-page legislative transcripts is common sense. The term common sense was mentioned 45 times in the transcripts because people supporting the HB2 bill believe it is common sense for men not to occupy space in the women's restroom. Common sense itself is subjective, people have their own opinions on what common sense is, and there can not be a clear definition because common sense may vary. The testimonies for the HB2 bill share the same common sense and share the same understanding that sex and gender are synonymous. By stating something as subjective as common sense, this is not enough proof for a reasonable argument. Using 'what if' scenarios is not enough proof for a reasonable argument either.

Using common sense as a warrant reveals one of the main characteristics of fascistic argumentation, existential denialism (Paliewicz & McHendry, 2020). By denying there is any other point of view and that trans people should use the restroom of their biological sex because of common sense, this shows denial of different opinions and is an example of fascistic argumentation. There is an assumption that this is the only way to think, and if a person does not, they do not have any sense. Common sense as warrant also reveals the aesthetic characteristic of fascistic argumentation. This argument is aesthetic because these claims state there are no other perspectives, and any other type of view is entirely wrong and unreasonable. There is no effort or thought into seeing a different perspective or listening to trans testimonies about using a restroom that matches gender identity. The only rational reasoning sought in this argument is common sense without evidence.

This understanding of sex and gender is a warrant because grounds are made that men will infiltrate women's private restrooms, and cis women will know that they are

biologically male. This warrant of sex and gender as one reveals that trans bodies will be cast out of society if they do not look or perform as biological sex. In the legislative transcripts from the North Carolina Middle District Court, Eliana Smith stated that men would pose as women to come into the women's restroom, but this warrants confusion between gender and sex. In the high school student Chloe's testimony, she points out that "Now we add the possibility of males changing and showering alongside me" reducing people to their genitals (Exhibit A, 2016. p. 18). There is a misunderstanding that is apparent when people may have the gender identity of a woman but not have biologically female genitals.

These claims give the warrant that sex and gender can not be separate, and it will always come down to biological sex. These warrants are coming from a cis heteronormative lens.

These grounds also give the warrant that men are inherently predators and will choose to use the women's restroom to seek out their prey. These testimonies provide examples of scenarios that people really believe will happen, and the cis male is always the villain. If males are the villain, what stops them from posing as a woman and or not posing as a woman and assaulting people in a private space? A bathroom sign or a law would not stop a predator from assaulting a person, inciting fear into people while choosing public health as a mask. Still, in reality, there is a shared purpose to gatekeep who can use a specific restroom by inciting fear into people and playing on feelings that people already have of cis men being predators.

In the legislative transcripts from the North Carolina Middle District Court, Chloe's testimony states that laws should not be changed for a small number of people

and punish the rest. This statement warrants that there is a small number of trans people, and they should not be taken care of the same as cis people. She is warranting that her safety is more important than that of a trans schoolmate. By not using data and making assumptions on the population of trans people, this reasoning is not adequate. These claims and grounds that favor HB2 are assuming their safety and privacy are more important than trans people. People who do not identify with their biological sex violate other cisgender persons' privacy and deserve to be excluded. Trans people can only be included in the heteronormative world if they go through the surgery and change their biological sex legally. This logic opens the floor to how a public health mask can warrant a fascistic field. These warrants show fascistic argument characteristics because they insight fear, do not allow room for other points of view, use restrooms as a territory that must be protected from the unknown, and the unknown meaning anything that differs from biological sex.

How exactly are these warrants a representation of a fascistic field? Fields have a shared purpose, share the same warrants, and have the same opinion on a reasonable argument and what is not. Using privacy grounds in public health is a mask to warrant that trans people do not have the right to their privacy and their bodies must be policed. This public health mask also warrants that people know others' biological sex automatically. If the biological sex is not evident, this introduces the desire to control what they can and cannot do. When there is a desire to dominate other bodies and force trans people to use the restroom of their biological sex, this forms its own fascistic field. The arguments for the HB2 bill share the same purpose to keep cis privacy and disregard other bodies' privacy that is not cis-gendered.

The strategies used to persuade others with these arguments are concerning as well. Fear seems to be the primary tactic when persuading others to vote for the HB2 bill. Telling made-up stories of how families can be violated in bathrooms or how a man will be waiting for your children in the restroom is a fear tactic. By inciting fear, this is a form of fascistic argument in itself by controlling affect/feeling. There is a sense of victimhood to instill fear that women and children will be assaulted, and everyone should think this way because of common sense.

The Toulmin model helped to break down these arguments into claims, grounds, and warrants. Once the 3 Toulmin elements were identified, I looked at each element specifically and found that public health was the main explicitly stated concern. By studying the warrants, public health actually reveals fascistic argumentation with a shared purpose to take control of non-cis human bodies and bathroom space. This desire of control shows characteristics of fascistic argumentation through feelings of fear, controlling what is reasonable by referring to this case as common sense, and casting out bodies that are not deemed normal through territorialization. Though these testimonies in favor of the HB2 deny any other possible reasoning or point of view, it is essential to look at counterarguments during the general assembly.

Rebuttals of Bathroom Bills

In the legislative transcripts from the North Carolina Middle District Court, there were many testimonies in favor of HB2, but there were also a few rebuttals against the bill. These rebuttal testimonies came from trans people and trans allies who propose a claim to vote against the HB2 bill. The grounds around the claims share a common theme of safety for trans folks.

Madeline Goss, a citizen of North Carolina, stated:

I can't use the men's room. I won't go back to the men's room. It is unsafe for me there. People like me die there every day. Not -- not the least to say, it freaks people out when I go to the men's room. Would you like to go to the men's room with me? (Exhibit A, 2016. p. 28).

Goss is trying to bring the point across that gender and biological sex are not the same thing. Goss is warranting that her image reflects her gender identity and that if she were to use the male restroom, she would look out of place, and people would question her for being in a male restroom. Goss is also using the grounds that it is unsafe for her to be in a male restroom where violence could occur.

Another rebuttal in the legislative transcripts from the North Carolina Middle District Court comes from North Carolina citizen Angela Bridgeman who shares her testimony of “being denied a college education because I am a transgender person” (Exhibit A, 2016. p. 25). In 1998 Bridgeman attended Sullivan University in Louisville, Kentucky. Bridgeman was told that she must use the male restroom and would be kicked out of college if not. Sullivan University told Bridgeman this information five days after Matthew Shepard was brutally murdered. Due to the recent death of Matthew Shepard, Bridgeman chose her own safety through fear of hate crime and murder. Bridgeman made it clear in her testimony that she has since gone through gender affirmation surgery and that her birth certificate states she is biologically female, so the HB2 law would not affect her. Bridgeman attended the assembly to stand for other trans people who potentially experience the same thing.

Both testimonies in the legislative transcripts from the North Carolina Middle District Court reveal how dangerous it is for trans people to use a restroom that does not reflect their gender identity and how important it is to understand trans struggles in general. There is a fear when using the restroom as a trans person that cis-gendered bodies do not experience. These testimonies also used personal experience to explain why HB2 should not pass, giving more logical evidence.

Housing and Urban Development Analysis

The text analyzed for the Housing and Urban Developments proposal to give shelters the right to deny trans people from staying in a federally funded shelter is public comments from Regulations.gov Beta. This federal website allows the public to leave comments on federal policy proposals. Regulations.gov permitted public comments to be made from July 2020- September 2020 and received a significant amount. According to Regulations.gov, “The proposed rule would require any determination of sex by the shelter provider to be based on a good faith belief” (HUD, 2020, p. 1). For this thesis, the first 200 comments will be looked at and analyzed.

Within the public comments analyzed, it was evident that people claimed to stand with HUDS proposed rule and that single-sex shelters should be segregated by biological sex and not gender. Commenters also had the choice to report anonymously. A specific anonymous comment claimed that if you do not follow your biological sex at birth, you do not deserve anything in life or services from the government (HUD, 2020). The claim that this rule should be put into place is very apparent, but what is the reasoning behind this claim?

Grounds for HUD

The grounds to why this rule should be put into place were stated several times, and the reasoning is to protect religious freedoms. Ben Carson himself used these grounds in the press release proposing the rule (HUD Public Affairs, 2020). Commonly, homeless shelters are managed by churches or other religious organizations, and some religions may oppose transgender individuals. Some religions may believe that biological sex is the same as gender, nor should sex be changed. Many religions do not believe this and are accepting of trans people as well. The United States of America prides itself on the freedom of religion, and some believe that freedom of religion is grounds to turn trans people away from single-sex shelters. These comments use the reason that if single-sex shelters were required to allow trans folks to use their quarters, it would burden faith-based organizations. I am questioning if religion is the real reason why trans people can be turned away from homeless shelters or if religion is being used as a mask to warrant other desires?

Safety also came across as grounds in support of the proposed HUD rule. One anonymous comment claimed that women go to single-sex shelters to find refuge from abusive relationships where men are the primary abusers. This anonymous comment reasoned that women would not feel comfortable or safe with men in their personal space. Below is another anonymous statement from the public comments on Regulations.gov in support of the bill:

They do not feel safe nor protected. I experienced this first hand when I was working a yard sale with my shirt off and the sight of my physique caused a female neighbor to become upset. This was because she had been abused by an individual with similar features. At her request I put on a shirt and limited my

presence. These facilities must do as much as they can to protect these abused individuals. (HUD, 2020, c. 4328)

The comment emphasizes that safety is a huge concern, and even a self-identifying man believes he may be a threat to the safety of women. In this anonymous comment, safety is also inferring that men will take advantage of this rule and try to stay in single-sex quarters with women to threaten their safety.

While analyzing these comments, religion and safety are both being used as grounds to support the claim of passing HUDS proposed rule. The question is if religion and safety are being used as a mask to hide specific desires or even stigmas that are assumptions believed to be shared by others with a shared purpose.

Warrants for HUD

Warrants of the arguments are the most crucial part of the analysis to find out if there is a hidden agenda behind safety/religion and try to understand why there is an argument in the first place. The warrant or the assumption shows the field of argument due to having a shared purpose. Using religion as grounds for why single-sex shelters should turn away trans individuals reveals elements of fascistic argumentation in itself. This reasoning assumes that religions think or feel the same way about trans folks and that trans people would burden all the religious shelters. It stigmatizes religion as having the same point of view. The same follows with safety as the grounds as to why this rule should follow through, the assumption that people believe cis men will disguise themselves as women for the purpose of attacking women. Assault is the apparent assumption, but I want to go deeper to reveal how these assumptions do not hold a reasonable argument.

One anonymous argument from public comments surrounding the HUD rule was that freedom of religion needs to be respected in this case and that “differing belief systems can coexist as long as tolerance is practiced by all” (HUD, 2020, c.4328). Would this statement not be a fallacy by only choosing specific belief systems to tolerate? By exiling a marginalized group such as trans people from homeless shelters, this would not be tolerance practiced by all. This argument also plays into the endless debate over the separation of church and state in the United States. By letting religious shelters that are federally funded turn away trans people because it goes against their religion will cause harm to American citizens that are trans.

This argument from Regulations.gov does not provide sufficient evidence, so how have people come to accept this argument? There may be another explanation for why the argument has been accepted by many and why the same grounds would be repeated in public comments. While the grounds did not reveal any specific proof as to why trans people should not be allowed in single-sex shelters, it also revealed that a mask of religion is being used for specific desires for dominance. This rule would deny trans people from using a federally funded space and deny a body from a shelter when needed. It shows a yearning to exile a body they are uncomfortable with because it is not normative.

These public comments provided by Regulations.gov show several planes of fascistic argumentation, starting with territorialization. The literal space where trans people can exist is being territorialized. This argument warrants that trans people must stay in the single-sex quarters of their biological sex and use religion as the reason why. Still, religion is just a mask to take advantage of the territory of single-sex homeless

shelters. There seems to be a desire to force trans people into unsafe spaces or leave them in the street to be forgotten.

The second fascistic element that stands out in this argument is bodies. Again, the argument uses religion as the grounds, but a hidden warrant does not accept bodies that do not reflect the standard of biological sex. Furthermore, there is an assumption that people will be able to tell if another is trans and in their space, and if this human does not match what is believed they should look like, they will be exiled from that space and their physical body from society.

These arguments use an affect/feeling of fear when religion is being threatened or questioned. The sanctity of freedom of religion will be lost in the United States if HUDS rule is not ratified. Women must fear for their safety in single-sex shelters if men try to pass as women, and you must worry about your religious beliefs if trans people are in the same regulated space. There is no room to look at the trans perspective, only the perspective of specific religions.

Bringing fear, controlling a specific space, not including the perspective of trans people, and what safety issues they face in a shelter or on the street are all examples of fascistic argumentation. These arguments share the same purpose of exiling trans bodies in the name of religion. These public comments from Regulation.gov are using religion to mask the true desire not to accept change and take control over a space that should be used as a place of refuge. This analysis shows how a shared purpose of taking control is being hidden by the mask of religion and its own fascistic field with denial to learn other viewpoints.

Rebuttals for HUD

While reviewing public comments from Regulations.gov Beta there were several rebuttals against this rule and for the rights of trans American citizens. The main reason why this proposal should not be passed is that it is incredibly dangerous for trans folks for two reasons repeated several times throughout Regulations.gov. First, it is dangerous for trans people to stay in a single sex facility that does not align with their gender identity due to violence. There is a threat of sexual and physical assault because many people do not understand trans people or feel threatened by trans presence due to societal norms with gender.

Secondly, Trans people experience homelessness at an alarming rate compared to cis-gendered people and are victims to hate crimes (Stiegler, 2019). Many trans folks are kicked out of their house as young kids, not accepted by society, and as a result experience homelessness. They must worry about their safety on the street and worry about being denied shelter or being assaulted in a shelter.

Trans Military Ban Analysis

This section will analyze Donald Trump's memorandum that specifically banished trans people from the U.S. military. The memorandum was released on August 25, 2017, one month after Donald Trump tweeted that trans people could no longer serve in the U.S. military (@realDonaldTrump, 2017). The claim is evident that trans people will no longer be accepted into the military and that trans people who were already serving would be banned. Donald Trump also claimed that further study is needed before trans people could serve in the military again (Trump, 2017).

Trans Military Ban Grounds

Donald Trump used several grounds to back his argument in the memorandum, one being that the Obama administration did not have the basis for changing the ‘longstanding policy’ of trans people being banned from U.S. military, and there must be further research to prove that trans people would not ‘hinder military effectiveness and lethality, disrupt unit cohesion, or tax military resources, and there remain meaningful concern’.(Trump, 2017, para. 2). Though Donald Trump does not outright say this, all points of his reasoning fall under the category of safety.

Hindering military effectiveness and lethality is a threat to U.S. safety. Disruption of unit cohesion is a threat to U.S. safety. Taxing military resources would impact U.S. safety. Though these are all different points, they fall under safety concerns. This concern over safety must now be analyzed to see if safety is being used as a mask for fascistic argumentation. These reasons are not proof of sufficient backing to revoke a law because Donald Trump did not give objective evidence, he is using ‘what if’ scenarios. Trump does not provide concrete proof, just what could happen.

Donald Trump’s grounds behind this argument are also unreasonable because he believes that trans people will hinder U.S. safety through the military. Still, in the past, Trump has stated that he supports LGBTQ folks. When he was on the campaign trail with a pride flag, he showed support and when he made comments that the famous Caitlyn Jenner could use whichever restroom she wanted in the Trump Tower. Donald Trump showing support for the LGBTQ community and then taking away rights from the community is hypocritical. He changed his support of the LGBTQ community by reasoning that trans people threatened U.S. military safety. The warrants of this argument must be analyzed to see if there is a hidden agenda behind safety grounds.

Trans Military Ban Warrants

The Toulmin model will reveal this is an unreasonable argument because of no sufficient evidence, and the memorandum does not offer any other perspective. How does this argument pass through society? How did this ban successfully become law without debate? It does not pass traditional dialectical standards, and there must be another way to explain how this argument was successful until 2021.

I will now turn towards fascistic argumentation to try and make sense of how these arguments passed for so long and why Donald Trump got the support he did for such claims with unreasonable backing. The five planes of fascistic argument can be used to analyze the warrants or the assumptions of why trans people should not serve in the U.S. military.

By not providing another point of view, but making it seem like he has grounds to stand on, this argument controls the aesthetics. He suggests that there needs to be more research studies to prove that trans people are not a safety hazard to the United States. This statement is giving a false reality that he would like more points of view with statistical facts. Still, he is actually implying that trans people are a threat. He is controlling thought and not showing other points of view because he has no proof that trans people are a threat and does not even provide voices of trans people themselves.

Aesthetics lead directly to affect by playing off previous feelings towards U.S. safety and U.S. feelings towards trans rights. The military budget is constantly questioned, along with United States debt. By playing off the feeling that trans healthcare will take away from the military budget, he uses backing that people already feel passionate about, which has been a hot topic. This reasoning causes people to be more

worried about taxes, which has been a hot topic since the beginning of America and putting more fear into people by implying their taxes may rise.

Stating the military lethality is questionable due to trans people is implying that trans people would not defend U.S. safety compared to someone whose gender is the same as their biological sex at birth. The U.S. country already has feelings of uncertainty towards trans people that can be seen with Bathroom Bills or fundamental human rights. Trump is playing on these feelings of fear or controversy to control emotions without actual proof or logical reasoning. By controlling these affects he has more persuasion and the unsound argument is accepted.

Not only is this argument controlling views and feelings, but it is controlling space with territorialization. Physically it is holding all of the secs of the military by stating trans people can not occupy these spaces. If they already occupy these spaces, they will be forced out of the physical space and the establishment. Trump is also territorializing trans voices. Trans people who inhabit these military spaces are denied a voice on their choice to serve the United States military. These people who gave their lives to protect the United States are now denied a voice because Trump claims they threaten U.S. safety.

Another fascistic plane that this argument reveals is, of course, bodies. What is the correct body to serve in the U.S. military? Bodies that do not put the military budget in jeopardy, bodies that will not harm cohesion, and lethal bodies. These are bodies that directly reveal normativity, bodies that people do not question, bodies that reflect biological sex, and societal standards. This control over bodies affects trans people, but many other bodies are not allowed to occupy this space either if they are deemed

physically or mentally inept based upon military standards. Stating trans bodies are a threat to budget implies that these bodies are not worth proper medical attention, and only bodies that cost the military less are acceptable.

These fascistic planes of argument are used to explain a desire to control feelings, bodies, and territory in this particular argument. These fascistic planes are also used to understand why statements without reasonable evidence or logic can still carry on to create laws that control people. I propose that Donald Trump uses the threat of safety for the American people to persuade them from thinking trans people can serve or coexist with the specific body a person must have to join the services. He is using a mask of safety to hide true desires of dominating how people think and feel.

Trans Military Ban Rebuttals

Though there were no rebuttals listed with the memorandum because it is a presidential document, there was a massive uproar across the states. There was progress when the Obama administration allowed trans people to be open in the military and digression when the Trump administration revoked this law. It was not until 2021, under the new administration, that trans people could once again serve and receive medical attention needed.

This ban not only shows a desire to dominate but is dangerous to trans folks in the fact that it resembles the treacherous “Don’t ask, Don’t Tell” policy from the Clinton administration. The blatant discrimination against the LGBTQ community and the fear of being discharged if any sexuality was revealed besides hetero. The military bringing such an emphasis on who can serve based upon sexuality was harmful in itself. Still, now such

an emphasis on gender identity is discriminatory and overstepping boundaries of control on who can give their lives to fight for this society.

Conclusion

This chapter analyzed three artifacts that expressed the arguments surrounding Housing and Urban Developments proposal to give power to single sex shelters to deny trans people, the Bathroom Bill in North Carolina that forced people to use the restroom of their biological sex, and the memorandum created by Donald Trump banning trans people from serving in the U.S. military. The purpose was to look at these arguments and test if they are reasonable using the Toulmin model. If they were deemed unreasonable, there must be some explanation of how traditional dialectical patterns no longer work because these arguments passed through society. These laws or proposals being circulated show that society is taking a dialectical turn to post-dialectics. Traditional argumentation rules are no longer emphasized, and there is no consensus through debate, but arguments without sufficient evidence are taken seriously.

So what can be used to explain these nonsense arguments that defy traditional norms of argumentation? I turned to fascistic argumentation and masks to try and add to Toulmin and see if I can fathom how these arguments work in public. The five planes of fascistic arguments were used to try and explain a hidden agenda that was masked by fears of safety, public health and religion . Fascistic arguments show the same purpose or desire to control ways of thinking and physical bodies themselves. I am contributing to fascistic argumentation by finding masks or reasons that are being used in the grounds but actually facilitate a hidden urge. The warrants reveal an emerged fascistic field with a shared purpose to dominate space and people.

The next chapter will discuss findings and propose additional research. There will be a discussion on how gender is reduced to sex and genitalia is being probed in public spaces. A person's private genitalia is being used as a weapon to decide who may be worthy and who is not. There seems to be this entitlement is shown and the need for the public to know a person's genitalia and what they can and cannot do with it. Trans people are being reduced to their genitals, and their genitals are being used against them.

CONCLUSION

My goal for this thesis was to research and conclude how arguments surrounding anti-trans issues were successful in the United States. For the past decade, trans rights issues have been a legal topic of discussion and are still discussed publicly in 2021. The three issues I chose to study and analyze are the Housing and Urban Development Rule proposal that would give single-sex shelters the right to turn away trans folks in 2020, the North Carolina Bathroom Bill that forced trans people to use the restroom of their biological sex in 2016, and the trans military ban enforced by Donald Trump in 2017. The arguments surrounding these issues are important to study to see how they pass within society and if traditional rules of argumentation are changing. I propose that traditional dialectical argument is no longer occurring and has taken a post-dialectical turn. My purpose is to describe the kinds of arguments used in these issues to build the case that they are evidence of an emergent problematic for argumentation and rhetorical studies: fascistic argumentation. I argue that specific ‘masks’ are used to facilitate fascistic argumentation in the public sphere undetected.

Review of Chapters

The first chapter explained the issues in detail. The first issue identified is the Housing and Urban Development’s newly proposed amendment to the Equal Access to Housing Rule that would give single-sex shelters the power to reject trans people from

staying in quarters that cosign with their gender identity and instead put them in shelters based upon their biological sex at birth. This proposed rule was made public by Secretary Ben Carson through a press release on July, 1st 2020. Many of the arguments surrounding this issue were praised and rejected, but the proposal was overruled in April 2021.

The second issue analyzed is concerning Bathroom Bills, specifically focusing on North Carolina's Public Facilities Privacy and Security Act or House Bill 2 (HB2) that went into effect in 2016. This bill is the first, and only bathroom bill passed through legislatures, making it illegal for people to use a restroom that does not match their biological sex. Though this bill is no longer standing, it erupted a public argumentation on trans rights, and many states tried to follow in North Carolina's path with no prevail.

The third issue is former President Donald Trump's ban on transgender people serving in the military in 2017. This ban was made public on Twitter through three tweets, and a memorandum was released a month later. The ban was in response to the Obama Administration making it legal for trans people to serve and receive health care in the military starting June 30, 2016. However, the ban has been recently revoked by the Biden Administration. All three of these issues are not put into place currently, but it is still essential to analyze how they were successful in the first place.

The second chapter engaged in several theories of argumentation to help determine how to analyze these arguments. I presented the case that although this argumentative situation can be analyzed from the traditional (Toulmin model, fields and spheres) approach, it seems something else was happening that exceeds reason, namely the refusal to adhere to basic standards for normative (reasonable) debate. Due to the

seemingly shared argument purpose to dominate bodies under the guise of legitimate public argument, I argued recent trans argumentation is an example of fascistic argumentation. I also proposed that masks were used to hide fascistic argumentation and the reason why these arguments were accepted.

The third chapter revealed the method used to analyze these arguments and where the specific arguments were found throughout my research. The artifact analyzed for Housing and Urban Development's proposed rule was public comments collected on Regulations.gov BETA, a federal website that allows the public to leave comments towards federal policy proposals. The artifact analyzed for Bathroom Bills was legislative transcripts from the North Carolina District Court from 2016. The artifact studied from the trans military ban was Donald Trump's memorandum that specifically banished trans people from the U.S. military. These texts were dissected using the Toulmin model to identify the claim, grounds, and warrant. If the argument did not provide sufficient evidence and was deemed unreasonable due to lack of proof, I turned towards fascistic argumentation to try and understand how the argument passed. I would then evaluate these arguments with the five plans of fascistic argumentation to see if they showed evidence of these elements. I am not stating that because an argument has a lack of evidence that it is always fascistic, I am using this theoretical ideal to try and make sense of these arguments and add to the theory. Fascistic argumentation is part of this post-dialectical concept that argumentation has changed and no longer follows traditional rules of argumentation. I am adding to both Toulmin and fascistic argumentation by testing to see if these arguments hide behind a mask such as public health but, in reality, want to

take control of others. The specific masks are explained in chapter 3 as well: public health, safety, and religion.

Chapter four carries out this method by first using the Toulmin model to dissect the argument, debating if it has reasonable proof, then turning to the five planes of fascistic argumentation to test if these arguments hide behind a facade concealing the true desire to dominate bodies. Chapter four also points out rebuttals of these issues and how these arguments are harming the trans community. I found that these arguments indeed show elements of fascistic argumentation within the warrants. Public health, religion, and safety are all used as this sort of guise to take control of what people can and cannot do with their personal bodies or taking control of space. Fascistic argumentation hints at the possibility of a post-dialectical turn since these arguments do not follow dialectical traditions of argumentation. These arguments against trans folks are inciting fear of safety, public health, and religion to persuade the public with no intention of resolving the issue to a common consensus. Analyzing these arguments helps to see how argumentation has shifted to post-dialectics and how fascistic argumentation can succeed in society. This analysis adds to the argumentation community by advancing the Toulmin model and expanding on the theory of fascistic argumentation through what I call masks. The rest of this chapter will talk about some of the implications of these findings and possibilities of the future.

Spheres: What is left?

What about spheres of argumentation? Are spheres still relevant to this topic? The thesis findings have implications for understanding spheres of argument. In chapter two, spheres were mentioned as a possible way to try and explain arguments surrounding trans

issues. Spheres of argumentation are broad categorizations of how people form and evaluate arguments and were developed from field argumentation. Spheres were not used in the method section but can help with future research on this topic and is important to think about with a shift to post-dialectics. I believe that the original concept of spheres has become even more blurred when it comes to issues surrounding trans argumentation. In this transgender issue instance, the theory goes beyond the traditional view of spheres and shows how the understanding of spheres must broaden. The traditional notion of spheres includes public, private, and technical. Arguments are built in different ways depending on if they fall into the personal, technical, or public sphere. Each sphere has its standards and sets of rules when evaluating and creating evidence for an argument.

I argue that in this instance, spheres are collapsing into each other and blurring lines where they should not be and propose that there should be more research done on this in the future. I believe the public is eclipsing into the personal in this instance. A person's genitalia and gender identity are personal but are now in public scrutiny. Is it another person's business to know what genitalia the other has in a restroom or other space? Also, why does personal genitalia threaten the public? I suggest that the public sphere is using private genitalia as a weapon to control spaces and people. The public sphere is going too far into the private, and how someone modifies their own body to feel better is a personal choice. By stating that I believe the public sphere is going too far into the private, this is going against G. Thomas Goodnight (1982), who suggests technical and personal argumentation spheres are encroaching on the public. Goodnight did not anticipate fascistic argumentation. Therefore spheres can be looked at differently when

fascistic argumentation is occurring. Focusing on spheres regarding fascistic argumentation is a topic for future research.

These arguments regarding trans issues show how the public sphere is reducing gender to sex and genitalia. There seems to be confusion on the separation of gender and sex and that some believe gender is not a social construction. People are still reduced to their genitalia and how they should act. This confusion makes me question how to bring awareness to the social construction of gender.

Future Research: Historical Study

In the previous paragraph, I proposed that the theory of spheres could be looked at more closely when examining fascistic argumentation. I also want to suggest that research on the history of fascism could help explain the fascistic argumentation concept. Future research could reveal how authoritarian rulers come into power and how this power is used to control argumentation perspectives. The threat of an authoritarian regime is not a new concept and could bring about connections on how to tackle fascistic argumentation.

I propose researching the history of gender/ gender studies to help understand trans issues as well. The study of gender is a relatively new field of study becoming popular during second-wave feminism. The history of fascism/gender studies may reveal details that this thesis has missed or connect other theories to explore in the future. Historical context included in future research will help to understand what motivates people and drives social movements.

What can be done for Trans Rights?

Something that I believe can help with the future of trans rights is, of course, education. I take a pedagogy approach because education is what helped me to shape my view on trans rights. Going into my undergraduate career, I did not have a firm grasp on gender vs. sex and definitely did not understand trans issues because my education came from Catholic schooling. It was not until the tragic death of Leelah Alcorn that made me pursue gender studies and rhetoric at the same time. Leelah took her life in 2014 because her parents did not accept her for being transgender and sent her to conversion therapy (Mohney, 2014). Her suicide was broadcast all over news stations in Cincinnati, social media, and international news. Local news stations used he/him/his pronouns to report, and Leelah's parents made public comments after her death that still referred to her as him. By the media/parents misgendering her, I sought an explanation, which led me to learn more about trans issues.

I believe pedagogy surrounding gender should be taught from a young age. Though this approach would take time and a lot of fight, I think it could help prevent trans suicide and help trans rights. We can see how much of a battle it will take based upon children's TV programming such as Nickelodeon. The famous cable channel celebrated PRIDE month June 2021 by creating a video with Drag Queen Nina West, who educated children on the colors of the pride flag and their original meanings. However, Nickelodeon's ratings and views plummeted, with public comments stating children are too young to learn about sexuality (Nickelodeon, 2021). Furious people took to social media, and low ratings show the public is not educated on LGBTQ issues, and education needs to change for the future. By stating children should not be allowed to learn about sexuality but be perfectly okay with heteronormative relationships shown on

TV, this shows more than ever that LGBTQ education should be talked about at a younger age. I believe the concept of gender education can also help improve and insight critical thinking from a younger age in k-12 classrooms. I think gender education from a younger age will help reduce hate crimes as well. For example, the debate occurring right now in k-12 classrooms regarding Critical Race Theory (CRT) can be compared to teaching critical thinking lessons such as the concept of gender. CRT is a technical concept that originated in law and being scrutinized by the public. Trans and gender education could have the same effect, and I believe it would most likely have the same effect.

What can be done about Fascistic Argumentation?

This thesis focused on fascistic argumentation and the five planes of fascistic argumentation, but what can be done to reduce/bring attention to fascistic argumentation in the future? How do you combat fascistic argumentation when it occurs without consciousness? I do not believe there is a quick antidote to fascistic argumentation, but it is imperative to pay attention to argumentation around you. This consciousness is especially important because of society's heavy reliance on social media and when people such as Donald Trump are able to come into power with insufficient arguments. Fascistic argumentation aims to control feelings, spaces, thoughts, bodies and show no room for discussion. Fascistic argumentation can be successful without sufficient evidence because it plays on people's feelings. While analyzing issues surrounding trans folks, these arguments used fear to impact feelings fear that the American public will not be safe in a restroom, fear that your freedom of religion will be taken away, and fear that the military can not protect the nation. Yet, these fears are just being used as masks to

hide the fact of domination over space, bodies, feelings, and points of view. What can be done to combat fascistic argumentation?

I can not pinpoint the beginning of fascistic argumentation, and I believe there is a long road ahead to combat this theory. Still, it shows great concern when anti-trans arguments can pass publicly without the domination of bodies being questioned. This type of argumentation does not only apply to trans issues, but other issues such as environmental health, travel bans, border patrol, same-sex adoption, and the list could go on. That is why it is crucial to think about the arguments surrounding you and especially arguments that can control policy. It is important to analyze and challenge arguments to find if they have ulterior motives. I also want to stress the importance of not becoming paranoid in the process of questioning arguments in everyday life. Fascistic argumentation is not meant to claim that the U.S. is turning into a fascistic state but that current arguments are showing signs of the desire to dominate. There is an importance in questioning deliberative rhetoric because it controls the policies and life around you.

What does this mean for Argumentation?

By looking at these arguments through a post-dialectical lens, I am inferring that dialectical argumentation is no longer occurring, and fascistic argumentation is just one example of this. The question is if I believe society will turn back to traditional rational argumentation or if there is no hope. At this point, I do not see the state of argumentation going back to traditional dialectical standards and norms. The main reasoning behind my opinion is the success of Donald Trump's presidency. A campaign trail built upon hostility and making the majority feel as if they are marginalized worked. In a political environment where someone running for president can make public comments about

women's appearances, blame an entire nation for a global pandemic, create a word that I believe has caused more Asian hate crimes in America, and attack opponents during a debate with no sufficient evidence, yet still get the type of support he does makes me not optimistic that dialectical standards will return.

Trump was praised for not being like other politicians and started a populist following by stating that he would take down the elitist politicians, yet he is an elitist himself. His following is so strong that many people are still convinced he is still the president, and there is still Trump merchandise displayed on houses, cars, and billboards. By creating this populist ideology for himself with no experience in politics, I believe that others with the same ideals will be able to win the presidency or change policy in the future, continuing post-dialectics.

Arguers may play upon public feelings to create a sense of unity and triumph an argument and make policy instead of debating reasoning and different views to decide on a consensus. Post-dialectics is successful because there is a sense of unity and people belonging to a group when they may otherwise not, and that feeling of belonging will trump logic. Therefore, rhetoricians need to pay attention to post-dialectics and educate others on this concept. Otherwise, there is no hope for traditional dialectical patterns to return.

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Exhibit A - HB2 Legislative Transcripts. Carcano Et Al V. Mccrory, Et Al, (US District Court for the Middle District of North Carolina March 28, 2016, Filed). <https://advance-lexis-com.echo.louisville.edu/api/document?collection=briefs-pleadings-motions&id=urn:contentItem:5YVM-TB91-FBV7-B2SP-00000-00&context=1516831>

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