

Chapter 2

Categories in Flux

The pairing of transracial and transgender in the Dolezal debates points to an underlying shift in the landscape of identities. Prevailing understandings of cultural and bodily difference have been rocked by a series of challenges, and longstanding assumptions about the stability of basic identity categories have been called into question. This has vastly enlarged the scope for choice and self-transformation.

The enlargement of choice seems at first glance to conform to certain classical narratives of modernity, which underscore the shift from given to chosen identities. Yet matters are not so simple. The expansion of the space for choice has fostered anxieties about the exercise of unregulated choice; the idea that basic identities are not given but chosen has provoked concerns about unnatural, opportunistic, or fraudulent identity claims. This, in turn, has prompted efforts to police questionable claims in the name of authentic and unchosen identities, as well as attempts to justify

unorthodox claims in the name of such identities. Instead of a shift from given to chosen identities, we see a sharpened tension—in everyday identity talk, public discourse, and even academic analysis—between the language of choice, autonomy, subjectivity, and self-fashioning on the one hand and the language of givenness, essence, objectivity, and nature on the other. It is this fundamental tension between chosenness and givenness that I analyze in this chapter.

Unsettled Identities

In recent decades, identity categories of all kinds have come to seem fragile and unsettled. The landscape of identities has become much more complex, fluid, and fragmented. As new categories have proliferated and old categories have come to seem ill fitting, we increasingly face uncertainties and ambiguities in identifying ourselves and categorizing others. Prevailing practices of counting and classifying—and the very act of categorization itself—have been challenged. As basic categories have become the objects of self-conscious debate, critical scrutiny, strategic choice, and political claims-making, they have lost their self-evidence, naturalness, and taken-for-grantedness.¹

The unsettling of basic categories has been nothing short of spectacular in the domain of sex and gender. Here a profound challenge to heteronormativity has been accompanied by the massive destabilization of binary regimes of gender and even sex itself. For scholars of sex and gender, “heteronormativity” refers to the long-prevailing cultural understanding of heterosexuality as the only legitimate and normal mode of sexuality, and of the heterosexual couple as the nucleus of family life and reproduction. This

understanding has been radically disrupted. Within days of the Dolezal revelations, the Supreme Court's decision in *Obergefell v. Hodges* affirmed a constitutional right to gay marriage. The decision completed the stunningly rapid collapse of the most visible symbol of heteronormativity in the United States: as recently as 2012, forty-one states had constitutional provisions or legislation barring gay marriage.² The remarkable success of the marriage equality movement was the culmination of a much broader shift in recent decades toward the social and cultural acceptance—or as cultural conservatives lament, the “normalization”—of homosexuality.³ While gay marriage debates have been most visible in the United States, the collapse of heteronormativity has been even more striking in parts of northern Europe, notably the Netherlands, where pro-gay attitudes have been enlisted as a symbol of Dutchness by anti-immigrant politicians.⁴

Challenges to prevailing understandings of sexual difference go well beyond gay marriage. Recent decades have witnessed an ongoing, publicly visible diversification of sexual diversity. Each of the multiple “sexual cultures” or “sexual worlds,” as a prominent scholar of sexuality describes them, “splinters into many linked worlds. . . . There is no unified gay culture, sex-worker culture, drag culture, heterosexual culture or sado-masochist culture: there are multiplicities of scenes.”⁵ A telling indicator of this fragmentation is the acronym creep in designations of the reference categories for understandings of sexual (and gender) difference. From the initial core of gay and lesbian, the portfolio of categories has expanded to include bisexual, transgender, queer, questioning, intersex, asexual, ally, pansexual, and even, in a nod to certain Native American understandings of third-gender statuses, “two spirit,” yielding the unwieldy LGBTQIAAP2S.⁶

Even more striking than the diversification of sexual diversity has been the accelerating movement of transgender from the margins to the mainstream in recent decades. The mainstreaming of transgender was consecrated by a June 2014 piece in *Time* magazine, “The Transgender Tipping Point,” featuring the transgender actress Laverne Cox, celebrated for her role as a transgender prison inmate in Netflix's popular series *Orange Is the New Black*, on the cover. While the notion of a single “tipping point” is no doubt too facile, the growing mainstreaming of transgender is evident in popular culture, media, legislation, organizational accommodations, and parenting practices.⁷

The transgender moment has two analytically distinguishable aspects. The first is the increasing—though of course far from universal—acceptance of the possibility and legitimacy of moving between categories.⁸ This is seen in the mainstream media embrace of celebrities' gender transitions, culminating in the Caitlyn Jenner moment; in the sympathetic depictions of transgender characters in films, television, novels, and fiction for children and youth; and in the increasing willingness of parents, schools, churches, therapists, and others to support gender transitions.

The passage from one established category to another, to be sure, does not necessarily destabilize the categories themselves or the boundaries between them. The anthropologist Fredrik Barth observed in a seminal essay that ethnic boundaries can persist despite the flow of persons across them.⁹ The crossing of a boundary may even strengthen that boundary. Some feminist authors have argued, for example, that transgender boundary-crossing may reinforce rather than subvert gender categories and their boundaries.¹⁰ Others have noted the remarkable power of the binary gender system to “adapt to and re-absorb” transgender people.¹¹ Jenner's transition provides a case in point; it prompted considerable

commentary about the reinforcement of the gender binary and about stereotypical representations of womanhood.¹²

The second development is more radically destabilizing. This is the increasing awareness, acceptance, and even institutionalization of categories other than the binary pair. As recently as 2013, two prominent scholars of transgender concluded a fascinating article on tensions between self-identity and genitalia as criteria for the determination of gender in various contexts by observing that “gender crossing can receive some validation in the liberal moment [which prioritizes autonomy and choice], but only when [the gender] binary remains unquestioned.”¹³ Yet in the last few years the gender binary has indeed been questioned—not just in activist and academic circles but in mainstream settings as well. And organizations are starting to make accommodations for “nonbinary people.”

In the fall of 2015, for example, applicants to the University of California who preferred alternatives to male or female could choose among four additional gender identifications listed on application forms: trans male, trans female, gender queer/gender non-conforming, or different identity.¹⁴ And an increasing number of colleges and universities—especially small liberal arts colleges—have put in place formal procedures for accommodating students who prefer to be designated by pronouns other than “he” or “she.” In some campus settings, it has become routine to ask students to indicate their “preferred gender pronoun” when they introduce themselves.¹⁵ Various sets of alternative pronouns have been proposed, though none has been broadly institutionalized.¹⁶

The mainstreaming of third-gender options is not confined to college campuses. After “collaborat[ing] with . . . a group of leading LGBT advocacy organizations,” Facebook decided in 2014 to offer fifty-six “custom” gender options:

“When you come to Facebook, we want you to feel comfortable being your true, authentic self. An important part of this is the expression of gender, especially when it extends beyond the definitions of just ‘male’ or ‘female.’ So today, we’re proud to offer a new custom gender option to help you better express your own identity on Facebook. . . . Moreover, people who select a custom gender will now have the ability to choose the pronoun they’d like to be referred to publicly—male (he/his), female (she/her) or neutral (they/their).”¹⁷ The dating site OkCupid followed suit, as did other social media sites.¹⁸

More consequentially, some countries have started to recognize third-gender options. In 2014 the Indian Supreme Court gave legal recognition to a third-gender status for those *hijras* or others who identify as neither male nor female, and folded them into India’s system of educational and employment quotas for underrepresented groups.¹⁹ Similar forms of legal recognition exist in Nepal, Pakistan, and Bangladesh. Australia and New Zealand allow gender to be designated on passports as X—glossed as “indeterminate/intersex/unspecified” in Australia and as “indeterminate/unspecified” in New Zealand—in addition to male or female.²⁰ And the High Court of Australia ruled in 2014 that the New South Wales Registry of Births, Deaths, and Marriages could record an official change of sex to “non-specific,” affirming the application of a petitioner who was born male and underwent sex reassignment surgery but claimed to identify as neither male nor female.²¹

The binary regime of official sex categorization at birth, too, has been loosened. Since 2013, for example, Germany has allowed parents of intersex infants to check a third, unlabeled box rather than obliging them to decide between male and female. This is not an official recognition of a third sex category; it is a placeholder, making it possible to defer

official sex categorization until the child can make the decision at a later date. By acknowledging ambiguity, however, this option represents a significant shift away from the rigid binarism that has long governed the medical and legal categorization of infants in Western settings.

The change in official categorization policy is indicative of a broader shift in ways of thinking about—and treating—persons who cannot be unambiguously assigned to a binary sex category at birth.²² In the second half of the twentieth century, prevailing medical protocols required early surgical intervention in such cases, designed to eradicate visible evidence of genital ambiguity.²³ In the last decade or so, responding in part to challenges from intersex activists, medical protocols have shifted. New guidelines place less emphasis on cultural norms regarding the proper size and appearance of genitals and greater emphasis on functionality, fertility, sexual sensation, avoiding complications from unnecessary surgery, and evidence of long-term gender identification of persons with particular “disorders of sex development.”²⁴ In the eyes of many intersex activists, however, the changes fall far short of what is needed. Activists aim to prevent nonconsensual “normalizing” surgeries, and some seek recognition of intersex—or of “variations of reproductive development”—not as a disorder but simply as a form of difference.²⁵

Challenges to prevailing categorical frameworks have been less dramatic in the domain of race and ethnicity—if only because racial and ethnic categories, in contemporary liberal societies, are not as clearly defined, deeply institutionalized, or pervasively implicated in the structuring of social life as are sex and gender. Yet the challenges have nonetheless been profound. Dominant ways of understanding racial and ethnic diversity (and religious and linguistic diversity as well) presuppose a population neatly segmented into a small number of clearly bounded, easily identifiable, relatively

stable categories. This is true notably for the paradigm of multiculturalism, which implies a plurality of relatively distinct and bounded groups. But diversifying immigration patterns, rising intermarriage rates, and increasingly fluid practices of self-identification have generated a much more complex, less stable, and less easily “legible” pattern of racial and ethnic diversity. People are distributed across a much larger number of often less sharply demarcated, less easily identifiable, and less institutionalized racial and ethnic categories—to the extent that they can be placed, or can place themselves, in available categories at all.²⁶ The fluidity and fragmentation of the ethnoracial landscape have prompted critical reflection on the lack of fit between the brutal simplifications of prevailing categorical frameworks and the everyday experience of increasingly complex forms of heterogeneity.

In the major European countries of immigration, for example, the pattern of diversity of forty or fifty years ago—characterized by large and relatively homogeneous groups of migrant workers from a small number of countries of origin (especially Turks in Germany, North Africans in France, and South Asians in Britain)—has given way to much more complex forms of heterogeneity, generated by “smaller, transient, more socially stratified, less organised and more legally differentiated immigrant groups.” London alone includes immigrant populations of 5,000 or more from each of fifty-four countries, most of them internally differentiated—to a much greater extent than earlier migrant worker communities—by education, employment, religiosity, mode of migration, legal status, generation, and so on.²⁷ There is a growing gap between prevailing forms of multiculturalism and identity politics and those who “fall outside or across standard classifications.”²⁸

Challenges to the prevailing categorical frameworks have been particularly striking in the United States, long

characterized by the rigid system of racial classification that was a legacy of the one-drop rule.[†] Diversifying immigration patterns, rising intermarriage rates, and the mixed race movement have powerfully disrupted the black-white binary around which race was historically organized.²⁹ These and other forces—especially the emergence of a new cohort accustomed to much more fluid identifications and bearing very different collective memories and attitudes—are engendering what Jennifer Hochschild and colleagues have called a “new racial order,” characterized by weaker boundaries between groups, greater heterogeneity within groups, shifting relative positions of groups, and more fluid and contextually varying racial identifications.³⁰ Also evident is the cultural and psychological devaluation of whiteness in certain contexts. Many observers have commented on the attractions of emblems of black culture to white youth, who may experience whiteness in terms of deprivation and lack. A Native American identification, too, can offer an enticing alternative to a white identity experienced by some as culturally and spiritually “empty.”³¹

Everywhere, practices of counting, classifying, and categorizing by race and ethnicity have become increasingly politicized.³² Whether to count and categorize by race and ethnicity; what to count; whom to count; how to count; and how to report the results—all of these questions are

[†] Sexual unions across socially defined racial lines have always posed problems for systems of racial classification. In the context of slavery and legally articulated racial domination in North America, such unions threatened not just the stability of racial categories but the structure of racial domination itself. It was therefore found necessary to legally regulate racial category membership, and specifically to define the status of the offspring of interracial unions. With some exceptions, the principle of “hypodescent”—assigning children of unions socially understood as mixed to the subordinate group—prevailed even in the colonial and early postcolonial era, though it was consolidated only in the early twentieth century (Davis 1991).

increasingly contested. The first of these issues—whether to count and categorize by race and ethnicity at all—has been controversial both where such counting and categorizing is deeply entrenched and where it is absent or minimal. In the United States and the Netherlands, for example, critics have argued that prevailing practices of racial and ethnic classification may harden racial and ethnic divisions and divert attention from class divisions. In France and Latin America, by contrast, critics have argued that the *absence* of racial and ethnic statistics has hindered the development of policies designed to assess and address entrenched racial and ethnic inequalities and discrimination.³³

Debates over the second question—what to count—reflect competing understandings of fundamental social divisions. In the United States, for example, should one count race and ethnicity separately, as is done at present; fold race and ethnicity into a single question, as has been proposed as a more consistent alternative; or ask about ancestry, language, or religion rather than about race or ethnicity?³⁴ The issue of whom to count—which specific racial or ethnic groups—regularly generates demands for recognition of new categories and for their inclusion on census forms. The most recent example, in the United States, is the demand for a separate Middle East/North Africa category.³⁵ The question of how to count those of mixed ancestry, and specifically whether to introduce a new “multiracial” category or whether to permit multiple responses without introducing a new category, was heatedly debated in the United States in the 1990s.³⁶ The decision to allow respondents to choose more than one race beginning with the 2000 census raised the final issue mentioned above, how to report the results. Specifically, should those who choose more than one race be fractionally allocated to the different races chosen? Alternatively, should they be allocated to the minority race or races,

at least for purposes of civil rights monitoring and enforcement? The Census Bureau opted for the latter.³⁷

The Empire of Choice

The unsettling of basic categories has dramatically enlarged the space for choice and self-transformation. The enlargement of choice, to be sure, does not simply respond to this unsettling; it also contributes to it. Since the micropolitics of sex/gender and ethnoracial identity pivots on the tension between chosenness and givenness—between what can legitimately be chosen and what must be accepted as objectively given—it is worth considering separately the expanding empire of choice, both as cause and as consequence of the unsettling of identity categories.

Rhetorics and practices of choice and self-transformation have been central to Western modernity. They have structural roots in the erosion of older forms of social organization based on ascribed identities and inherited statuses. They have cultural roots in powerful ideals of individualism, dignity, autonomy, and self-realization (and, especially in the United States, in the myth of the “self-made man” and the tradition of self-reinvention). And they have political roots in liberalism and feminism: classical liberalism was built on the ideal of individual autonomy, while feminism has asserted women’s “right to choose” how to live their lives, especially in the domains of sex and reproduction.³⁸

If choice and self-fashioning have long been central to Western modernity, their importance has only increased in the late modern or postmodern era. Charles Jencks characterized postmodernity as a “time of incessant choosing,” in which it is “not only the rich who become collectors, eclectic travellers in time with a superabundance of choice, but

almost every urban dweller.”³⁹ And as Peter Miller and Nicholas Rose have argued, contemporary neoliberal forms of “government at a distance” work “through the regulated choices of individual citizens, now construed as subjects of choices and aspirations to self-actualization and self-fulfillment. Individuals are to be governed through their freedom.”⁴⁰

Across a wide variety of domains, “contemporary norms of selfhood . . . stress autonomy, self-actualization, prudence, responsibility and choice.”⁴¹ What was formerly given must now be chosen: what line of work to pursue; whether, when, whom, and how to marry; whether, when, with whom, and how to have children; whether and how to practice religion; what to wear; what to eat; what cultural competencies to develop; and what cultural products to consume.⁴² Central to the expanding field of choice are questions of how to form, transform, and manage our bodies. As the body itself—our “somatic, corporeal, neurochemical individuality”—gets drawn into “the field of choice, and [is] laden with all the demands that choice imposes,”⁴³ sex/gender and race and ethnicity become key sites of choice and self-transformation.

“Choice” is a fraught term in the field of sexual and gender politics. A woman’s “right to choose” has been central to the defense of abortion rights and to third-wave feminism more generally. But the language of choice has also been used to demand conformity to sex and gender norms, while the contrary assertion that one has no choice has been used to dignify and legitimize sexual and gender difference. I return to this issue below. The point to underscore here is that one can believe sexual orientation or gender identity to be involuntary or even innate—a matter about which there is inconclusive research and ongoing disagreement—and still acknowledge the massive expansion in the space for choice of sexual conduct and gender expression or presentation.⁴⁴

The ideal of sexual autonomy—built around the freedom to choose whether, when, how, and with whom to have sex—has been central both to the women’s movement and to movements to legitimize alternative sexualities.⁴⁵ Though it remains contested by religious and other cultural conservatives, this notion of sexual autonomy has been spectacularly successful; it informs law, policy, education, and popular culture.⁴⁶ The regulation of sex in criminal law, for example, has shifted throughout most of the world from a corporatist mode, protecting corporate entities like family, race, or nation from “unnatural” forms of sexual activity, to an individualist mode. The contemporary legal regulation of sex protects vulnerable individuals (notably by criminalizing marital rape and child sexual abuse) yet at the same time allows greater latitude for a wide range of sexual activity between consenting adults (notably by decriminalizing sodomy and adultery).⁴⁷ A greatly expanded range of sexual conduct is not only legal but more or less publicly legitimate and socially acceptable. Regardless of one’s orientation, one can—and indeed must—choose from a wide range of options and styles. And online dating has of course dramatically expanded the range of choice of prospective partners.

The space for choice in the domain of gender expression has expanded as well, as a much wider range of modes of behavior, dress, adornment, grooming, and bodily transformation has come to be seen as legitimate and claimed as a right.⁴⁸ As noted above, the option of choosing among a wide range of gender identification terms has been institutionalized on college campuses and social media platforms. The cultural mainstreaming of transgender options has led many families and schools to offer non-gender-conforming children more leeway in choosing their gender self-presentation, though this shift has been uneven across region, class, and milieu.⁴⁹ Choice has even been

institutionalized in law: in 2013, California became the first state to grant every public school student from kindergarten through twelfth grade the right to “participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil’s records.”⁵⁰

Sex/gender designations on official documents like birth certificates and passports are also increasingly chosen rather than given. More significant still is that the exercise of this choice, in a small but rapidly growing number of jurisdictions, no longer presupposes genital surgery or hormone treatments. In most of these jurisdictions, official change of sex or gender is still subject to some form of medical supervision. To change the sex designation on a birth certificate in New York State, for example, a medical professional must affirm that the applicant “has undergone appropriate clinical treatment,” though no surgery or other specific treatment is required. In New York City (which has its own vital records department, independent of that of the rest of New York State), the medical supervision is still more attenuated: a physician or psychologist must declare that the chosen sex designation “more accurately reflects the applicant’s sex or gender identity” according to “contemporary expert standards regarding gender identity.”⁵¹ Denmark went a step further in 2014 by dropping the requirement of any medical statement or clinical diagnosis: legal gender identity depends solely on self-identification.⁵²

Notions of autonomy have informed the expansion of choice in the domain of race and ethnicity as well. Constructivist theories of ethnicity have long emphasized the variability and manipulability of ethnic identities and the fact that, in many contexts, individuals can choose among a variety of “ethnic options.”⁵³ By contrast, race is often

characterized as involuntary.⁵⁴ Camille Gear Rich, however, describes an emerging era of “elective race,” in which individuals increasingly claim the right to racial self-identification and seek to “control the terms on which their bodies are assigned racial meaning.”⁵⁵ Another legal scholar, Randall Kennedy, has expressly defended “free entry into and exit from racial categories, even if the choices [people] make clash with traditional understandings of who is ‘black’ and who is ‘white.’”⁵⁶

Understandings of autonomy that mandate and legitimate individual choice in matters of identity have been enshrined in certain institutional routines and practices. In a global shift in the way censuses are carried out, for example, questions about racial and ethnic identity that used to be answered by census personnel are now answered by respondents themselves.⁵⁷ Following this same logic, the Equal Employment Opportunity Commission in 2007 changed the way it collected data on the racial composition of the workforce: employers had previously been asked to base reports on their own perceptions, but now they are required to ask employees to self-identify.⁵⁸ The options for self-identification have expanded as well. Following the Office of Management and Budget’s unsung yet massively influential Directive 15 of 1997, revising the federal standards for racial and ethnic classification and data collection, the U.S. Census Bureau and other federal government agencies that collect racial and ethnic data have allowed individuals to choose multiple racial identifications; educational institutions and most large corporations have followed suit.⁵⁹

Outside the domain of data collection, of course, options for meaningful and effective choice of racial and ethnic identity are unequally distributed.⁶⁰ A dark-skinned person in the United States does not have a socially meaningful option to identify as white. But the growing complexity of the

ethnoracial landscape, the increase in ethnoracial intermarriage, the emergence of the mixed-race movement, and the decay of the one-drop rule have expanded the scope for choice.⁶¹ People with mixed Asian and white parentage may have a wider range of options for identification than those with mixed black and white parentage, but choice has expanded dramatically for the latter as well.⁶² While the one-drop rule would have defined them as black, studies report a range of alternative identifications, including biracial, black, white, non-racial, or contextually shifting, with identification as biracial being the most common, at least for young people.⁶³ Given a forced choice between white and black, most of those with biracial black and white identities still choose black, reflecting the lingering influence of the one-drop rule.⁶⁴ But in an increasing range of contexts, both formal and informal, that forced choice no longer obtains: the set of socially available and legitimate racial identity categories has expanded to include options like mixed, biracial, and multiracial.

Even genetics, counterintuitively, has enlarged the scope for choice of racial and ethnic identification in certain respects. The boom in genetic ancestry testing makes increasing use of autosomal DNA, inherited from both parents. Unlike tests based on mitochondrial and Y-chromosome DNA, which yield information about a single maternal or paternal lineage, autosomal tests take account of the full, multistranded range of one’s genetic ancestry. Test results, which often reveal complex mixtures of biogeographic ancestry, are enlisted—along with other, nongenetic resources—in a process of “affiliative self-fashioning” that leaves considerable room for interpretation and choice.⁶⁵

Two further forms of racially inflected self-transformation deserve brief comment, though neither necessarily involves choice of racial or ethnic identity per se. The first is the

transformation of racially or ethnically marked bodily features through cosmetic procedures, ranging “from hair-straightening treatments, to rhinoplasty, to eyelid surgery, to skin-lightening creams.” These procedures are legitimized by an “ideology of . . . individual self-expression rather than (as with sex change) [by an ideology] of psychological identity,” and they are marketed in ways that are expressly designed to alleviate any anxieties clients might have about “betraying” their racial or ethnic identity. But insofar as certain bodily features are perceived or “coded” in racial or ethnic terms, cosmetic procedures offer clients the opportunity to “inflect their race through changes to their bodies” by altering the racialized ways in which they are perceived.⁶⁶

A second form of racially inflected self-transformation involves cross-racial identification. Identification with black culture—most often with rap music and hip-hop culture—has been extremely common among white youth in recent decades.⁶⁷ Usually this identification is superficial and transitory, but sometimes it takes deeper and longer-lasting forms. Even transformative and durable identification *with* another race, to be sure, does not entail identification *as* a member of that race. But the line between identifying with and identifying as may be blurred. It became blurred, of course, for Rachel Dolezal, and it may be blurred for others as well—a theme explored in Adam Mansbach’s 2005 satirical novel *Angry Black White Boy*.⁶⁸

The Policing of Identity Claims

The enlarged scope for choice and self-transformation, in the context of the unsettling of longstanding assumptions about basic identity categories, has provoked anxieties about unregulated choice and concerns about opportunistic or

fraudulent identity claims. These concerns, in turn, have prompted efforts to police questionable claims in the name of authentic and unchosen identities.[†] So while theorists of reflexive modernity posit a shift from given to chosen identities, we in fact see not the disappearance but—in some contexts—the resurgence of essentialist, objectivist, and naturalist reasoning.

Transgender identity claims have been subjected to policing in the name of nature, in the name of medicine, and in the name of history. Policing in the name of nature is illustrated by the claim of Paul McHugh—the former psychiatrist in chief of the Johns Hopkins Hospital, who identifies as a conservative Catholic—that sex change is “biologically impossible” and that people who have sex reassignment surgery “do not change from men to women or vice versa [but] become feminized men or masculinized women.”⁶⁹ A similar stance has been taken by some feminists, who object to the “erasing [of] female biology” implied in trans arguments that menstruation, pregnancy, and abortion are not “women’s issues” (because they are not shared by trans women yet are shared by some trans men); that associating words like “vagina” with women is “trans-exclusionary”; and that “female genital mutilation” is a misnomer because clitoral cutting is not restricted to females.⁷⁰

Policing in the name of nature is not merely discursive. It operates in practice through what the philosopher Talia Mae Bettcher has called “reality enforcement,” premised on the contrast between reality and appearance and operationalized

† The policing that occurs when identity claims are expressly challenged is a reminder that identity is a social relation, not an individual property, and that it depends on recognition and validation from others and is therefore vulnerable to challenge and disruption. All social identities involve the interplay of self-identification and categorization by others; the explicit policing of identity claims is just one—conspicuous and conflictual—form taken by that interplay. On the processual and negotiated nature of social identity, see Jenkins 2014.

through “genital verification.”⁷¹ Such policing culminates, shockingly often, in extreme violence, as shown in a study of the press reports of murders of transgender people, which found a pattern of cisgender men killing transgender women after sexual encounters leading to the “discovery” that the victim was “really a man.”⁷²

Unlike policing in the name of nature, policing in the name of medicine admits—and indeed validates—the legitimacy of certain transgender claims. But it does so by subjecting them to medical and psychiatric scrutiny. Those seeking access to or insurance coverage for hormonal or surgical treatments (and, in many jurisdictions, those seeking a change in sex or gender on official documents) have been required to obtain a formal diagnosis of Gender Identity Disorder, renamed Gender Dysphoria in 2013.⁷³ This “highly medicalized gateway model” has denied both treatment and social validation to those who do not satisfy the criteria specified in the *Diagnostic and Statistical Manual of Mental Disorders* (DSM).⁷⁴

Policing in the name of medicine also regulates access to sex-segregated sports.⁷⁵ In 2003 the International Olympic Committee’s Medical Commission spelled out the criteria for transgender eligibility, including “external genitalia changes and gonadectomy,” official legal recognition of one’s sex, and hormonal therapy “sufficient . . . to minimize gender-related advantages in sport competitions.” Later, the commission specified maximum permissible testosterone levels for those competing as women, again in the name of fairness, unless the high testosterone level “does not confer a competitive advantage because it is nonfunctional.” As the sociologists Laurel Westbrook and Kristen Schilt note, such medical policing accommodates the liberal emphasis on autonomy and choice while strictly preserving the system of binary categories.

Policing in the name of history is illustrated by Janice Raymond’s argument that while a male-to-female transsexual “can have the history of *wishing* to be a woman and *acting* like a woman, . . . this gender experience is that of a transsexual, not of a woman.” Surgery may alter one’s bodily constitution, but “it cannot confer the history of being born a woman in this society.”⁷⁶ And it is this history—the history of having “traveled through the world as women and been shaped by all that this entails,” as Elinor Burkett put it in the controversial *New York Times* op-ed discussed in the preceding chapter—that makes one a woman: “People who haven’t lived their whole lives as women . . . haven’t suffered through business meetings with men talking to their breasts or woken up after sex terrified they’d forgotten to take their birth control pills the day before. They haven’t had to cope with the onset of their periods in the middle of a crowded subway, the humiliation of discovering that their male work partners’ checks were far larger than theirs, or the fear of being too weak to ward off rapists.”⁷⁷

The policing of access to blackness—like the policing of access to womanhood—is a relatively new development. There is of course a long and ugly history of the policing of the boundaries of whiteness. Formal social closure along racial lines—culminating in the Jim Crow system of comprehensive legally mandated segregation—required the formal definition and policing of racial category membership. Southern states adopted legal definitions of blackness, using variations of the one-drop rule.⁷⁸ The 1924 Virginia “Act to Preserve Racial Integrity” made a “false” racial self-designation punishable by a year in prison.⁷⁹ And courts were drawn into adjudicating whiteness in cases involving naturalization, marriage annulment, and petitions to change racial designations on birth certificates.⁸⁰

In the era of affirmative action, however, claims to blackness began to be more closely policed than claims to whiteness. Concerns about misrepresentations of racial identity crystallized in the case of the Malone twins. The twins had originally applied unsuccessfully for positions with the Boston Fire Department in a 1975 civil service competition, identifying themselves as white. They applied again, successfully, two years later, this time identifying themselves as black, and served for ten years until their racial classification came to the attention of the fire commissioner in connection with an internal review for promotion to lieutenant. This led to their firing, following a hearing that found their applications to have been falsified. The hearing officer ruled that the Malones were not “objectively” black by any of three criteria: phenotype, documentary evidence, or evidence of self-presentation and perception of others in their community.⁸¹

A second case often cited by advocates of policing claims to blackness is that of Mark Stebbins, who won a city council seat in Stockton, California, in 1983, defeating a long-serving black incumbent. Stebbins had light skin and blue eyes but also, according to a news story of the time, “a broad nose and curly brown hair that he wore in a modest Afro style.” The election had not turned centrally on race, but when Stebbins had appeared at the local chapter of the Black American Political Association of California, he was asked about his race and, when pressed, said he was black. The defeated incumbent, Ralph White, launched a recall campaign, alleging that Stebbins had falsely claimed to be black in order to gain votes in the minority-dominated district (which was 46 percent Latino and 37 percent black). White produced the birth certificates of Stebbins’s parents and grandparents, which listed their races as white, and remarked,

“If the momma is an elephant and the daddy is an elephant, they durn sure can’t have no lion. They got to have a baby elephant.” Stebbins, whose second and third marriages were to black women and who belonged to a black Baptist church and to the NAACP, admitted that he had considered himself white as a young person. But he claimed that he had gradually realized he was actually black after being involved in civil rights campaigns and community organizing, and that he considered himself “culturally, socially, and genetically” black.⁸²

These and other cases prompted proposals by some legal scholars to “verify” claimed racial identifications and to penalize “racial fraud.”⁸³ Writing in the *Vanderbilt Law Review* in 1995, Luther Wright advocated using birth certificates for racial verification. Individuals should be assigned at birth the race of their parents. In the case of parents of different races, the child should be “classified as biracial with the race of the parents clearly identified.” In the case of one biracial parent, the child should be assigned “the race that predominates.” This system would ensure that “an individual can never legally claim to be a member of a race that is not represented in his parents’ generation.” Those making false statements about their race “should be charged with fraud and subject to criminal penalties,” which could include “fines, public service, or a permanent notation of racial fraud on a person’s employment record.”⁸⁴

Angela Onwuachi-Willig, writing in the same law review a dozen years later, focused on the potential for manipulation and misrepresentation in the college admission process. She proposed two measures to police such “racial and ethnic fraud.” Applicants would be required to “write an essay that details their racial background and ancestral heritage . . . , how such background has helped to shape their

identity, . . . and how they can add to the diversity of the college environment”; and guidance counselors or teachers “who worked with the student at each grade level” would write a letter addressing, among other things, “the contributions that the applicant could make to the mission of diversity for the school based, at least in part, on the student’s racial and ancestral heritages.”⁸⁵

These proposals for policing racial fraud differed in interesting ways. Wright’s call for a strict regime of racial documentation on birth certificates was entirely objectivist, focused solely on ancestry. Onwuachi-Willig’s proposal, too, had an objectivist strand: the school letter would serve as a check on fraudulent claims about ancestral heritage (including those based on ancestry shopping by way of DNA tests). Yet this check was not enough; her proposal targeted not only those who invented an ancestry but also those who, despite having the requisite ancestry, “do not personally identify as part of that racial group . . . and thus would not be a part of the critical mass that helps to lessen feelings of alienation for minorities on campus.” The school letter, in conjunction with the applicant essay, was intended to police subjective identification as well as objective ancestry. Onwuachi-Willig expressly signaled as problematic the subjective identification of many first-generation black immigrants and mixed-race students, while presumably that of Rachel Dolezal would have been unimpeachable.⁸⁶

Analogous concerns have arisen about “box-checkers” opportunistically identifying as Native American, especially in the context of faculty appointments at universities.⁸⁷ In 2003 the Association of American Indian and Alaska Native Professors called on universities to take steps to police “ethnic fraud”—specifically, to require evidence of enrollment in a recognized tribe; establish a case-by-case review process for those lacking such evidence; include Native American

faculty in the selection process; and require from applicants “a statement that demonstrates past and future commitment to American Indian/Alaska Native concerns.”⁸⁸ The tension between objectivist modes of policing, based on documentary evidence, and subjectivist modes, based on indications of “past and future commitment” to the Native cause, is evident in these proposals as well.

In the aftermath of the Dolezal affair, bloggers, journalists, and Native American activists have sparked new controversies and reignited old ones by challenging questionable claims to identification as Native American.⁸⁹ In response to this grassroots policing, the Native American and Indigenous Studies Association (NAISA) issued a “Statement on Indigenous Identity Fraud” in September 2015. NAISA is defined by its field of study, not by the ethnoracial identity of its members; the statement took pains to emphasize that one need not be indigenous to study indigenous peoples. But in a thinly veiled reference to Dolezal, the statement went on to observe that “belonging does not arise simply from individual feelings—it is not simply who you claim to be, but also who claims you. . . . The measure of truth cannot simply be a person’s belief but must come from relationships with Indigenous people.” The statement acknowledged, however, possible “disagreements among Indigenous people over the legitimacy of a particular person’s or group’s claims.”⁹⁰

These proposals for the institutional verification of racial and ethnic identities have failed to gain significant traction. In liberal contexts, the *formal* policing of racial and ethnic identities is widely seen as legally problematic and politically repugnant. Acknowledging the concerns about ethnoracial fraud and cultural appropriation, a University of Houston official articulated the mainstream institutional response: “It would be a big step backward for institutions to begin

verifying or certifying employees' self-identified race or ethnicity. . . . If someone self-identifies their gender, we do not make them prove it—we take them at their word. . . . In today's diverse workplace, we understand that every employee deserves to be treated equally, with respect, and included regardless of what anyone perceives their race, ethnicity, gender or any other protected classification to be."⁹¹ As this response suggests, the legal, cultural, and political logic of self-identification is increasingly difficult to challenge in formal institutional settings.⁹² Informal policing, however, continues—indeed with renewed momentum from the Dolezal affair.⁹³

The New Objectivism

The language of givenness, essence, objectivity, and nature is deployed not only by those who *contest* the legitimacy of certain identity claims but also by those who *advance* those claims. This is notably the case for many transgender people. In this mode of trans discourse, one's basic identity is not chosen but given. One must choose whether to live in conformity with, or in tension with, that basic identity, but one does not choose who one fundamentally is. Identity is cast as an objective fact, not a subjective choice.⁹⁴

This objectivist language has been adopted in part for strategic reasons. Those seeking access to surgical or hormonal treatments have had to present themselves in ways that conform to prevailing medical understandings of Gender Identity Disorder or Gender Dysphoria, since the medical and psychiatric professionals who control access to hormonal and surgical intervention require such a diagnosis.⁹⁵ The selective pressures exerted by this medicalized gatekeeper model are responsible for the prevalence of

“born in the wrong body” narratives. This has resulted in a skewed public representation of the transgender experience, since the objectivist “wrong body” narrative fails to capture the experience of many transgender or gender-variant individuals.⁹⁶

More broadly, in a context of actual or anticipated policing of unconventional or controversial identity claims, objectivist accounts of identity serve as a response to, and as a preemptive defense against, such policing. To the claim that “you can't just choose to be a woman,” the response, in effect, is that “we don't *choose* to be women; we simply *are* women.” A similar strategic essentialism has been widely adopted as a response to, and a preemptive defense against, the policing of sexuality. Assertions of the immutable, inborn nature of sexual orientation have enabled gay people to reject portrayals of homosexuality as a choice that could be altered and to argue that discrimination against gays, like discrimination against blacks and women, should be considered a form of discrimination based on an unchosen and unalterable characteristic.⁹⁷

Yet recourse to objectivist language is not simply strategic; it also reflects the deep appeal of essentialist understandings of identity outside the academy.⁹⁸ Objectivism is further nourished by the cultural authority of biomedical science. Research on a possible biological basis of transgender identity—like decades-long research on a possible biological basis of sexual orientation—remains inconclusive.⁹⁹ But periodic reports of suggestive findings are widely discussed in transgender forums and often cited uncritically as evidence of a biological basis for transgender identity.

In the domain of race and ethnicity, too, objectivist language can be used not only to challenge identity claims but to formulate (or at least to justify) the very claims that are challenged. Some college applicants, for example, seek DNA

ancestry testing in order to justify identifying as black or Native American on admission or financial aid applications.¹⁰⁰ In a cultural context in which any discernible African ancestry has been sufficient for self- and other-identification as black, discovery of such ancestry, ironically, can ground an objectivist claim to *be* black even if one has never subjectively *identified* as black.

Such ancestry shopping is of course transparently strategic. And there are many other examples of strategically enlisting genetic findings to support individual and collective claims. In an environment that confers enormous cultural authority on genomics, however, appeals to biology in discussions of race and ethnicity are not merely strategic. Since the turn of the millennium, genetics has become a newly respectable language for talking about race and ethnicity.¹⁰¹

Objectivist language, then, is deployed both to challenge and to formulate identity claims. Alongside older arguments that appeal to God, nature, or history, newer arguments appeal to genetics or to an innate and unchosen identity. We see not only a tension between languages of chosenness and givenness, subjectivity and objectivity, but also a tension between competing objectivist languages—competing ways of grounding identity claims in something beyond individual choice and subjectivity.

The latter tension arises from the multiplicity of objectivist criteria for socially defining both race and ethnicity and sex and gender. For race and ethnicity, these include different aspects of phenotype (skin color, facial structure, hair texture, and so on); genealogical and genetic ancestry; a shared history of living and being treated as a member of an ethnic or racial category; and a range of cultural practices and competencies. For sex and gender, they include different aspects of biological sex (chromosomes, genitalia, gonads, and secondary sex characteristics); a shared history of living

and being treated as a member of a sex or gender category; and a putatively innate and unchosen gender identity.

The scope for choice and self-transformation, I have argued, has expanded dramatically in the domain of sex, gender, and sexuality in recent decades as longstanding assumptions about the stability of basic categories have been profoundly shaken. Similar if less dramatic changes have occurred in the domain of race and ethnicity. The unsettling of identities and the expanding empire of choice, in turn, have provoked anxieties about the crumbling foundations of social, moral, and cognitive order. Old and new essentialisms have flourished in response, claiming that basic identities are given, not chosen; objective, not subjective.

Contrary to some influential narratives of modernity, the language of choice, autonomy, and self-fashioning has not simply displaced the language of givenness, essence, and nature in accounting for basic categorical identities. Rather, subjectivist and objectivist accounts of identity coexist, sometimes in surprising ways. They are of course in tension with one another, but they do not stand in a zero-sum relationship. While the use of essentialist language to question and police controversial identity claims is unsurprising, the use of this language to *formulate* such claims is more intriguing. Objectivist language is used not only to check unbridled subjectivity and choice but also to *ground and legitimize* new forms of subjectivity and choice. Thus while transgender subjectivities are celebrated by some for their emancipation from the merely given, they are legitimized by others as given rather than chosen. They are reinscribed in the domain of nature in a way that underscores the objectivity and givenness—and therefore the legitimacy—of unorthodox identities. The choice of ethnoracial identification, too, is legitimized by appeals to objectively mixed ethnoracial or genetic ancestry.

The contemporary politics of identity is structured by a deep—though often unacknowledged—tension between chosenness and givenness, between subjectivity and objectivity, between the possibilities of self-transformation and the constraints of nature. At the present moment, when basic categories are profoundly unsettled and intensely contested, trans is not just a social phenomenon to think *about*; it is also a conceptual tool to think *with*. It is to the development of this argument that I turn in Part Two.

Part Two

Thinking with Trans