attenuating. Nonetheless, the categories "post-racial" or "post-ethnic"—like "post-gender"—can usefully clarify the terms of normative debate, articulate certain utopian possibilities, and help refine our accounts of what has changed and what has not.

Conclusion

Gender and race were long understood as distinctively stable, rigorously categorical, legibly embodied, and reliably decodable social identities. It was these features that were seen as setting gender and race apart from other social identities, such as those founded on language, religion, education, and occupation. In sociological terms, gender and race were understood as "ascribed," education and occupation as "achieved" statuses: the former as unchosen and unchanging, the latter as both choosable (albeit under structural constraints) and changeable. Language and religion were understood as somewhere in the middle: initially ascribed, yet in the modern world increasingly open to choice and change.

In recent decades, public understandings of gender have shifted dramatically. One convenient benchmark for assessing just how far-reaching this change has been is the set of five rules of gender set forth by the transgender activist and writer Riki Wilchins two decades ago: "(1) there are only two cages; (2) everyone must be in a cage; (3) there is no mid-ground; (4) no one can change; and (5) no one chooses their cage."[1] If one substitutes the more neutral "category" for the politically charged "cage," these rules formulated commonsense notions about what was right, normal, and

appropriate in the domain of sex and gender. Until the last few decades, these understandings were very widely shared in Western societies. This is not to say that the rules were seldom broken: historians have traced a long and varied history of the practices through which they were bent, evaded, and transgressed. By now, however, the challenges, subversions, and violations have become so pervasive, so open, and so accepted by growing segments of the public that their status as rules is increasingly in doubt.

New categories have proliferated. The middle ground is no longer off-limits. Choice and change have become routine. And some have sought to escape from gender "cages" or categories altogether. Not long ago, sympathetic understanding of such developments was limited to small circles of activists, academics, transgender people, and the professionals and paraprofessionals catering to them. Today, a much broader public—though one still limited by age, class, and region—has come to understand gender in pluralistic, nonbinary terms, as open to the forces of change and choice, and as constituted through ongoing performances rather than simply ascribed at birth once and for all.

Yet even as gender identities have come to be reimagined in far-reaching and unprecedented ways, racial identities continue to be widely understood as unchanging and unchosen. As the reaction to the Dolezal case suggests, prevailing public understandings cast gender and race as radically different forms of embodied identities.

I have argued in this book that the differences are not as sharp as is generally assumed. The Dolezal affair was in some ways misleading. By focusing attention on idiosyncratic aspects of her story—and especially on issues of deception and fraud—the discussions of Dolezal obscured the deeper issues at stake in contemporary transformations of gender and race as embodied identities. It is productive, I have suggested, to

think about race and ethnicity in relation to sex and gender as systems of social classification that have been massively destabilized in recent decades. And it is fruitful, in this trans moment, to think not just *about* trans but *with* trans, by using the multiple forms of transgender experience as an analytical lens through which to consider how racial as well as gender identities are increasingly open to choice, change, and performative enactment.

Thinking with trans brings into focus a number of similarities between gender and race as systems of social classification that have been losing the stability, self-evidence, and clarity they once possessed. The similarities include the possibility of moving—in consequential and sometimes fateful ways—from one clearly defined gender or racial category to another; the development and recognition of new forms of gender and racial betweenness; and the various attempts to establish new categories outside existing categorical frameworks, or to transcend gender or racial categorization altogether. Conceptualizing these as forms of trans—the trans of migration, the trans of between, and the trans of beyond—highlights parallel challenges to the stability and legibility of gender and race and, more fundamentally, to the basic understandings of categorical difference that are at the heart of the gender and racial orders.

Despite these formal similarities, however, gender and race remain substantively different embodied identities, open to the forces of change and choice in differing ways and to differing degrees. If the Dolezal affair concealed important similarities between gender and race, it revealed at the same time important differences. The much-tweeted claim that transracial is "not a thing" was a superficial slogan, driven more by political positioning than by intellectual analysis. Yet it pointed to an undeniable truth. Transracial is indeed not a thing in the same sense as transgender; it is

not a socially recognized and validated identity. Transgender, by contrast, has been socially defined as real; it is therefore—in the words of the now-classic Thomas theorem—"real in [its] consequences."[2] Transgender has been recognized, validated, and institutionalized in cultural idioms, public narratives, ways of thinking and feeling, social practices, legal and organizational categories, political claims-making, social science research, and popular culture. For a nontrivial segment of the population, transgender is no longer a contested novelty; it is a taken-for-granted reality. Nothing comparable can be said about transracial.

The fact that transracial is not a socially recognized phenomenon like transgender is partly a matter of linguistic convention. Gender passing falls under the term "transgender," but racial passing is not designated by "transracial." Gender blending and blurring—in special performances and in everyday life—are grouped under the heading "transgender," but mixed racial identities and other forms of racial blending and blurring have not been grouped under "transracial." Efforts to subvert or transcend the gender order fall under the rubric of transgender, but efforts to subvert or transcend the racial order do not fall under any socially recognized rubric of transracial. By bringing together phenomena ordinarily treated separately, thinking with trans suggests that transracial is not the absurdity it was alleged to be in the Dolezal debates.

The contrast between the densely institutionalized, socially recognized "thingness" of transgender and the lack of social recognition for transracial, however, does not result simply from linguistic convention. The possibilities for choice and change are indeed more circumscribed in the domain of race and ethnicity than in the domain of sex and gender.

But this presents us with a paradox. Morphological, physiological, and hormonal differences between the sexes—if not as marked in humans as in many other species—are biologically real and socially consequential. Nothing remotely analogous can be said about racial divisions. Genetically governed differences between socially defined racial categories are superficial and inconsequential; genetically programmed differences between the sexes are neither. Like race, sex is a system of social classification. Unlike race, however, sex is also a well-established biological category.† But despite the evident biological basis of sex differences—a biological basis that is utterly lacking for racial differences—it is more socially legitimate to choose and change one's sex (and gender) than to choose and change one's race.

To account for this paradox, we need to consider the different conceptual and linguistic resources that are culturally available for thinking and talking about sex/gender and race/ethnicity. One key resource for making sense of the former, which has no counterpart in the latter domain, is the distinction between sex and gender.[3] This distinction, which became common in the 1970s, can be mapped onto a series of generative and resonant oppositions: between nature

† The existence of biologically based sex categories does not, of course, mean that all individuals fall cleanly and clearly into one or the other. A small fraction of infants are born with a variety of conditions that make their sex ambiguous or indeterminate. Treatment protocols that force such intersex individuals into one sex category or the other, often through surgery aiming at constructing "normal-looking" genitals, have rightly come in for sustained criticism. And theorists of sex and gender have correctly observed that such treatment is driven by the cultural imperatives of a binary classification system, not by medical necessity. But the fact that certain individuals can be assigned to the categories male or female only arbitrarily does not make the categories themselves arbitrary; and the fact that sex is culturally co-constructed does not mean it is biologically unfounded. (On changing understandings of and treatment protocols for intersex conditions, see p. 46.)

and culture, body and mind, and material and spiritual. When combined with understandings of authenticity as a touchstone of value and with understandings of identity as a deep, stable, generative inner essence, the sex-gender distinction makes it possible to understand individual gender identity as a subjective inner state that is independent of the sexed body. A corollary of this understanding—central to the epistemology of gender—is that gender identity, located within the sealed, opaque container of the self, is knowable only by the individual concerned. The sex-gender distinction, together with prevailing idioms of authenticity and identity, thus allows gender identity to be conceived as an inner essence of which each individual is the sole legitimate interpreter.

Yet while the sex-gender distinction allows gender to be understood as radically *disembodied*, it also allows gender to be *re-embodied* in two ways. First, while gender identity is understood as independent of the visible morphological features of the sexed body, it is at the same time widely understood as grounded in other—as yet unknown—properties of the body. Gender identity is thus understood *both* as a subjective inner essence, accessible to and knowable by the individual, *and* as an objective constitutional fact over which the individual has no control. The subjectivity of gender identity is seen as grounded in the objectivity of the body. This move fortifies and legitimizes the demand for public validation of subjective gender identity, since validation is claimed not simply for a subjective conviction but also for what is put forward as an objective fact.[4]

The putative objectivity of the subjective allows choice to be defended in the name of the unchosen and change to be legitimized in the name of the unchanging. What is chosen, on this understanding, is not one's gender identity but the steps one takes to express and realize that identity.

Changing one's gender does not mean changing one's gender identity; it means changing the way one is recognized and classified by others in private or public contexts. This usually involves changing one's gendered self-presentation and may also involve transforming one's body to bring it into alignment with one's gender identity.

Such projects of bodily transformation are the second way gender gets re-embodied. While gender identity is understood as analytically distinct from the sexed body, it is at the same time widely understood as an inner essence that ideally corresponds to and is expressed in the sexed body. This view is not, of course, universally shared: there are many ways to enact a transgender identity without transforming the sexed body. But congruence between inner gender identity and the visibly sexed body remains a powerful cultural ideal. The transgender twist on this ideal reverses its conventional causal and normative ordering: instead of imagining the sexed body as an unchosen and unchanging substrate and gender identity as its expression, one can now imagine gender identity as an unchosen, unchanging inner essence and the sexed body as its choosable and changeable expression.

The sex-gender distinction thus allows gender identity to be both disembodied and re-embodied, the latter through a posited (though presently unknown) bodily ground for subjective gender identity and through the reconstruction of the outwardly sexed body to match one's inner gender identity. Our conceptual and linguistic resources for thinking about race make it nearly impossible to imagine racial identity in a similar way. That is, we have no established vocabulary, no cultural tools, for thinking about racial identity in subjectivist and individualist terms as an inner essence that is independent of the body and knowable only by the individual.

A second key conceptual idiom that configures our understanding of sex/gender and race/ethnicity in very different ways is that of inheritance. We understand biological sex to be governed by the mechanisms of genetic inheritance, but in a manner that does not involve history, lineage, or intergenerational continuity. The sex of the offspring does not depend on any properties of the parents; it depends solely on whether the sperm cell that fertilizes the egg contains an X or a Y chromosome. This stochastic moment of fertilization is entirely cut off from any transgenerational history or lineage; sex determination begins anew with each generation. The sense in which race is culturally understood to be inherited, as the philosopher Cressida Heyes has observed, is radically different.[5] The processes of genetic, genealogical, and cultural inheritance that are understood to be involved in the determination of race are all conceived as multigenerational; they bring the cumulative weight of the past to bear on the present. Ancestry is thus understood as *centrally relevant* to—and indeed at least partly constitutive of—race and ethnicity, yet as *entirely irrelevant* to sex and gender.

These sharply differing understandings of inheritance establish the authority of ancestry over racial and ethnic but not sex and gender identification and classification. The history of sex/gender identity is coterminous with the history of a single embodied individual. It is conceptually entirely independent of the history of the sex/gender identity of one's parents, even if empirically one's manner of embodying and expressing a gender identity may be influenced by models furnished by one's parents. The history of racial or ethnic identity, by contrast, is intrinsically a transgenerational history. It is conceptually impossible—at least in North America, given the weight of ancestry in prevailing understandings of race—to define one's racial or ethnic identity without regard to ancestry. This means that the scope for culturally legitimate change or choice of racial or ethnic identification is bounded by the range of one's socially ratified ancestry.

The conceptual and linguistic resources I have highlighted make it easier and more legitimate to choose and change one's sex or gender than one's race or ethnicity. The stuff of which sex/gender identity is made is entirely contained within the self. The sex-gender distinction allows one to think of this stuff in dualistic terms as comprising the sexed body on the one hand and a disembodied (though putatively organically grounded) gender identity on the other. Cultural idioms of deep, stable, and authentic identity enable one to conceive gender identity as a touchstone of authenticity and value, and the sexed body as more superficial and arbitrary. Gender identity is understood as given, but the sexed body can and should be reshaped to match and express that identity. This is legitimated by the broader cultural program—central to late modernity—of reflexively shaping and transforming the body, which is understood as a plastic substance and surface on which to inscribe and express one's inner identity.

The lack of an established language for thinking about race in subjectivist and individualist terms and the authority of ancestry over racial and ethnic classifications make it more difficult for those without the requisite ancestry to choose or change their racial and ethnic identifications. The stuff of which racial and ethnic identities are made is not fully contained within the self, and the epistemology of race does not empower the individual as the sole legitimate interpreter of racial identity. Phenotypical markers of race and ethnicity—including hair, eyes, facial structure, and skin color—can of course be modified, and are indeed frequently modified, in ways that can inflect or even change the way

one is identified by others. But such racially or ethnically inflected bodily modifications are policed in ways that bodily modifications in the domain of sex and gender are not. Bodily transformations that signal membership in a racial or ethnic category to which one is not entitled by ancestry are vulnerable to being seen as deceptive or as a form of ethnoracial "betrayal." Transformations of the sexed body that signal membership in a sex/gender category that does not match one's chromosomes are seen as deceptive by cultural conservatives and radical feminists, but they are accepted by an increasingly broad public as *affirming* one's authentic identity. The cultural logic of authenticity thus works in radically differing ways for sex/gender and ethnoracial identities: it *authorizes* transformations of the sexed body but *stigmatizes* certain transformations of the socially classified racial body.

There are socially validated and medically regulated procedures for altering certain racially or ethnically interpretable bodily features, including eyelids, noses, and other aspects of facial structure, just as there are for changing genitalia, hormones, and secondary sex characteristics. But the legitimacy of the former depends on denying that they have anything to do with changing one's race, while the legitimacy of the latter does not require denying or hiding an interest in changing one's sex or gender.[6] The difference is not a technical one: the transformations of the body involved in genital surgery are in fact much more complex and medically problematic than those involved in racially or ethnically inflected cosmetic surgery. The key difference lies rather in the authority of ancestry over racial and ethnic classification. The individual may be understood, in the prevailing language of liberal individualism, as owning her body, but she does not own her ancestry.

The putative objectivity of gender identity—the claim that one's subjective gender identity is grounded in and caused by some unknown constitutional factor and is thus unchosen and unchanging—*empowers* the individual not only to choose and change her gender self-presentation but also to make choices about, and to demand changes in, the ways she is identified and classified by others. Classifications that are not congruent with the individual's self-identification can be characterized as mistakes, thanks to the individual's monopolistic access to the inner sense of self that is understood to be constitutive of gender identity.

The putative objectivity of racial identity is grounded in social relations, not just in the body. For this reason, it *constrains* the scope of individual choice and change. A key part of what constitutes racial identity—notably one's ancestry, as well as the classification practices of others—is understood to be located outside the self and open to inspection by others. For this reason, classifications that accord with an individual's phenotype and ancestry but not with her self-identification cannot be characterized as mistakes that require correction. And an individual who identifies with an ethnic or racial category to which she is not entitled by ancestry cannot intelligibly make use of the "born in the wrong body" narrative.[7]

Opportunities for choice and change, then, are indeed much more circumscribed in the domain of race and ethnicity than in the domain of sex and gender. But the space for choice and change in the domain of race and ethnicity has expanded substantially in recent decades. And it continues to expand, driven by two processes. The first is the increasing cultural salience of racial and ethnic mixing. Sexual unions across socially defined racial lines have existed whenever and wherever these lines have been drawn. In

some contexts, the mixedness of the offspring of such unions has been socially denied. The American one-drop rule, which defined all offspring of black-white unions as black, was notorious for doing just that. But mixedness has been increasingly acknowledged and even celebrated. This has resulted from the multiracial movement, the prevalence of interracial marriage, the declining authority of the one-drop rule, and a diffuse sensitivity to and appreciation of hybridity. Even genetics has contributed to the visibility of mixedness: the most popular type of genetic ancestry test—the autosomal test that analyzes both paternal and maternal ancestry—reports its results in the language of "admixture" and helps popularize the notion that *everyone* is mixed.

As ancestry comes to be understood through the language of mixedness, its authority over racial and ethnic classification declines. For an ever-widening circle of people, ancestry no longer provides unambiguous answers to questions of classification and identification. Paradoxically, the more we know about our ancestry, the less unambiguously that ancestry determines our identity. Mixed ancestry not only permits but even requires choice: it invites a process of "affiliative self-fashioning," through which race and ethnicity are "constituted at the nexus of genetic science, kinship aspirations, and strategic self-making."[8] The complexity and ambiguity of ancestry also facilitate change, authorizing individuals to identify with different ancestral strands in different social and cultural contexts.

The second process that has eroded the authority of ancestry and expanded the space for choice and change is the performative turn in ways of thinking and talking about race. The shift from essentialist understandings of identity as deep, stable, and generative to post-essentialist understandings of identity as continually reconstituted through performative enactment has long been influential in the study

of gender. More recently, as I observed in chapter 4, a parallel shift has begun to inform the study of race and ethnicity, though this has been more common in the humanities and cultural studies than in the social sciences.[9] Like gender, race and ethnicity are increasingly understood as something we *do*, not something we *have*—as a matter of reiterated doing rather than stable being. Through this reiterated doing, race and ethnicity are at once reproduced and, in subtle and often imperceptible yet cumulatively consequential ways, transformed.[10]

The performative turn in the study of race has focused attention on the dual nature of racial identity as both achieved and ascribed. A person who is ordinarily socially defined as black on the basis of phenotype or ancestry, for example, may be seen as "acting white."[11] This double coding—arising from a dissonance between doing and (apparent) being—can be interpreted in two ways.[12] On one interpretation, being trumps doing. The person in question may be considered to be "really black" but to be "acting white"; she may be seen as acting inauthentically and as betraying her real identity. On a second interpretation, doing trumps being. The same person may be understood to have forfeited her claim to be "really" black by virtue of acting white. The deeper and more consequential identity, on this interpretation, is the achieved identity: what one does determines who one (really) is.[13] By "acting white," one can thus cease to be effectively black, regardless of one's ancestry or phenotype. And one can also become effectively white, in a limited but socially real sense: not by passing, or by being perceived as *phenotypically* white, but by being effectively treated as *socially* white in a certain range of contexts.[14] A similar point can be made about the (apparently) white person who "acts black."[15] Attention to this "achieved" dimension of race highlights another aspect of the fragility and instability of categorical identities: their

chronic need for ratification and their chronic vulnerability to policing.[16]

The performative turn is not just an academic trend; it is also a shift in popular culture. Representations of race and gender in fiction, film, and television increasingly highlight their artificiality, constructedness, and instability. They call attention to the *means of producing* legible identities. They look behind the scenes at the layers of artifice, levers of self-presentation, and manipulations of signifiers, stances, and styles through which gender and race are "achieved" in interaction rather than stably ascribed. In so doing, they tap into anxieties about what Gayle Wald called the "radical unreliability of embodied appearances," or what Marjorie Garber, in her pioneering study of cross-dressing, called a "category crisis"—"not just a category crisis of male and female, but the crisis of category itself."[17]

Attention to the means of production of legible identities is evident in the contemporary fascination with various forms of passing.[18] The renewed interest in passing is especially striking in the domain of race, since many commentators have described the "passing of passing" and see the present as a "post-passing" era.[19] Part of the appeal of passing as a topic lies in the revelation of the artifices that underlie and enable it. While passing itself is intrinsically self-concealing—it must cover its traces in order to succeed—representations of passing in fiction, memoir, and film reveal the mechanisms that make it possible. Since these depend above all on the manipulation of visual signifiers, the exploration of passing—and of related matters such as impersonation, radical makeovers, trading places, and the like—is particularly well suited for the visual media of film and television.[20]

Both popular culture and scholarship display a shift from what might be called a deep identitarian understanding of

passing to a performative one. On the deep identitarian understanding, best exhibited in the domain of race, passing intrinsically involves deception and inauthenticity. To pass is to pretend to be something you are not, and to get others to misperceive you in this way. This is why classical stories of racial passing were often told in a tragic mode. The performative understanding repudiates this ontology of identity and authenticity. Passing shades into performance: everybody is passing as somebody; all identity is performative. There is no deep identity, no being apart from doing; identity is performance all the way down.[21] Contemporary accounts of passing—in scholarship as well as popular culture—are therefore imbued with less pathos and more ironic distance than earlier accounts. The mood is often comic rather than tragic; stories are more likely to highlight the incongruities and absurdities of categorical identities than their depth and pathos.

With the memory still fresh of the Charleston church massacre and the deaths that inspired the wave of Black Lives Matter protests, one needs no reminder of the analytical and political limits of a focus on passing and performance. Of course essentialist understandings of race as a deep, authentic, and unalterable identity continue to be articulated in popular culture and scholarly work. They continue to inform the everyday understandings and practices of ordinary people as well as the ideologies of people like Dylann Roof. And needless to say, opportunities for choice, change, and unconventional performative enactment remain unequally distributed in ways that reflect not only the continuing significance of ancestry but also—as highlighted in Ta-Nehisi Coates's much-discussed *Between the World and Me*—the distinctive vulnerability of the black male body.

Still, the declining authority of ancestry over racial and ethnic classification—a result of the increased salience of

mixing and the greater awareness of the constructedness, artificiality, and elasticity of racial and ethnic categories—has substantially enlarged the space for choice, affiliation, and self-transformation. This holds even for a substantial and growing share of those whose ancestry, a few decades ago, would have unambiguously led them to classify themselves, and to be classified by others, as black.

The declining authority of ancestry and the expanding space for choice, change, and performative enactment do not entail the absence of constraint or power. Identities are always constituted through the interplay of self-identification and categorization by others.[22] For much of the last several centuries, the power of state categorizations and prevailing social definitions strictly limited—though of course never eliminated—the possibilities for self-identification and performative self-presentation for those externally defined as black. In recent decades, the balance has shifted, and the space of possibilities has expanded substantially. But the balance has not tilted as far toward the pole of self-identification in the domain of race as it has in the domain of gender, which is increasingly understood as an identity solely owned and controlled by its individual bearer.

The philosopher Ian Hacking has shown how categories that designate new kinds of people do not simply recognize previously unrecognized kinds of people; they contribute, rather, to "making up people" by creating "new ways for people to be." The new categories—and the new stories told about the kinds of people they designate—shape the self-understanding and conduct of people who come to recognize themselves in those categories and stories; the new categories and stories thus change "the space of possibilities for personhood." Over time, people may "come to fit their categories." But the categorized may also seek to gain control over the content and administration of the

categories by challenging the authority of medical and other experts.[23]

The institutionalization of and contestation over the category "transgender" offer a powerful illustration of Hacking's argument about "making up people." Cross-dressing, gender-blending, and passing as a member of the opposite sex have long histories. But it is only in recent decades that it has become possible to be a transgender person—as a new, socially recognized kind of person, constituted by the intersection of categories, stories, self-understandings, and practices.

It is not possible to be a transracial person in this way. As I have argued, the possibilities for choosing and changing one's race have been substantially enlarged. But these possibilities remain distributed across a variety of different practices and stories—stories of passing, of multiracial identities, of affiliative self-fashioning, of cross-racial identification, and of post-racial stances. They have not been knit together into a coherent social phenomenon with a single name. The importance of names was brilliantly captured by Nietzsche's aphorism in *The Gay Science*: "What things *are called* is incomparably more important than what they are. . . . It is enough to create new names and estimations and probabilities in order to create in the long run new 'things.'"[24] In this respect, the conventional wisdom in the Dolezal affair—that transracial is "not a thing"—was right on the mark: the various manifestations of the instability of racial categories have not come together as "a thing" in part because they have not been bound together by a name.

The solidity and durability of transgender as an institutionalized and socially recognized "thing" should not be exaggerated. The shift toward public acceptance of transgender has been astonishingly rapid, but it has been uneven across regions, generations, institutions, and milieux. This

unevenness sets the stage for intensified public controversy as transgender claims move from insulated settings like liberal arts colleges to mainstream settings like public school systems, and as legislatures, civil rights agencies, and courts take action to establish broad transgender rights.†

These rights are proving controversial. In November 2015, Houston voters repealed—by a wide margin—an antidiscrimination ordinance that included gender orientation among other protected classes. The church-led campaign against the ordinance focused on the slogan "No Men in Women's Bathrooms." The campaign mobilized fear of sexual predators through a video advertisement depicting a man entering a women's restroom, hiding in a stall, and then entering a stall occupied by a girl, while a voiceover warned that "any man at any time could enter a women's bathroom simply by claiming to be a woman that day."[25] The Houston ordinance in fact said nothing about bathrooms, but this did

† In 2013, as I noted in chapter 2, a pioneering California law granted public school students in grades K–12 the right to participate in sex-segregated activities and use sex-segregated facilities according to their self-identified gender. Efforts to challenge the law through California's initiative process failed to gather sufficient signatures in 2013 and again in 2015, but opponents have vowed to keep fighting it (Nelson 2015). Federal civil rights agencies have also been involved in expanding transgender rights. In November 2015, for example, the U.S. Department of Education's Office for Civil Rights found a suburban Chicago high school in violation of Title IX of the Education Amendments of 1972, which prohibits sex discrimination, for denying a transgender student access to the girls' locker room (U.S. Department of Education 2015). In April 2016, a federal appeals court, deferring to the Department of Education's interpretation of the statute, held that Title IX "requires schools to provide transgender students access to restrooms congruent with their gender identity." The decision—in a suit filed by the ACLU on behalf of a Virginia high school student—was narrowly drawn: the court recognized that a subsequent administration might choose to interpret Title IX in a different way, and that Congress might clarify the implications of Title IX for transgender people in a way that might or might not align with the current stance of the Obama administration. See U.S. Court of Appeals 2016, pp. 5, 15, 16, and 29.

not stop opponents from dubbing it the "bathroom bill"; they were able to make this characterization stick in part because earlier versions of the proposed measure had included specific provisions on bathroom access. And a growing number of municipal ordinances do expressly give transgender people the right to use bathrooms, locker rooms, and other sex-segregated facilities corresponding to their subjective gender identity. This provides a convenient target for opponents. In March 2016, responding to one such ordinance, North Carolina became the first state to expressly prohibit people from using bathrooms, in schools and other public buildings, that do not match the sex on their birth certificate.

The North Carolina bill provoked a storm of political and legal contention. Activists called on companies to boycott the state; the ACLU and allied groups filed suit challenging the law; and the Justice Department, asserting that the bill violated federal civil rights law, threatened to cut off federal education funding to the state. North Carolina filed suit in response, claiming that the federal government's position amounted to a "radical reinterpretation" of civil rights legislation, and the federal government in turn sued the state. In mid-May the federal Departments of Education and Justice broadened the scope of the controversy by issuing an advisory letter to schools nationwide on civil rights protections for transgender students; the letter asserted unequivocally that Title IX's prohibition of discrimination on the basis of sex "encompasses discrimination based on a student's gender identity, including discrimination based on a student's transgender status." This provoked eleven states to sue in response, claiming that the Obama administration's interpretation of Title IX rewrites the law by "administrative fiat," notably by arbitrarily "redefining the statutory term 'sex' . . . to include 'gender identity.'"[26]

As in the controversy over gay marriage, conservative churches are taking the lead in challenging transgender agendas. Opposition to strong versions of transgender rights, however, may be deeper than opposition to gay marriage. Some parents who support gay marriage, for example, may object to transgender students having the right to use locker rooms or bathrooms of their choice; they may portray this as a danger to their own children or as a violation of their right to privacy. The controversies that have erupted so far fit the pattern of what Kristen Schilt and Lauren Westbrook have called "penis panics," in that they focus on the dangers posed by the presence of men, implicitly defined as people with penises, in girls' and women's spaces.[27] Such controversies are likely to multiply in response to the widespread diffusion of transgender rights and the Obama administration's expansive interpretation of Title IX.

Rachel Dolezal's claim to identify as black provoked fiercer opposition in the summer of 2015 than Caitlyn Jenner's claim to identify as a woman. But practices associated with choosing or changing gender are likely to be more controversial in the coming years than practices associated with choosing or changing race. Sex and gender, unlike race and ethnicity, remain legally formalized identities, and access to formally sex-segregated spaces—especially women's colleges, women's sports teams, and women's bathrooms—remains a live political issue in a way that access to formally race-segregated spaces is not.[28] Cultural conservatives, moreover—especially religious conservatives—are more deeply committed to preserving sex and gender boundaries than racial and ethnic boundaries. For religious conservatives, sex and gender are central to the created order in a way that race and ethnicity are not. The blurring or crossing of sexual and gender boundaries is therefore a much graver threat than the blurring or crossing of racial or ethnic boundaries. Race

will no doubt continue to be a central focus of political controversy in all kinds of ways. But apart from occasional controversies over questionable identity claims, continued debate about cultural appropriation, and disagreement about how to delimit the circle of persons concerned by antidiscrimination law or affirmative action programs, such controversy is unlikely to focus on the blurring of categorical distinctions.

Considering race in relation to gender—and reading race through the lens of the multiple forms of transgender experience—brings into sharp focus the deep contingency and arbitrariness of racial categories. This is of course not a new insight; a generation of scholarship has underscored that contingency and arbitrariness. But it is an insight that has remained largely trapped in the academy, filtering only feebly and intermittently into broader public discussions.[29] And even academic discussions have incorporated constructivist insights incompletely and ambivalently; such insights have been much more fully embraced in the study of ethnicity than in the study of race, which continues to be treated by many scholars as a domain apart.[30] Taken as an intellectual opportunity rather than a political provocation, the pairing of transgender and transracial in public discourse has the potential to leverage the shift in public understandings of gender by prompting public reflection on the artificiality, constructedness, and instability of race. By treating trans as a tool to think *with*, not just a phenomenon to think *about*, I have sought to encourage such reflection, and to provide new analytical resources for understanding the contingency and arbitrariness of racial categories, while remaining sensitive to the ways in which gender and race operate as different systems of embodied difference.