

HERMENEUTICAL RESOURCES BEYOND THE MALE/FEMALE BINARY:  
EPISTEMIC INJUSTICE AND THE ADVENT OF A THIRD CATEGORICAL GENDER

by

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## ABSTRACT

This thesis uses the concepts of *epistemic injustice* (injustice related to an individual's relationship with the shared pool of social knowledge) and *hermeneutical resources* (conceptual tools, primarily based in language, that are used to understand and express lived experience) to examine how well a third categorical gender redresses the harms caused by the male/female binary. The first chapter discusses the ways medicine reproduces cultural norms regarding gender, focusing in particular on the resulting epistemic injustices. The second chapter looks at the ways the advertising and entertainment sectors of *the culture industry* (a term coined by Horkheimer and Adorno in 1944) distribute hermeneutical resources surrounding gender, along with the new resources becoming available with the emergence of a nonbinary gender category into the public eye. The overall argument of this thesis is that while a third gender category may be beneficial to many who do not identify as male or female, it continues to perpetuate epistemic injustice insofar as it upholds the discursive representation of gender as internally-generated, acontextual, and immutable.

## Introduction

On all birth certificates, passports, and driver’s licenses issued in the United States, there is a field for sex. The vast majority of identification documents issued by the U.S. federal government (as well as those issued by most state governments) permit only one of two options in this field: “M” (or “male”) and “F” (or “female”).<sup>1</sup> In recent years, people who do not consider themselves to fall within the male/female binary have been increasingly requesting that they be allowed to express this on their identification documents.<sup>2</sup> Thanks to the work of queer political activists, some states now allow people who do not fall within the male/female binary to amend certain identification documents to indicate a nonbinary identity.<sup>3</sup> As of May 2020, 18 states allow nonbinary designations on driver’s licenses and ten allow for an “X” designation in lieu of “M” or “F” on birth certificates.<sup>4</sup> In addition to legal recognition, nonbinary identities are receiving increasing recognition in mass entertainment media, demographic research, and medical practice. In a recent emoji keyboard update,<sup>5</sup> even Apple showed that they are on board with recognizing a third gender (in emoji form, at least).<sup>6</sup> Although the advent of a third gender may appear to solve the problems caused by the male/female binary, upon closer investigation,

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<sup>1</sup> Alissa S. Kalinowski, “Compelling Agency Action: A Novel Regulatory Avenue for Correcting the Birth Certificates of Transgender Citizens,” *Administrative Law Review* 70, no. 4 (Fall 2018): 973-975.

<sup>2</sup> Greenberg, Julie A., “Beyond the Binary: Constitutional Challenges to Male/Female Sex Classification Systems,” *Thomas Jefferson Law Review* 41, no. 2 (Spring 2019): 195–196.

<sup>3</sup> ABC7NY. “Proposal to add X category to NYC birth certificates,” video, 21:52, streamed live from a press release held by Mayor Bill de Blasio and City Council Speaker Corey Johnson on June 4, 2018, posted by “Eyewitness News ABC7NY,” <https://youtu.be/n2LhAPsemc0>

<sup>4</sup> Movement Advancement Project, “Equality Maps: Identity Document Laws and Policies,” accessed May 19, 2020, [https://www.lgbtmap.org/equality-maps/identity\\_document\\_laws](https://www.lgbtmap.org/equality-maps/identity_document_laws)

<sup>5</sup> Mark Davis (Google Inc.) and Peter Edberg (Apple Inc.), “Unicode® Technical Standard #51,” The Unicode Consortium, February 11, 2020, <http://unicode.org/reports/tr51/#Modifications>

<sup>6</sup> Paige Leskin, “Apple now offers gender-neutral versions of nearly ever [sic] human emoji, and LGBTQ advocates are praising the company’s push toward equal representation,” *Business Insider*, October 31, 2019, <https://www.businessinsider.com/apple-iphone-emoji-gender-neutral-increases-lgbtq-representation-2019-10>

not everyone who falls outside the male/female binary benefits equally from the emergence of this category.

The term “male/female binary” was chosen for this thesis over the more commonly used “gender binary” to allow for fluid movement between aspects of identity discursively associated with sex (as a bodily attribute), sexuality (as one’s pattern of sexual behaviors and desires), and gender (as a culturally-based social and psychological identity). The phrase “male/female binary” additionally accounts for the many instances of the binary where sex and gender are *not* differentiated between, and are instead treated as a single entity.<sup>7</sup> Since use of the words “sex” and “gender” cannot be entirely avoided, use of the word “gender” in this thesis, unless otherwise indicated, should be taken to *encompass* rather than *oppose* what is commonly considered to be sex, in addition to referring to a psychological identity and social role. Although sex, gender, and (hetero)sexuality are discursively separate concepts, this thesis approaches the three as inextricably intertwined with one another, with indeterminate borders. In order to investigate who does and does not benefit (and in what ways) from the expansion of the male/female binary into a male/female/nonbinary ternary, it is necessary to investigate the role of compulsory heterosexuality in cultural understandings of gender.

The term “compulsory heterosexuality” was introduced to the feminist lexicon in a 1980 exploratory essay by Adrienne Rich. In this essay, Rich lodged a feminist critique against the institution of heterosexuality with a focus on how it ignores and invalidates lesbian experience.<sup>8</sup>

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<sup>7</sup> *APA Dictionary of Psychology* (2nd ed.), s.v. “Sex,” (American Psychological Association: Washington DC, 2015). “Sex (n): (1) the traits that distinguish between males and females. Sex refers especially to physical and biological traits, whereas GENDER refers especially to social or cultural traits, *although the distinction between the two terms is not regularly observed.*” (Emphasis added)

<sup>8</sup> Adrienne Rich, “Compulsory Heterosexuality and Lesbian Existence,” *Signs* 5, no. 4 (Summer 1980): 632.

She argued that “the institution of heterosexuality itself [is] a beachhead of male dominance” that operates through the subjugation of women.<sup>9</sup> Compulsory heterosexuality for Rich, then, refers to the “cluster of forces within which women have been convinced that marriage, and sexual orientation toward men, are inevitable, even if unsatisfying or oppressive components of their lives.”<sup>10</sup> Not long after its introduction to the literature, the term gained a new significance when Judith Butler exposed the ways in which the institution of heterosexuality is deeply embedded in the production and deployment of the male/female binary.<sup>11</sup> As Butler argued in 1988, “one way in which this system of compulsory heterosexuality is reproduced and concealed is through the cultivation of bodies into discrete sexes with 'natural' appearances and 'natural' heterosexual dispositions.”<sup>12</sup>

The process of cultivating bodies into apparently natural binary sexes is particularly evident in intersex treatment protocols, which often involve genital surgeries that aim, in the words of the President of the Societies for Pediatric Urology, Lane Palmer, “to repair serious functional defects or to alter their anatomy in such a way as to set it in conformance with the baby’s chromosomal sex.”<sup>13</sup> Even when not physically altered by surgery, intersex infants are subjected to *compulsory gendering*—or, the mandate that every person be assigned a categorical gender. The *APA Dictionary of Psychology* defines *gender assignment* as the “classification of an infant at birth as either male or female. Children born with AMBIGUOUS GENITALIA are

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<sup>9</sup> Rich, 633.

<sup>10</sup> Rich, 640.

<sup>11</sup> For example, see Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1990), 31.

<sup>12</sup> Judith Butler, “Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory,” *Theatre Journal* 40, no. 4 (December 1988): 524.

<sup>13</sup> Palmer, 147.



usually assigned a gender by parents or physicians.”<sup>14</sup> The practice of assigning neonates a gender on their birth certificates is a driving force of compulsory gendering in the United States. Birth registration—including compulsory gendering—was instituted as a standardized procedure in all states in America in the early twentieth century.<sup>15</sup>

In the first decade of the twentieth century, the Census Bureau released requirements for birth registration standards in America; per these requirements, birth registration tracked 33 categories of vital statistics, including the neonate’s sex. By 1935, all 48 states at the time (as well as Hawaii) had the federal birth registration standards in place.<sup>16</sup> Though the categories tracked by the federal government (as well as the options offered within those categories) have changed over time, the general structure of birth registration—including compulsory gendering—has remained intact in the 120 years since they were initially put forth.<sup>17</sup> The official purpose for instituting birth registration was to track demographic trends, protect public health, and to protect the legal rights of American citizens;<sup>18</sup> however, scholars at the Critical Genealogies Collaboratory have argued that the public health concerns tracked by birth registration are “oriented around a set of regulations designed to normalize familial reproduction.”<sup>19</sup> This, paired with Palmer’s explanation that intersex surgeries “are aimed at restoring the functionality of the existing anatomy to allow for proper voiding and reproduction,” and concern for the infant’s future “ability to safely have sex,”<sup>20</sup> implies that binary birth

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<sup>14</sup> *APA Dictionary of Psychology* (2nd ed.), s.v. “Gender Assignment,” (American Psychological Association: Washington DC, 2015).

<sup>15</sup> Critical Genealogies Collaboratory, “Standard forms of power: Biopower and sovereign power in the technology of the US birth certificate 1903–1935,” *Constellations* 25, (2018): 650–651, <https://doi.org/10.1111/1467-8675.12372>

<sup>16</sup> Critical Genealogies Collaboratory, 650–51.

<sup>17</sup> Kalinowski, 971.

<sup>18</sup> Critical Genealogies Collaboratory, 646.

<sup>19</sup> Critical Genealogies Collaboratory, 647.

<sup>20</sup> Palmer, 148.

registration of intersex infants reinforces the normative cultural narrative of reproduction and heterosexual intercourse.

The standardization of intersex medical protocols is significant for more than its ability to construct bodies that fit neatly into a heterosexual framework; only after large-scale medical integration of intersex bodies into the male/female binary could gender role and gender identity be conceptually separated from bodily sex.<sup>21</sup> As Bernice Hausman argued in *Changing Sex*, the separation of “sex” from “gender” would have been culturally unintelligible within the Western world prior to the twentieth century. This is because gender “is a concept linked to contemporary psychosocial conceptions of ‘role’ and ‘identity’—and as such was unthinkable for pre-twentieth century subjects.”<sup>22</sup> In contrast to common understandings of gender, Butler argued that gender is not something that exists internally, but something that is brought into being through actions—and as such, “is real only to the extent that it is performed.”<sup>23</sup> This means that although certain actions and bodily comportments may appear to be indicative of an internal (gendered) identity, they actually serve to *create* rather than merely *express* gender. In the words of Butler:

As a consequence, gender cannot be understood as a role which either expresses or disguises an interior 'self,' whether that 'self' is conceived as sexed or not. As performance which is performative, gender is an 'act,' broadly construed, which constructs the social fiction of its own psychological interiority.<sup>24</sup>

This means that there is no presocial gendered subjectivity that finds its expression through performance of a gender role; it is, rather, the performance of a gender role that constructs the

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<sup>21</sup> Bernice Hausman, *Changing Sex: Transsexualism, Technology, and the Idea of Gender*, (Durham: Duke University Press, 1995), 184-185.

<sup>22</sup> Hausman, 183-84.

<sup>23</sup> Butler, “Performative Acts,” 527.

<sup>24</sup> Butler, “Performative Acts,” 528

illusion of a presocial gendered subjectivity. In this way, the concepts of gender identity and gender role serve to reinforce the apparent stability and naturality of each other.

In *Visible Identities*, Linda Martín Alcoff pointed out that even if one's gender is understood to be situationally contingent and internally discontinuous, this type of social identity is so central to how interpersonal interaction is structured and interpreted that "it only makes sense to say that they are fundamental to the self."<sup>25</sup> For Alcoff, affirming the legitimacy of identity to oneself and one's experiences does *not* require that identity be "a stable and inherent feature" of one's existence, but still allows for it to be seen as "something that is socially and historically contextual."<sup>26</sup> Yet, despite a wealth of literature on the situational contingency and internal discontinuity of gender identity, *gender constancy*—which refers to the situational and temporal stability of gender—is, in the words of psychologists Olson and Gülgöz, "a cornerstone of research on gender development."<sup>27</sup> The assumption that gender constancy is an essential characteristic of a healthy gender identity has led to research that represents gender fluidity as a pathological, and therefore not a legitimate, experience of gender.<sup>28</sup>

The delegitimization of fluid identities within gender development research disproportionately subjects gender fluid individuals to a reduction in their perceived credibility, which leads to their testimonies being heavily discounted on the basis of their atypical lived experience of gender. This represents an instance of what Miranda Fricker called *testimonial*

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<sup>25</sup> Linda Martín Alcoff, *Visible Identities: Race, Gender, and The Self* (Oxford: Oxford University Press, 2006), 92.

<sup>26</sup> Alcoff, 48.

<sup>27</sup> Kristina R. Olson, and Selin Gülgöz, "Early Findings From the TransYouth Project: Gender Development in Transgender Children," *Child Development Perspectives* 12, no. 2 (June 2018): 95, <https://doi.org/10.1111/cdep.12268>.

<sup>28</sup> For example, see Lisa Littman, "Rapid-Onset Gender Dysphoria in Adolescents and Young Adults: A Study of Parental Reports." *PLoS ONE* 13, no. 8 (August 16, 2018), <https://doi.org/10.1371/journal.pone.0202330>

*injustice*—defined as a form of epistemic injustice wherein a person’s experiences and viewpoints are ignored (or prevented from being shared at all) because of an unjust reduction in the speaker’s credibility due to prejudice on the part of the listener.<sup>29</sup> *Epistemic injustice* refers to the harms that occur when a person has been wronged “specifically in their capacity as a knower.”<sup>30</sup> As Fricker and coauthor Katherine Jenkins noted in a 2017 article, the trans<sup>31</sup> community—particularly those who do not fit the narrow, stereotyped criteria by which one’s trans identity is either deemed legitimate or dismissed by medical professionals—have been disproportionately affected by epistemic injustice.<sup>32</sup> This harms many trans individuals “either in relation to what they socially ‘count’ as, and/or in relation to how they thereby even come to see themselves.”<sup>33</sup>

In this thesis, I investigate how well the addition of a third gender addresses the epistemic injustices faced by the more marginalized members of the trans and gender nonconforming communities. In my investigation, I ask: How well does a *gender ternary*—or a three-gender system—address the harms caused by the male/female binary? Will the discourse generated by the widespread recognition of a gender ternary be sufficient for all people with minority gender identities to be able to render their lived experiences intelligible to those who identify within the male/female binary? Will a gender ternary sufficiently eradicate the harm caused to the trans community by binary gendering practices? My main argument is that even though recognizing a

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<sup>29</sup> Miranda Fricker, “Testimonial Injustice,” in *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford Scholarship Online, 2007), 9, <https://doi.org/10.1093/acprof:oso/9780198237907.003.0002>

<sup>30</sup> Miranda Fricker, “Introduction,” in *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford Scholarship Online, 2007), 1, <http://doi.org/10.1093/acprof:oso/9780198237907.001.0001>

<sup>31</sup> I use the word “trans” to account for the variety of different labels used by people who misfit the sex they were assigned at birth, as it was used in Miranda Fricker and Katharine Jenkins, “Epistemic Injustice, Ignorance, and Trans Experiences,” in *The Routledge Companion to Feminist Philosophy*, eds. Ann Garry, Serene J. Khader, and Alison Stone (New York: Routledge, 2017), 271.

<sup>32</sup> Fricker & Jenkins, 272.

<sup>33</sup> Fricker & Jenkins, 274.

third gender moves toward epistemic justice for some people in the trans community, the gender ternary will continue to perpetuate epistemic injustice insofar as it neither challenges the practice of compulsory gendering nor fully addresses the hermeneutical lacuna created by the male/female binary.

### **Method.**

With an understanding of identity as both socially instituted and corporally manifested, I use Linda Alcoff's concepts of lived subjectivity and public identity (defined below), along with many sources from both within and outside of the disciplinary confines of philosophy, to evaluate how well a third categorical gender addresses epistemic injustice and gender identity-related harm that result from the male/female binary. I chose a multidisciplinary approach to this thesis in order to provide a more nuanced perspective on harms of compulsory gendering. Though I heavily discuss and reference sources from outside the discipline of philosophy, I explore these perspectives through the philosophical lens of hermeneutic phenomenology.

### ***Hermeneutics.***

The word *hermeneutics* comes from the ancient Greek messenger god Hermes, who served as a herald of the Greek gods by bringing divine truth (albeit often presented cryptically) to the mortal world.<sup>34</sup> Much like the mortals who wished to decipher Hermes' message, hermeneutics concerns itself with *understanding*. Although the kinds of understanding that are sought and valued varies between disciplines,<sup>35</sup> all forms of understanding are closely tied to

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<sup>34</sup> Niall Keane and Chris Lawn, "Introduction," in *The Blackwell Companion to Hermeneutics*, eds. Niall Keane and Chris Lawn (Chichester: John Wiley & Sons, Inc., 2016), 3-4.

<sup>35</sup> Rudolf A. Makkreel, "Interpretation, Judgement, Critique," in *The Blackwell Companion to Hermeneutics*, eds. Niall Keane and Chris Lawn (Chichester: John Wiley & Sons, Inc., 2016), 236-237.

language and discourse.<sup>36</sup> The reflective understanding valued in hermeneutics differs from the observational understanding valued in science by virtue of its recognition of the legitimacy of individual subjective experiences; reflective understanding not only acknowledges, but actually *relies on*, the subjective differences between individuals' experiences of the world.<sup>37</sup> Reflective understanding can be achieved through a mutually collaborative and respectful dialogue<sup>38</sup> wherein at least one party takes up the other's mode of discourse.<sup>39</sup> Due to differences in individual experience, misunderstanding is natural and inevitable; understanding, however, is a purposeful endeavor.<sup>40</sup> The hermeneutic task, therefore, is to move toward a more (though never fully) complete understanding.<sup>41</sup>

*Hermeneutical resources*, as used in this paper, are the concepts and frameworks through which people understand their own experiences and make these experiences intelligible to others. Unfortunately, hermeneutical resources are primarily created for the purpose of expressing the experiences of the dominant social groups, which often leaves a *hermeneutical lacuna*—or a gap in the shared pool of social knowledge<sup>42</sup>—with regards to minority experiences. *Hermeneutical injustice*, one of two kinds of epistemic injustice identified by Miranda Fricker, occurs when members of marginalized social groups are unable to render their experiences intelligible due to a paucity of hermeneutical resources.<sup>43</sup> This form of epistemic injustice is preceded by patterns

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<sup>36</sup> Donatella Di Cesare, "Understanding," in *The Blackwell Companion to Hermeneutics*, eds. Niall Keane and Chris Lawn (Chichester: John Wiley & Sons, Inc., 2016), 229.

<sup>37</sup> Makkreel, 236-237.

<sup>38</sup> David Vessey, "Dialogue, Goodwill, Community," in *The Blackwell Companion to Hermeneutics*, eds. Niall Keane and Chris Lawn (Chichester: John Wiley & Sons, Inc., 2016), 312.

<sup>39</sup> Di Cesare, 233.

<sup>40</sup> Inga Römer, "Method," in *The Blackwell Companion to Hermeneutics*, eds. Niall Keane and Chris Lawn (Chichester: John Wiley & Sons, Inc., 2016), 87.

<sup>41</sup> Di Cesare, 230.

<sup>42</sup> Miranda Fricker, "Hermeneutical Injustice," in *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford Scholarship Online, 2007), 13, <https://doi.org/0.1093/acprof:oso/9780198237907.003.0008>

<sup>43</sup> Fricker & Jenkins, 268.

of testimonial injustice that disproportionately disallow members of certain social groups from contributing concepts to the shared pool of social knowledge—a condition known as *hermeneutical marginalization*.<sup>44</sup> Throughout this thesis, I explore the hermeneutical resources associated with cultural recognition of a third categorical gender and attempt to uncover some of the hermeneutical lacunae that are *not* being filled by recognizing a third gender.

***Phenomenology.***

Although hermeneutics provides a helpful framework for approaching my research question(s), Linda Alcoff noted in the introduction of *Visible Identities* that “hermeneutics tends to underplay the embodied features of subjective experience,” suggesting that the addition of a phenomenological account of being sufficiently addresses the weaknesses of using a solely hermeneutic framework to explore gender identity.<sup>45</sup> Like Alcoff, I complement the hermeneutic framework used in this thesis with phenomenological concepts such as “orientation” and “lived experience” to emphasize the central role of one’s body in the experience of gendered subjectivities. *Orientations*, as described by Ahmed, “shape not only how we inhabit space, but how we apprehend this world of shared inhabitation,”<sup>46</sup>—they are the directions from which embodied consciousness approaches (objects in) the world.<sup>47</sup> One’s orientation, then, corresponds not only to perceptual experience, but to the physical position of one’s body in the world. As Alcoff described, “bodies are positioned and located by race and gender structures and have access to differential experiences, and may also have some differences in perceptual orientations and conceptual assumptions.”<sup>48</sup>

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<sup>44</sup> Fricker & Jenkins, 268.

<sup>45</sup> Alcoff, 9.

<sup>46</sup> Ahmed, 3.

<sup>47</sup> Ahmed, 2.

<sup>48</sup> Alcoff, 114.

In addition to “orientation,” the phenomenological concept of “lived experience” provides a way to understand and account for subjective experiences that may not be easily (or at all) rendered through discourse. Unlike Western empirical framework, which seeks to differentiate the “objective world” (things-in-themselves) from the “subjective world” (individual sensory perceptions and mental representations),<sup>49</sup> the concept of “lived experience” additionally acknowledges an objectivity that resides *within* human experience rather than within the non-human world—an objectivity that is constituted by repeatability of experience.<sup>50</sup> The use of “lived experience” in this thesis draws on the phenomenological concept of *l'expérience vécue* explored in Franz Fanon’s chapter of *Black Skin, White Masks*, titled “The Lived Experience of the Black Man” (*L'expérience vécue du Noir*). In the beginning of this chapter Fanon recognized that a man of color operating in the white world sees himself and his body in the third person--ostensibly as the white man would see him--a view that (negatively) impacts his bodily schema and subjective experience as a person in the world.<sup>51</sup> As other scholars in the tradition have noted, lived experience and self-concept are *not* autonomously developed within the subject; rather, they are constituted by a dynamic interaction of the subject with another.<sup>52</sup> This can be seen in Fanon’s discussion of failed attempts to identify himself outside of the harmful

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<sup>49</sup> Nicholas Davey, “Lived Experience: *Erlebnis* and *Erfahrung*,” in *The Blackwell Companion to Hermeneutics*, eds. Niall Keane and Chris Lawn (Chichester: John Wiley & Sons, Inc., 2016), 326.

<sup>50</sup> Pol Vandavelde, “Edmund Husserl,” in *The Blackwell Companion to Hermeneutics*, eds. Niall Keane and Chris Lawn (Chichester: John Wiley & Sons, Inc., 2016), 386. “Although my perspective on the Roman milestone is ‘subjective’ because it is aspectual and depends on my position and my cultural awareness, the sense that is grasped by my consciousness is ‘objective’ as something that is repeatable or portable both within my conscious life—from one state of my consciousness to another later state when I can recall that I saw a Roman milestone— and from one subject to another—another hiker would see the ‘same’ Roman milestone, though from a different perspective.”

<sup>51</sup> Franz Fanon, “The Lived Experience of the Black Man,” in *Black Skin, White Masks*, trans. Richard Philcox (New York: Grove Press, 2007), 90-91.

<sup>52</sup> Gail Weiss, “Phenomenology and Race (or Racializing Phenomenology),” in *The Routledge Companion to Philosophy of Race*, eds. Paul C. Taylor, Linda Martin Alcoff, and Luveell Anderson (New York: Routledge, 2018), 233.



stereotypes perpetuated by white society. No matter how Fanon approached the issue, his self-identity and lived experience proved to be heavily shaped by white society's view of him—his “originality had been snatched” away, and he was forced to define himself in relation to the white man.<sup>53</sup>

Much as the lived experience of the black man is formed in contrast to that of the white man, nonbinary trans subjectivities are formed in relation to male and female subjectivities. This is necessarily the case due to the available hermeneutical resources, which can only be used to describe gendered experience in relation to the male/female binary. Even the supposedly inclusive term “nonbinary” requires the male/female binary for cultural intelligibility, reinforcing the primacy of sexual dichotomy over all other ways of defining gender. In this thesis, I acknowledge the lived experiences associated with nonbinary gender identities as legitimate and worth attempting to understand. Rather than focusing on the *content* of these experiences, however, I explore the systems and structures that determine who is able to express lived experiences of identity (and who is faced with epistemic injustice).

### ***Identity-Related Harms.***

In this thesis, identity is taken to be discursively constructed, physically embodied, contextually-contingent, and most importantly, a legitimate way of understanding oneself. Though identity categories can be used to harm people, Linda Alcoff argued that they are also an important part of many, if not most, people's existences. Per Alcoff's account, “social identities are relational, contextual, and fundamental to the self.”<sup>54</sup> In *Visible Identities*, Alcoff identified two aspects of social identity: public identity and lived subjectivity. *Public identity* refers to the

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<sup>53</sup> Fanon, 107-109.

<sup>54</sup> Alcoff, 90.

aspect of identity that relates to classification systems and social perception. *Lived subjectivity*, in contrast, is how we understand ourselves and the ways we reflect on our lived experiences. Though these may seem to reinforce the Cartesian dualism of internality/externality, Alcoff argued that public identity and lived subjectivity are overlapping and interrelated fields that one should not attempt to fully separate from one another. However, as Alcoff also noted, it is important to make a discursive distinction between these two aspects of identity in order to account for people who experience conflict between their public identity and lived subjectivity.<sup>55</sup>

Alcoff's division of identity into "public identity" and "lived subjectivity" is useful for understanding the different kinds of identity-related harms caused by hermeneutical injustice. In 2017, Miranda Fricker and Katharine Jenkins distinguished between two particular types of identity-related harms that result from hermeneutical injustice: (1) harms related to how one's identity is perceived socially and (2) harms related to how one understands one's own identity.<sup>56</sup> I use the terms *public identity-related harm* and *personal identity-related harm*, respectively, to describe these types of harms.

Public identity-related harm relates to the way individuals are socially perceived, including "what they socially 'count' as" within their cultural and historical context.<sup>57</sup> Unfortunately, as Butler noted in *Gender Trouble*, many gender identities do not fit within "[t]he cultural matrix through which gender identity has become intelligible," because this framework "requires that certain kinds of 'identities' cannot 'exist,'" <sup>58</sup> meaning that minority identities are not merely overlooked, but *denied legitimacy* altogether. Even when minority gender identities

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<sup>55</sup> Alcoff, 92-93.

<sup>56</sup> Fricker & Jenkins, 274-275.

<sup>57</sup> Fricker & Jenkins, 274

<sup>58</sup> Butler, *Gender Trouble*, 17.

are culturally intelligible, those inhabiting them may continue to experience public identity-related harms insofar as they are culturally represented in a negative light. As Fricker and Jenkins noted: “Although the stigmatization of trans identities is surely diminishing in some contexts, trans people in many other contexts may still come to “count socially” as a particular “type” in a way that is objectionable.”<sup>59</sup>

Personal identity-related harms, in contrast, relate to how one’s identity develops in relation to the presence of certain hermeneutical resources (and the absence of others). For example: when the available hermeneutical resources paint an unfavorable picture of one’s identity and experience, or perhaps provide little ability to represent one’s identity and experience in *any* culturally intelligible way, one can grow up with a damaged sense of self.<sup>60</sup> Fanon’s struggle to understand himself as a black man within a white world, described above, illustrated the ways in which hermeneutical resources developed in favor of the dominant social group can lead to personal identity-related harm for minorities. This is true for gender minorities as well as racial minorities. As Fricker and Jenkins noted, when trans people grow up with limited neutral or positively connoted hermeneutical resources to describe their experienced gender, they may develop an identity that is intertwined with self-hatred, or may even experience a delay in coming to identify as trans.<sup>61</sup> In this thesis, I explore the ways in which compulsory gendering leads to both kinds of identity-related harms, and investigate how well a gender ternary addresses these harms.

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<sup>59</sup> Fricker & Jenkins, 274

<sup>60</sup> Fricker & Jenkins, 275

<sup>61</sup> Fricker & Jenkins, 275.

## Overview

The body of this thesis is divided into two chapters, the first focusing on the male/female binary (and the introduction of a ternary) in medicine, and the second focusing on the male/female binary (and emerging ternary) in the culture industry. In Chapter One, I explore the ways in which the medical sciences reify the categories sex, gender, and sexuality both through discourse and through physical intervention. I first discuss the erasure of intersex bodies, which is executed through extensive medical interventions that often start before an intersex neonate leaves the hospital. These normalizing interventions continue well into childhood, and sometimes even into adulthood, despite evidence that genital-normalizing surgeries are both physically and psychologically harmful to people born intersex. In the second half of Chapter One, I explore how medical practices impact minority gender subjectivities. I provide an account of Bernice Hausman's argument that trans subjectivities emerged from the medical-industrial complex and remain intimately tied to it. I then discuss the type of rhetoric historically forced upon trans people who desired to obtain trans specific medical treatment. At the end of this chapter, I give an overview of the epistemic injustices perpetuated by the continued presence of the male/female binary in medicine, and show that while some of these injustices appear to be in the process of remediation, others remain unchallenged.

In the second chapter, I explore the influence of the culture industry in structuring and sustaining gendered subjectivities, as well as the epistemic injustices associated with this process. I open the chapter by describing the complete categorization and quantification of humanity by the culture industry, comparing the data generated by the culture industry to that generated by medical research. I then discuss the impact of audience research on gendered

subjectivities and introduce the concept of the double hermeneutic, showing that which genders are culturally intelligible within society depends on advertisers' responses to gender differences that are in turn developed and shaped by the advertising companies. The effects of the double hermeneutic are made invisible by advertising companies' claims that they are merely responding to naturally-occurring differences between men and women, denying any role in the process of gender creation. I then describe the identity-related harms that can result from the ways in which children are bombarded with gendered norms by the advertising, entertainment, and toy industries. I follow this with an account of the role of media in the development and perpetuation of harmful binary gender ideals—including the normalization, or perhaps *glorification*, of cosmetic surgery to fix imperfections in female gender presentation. I then explore the role of entertainment and news media in the rise of homonormativity and transnormativity, which together serve to deradicalize much of LGBT existence. At the end of this chapter I explore the ways in which nonbinary has *already* been enfolded into a homonormative culture, and the ways in which the emerging homonormative stereotypes associated with nonbinary identities continue to perpetuate epistemic injustice by presenting a narrow view of what it means to identify outside of the male/female binary.

Overall in this paper, I argue that while the recognition of a third gender category in America allows for hermeneutical resources to be redistributed in a way that will reduce the prevalence of epistemic injustice for many of those outside the male/female binary, it still perpetuates epistemic injustice for many others by continuing the restrictive practice of top-down gender categorization without addressing the hermeneutical lacunae this practice creates.

## Chapter 1

### Medicine

By the mid-twentieth century, medical technology advanced to the point where the physiology of intersex bodies could be altered such that they could neatly be called “male” or “female.” These advancements set the conditions for gender to emerge as discursively distinct from sex, which in turn gave rise to the cultural intelligibility of people whose experienced gender(s) does not match their assigned sex. This coincided with the emergence of what Bernice Hausman called *transsexual subjectivities*—or, the lived experiences associated with having undergone hormonal or surgical intervention as part of a gender transition process<sup>62</sup>—which are produced and regulated by the same sets of medical discourse that reify the male/female binary.

Though discourse heavily shapes cultural understandings and experiences of sex, biologist Anne Fausto-Sterling emphasized that: “As we grow and develop, we literally, not just ‘discursively’ (that is, through language and cultural practices), construct our bodies, incorporating experience into our very flesh.”<sup>63</sup> Bodies are more than mere concepts created by language, as Sara Ahmed also noted in *Queer Phenomenology*; they are the point from which one’s consciousness is oriented toward the world.<sup>64</sup> As such, transsexual<sup>65</sup> medical interventions and associated discourse do more than merely *correct* one’s body so that it appropriately corresponds to a (purportedly) pre-existing orientation—they *bring into being* new orientations. Gender transition protocols use gender identity to dictate the physiological characteristics to be

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<sup>62</sup> Hausman, 107.

<sup>63</sup> Fausto-Sterling, 20.

<sup>64</sup> Sara Ahmed, *Queer Phenomenology: Orientations, Objects, Others* (Durham: Duke University Press, 2007), 52-53.

<sup>65</sup> In this thesis, the word *transsexual* is used to describe procedures and experiences associated with medically transitioning.

embodied by the trans subject. By medically crafting a body that is purported to correspond to an internally-experienced (and ostensibly unchanging) identity, trans people and their physicians affirm temporal and cross-situational fixity of the corresponding gender identity.<sup>66</sup>

The medical affirmation of the immutability of gender can cause *both* personal *and* public identity-related harms for the many people who do not experience gender in this way. Under Alcoff's account: "Identities themselves—meaning not the mere representation but the lived bodies—are fluid, complex, open-ended, and dynamic, which is why reductive and overly homogeneous characterizations of identity are inaccurate."<sup>67</sup> Gender, as an embodied identity, is also complex, contingent, and without clear borders. Despite this, the culturally available hermeneutical resources to describe gender tend to privilege narratives of temporal and situational stability while ignoring, discounting, or even pathologizing experiences of gender that change over time. Since the established medical framework does not leave room for fluid conceptions of identity, people with gender-fluid experiences disproportionately face hermeneutical injustice when attempting to express their lived experience of gender.

In addition to concealing the existence of gender fluidity, hermeneutical resources developed in relation to the male/female binary (including the descriptor "nonbinary") do little to combat the epistemic injustice faced by those who do not wish—or perhaps even do not know how—to define their sex, gender, and/or sexuality in relation to the male/female binary. As Alcoff noted, "identities are constantly used to lend or withhold credence from participants in almost any public exchange."<sup>68</sup> Within a framework that privileges the male/female binary, both

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<sup>66</sup> Hausman, 188-89.

<sup>67</sup> Alcoff, 112.

<sup>68</sup> Alcoff, 24.

those who are born intersex and those who later come to identify outside the binary are faced with reduced credibility due to the unintelligibility of their subject position.

### **Erasing Intersex.**

The reduced cultural intelligibility of experiences that fall outside of (compared to those that fall within) the male/female binary is largely related to medical erasure of atypically sexed bodies. Since the 1950s, surgeons have routinely operated on intersex infants to fashion socially-acceptable genitals that can be neatly described as male or female.<sup>69</sup> Some of these infants are additionally labeled as having an endocrine disorder and are later treated with medications that alter hormone levels.<sup>70</sup> Contemporary medical protocols to address intersexuality often physically, as well as socially, integrate the bodies of intersex infants into the male/female binary. Proponents of surgical intervention in intersex newborns often argue that it is damaging to a child's psyche to grow up without a clear male or female gender. For instance, the President of the Societies for Pediatric Urology has argued that postponing surgery until a child is old enough to consent would have the effect of unfairly and unnecessarily forcing the child to grow up transgender.<sup>71</sup> On the other hand, intersex advocates have argued that it is more damaging to a child's psyche for them to grow up believing that their natural sex characteristics are unacceptable—possibly even unrecognizable as human—without surgical intervention than it is for them to grow up intersex.<sup>72</sup> Yet, these operations are generally considered to be highly

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<sup>69</sup>Ellen K. Feder, "Atypical Bodies in Medical Care," in *The Routledge Companion to Philosophy of Medicine*, eds. Mirium Solomon, Jeremy R. Simon, and Harold Kincaid (New York: Routledge, 2017), 438.

<sup>70</sup>Lane Palmer, "The Push to Ban Intersex Medical Intervention," *Urologic Nursing* 39, no. 3 (May 2019): 148, <https://doi.org/10.7257/1053-816X.2019.39.3.147>

<sup>71</sup>Palmer, 149.

<sup>72</sup>M. Morgan Holmes, "Mind the Gaps: Intersex and (Re-productive) Spaces in Disability Studies and Bioethics," in *Bioethical Inquiry* 5 (April 2008): 170, <https://doi.org/10.1007/s11673-007-9073-2>



successful in the eyes of the doctors who oversee them, and these doctors claim high long-term patient satisfaction as well.<sup>73</sup>

The costs of routinely integrating intersex individuals into the male/female binary are manifold. For one, these medical procedures allow the US government to require that citizens are clearly designated as male or female on federal identification documents, which precludes people (even those born intersex) who identify outside the male/female binary from easily being legally recognized as such.<sup>74</sup> These procedures also allow for human subjects research on categorical sex differences, which further reifies the male/female binary both within medicine and within Western culture more generally. Perhaps most concerning of all, as discussed above, are the messages these medical interventions send to intersex patients. As intersex advocate M. Morgan Holmes pointed out in an article published in *Bioethical Inquiry*: "The clinical standards of care for intersex assert that only through treatment to erase their ambiguous traits can the intersexed become fully human with the capacity for development as persons."<sup>75</sup> Finally, protocols for assigning sex to those born outside the male/female binary limit discourse surrounding intersex, which in turn leaves people with minority gender identities fewer resources with which to intelligibly represent their lived experience.

### ***The Invention of Gender.***

The discursive separation of "gender" from "sex" can be traced to physician John Money in the mid-twentieth century.<sup>76</sup> Money believed that in order to live a meaningful life, people need to have a stable sense of (binary) gender identity; when he declared that gender had no

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<sup>73</sup> Palmer, 148-149.

<sup>74</sup> Greenberg, 198.

<sup>75</sup> Holmes, 173.

<sup>76</sup> Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Identity* (New York: Basic Books, 2000), 4.

physiological basis, he didn't seek to eradicate gender, he sought to better perpetuate it.<sup>77</sup> The work of Money and associates marked a transition from a medical norm of determining (through various analyses of gonads, reproductive organs, genitals, hormones, and disposition) a person's "true sex" to a medical norm of choosing the "best sex" for a person.<sup>78</sup> Rather than concerning themselves with reproductive capacity (as indicated by gonads), physicians began concerning themselves primarily with phallus size and making surgical decisions based on whether the infants' phallus sufficiently resembled that of a natal male (and thus could engage in heterosexual intercourse with a female).<sup>79</sup> In Anne Fausto-Sterling's words, the goal of intersex protocols designed by John Money and associates "was to assure proper psychosexual development by assigning the young mixed-sex child to the proper gender and then doing whatever was necessary to assure that the child and h/her parents believed in the sex assignment."<sup>80</sup> The writings of John Money express an assumption that gender bifurcates (or "differentiates") into one of two fixed identities that remains constant into and throughout adulthood.<sup>81</sup> For Money, as Bernice Hausman explained, "if you aren't born into a sex, you can always become one through being a gender."<sup>82</sup>

The concept of gender provided a way to reaffirm the male/female binary after it became evident that there was no single, infallible indicator of sex category.<sup>83</sup> The emergence of hermeneutical resources that represent gender as an identity allowed physicians to continue practicing medicine under the pretense of a male/female binary—even those physicians who

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<sup>77</sup> Fausto-Sterling, 46.

<sup>78</sup> Hausman, 79.

<sup>79</sup> Hausman, 73.

<sup>80</sup> Fausto-Sterling, 46.

<sup>81</sup> Hausman, 105.

<sup>82</sup> Hausman, 107.

<sup>83</sup> Hausman, 191.

routinely worked with individuals whose bodies did not fit this binary. The model of gender that views “male” and “female” as predetermined categories is called *categorical theory*.<sup>84</sup> Though categorical theory can help to address social inequalities that occur on the basis of gender, it leaves little room for gender diversity, intersectional analyses of gender (i.e. contextualizing gender by including additional axes of identity, such as race, (dis)ability or economic class), or the possibility that gender is not an inherent aspect of identity.<sup>85</sup>

Another danger of categorical theory is its potential to cause categorization threat. *Categorization threat*, as described by Clair et al. in 2019, “occur[s] when individuals perceive that they are categorized into irrelevant and undesired demographic groups.”<sup>86</sup> In this way, categorization threat is a hermeneutical injustice that can result in public identity-related harm through nonrecognition of an employee’s demographic identity. Although the concept of categorization threat originated within organizational and management studies, when it is taken out of the context of individual organizations and applied to categorical theory writ large, categorization threat provides a useful tool for exploring the problems with compulsory gendering. Compulsory gendering can cause categorization threat because it is done by way of *top-down categorization*—where everyone is categorized into a limited set of predetermined options that purport to capture all identities.<sup>87</sup> But depending on the groupings within a given category, the options people are provided with often do not reflect the diverse identities of all

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<sup>84</sup> Raewyn Connell, “Masculinities: The Field of Knowledge,” in *Configuring Masculinity in Theory and Literary Practice*, ed. Stefan Horlacher, DQR Studies in Literature (The Netherlands: Brill, 2015), 41, [https://doi.org/10.1163/9789004299009\\_004](https://doi.org/10.1163/9789004299009_004)

<sup>85</sup> Connell, 40.

<sup>86</sup> Judith A. Clair, Beth K. Humberd, Elizabeth D. Rouse, and Elise B. Jones, “Loosening Categorical Thinking: Extending the Terrain of Theory and Research on Demographic Identities in Organizations,” *Academy of Management Review* 44, no. 3 (July 2019): 594.

<sup>87</sup> Clair, 606.

those who are subject to categorization. Top-down binary male/female categorization in medicine causes harm by both naturalizing the male/female binary, and obscuring anyone who does not fall within the male/female binary (by precluding these individuals from accurately reporting their identity).

***Erasing Intersex in Human Subjects Research.***

Working within a categorical theory model of gender, medicine operates under a pretense of binary sex difference for both research and clinical protocols,<sup>88</sup> couching the male/female binary in a rhetoric of empiricism and objectivity. In Blackwell's *A Companion to Epistemology*, Wesley Salmon wrote that "The natural sciences (physics, chemistry, astronomy, geology, biology) are of special importance to epistemology because collectively they contain the most extensive, systematic, reliable knowledge that we have."<sup>89</sup> This means that when the sciences purport a difference between males and females, these claims are presented as objective truths and can be very difficult to disrupt.

Within research context, top-down male/female categorization makes it possible to study sex differences.<sup>90</sup> Use of sex as a category of analysis in biomedical research has yielded important findings that have saved women's lives, such as those revealing the sex differences in the symptomology of cardiovascular disorders.<sup>91</sup> But even when differences between men and women are found through top-down male/female categorization, these differences are of little

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<sup>88</sup> Inmaculada de Melo-Martín and Kristen Intemann, "Gender in Medicine," in *The Routledge Companion to the Philosophy of Medicine*, eds. Miriam Solomon, Jeremy R. Simon, and Harold Kincaid, (New York: Routledge, 2017), 408-9.

<sup>89</sup> Wesley C. Salmon, "Natural Science, Epistemology of," in *A Companion to Epistemology*, 2nd ed., eds. Jonagthan Darcy, Ernest Sos, and Matthias Steup (Chichester: John Wiley and Sons, Ltd., 2010), 538.

<sup>90</sup> de Melo-Martín & Intemann, 408-9.

<sup>91</sup> de Melo-Martín & Intemann, 411-12.

clinical relevance to those—such as some trans and intersex people—whose bodies cannot be neatly described as male or female.

The harm of ignoring these groups in research is plainly evidenced by significant health disparities between people who identify within the male/female binary and people who do not. A recent nation-wide gender-inclusive demographic survey about population health showed that people who do not identify within male/female binary are *nearly twice as likely* to report poor health as cisgender men and women.<sup>92</sup> Even after controlling for risk factors such as a smoking and socioeconomic status, gender nonconforming survey respondents were significantly more likely to report poor health than cisgender respondents.<sup>93</sup> Just as women were harmed when past research that focused exclusively on males, people who do not identify as male or female are harmed by the current human subjects research norm of analyzing sex differences as a binary.

### **Trans Medicalization and Embodied Experience.**

Medical standards for transsexual transitions arose directly out of intersex treatment protocols in the mid-to-late 20th century. Not long after standardized medical procedures for treatment of intersexuality became widely available, the first transsexual medical transitions—all male-to-female—were initiated.<sup>94</sup> At first, very few individuals were able to receive sex-altering treatments (whether surgical or hormonal), with treatment plans developed on a case-by-case basis. But as these treatment plans became more common, standards for transsexual medical treatment began to emerge. These standards were highly informed by gender stereotypes. The surgeons and endocrinologists who provided transsexual treatments served as gatekeepers for

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<sup>92</sup> Lagos, Danya. “Looking at Population Health beyond ‘Male’ and ‘Female’: Implications of Transgender Identity and Gender Nonconformity for Population Health.” *Demography* 55, no. 6 (December 2018): 2108-2111, <https://doi.org/10.1007/s13524-018-0714-3>

<sup>93</sup> Lagos, 2110-2111.

<sup>94</sup> Hausman, 1-2.

who was able to medically transition, and the only people allowed to pass through the gate were those who fit the doctors' preconceived notions about what constitutes a man or a woman.<sup>95</sup>

As Hausman noted: “Ways of seeing the body, ways of encoding anatomy and physiology into the language of medicine, have a significant impact on imagined and imaginable forms of subjectivity.”<sup>96</sup> This means that hermeneutical resources developed within the medical domain provide structure to lived experience and delineate possible subjectivities. Since, as Miranda Fricker and Katherine Jenkins have noted, it was cisgender clinicians—not trans people—who dictated the way trans bodies were encoded into the language of medicine, the resulting vocabulary proved quite ill-suited to describing the lived experience of many trans people.<sup>97</sup> Despite this, trans people are often forced to rely on medicalized terms to render their lived experiences culturally intelligible. Given the limitations of medical language, trans people often struggle to find the appropriate language with which to describe how they experience gender, often resulting in hermeneutical injustice. Additionally, even when trans people *are* able to express aspects of their experience that do not fit into the standard medical model, their experiences are often ignored, rejected, or sometimes even completely silenced by testimonial injustice.<sup>98</sup>

In recent years, people have been transitioning to gender identities outside of the male/female binary in increasing numbers.<sup>99</sup> Healthcare services such as Planned Parenthood now affirm patient autonomy in transsexual treatment protocols by offering informed consent

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<sup>95</sup> Fricker & Jenkins, 272.

<sup>96</sup> Hausman, 176.

<sup>97</sup> Fricker & Jenkins, 273.

<sup>98</sup> Fricker & Jenkins, 273.

<sup>99</sup> Ian T. Nolan, Christopher J. Kuhner, & Geolani W. Dy, “Demographic and Temporal Trends in Transgender Identities and Gender Confirming Surgery,” *Translational Andrology and Urology* 8, no. 3 (June 2019): 185, <https://doi.org/10.21037/tau.2019.04.09>

treatment models for hormone replacement therapy (HRT), allowing for easy access to transsexual medical treatment. Informed consent refers to the process where patients, rather than physicians, determine whether HRT is a good fit.<sup>100</sup> As of 2019, around 9% of Americans who live as nonbinary elect to have surgery as part of their transition process.<sup>101</sup> It is by way of procedures such as these that, as Alcoff noted: “Sexed identity has undergone major cultural transformation, and there is no sign that this process will soon stop.”<sup>102</sup>

Though the increasing prevalence of transsexual interventions poses a powerful challenge to social belief in the ontological reality of the male/female binary, these interventions also continue to perpetuate the contentious connection between trans identity and the medical complex. As Hausman convincingly showed, historical emergence of transsexual subjectivities is necessarily tied to medical interventions, and medical intervention continues to remain a significant part of the transition process.<sup>103</sup> *Trans piecing*, as described by Jasbir Puar, is the way that trans people strategically position certain parts of their bodies to serve a specific purpose (e.g. qualify for medical intervention, to legitimate their trans identity, etc.).<sup>104</sup> This means that rather than *challenging* trans medicalization, trans piecing is done in *cooperation* with it. The practices associated with trans piecing show just how intimately intertwined trans subjectivities are, not only with the medicalization of bodies, but also with the culturally-compelled segmentation and exploitation of individual body parts. Despite efforts from certain parts of the trans community to demedicalize, trans subjectivities will, per Hausman’s account, remain

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<sup>100</sup> Campaign for Southern Equality, “Trans in the South: A Guide to Resources and Services,” October 2017, 4, [https://southernequality.org/wp-content/uploads/2017/10/TransintheSouth\\_October2017.pdf](https://southernequality.org/wp-content/uploads/2017/10/TransintheSouth_October2017.pdf)

<sup>101</sup> Nolan, 185.

<sup>102</sup> Alcoff, 159.

<sup>103</sup> Hausman, 199-200.

<sup>104</sup> Jasbir Puar, “Bodies with New Organs: Becoming Trans, Becoming Disabled,” in *Right To Maim: Debility, Capacity, Disability*, (Durham: Duke University Press, 2017), 36.

intimately associated with the medical domain for as long as those transitioning demand access to risky medical interventions—such as hormones and surgeries—that require professional medical care to administer safely.<sup>105</sup>

### **Addressing Epistemic Injustice.**

As I have shown so far in this chapter, medical reliance on the male/female binary gives rise to a variety of epistemic injustices and identity-related harms. The question now is: how well does a third categorical gender address these harms and injustices? The hermeneutical resources that accompany the male/female/nonbinary ternary undoubtedly benefit, in one way or another, the vast majority of trans and gender nonconforming Americans. However, the benefit conferred by these new resources is not equally distributed throughout these communities, and individuals who benefit in some way from a third categorical gender may also continue to be harmed in other, potentially more profound, ways by this gendering system. The hermeneutical lacunae still remaining in a male/female/nonbinary ternary can only be redressed after they have been identified. Although it is only by acknowledging the epistemic injustices perpetuated by a third categorical gender that one can begin to hear (if only faintly) the previously silenced voices of those who remain in the margins, it is also imperative not to downplay the injustices rectified by a third category. The social changes associated with widespread recognition of a “nonbinary” gender category are overwhelmingly positive, and to discuss associated harms without also accounting for benefits would be to ignore the lived experiences of the many trans people who have been positively impacted by the introduction of a third categorical gender.

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<sup>105</sup> Hausman, 199.



### *Degendering Pregnancy.*

The cultural belief that the creation of human babies requires both a mother and father has long been under threat by the rapid advances in assisted reproductive technologies (ARTs), which give individuals unprecedented control over their reproductive capacity. As Alcoff noted in 2006:

[S]upport for the denaturalizing of sex has come about through the new reproductive technologies. Artificial insemination, in vitro fertilization, embryo transfer, fertility enhancements, and surrogacy are creating new options in the biological process of reproduction, challenging the belief that there is a necessary connection between reproduction and heterosexuality and producing a proliferation of legally recognized reproductive roles, from surrogate, to birth mother, to egg donor, sperm donor, and so on.<sup>106</sup>

For decades now, babies have been created and born without the need for heterosexual intercourse, and it is no accident that advances in ARTs have coincided with increased medical access to transsexual treatments. In fact, there are ARTs specifically designed to preserve the reproductive capacity of trans patients undergoing HRT.<sup>107</sup> This allows for babies to be born with biological parents who are the same sex as each other at the time of the baby's birth.<sup>108</sup> The new landscape of reproduction, as these examples show, no longer requires a "man" and a "woman" to create a baby.

As of the 2010s, there were limited hermeneutical resources with which to discuss pregnancy outside the confines of the male/female binary. However, this has quickly been changing as activists have been pushing to degender the language used to describe pregnancy.<sup>109</sup>

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<sup>106</sup> Alcoff, 159-160.

<sup>107</sup> Theo Erbenius and Jenny Gunnarsson Payne, "Unlearning Cisnormativity in the Clinic: Enacting Transgender Reproductive Rights in Everyday Patient Encounters." *Journal of International Women's Studies* 20, no. 1 (December 2018): 27-39.

<sup>108</sup> Reiss Smith, "A trans woman conceived a baby with her wife while she was transitioning," *PinkNews*, September 16, 2019, <https://www.pinknews.co.uk/2019/09/16/trans-woman-baby-pregnant-wife/>

<sup>109</sup> Erbenius & Payne, 33.

*Degendering*, as defined by Saguy and Williams, refers to the process by which “gender is deemphasized” by replacing gendered terms with non-gendered replacements--the authors provide the example of “husband” and “wife” being changed to “Spouse 1” and “Spouse 2” on marriage certificates following federal recognition of same-sex marriage.<sup>110</sup> When trans men and nonbinary individuals present to a fertility clinic, doctors and staff are often unsure of how to address them, and may default to inappropriately gendered language. However, these same doctors and staff also expressed a desire to learn less discriminatory language so as to make the fertility clinic more accommodating for trans people.<sup>111</sup> This can be taken as evidence that the increasing testimonial justice for trans people (i.e. where people listen to and consider what trans people have to say) bodes positively for the creation and dissemination of trans-inclusive hermeneutical resources. Although these resources are not yet widely distributed, the existence of gender-neutral pregnancy language and the willingness of clinicians to take up this language signal a closing of the hermeneutical lacuna surrounding trans pregnancies.

### ***Gender-Inclusive Research.***

As I argued earlier in this chapter, human subjects research, in cooperation with medical protocols, erases sexual diversity (at the expense of health outcomes for nonbinary individuals) by force-fitting everyone under a “male” or “female” label, and then performing all other research and clinical procedures on the basis of this label. Though tracking sex-related variables in human subjects research is useful for identifying trends and comparing groups, top-down male/female categorization forces people who do not identify within the male/female binary to choose between two identities that do not adequately express their lived experience or

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<sup>110</sup> Abigail C. Saguy and Juliet A. Williams, “Reimagining Gender: Gender Neutrality in the News,” *Signs: Journal of Women in Culture & Society* 44, no. 2 (Winter 2019): 469, <https://doi.org/10.1086/699369>

<sup>111</sup> Erbenius & Payne, 31.

self-identification, often resulting in categorization threat. If participants refuse to indicate themselves to be either male or female, as Clair et al. noted, this may result in their data being excluded from analysis.<sup>112</sup>

Though top-down demographic categorization helps to streamline data analysis, it also drastically increases instances of categorization threat by assuming that everyone has a static identity that fits neatly into the given demographic groups.<sup>113</sup> Systems of top-down gender categorization, even with an extensive array of options, are bound to miss *some* gender identities due to the rapidly changing gender landscape of the 21st century. In order to encourage recognition of nonnormative demographic identities in research, Clair et al. recommended using a bottom-up structure for categorization. *Bottom-up categorization* allows participants to self-define—or not define at all, if they so wish—through open-ended responses rather than forced-choice options. Bottom-up demographic categorization is a dynamic process that allows for the emergence of identity groups that best reflect the lived experience of those being surveyed.<sup>114</sup> Unfortunately, bottom-up demographic measures may not result in neatly divided groups to use in analysis, and so they can be difficult to utilize in quantitative research. Even when implemented, bottom-up measures often ignore the situational contingency of gender, instead assuming that gender is experienced as unchanging and internally-generated. Rarely, if ever, do study demographics ask about *when* a person feels to be a certain gender, thereby denying the legitimacy of fluid gender experiences. This bias is implicit in the majority of gender categorization systems and will likely continue well into the standardization of a third gender

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<sup>112</sup> Clair et al., 608.

<sup>113</sup> Clair et al., 606.

<sup>114</sup> Clair et al., 606.

category, leaving intact the hermeneutical lacuna that covers over the contextually-contingent, discontinuous qualities of gender.

**Summary.**

In this chapter, I described the ways in which medical reliance on the male/female binary leads to epistemic injustice and identity-related harms for minority genders. Additionally, I showed that although the introduction of a third gender category is bringing (and will continue to bring) forth new hermeneutical resources with which to conceptualize and linguistically represent gendered experience, it does not encourage the cultural uptake of hermeneutical resources that recognize the contextually contingent nature of gender. Further, a third gender does not challenge the dualism of the sex/gender divide insofar as gender continues to be discursively separated from bodily sex characteristics. Altogether, while a third gender acknowledges (some) experiences outside the male/female binary, many people with identities that do not neatly fit the male/female/nonbinary gender ternary will still face epistemic injustice due to continued bias of hermeneutical resources toward an interpretation of gender as internally-generated and self-identical throughout one's life.

## Chapter 2

### The Culture Industry

In the industrialized West, people's self-views are heavily shaped by what Max Horkheimer and Theodor Adorno called *the culture industry*—the intertwining branches of social and economic influence that standardize human experience through the practice of classifying humanity (and the rest of the observable world) into groups.<sup>115</sup> In “The Culture Industry: Enlightenment as Mass Deception,” Horkheimer and Adorno described the way in which Western culture, as an industry, dominates and controls every aspect of consumers' lives by creating a small number of discrete interest groups under which all individual differences are subsumed. “The identity of the category forbids that of the individual cases,” Horkheimer and Adorno wrote, “[n]ow any person signifies only those attributes by which he can replace everybody else: he is interchangeable, a copy. As an individual he is completely expendable and utterly insignificant.”<sup>116</sup> The culture industry, therefore, is only interested in the individual insofar as the individual's experiences are reflective of their group membership. As such, the culture industry is central to the creation and maintenance of normative identity categories in Western society.

As described by Horkheimer and Adorno: “Consumers appear as statistics on research organization charts, and are divided by income groups into red, green, and blue areas; the technique is that used for any type of propaganda.”<sup>117</sup> Product marketing creates and targets specific classes of consumers, tracking and responding to identities insofar as the identities are

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<sup>115</sup> Max Horkheimer and Theodor Adorno, “The Culture Industry: Enlightenment as Mass Deception,” trans. John Cumming, in *The Continental Philosophy of Film Reader*, ed. Joseph Westfall (New York: Bloomsbury, 2018), 245-46.

<sup>116</sup> Horkheimer & Adorno, 258.

<sup>117</sup> Horkheimer & Adorno, 246.

deemed useful. “Something is provided for all so that none may escape,” wrote Horkheimer and Adorno, “[t]he public is catered for with a hierarchical range of mass-produced products of varying quality, thus advancing the rule of complete quantification.”<sup>118</sup> This “rule of complete quantification” collapses the unbounded complexity of the individual into a single data point that is only intelligible in relation to other data points.

Described by Horkheimer and Adorno as “those who serve up the data of experience,”<sup>119</sup> the culture industry categorizes and quantifies existence, discarding the qualitative aspects of experience and validating only that which can be numerically rendered. In this respect, the medical and culture industries are quite similar—they treat the individual not as a person with valuable experiences that are worth listening to, but as an object to be studied and manipulated. Unlike medicine, however, the data collected by the culture industry are not meant to produce objective knowledge—rather, they are meant to be strategically deployed for the benefit of producers and advertisers.

### **The Double Hermeneutic of The Culture Industry.**

*Double hermeneutic* refers to the dynamic exchange between social science researchers and the populations being researched, wherein each adjusts their own practices in relation to information they receive from the other.<sup>120</sup> In the current climate of twenty-first century big data, the concept of the double hermeneutic helps to elucidate the processes by which both the public and personal identities co-produced with the culture industry shift and change over time. As Klaus Jensen argued: “audience researchers perform a constitutive role in the structuration of

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<sup>118</sup> Horkheimer & Adorno, 245.

<sup>119</sup> Horkheimer & Adorno, 246.

<sup>120</sup> Klaus Bruhn Jensen, “The Double Hermeneutics of Audience Research,” *Television & New Media* 20, no. 2 (February 2019): 144, <https://doi.org/10.1177/1527476418811103>

culture and society.”<sup>121</sup> The enormous profitability of big data means that audience engagement with mass entertainment media in the twenty-first century constitutes labor just as much as it does consumption.<sup>122</sup> However, the double hermeneutic of mass media is not new to recent decades—it has been around since the dawn of the culture industry. Horkheimer and Adorno stated: “The attitude of the public, which ostensibly and actually favors the system of the culture industry, is a part of the system and not an excuse for it.”<sup>123</sup> Though not explicitly called such by the authors, the feedback loop between producers and consumers of mass entertainment media described in “The Culture Industry” constitutes a double hermeneutic.

Whether or not co-produced identity categories (i.e. categories produced in conversation with the individuals they are imposed upon) would better capture human diversity than those imposed from the top-down, the reality of mass entertainment media and associated research suggests that top-down categorization has proven more profitable. As Linda Alcoff has pointed out, social identities such as gender are grounded in the structural power relationships that constitute capitalism. As she said in the Preface of *Visible Identities*:

[...] structural power relations such as those created by global capital are determinate over the meanings of our identities, the possibilities of social interaction, and the formations of difference. Nonetheless, the focal point of power most often today operates precisely through the very personal sphere of our visible social identities.<sup>124</sup>

Identities—gender and race, in particular—serve to stratify workers and consumers into different classes. Those classified are then subjected to unequal treatment on the basis of the imposed stratification.

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<sup>121</sup> Jensen, 151.

<sup>122</sup> Jensen, 151.

<sup>123</sup> Horkheimer & Adorno, 245.

<sup>124</sup> Alcoff, viii.

Since the double hermeneutic of mass entertainment media only allows for *indirect* (and often unknowing) contributions from consumers, it resembles a guess-and-check style of top-down categorization; the identities imposed on consumers are not determined by the consumers themselves, but are instead those identities that prove the most profitable. Despite this, companies pushing advertisements that perpetuate harmful gender stereotypes claim that they are merely responding to consumers' interests in a neutral, or even *beneficial*, way.<sup>125</sup> This shows a continuation of the trends Horkheimer and Adorno observed in the culture industry in 1947: "The stronger the positions of the culture industry become, the more summarily it can deal with consumers' needs, producing them, controlling them, disciplining them, and even withdrawing amusement: no limits are set to the cultural progress of this kind."<sup>126</sup> Adorno and Horkheimer also noted that "it is claimed that standards were based in the first place on consumers' needs, and for that reason were accepted with so little resistance."<sup>127</sup> Taken together, this means that while the culture industry purports to be merely *responding* to consumer's needs, it is actually *creating* them.

### **Gender in Children's Media.**

From a very young age, children in America and Europe are subjected to advertising ploys that rely on and perpetuate harmful gender norms and stereotypes.<sup>128</sup> Gender stereotypes used in toy marketing are so salient that by age two or three—well before most can read words—children raised in the global West can use coloring, shape, and object presentation to

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<sup>125</sup> Cordelia Fine and Emma Rush. "‘Why Does All the Girls Have to Buy Pink Stuff?’ The Ethics and Science of the Gendered Toy Marketing Debate." *Journal of Business Ethics* 149, no. 4 (June 2018): 774, <https://doi.org/10.1007/s10551-016-3080-3>

<sup>126</sup> Horkheimer & Adorno, 257.

<sup>127</sup> Horkheimer & Adorno, 244.

<sup>128</sup> Fine & Rush, 769-770.



read the genders communicated by toy packaging.<sup>129</sup> Since advertising along the lines of the male/female binary has proven quite profitable for children's toy companies, widespread parental disapproval of gendered toy marketing strategies may be needed before many toy companies will view gender-neutral marketing alternatives to be worth pursuing.<sup>130</sup> Because the male/female binary has proven so lucrative in the business of marketing to children, some contend that commercial children's entertainment media are unlikely to challenge it for fear of losing support from advertisers.<sup>131</sup> The imbalance in influence when it comes to gendered toy marketing is reflective of the mass entertainment double hermeneutic as a whole; while both producers and consumers of entertainment media have influence over the narratives and associated identities presented, this influence is heavily weighted against consumers and in favor of the producers. Therefore, it appears that even though mass entertainment media play a large role in the cultural salience of the male/female binary, the entertainment industry is able to use the presence of a double hermeneutic to deny the vast majority of their responsibility.<sup>132</sup>

In addition to binary gendered advertising schemes, American children also grow up watching TV and movies, as well as reading books, that continue to perpetuate binary gender divisions and associated stereotypes. In an article about representations of gender non-conformity in child-gearred entertainment media, Tony Kelso observed: "The media vehicle that has consistently delivered the most positive portrayals—and has included [gender-nonconforming characters] most often—is the children's picture book."<sup>133</sup> But as Kelso

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<sup>129</sup> Fine & Rush, 777.

<sup>130</sup> Fine & Rush, 780.

<sup>131</sup> Tony Kelso, "Still Trapped in the U.S. Media's Closet: Representations of Gender-Variant, Pre-Adolescent Children," *Journal of Homosexuality* 62, no. 8 (August 2015): 1086, <https://doi.org/10.1080/00918369.2015.1021634>

<sup>132</sup> Fine & Rush, 774.

<sup>133</sup> Kelso, 1067-1068.

also observed, television has a stronger sway over young children than print media, yet is one of the media where gender-variant children are least represented. This leaves the children whom Kelso dubs “gender-creative” with few characters who have gender expressions they can identify with. Additionally, most of the representations of gender-nonconforming children in television are from news stories and talk shows that “inevitably either have underscored only the most extreme cases of kids whose gender identifications betray their bodies or have focused on gender-variant children marked by years of suffering.”<sup>134</sup> This leaves very few representations of “[g]ender-creative youth who feel comfortable with their biological sex or lead emotionally satisfying lives,” with which gender-nonconforming children can identify.<sup>135</sup>

As described above, the vast majority of the gendered images in children’s media stereotypically conform to the male/female binary, and the few instances of gender-nonconforming children in other entertainment and news media tend to present these children as highly distressed. This means that children (as well as adults) are inundated with images that clearly link gender-normativity with happiness and gender-variance with misery. This bias creates a hermeneutical lacuna that prevents easy expression of positive aspects of gender variance, and has the potential to cause personal identity-related harm to gender-nonconforming children. This likely leaves gender-nonconforming children without the hermeneutical resources needed to positively represent their lived experience of gender to others, and sometimes even to themselves. Drawing on autobiographical experiences of trans women, Fricker and Jenkins showed how coming to an understanding of one’s atypical gender identity through the use of negatively-connoted hermeneutical resources can lead to self-hatred and

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<sup>134</sup> Kelso, 1073.

<sup>135</sup> Kelso, 1078.

long-lasting identity-related harm.<sup>136</sup> This suggests that cultural availability of only negatively-connoted hermeneutical resources with which to represent atypical gendered experiences may be sufficient to induce gender dysphoria in otherwise well-adjusted “gender creative” children. Overall, children’s media in the West overwhelmingly reinforce the male/female binary and associated stereotypes, at the expense of recognizing other presentations, experiences, and identities.

### **Wrong Body, Wrong Narrative.**

The most common explanations of trans experience in the media is the wrong body narrative.<sup>137</sup> The *wrong body narrative* has long been the prototypical account of trans existence. Originally, this narrative was used by physicians as a gatekeeping mechanism that determined who was allowed to access trans-specific medical interventions,<sup>138</sup> but the trans people desiring treatment were quick to pick up on the standards by which physicians decided who qualified to medically transition (and the language used to describe these standards), and deploy their knowledge to gain approval for treatment.<sup>139</sup>

In addition to being taken up and deployed by trans people within a medical context, the wrong body narrative has since been adopted by media outlets as a prototypical account of trans experience.<sup>140</sup> Despite its limitations, trans people portrayed in the media espouse the wrong body narrative both *explicitly* in interviews and memoirs, and *implicitly* by medical transition. Though this may seem to support the explanatory power of the wrong body narrative, it is

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<sup>136</sup> Fricker & Jenkins, 275.

<sup>137</sup> Michael Lovelock, “Call Me Caitlyn: Making and Making over the ‘Authentic’ Transgender Body in Anglo-American Popular Culture,” *Journal of Gender Studies* 26, no. 6 (December 2017): 677, <https://doi.org/10.1080/09589236.2016.1155978>

<sup>138</sup> Fricker & Jenkins, 272.

<sup>139</sup> Hausman, 117-118.

<sup>140</sup> Lovelock, 675.

actually the result of a pattern of testimonial injustice wherein entertainment industry solicits and reports autobiographical accounts of trans experience *only* when the reported experience conforms to a narrow set of expectations. As Fricker and Jenkins observed, “in some cases, trans people report being invited to participate in news articles or documentaries only to be dropped when it becomes clear that they will not pander to a preconceived narrative.”<sup>141</sup> This pattern of injustice helps to maintain hermeneutical lacunae that eclipse the complexity and variety of trans subjectivities, which in turn leads to hermeneutical injustices when trans people whose lived experiences do not align with the wrong body narrative are unable to render their experiences culturally intelligible. In addition to the public identity-related harm of having one’s identity misunderstood by others, gender-related hermeneutical lacunae can result in personal identity-related harms when trans people are unable to render their lived experiences fully intelligible to *themselves* without using negatively connoted hermeneutical resources.

Much like the media representations of gender nonconforming youth discussed in the previous section, the wrong body narrative emphasizes and normalizes distressing aspects of trans existence. The wrong body narrative should be understood to be a negatively connoted hermeneutical resource because it makes sense of trans experience through a framework of bodily alienation and dysphoria. The wrong body narrative, in conjunction with the limited and highly medicalized language culturally available to describe trans experience (discussed in Chapter One), precludes the capacity of trans people to positively express their lived experiences of gender, thereby committing hermeneutical injustice. In all, even though claiming that trans women are simply women born in men’s bodies (and vice-versa for trans men) may provide an

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<sup>141</sup> Fricker & Jenkins, 272.

easy way for the cisgender majority to conceive of and accept the existence of trans people, this rhetoric is over-simplified and undermines the wide variability of lived trans experience.

***Producing (Trans) Women.***

As adults, Americans often find their media consumption saturated with images of the “perfect” woman. These images and associated ideals pressure women to transform their own bodies to meet an unattainable ideal of femininity. This can cause perpetual feelings of inadequacy in women who strive to meet this ideal when it becomes evident that it is impossible. *The fashion-beauty complex*, coined by Sandra Lee Bartky, comprises the sector of the culture industry devoted to cosmetic goods and services; it is the driving force behind the social pressure for women to sculpt their bodies into idealized sex objects. Though often damaging to their self-esteem, many women happily engage in the alienating behaviors encouraged by the fashion-beauty complex.<sup>142</sup> Bartky used the term *feminine narcissism* to refer to the pleasure a woman may feel when viewing her body through the male gaze (i.e. by actively objectifying herself).<sup>143</sup> Cisgender and trans women alike are culprits of feminine narcissism, yet trans women face much harsher criticism for their behaviors.

In an article about how (sexist) media depictions of femininity are perpetuated through trans women, Michael Lovelock argued that both trans and cisgender women are strongly pressured to ‘prove’ the authenticity of their gender identity through cosmetic modifications. The apparent subscription of trans women to the fashion-beauty complex is largely driven by the ubiquity of the wrong body narrative described above. Though this narrative is commonly used by the media to explain trans experiences in an easy-to-digest manner, Lovelock identified it as

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<sup>142</sup> Sandra Lee Bartky, “Narcissism, Femininity and Alienation,” *Social Theory and Practice* 8, no. 2 (Summer 1982): 135, <https://www.jstor.org/stable/23559009>

<sup>143</sup> Bartky, 132.

one of the driving factors in the normalization of extensive surgical and cosmetic modifications for trans women. In addition to the injustices already described, the wrong body narrative problematically implies the existence of a *right* body that can be attained through costly cosmetic modification.<sup>144</sup> This idealized body, Lovelock argued, is not only informed by hegemonic femininity, but middle-class, white, and able-bodied ideals as well. But rather than damning trans women for perpetuating harmful gender norms, Lovelock acknowledged that trans women experience a greater pressure to embody these problematic ideals than their cisgender counterparts because “the femininities of transgender women are inherently more unstable, and subject to increased contestation.”<sup>145</sup>

Unfortunately, not all theorists on this topic treat trans women as sympathetically as Lovelock did. In the chapter “We are all Transsexuals Now” from the 2002 book *Screened Out*, Jean Baudrillard claimed that transsexuality is driven by a desire to attain *the ‘look’*—which he defined as an entirely superficial and hyperreal self-presentation that signifies an identity without the need for an internal self—and grounds gender nonconformity in eroticism. In many ways, Baudrillard’s understanding of the ‘look’ pursued by transsexuals appears to refer to the same ‘look’ that drives fashion-beauty complex. Despite the compliance of cisgender women with the fashion-beauty complex, Baudrillard described “a carnivorous erotic ideology which no woman today would sign up to—except, precisely, a transsexual, a transvestite: they alone, as we know, live by the exaggerated, carnivorous signs of sexuality.”<sup>146</sup> This statement reflects beliefs similar to those espoused by trans-exclusionary feminists who decry the gender expression of trans

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<sup>144</sup> Lovelock, 676.

<sup>145</sup> Lovelock, 684.

<sup>146</sup> Jean Baudrillard, “We are all Transsexuals,” in *Screened Out*, trans. Chris Turner, (London: Verso, 2012): 10.

women as degrading to cis women. Like Baudrillard, this type of feminist is primarily concerned with the medical transitions of trans women. Rather than ignoring the existence of trans men, however, trans-exclusionary feminists allege that trans men are merely a cover-up for a system that was designed to reinforce toxic feminine ideals through trans women.<sup>147</sup>

### **Trans Men in Mass Media.**

Although the majority of discourse surrounding trans experience has historically focused on trans women, public focus has recently shifted toward other members of the trans community. In the chapter of *Right to Maim* titled “Bodies with New Organs,” Jasbir Puar argued that the centrality of trans women to trans rights debates has recently been supplanted by the increasing visibility of trans men. As she explained on page 42, “the more recently emergent trajectory of female-to-male (ftm) enlivened by access to hormones, surgical procedures, and prosthetics [...] has centralized a white trans man subject.”<sup>148</sup> Puar’s account of the shift in focus from trans women to trans men can be seen in current media trends. For instance, a recently released *Time* article, “How a New Class of Trans Male Actors Are Changing the Face of Television,” discussed how trans representation on the big and small screens is slowly shifting toward being more inclusive of trans men (and nonbinary) actors. Many of the trans actors discussed in this article noted that they had been recruited for multiple trans-specific roles (after coming out and/or playing a trans character), indicating that a rapidly increasing number of writers and producers are seeking to include trans characters in their screenplays. However, as the article noted, the existence of inoffensively portrayed trans characters often depends on the contribution of a trans person to the character development process. But since there are “too few showrunners

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<sup>147</sup> Hausman, 9-10.

<sup>148</sup> Puar, 42.

hiring trans writers, whether or not their shows have trans-specific content and characters,” there are presently only two trans men who write for the screen, both white.<sup>149</sup>

Unfortunately, a shift in focus to (white) trans men is no less problematic than previous focus on (white) trans women when it comes to acknowledging the diversity within the trans community. Privileging binary (i.e. male or female) white trans experience can lead to feelings of isolation and non-belonging for racial and gender minorities within the trans community. For example, when Nico Dacumos recounted zir experience in college as a “flaming queer radical polysexual two-spirit female-bodied [...] Filipin@/Chican@ antimisogynist transgender butch fag,”<sup>150</sup> ze reported originally feeling as if ze did not belong in the trans community; the trans men with whom the author attended college “us[ed] their transgendered otherness to shield themselves from being called out on actions that were racist, classist, or misogynistic.”<sup>151</sup> In a 2017 article, Spencer and Patterson described this particular way of deflecting blame and responsibility as *white witnessing*, defined as “a phenomenon where White queer and trans people hold up their victimization by heterosexist and cissexist cultures to disavow their own complicity in White supremacy.”<sup>152</sup> Much like Dacumos reported feeling unwelcome by zir LGBT peers, Spencer and Patterson reported that the more privileged members of their

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<sup>149</sup> Trish Bendix, “How a New Class of Trans Male Actors Are Changing the Face of Television,” *Time*, September 26, 2019, <https://time.com/5686290/transgender-men-representation-television/>

<sup>150</sup> Nico Dacumos, “All Mixed up with No Place to Go: Inhabiting Mixed Consciousness on the Margins,” in *Nobody Passes: Rejecting the Rules of Gender and Conformity*, ed. Mattilda a.k.a. Matt Bernstein Sycamore, (Seal Press: Emeryville, 2006) 22-23.

<sup>151</sup> Dacumos, 27.

<sup>152</sup> Leland G. Spencer and G Patterson, “Abridging the Acronym: Neoliberalism and the Proliferation of Identitarian Politics,” *Journal of LGBT Youth* 14, no. 3 (July 2017): 303, <https://doi.org/10.1080/19361653.2017.1324343>.



University's LGBTQA club (for which the authors served as faculty advisors) marginalized the nonbinary members<sup>153</sup> and people of color in the group.<sup>154</sup>

These examples show that acknowledgement and acceptance of white trans men and women benefits an already privileged subsection of the trans community. As Puar argued, “the post-civil rights era story about the linear progression of the bestowal of rights” painted by the culture industry ignores the significance of intersectionality to how these rights are actually distributed and thus “with a very partial portrait of who benefits and how” from this bestowal of rights.<sup>155</sup> Though there may be a temptation to think that a third gender would be a victory for all members of the trans community, the potential positive impact of the third new gender will, based on Puar's account, likely be realized by white, capacitated, economically advantaged trans and gender-nonconforming people. In line with this, the current media bias in favor of privileged and gender-normative members of the trans community eclipses the wide diversity of individuals who consider themselves to be trans, thereby allowing unequal access to rights by certain members of the trans community to go unnoticed both by the broader public and by more privileged members of the LGBT community.

### **Homonormativity and Transnormativity.**

Though some of the most well-loved trans celebrities, such as Laverne Cox, are people of color, there is still a media-driven impetus for trans people to conform to a white, middle-class, able-bodied, gender-normative standard. As Puar argued, socially-condoned expression of gender variance not only requires a stereotypical gender presentation, but “revolves around

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<sup>153</sup> Spencer & Patterson, 306-307.

<sup>154</sup> Spencer & Patterson, 302.

<sup>155</sup> Puar, 34.

rehabilitation to multiple social norms.”<sup>156</sup> This means that many trans people end up reinforcing *not just* the very binary gender system that betrayed them in the past, *but also* other harmful social norms about how a person’s body should look. The process of reintegrating LGBT people back into a heterosexist society is known as homonormativity. *Homonormativity*, as defined by Spencer and Patterson, is a de-radicalization of LGBT culture that closely conforms to gender-normative, capitalist, white-imperialist standards. Homonormativity centers on a white, able-bodied, binary-gendered subject who does not challenge the heterosexism inherent in most of society. As such, homonormativity disproportionately harms queer people of color and nonbinary people of any race.<sup>157</sup>

In the chapter “Bodies with New Organs” of *Right to Maim*, Jasbir Puar discussed the ways in which the social acceptance and accommodation of trans bodies is contingent on their ability to adhere to capitalist norms of productivity.<sup>158</sup> Puar uses the term *transnormative* to describe the trans people who conform to the white, capacitated, gender-normative standard of social acceptability. Transnormativity is a paradigm through which (some) trans people structure their views of themselves, their bodies, and their places in the world. This paradigm allows for a view of “the body as endlessly available for hormonal and surgical manipulation and becoming, a body producing toward ableist norms,”<sup>159</sup> thus making the conditions possible for trans piecing (as described in Chapter One) to occur.

Within a culture of transnormativity, trans people are stereotyped as all wanting to transition to the binary gender opposite their assigned sex. Unfortunately, normalizing binary

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<sup>156</sup> Puar, 43.

<sup>157</sup> Spencer & Patterson, 299-300.

<sup>158</sup> Puar, 35.

<sup>159</sup> Puar, 42.

transitions both falsely reinforces the male/female sex binary and has the potential to result in categorization threat for many non-binary transgender individuals. In order to avoid gender categorization threat, according to Clair et al., people must feel both that they have the *autonomy* to determine their own gender and that the gender they identify with is seen as *legitimate*.<sup>160</sup> Since the culture industry generally portrays extensively medicalized, binary transitions as the only ‘authentic’ way of being transgender, it is implied (if not explicitly stated) that identities outside of the male/female binary are not seen as legitimate options for self-identification. Therefore, even when given autonomy to choose which gender they designate, people who do not identify within the male/female binary may face categorization threat—and thus identity-related harm—when forced to choose between labelling themselves “male” or “female.”

### **Normalizing Nonbinary.**

Since the beginning of 2019, a few notable celebrities have come out as identifying with a gender outside the male/female binary. In late spring of 2019, Jonathan Van Ness (from the popular *Netflix* show *Queer Eye*) publicly claimed a nonbinary identity in an interview with *The Washington Post*.<sup>161</sup> In the fall of that year, singer Sam Smith announced that they identified as nonbinary and requested that fans refer to them with they/them/theirs pronouns.<sup>162</sup> As media outlets increasingly encounter and interview people who do not identify within the male/female binary, they are slowly beginning to develop a set of norms and expectations for nonbinary people. As soon as nonbinary people are identified as such, they are pressured to conform to a

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<sup>160</sup> Clair et al., 594.

<sup>161</sup> Samantha Schmidt, “Jonathan Van Ness of ‘Queer Eye’ comes out as non-binary,” *The Washington Post*, June 11, 2019, <https://www.washingtonpost.com/dc-md-va/2019/06/11/jonathan-van-ness-queer-eye-comes-out-nonbinary/>

<sup>162</sup> Marianne Garvey, “Sam Smith's preferred gender pronouns are they/them,” *CNN Entertainment*, September 13, 2019, <https://www.cnn.com/2019/09/13/entertainment/sam-smith-gender-pronoun/index.html>

narrow view of what it means to be nonbinary. This results in the force-fitting of a diverse assortment of gendered subjectivities into a catch-all nonbinary prototype.

### ***Assuming Pronoun Preferences.***

In January 2020, singer Janelle Monáe retweeted a statement that stood in solidarity with the nonbinary community, but was misinterpreted by media outlets as a coming out statement. Immediately following its posting, several articles were posted about Monáe that, in addition to misinterpreting her intention behind the retweet, perpetuated a variety of potentially harmful misconceptions about what it means to be nonbinary.<sup>163</sup> A particularly clear example of media-perpetuated misconceptions about nonbinary can be seen in *The Guardian*'s claim (despite there being no mention of pronouns in Monáe's tweet) that: "Janelle Monáe just came out as non-binary, joining a growing number of people who use 'they/them' as pronouns."<sup>164</sup> Since Monáe never requested they/them/theirs pronouns, this statement is evidence of an increasingly emerging norm that nonbinary people all use they/them/theirs pronouns. As journalist Vic Parsons aptly noted in a *PinkNews* article about the media attention given to Monáe's tweet: "Non-binary people use the pronouns that make them feel most comfortable. For some, that's they/them, and for others, it isn't."<sup>165</sup>

### ***"Gender-Neutral" Emoji.***

In addition to the development of a prototypical preferred set of pronouns, increasing cultural-focus on nonbinary individuals has also led to the development of hermeneutical

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<sup>163</sup> Vic Parsons, "No, Janelle Monáe didn't come out as non-binary. She was just standing in solidarity with the community," *PinkNews* (UK), February 5, 2020, <https://www.pinknews.co.uk/2020/02/05/janelle-monae-non-binary-solidarity-steven-universe-roxane-gay-coming-out/>

<sup>164</sup> Poppy Noor, "So your friend came out as non-binary: here's how to use pronouns they/them," *The Guardian*, January 14, 2020, <https://www.theguardian.com/world/2020/jan/14/janelle-monae-non-binary-pronouns-they-them>.

<sup>165</sup> Parsons.

resources—in the form of emoji—that establish a prototypical nonbinary gender expression. These emoji portray a third gender that falls neatly between male and female, a representation that has had a mixed reception. As Paige Leskin reported with *Business Insider*: “The third ‘gender neutral’ option for each human emoji is meant to appear more gender-inclusive and androgynous, with hair that falls above the shoulders and an outfit that’s gray rather than the gender-signaling purple-clad female and blue-wearing male icons.”<sup>166</sup> Leskin goes on to claim that Apple’s release of gender-neutral emoji is praised by the LGBT community, with many members “who say they’re happy to have an emoji that looks more like them.”<sup>167</sup>

However, not all in the LGBT community find these emoji to be sufficiently inclusive; as journalist Lux Alptraum noted, although the available “gender-neutral” emoji certainly provide validation to some users, they also ignore and invalidate the experiences of others. Alptraum argued that the decisions Apple made when designing gender-neutral emoji “ultimately reinforce some harmful ideas about what it means to be ‘gender-neutral’ that can leave many people feeling erased and ignored even as their identity is supposedly made more visible.”<sup>168</sup>

The stereotyping of nonbinary gender identities described above suggests that the (formerly transgressive and always highly individual) experience of identifying outside the male/female binary has been deradicalized to the point where it can be profitably deployed by the culture industry. At the same time as a third categorical gender (and associated emoji) brings recognition to *some* long-ignored gender minorities, it ignores, rejects, and invalidates the gendered experiences of many others in line with already existing hermeneutical lacunae.

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<sup>166</sup> Leskin.

<sup>167</sup> Leskin.

<sup>168</sup> Lux Alptraum, “Apple’s Gender-Neutral Emojis Aren’t for Everyone,” OneZero, October 30, 2019, <https://onezero.medium.com/apples-gender-neutral-emojis-aren-t-for-everyone-17c6269c5a95>

## Summary.

In this chapter, I provided numerous examples of the harms and injustices caused by the culture industry's reliance on the male/female binary, and explored how effectively they can be redressed by adopting the male/female/nonbinary ternary. I additionally introduced the emerging media prototype of a nonbinary person, and argued on the basis of nonbinary stereotypes in mass media that all identities outside of the male/female binary have been collapsed into the supposedly one-size-fits-all third gender marker that is “nonbinary.”

On a positive note, the emergence of a third gender into the public eye has brought with it a variety of hermeneutical resources to describe experiences of gender that could not be made intelligible through the language of medicine alone. Minority gender subjectivities can now be acknowledged using the gender-neutral honorific Mx.,<sup>169</sup> they/them/theirs pronouns,<sup>170</sup> and/or the many other third-gendered and gender-neutral language options now available to describe experiences outside the male/female binary.<sup>171</sup> Since the proliferation of these hermeneutical resources is incredibly beneficial to many members of the LGBT community, it can be easy to forget those who are left behind. Overall, the uptake of a “nonbinary” gender category (and associated language) by mass media does not address—and may even *reinforce*—the hermeneutical lacunae that obscure fluid, contextually contingent, and idiosyncratic aspects of gendered experience.

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<sup>169</sup> *Merriam-Webster*, s.v. “Mx.,” accessed April 28, 2020, <https://www.merriam-webster.com/dictionary/Mx>.

<sup>170</sup> *Merriam-Webster*, s.v. “They,” accessed April 28, 2020, <https://www.merriam-webster.com/dictionary/they>

<sup>171</sup> Miriam Berger, “A guide to how gender-neutral language is developing around the world,” *The Washington Post*, December 15, 2019, <https://www.washingtonpost.com/world/2019/12/15/guide-how-gender-neutral-language-is-developing-around-world/>

## Conclusion

As argued in this thesis, the gender-related hermeneutical resources produced and controlled by medicine and the culture industry privilege certain trans narratives at the expense of others. Chapter One discussed the ways medicine continues to surgically, hormonally, and narratively sustain the male/female binary despite evidence that these practices cause identity-related harm to intersex people. Chapter One additionally demonstrated that the reification of cultural norms, such as gender constancy, within the medical domain is particularly harmful because medicine operates under a guise of objectivity that lends undue credibility to the norms it perpetuates. Medical discourse contributes many (if not most) of the hermeneutical resources culturally available to describe gender, which means that the widespread introduction of a “nonbinary” category into medical research and treatment protocols is likely to cause a proliferation of new hermeneutical resources that will provide the means to better linguistically represent nonbinary gender identification. Though this will extend hermeneutical justice to many members of the trans community, it will still continue to perpetuate hermeneutical injustice faced by people with fluid experiences of gender, as well as other gender minorities that do not identify with an androgynous third gender category.

Chapter Two delineated the ways the culture industry structures lived experience by classifying humanity into discrete groups. Though the culture industry does not claim objectivity, those who work within it often profess innocence when accused of creating and perpetuating harmful gender norms. Operating on the claim that they are *responding* to already existing differences, producers of children's media and toys continue to inundate the next generation with restrictive gender norms. Into adulthood, the entertainment media consumed by Americans

continues to perpetuate unattainable gender ideals and stereotypes that harm cis and trans people alike. As argued at the end of Chapter Two, the rise in media recognition of “nonbinary” as a third gender has already led to the development of a nonbinary media prototype that requires androgynous presentation and use of they/them/theirs pronouns as a precondition for respect and recognition as nonbinary. Although this recognition is beneficial for many who identify as androgynous, it ignores the identities of people who fall outside the male/female binary but do not fit neatly into the emerging third gender category.

In all, a third gender does not offer a solution to many of the problems caused by compulsory binary gendering. In fact, belief that a nonbinary categorical gender accounts for everyone who falls outside the male/female binary may even *strengthen* the hermeneutical lacunae that obstruct atypical gender experiences from cultural intelligibility. Although the discourse generated from the increasing recognition of nonbinary people has undoubtedly already had a positive impact on some people in the trans community, it will likely continue to obscure the lived experiences of many others for as long as “nonbinary” discursively designates a discrete third gender.



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