

TRAPPED BY THE BINARY

by

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This thesis addresses a long-standing friction between Judith Butler's conception of gender as a performative social construct, and the lived experiences of trans people. In essence, trans people do not fit neatly into Butler's framework of gender that they established in several different texts in the 1990s and early 2000s. This thesis offers a critique of Butler's works in this time frame on the basis of their exclusion of trans people. Following the critique, the thesis will offer a path of redefinition that hopes to mend the gaps in Butler's theory and therefore include trans people into a broader contemporary conception of the same theory of gender as a performative social construct initially proposed by Butler.

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Chapter 1: Introduction

Judith Butler's landmark work *Gender Trouble* launched the concept of gender as a social construct into the town square of academia. Butler followed this with *Bodies that Matter* to expand on key points and rebut critiques of *Gender Trouble*. In these works, Butler describes a complex dynamic of performance and repetition that together form what we refer to as gender. Butler's argument is that gender doesn't exist before discourse, meaning that prior to the subject's birth, they are not a gendered being, and they can only become a gendered being by entering discourse (which is the arena of societal influence). People are born into discourse and from that point forward gender is demonstrated to them and they are expected to demonstrate it back. This performance of gender is constantly repeated by the subject to the point where it no longer appears to be a performance but instead a natural display of the subject's internal self. Butler argues that gender is merely the appearance of a prediscursive identity and we only convince ourselves through repetition that the gender constructs we have learned externally are coming from within.

In the 1990s, when *Gender Trouble* and *Bodies That Matter* were written, trans identities had yet to take shape in the way that they have today. As a group, trans people existed as outliers, anomalies that were marginalized. This marginalization led to an understanding of gender in public discourse as a strict binary in which people were born into the gender identity traditionally paired with their anatomical sex. Butler's key texts are very much grounded in the binary interpretation of gender prevalent at the time despite their departure from that way of thinking. The context of scholarly discourse on gender at the time that *Gender Trouble* was published is important because that discourse influenced Butler's theorization of gender in the work.

In the years since these two key texts were published, Butler's theory has been impactful for theorizing gender identity, but the roots of their theory in a binary interpretation of gender have made the incorporation of trans identity more difficult. Butler accounts for trans people but mainly through the lens of intentional subversion of gender norms as a form of protest. In *Gender Trouble*, Butler touches on trans identity, but they discuss it not as an identity that exists in discourse for subjects, but—along with drag—as a form of deliberate protest and choice (insofar as trans identity and gender-non-conforming identities challenge the existing gender binary). This framework assumes that trans people do not exist except as a conscious form of protest. In Butler's eyes, gender is a repetitive performance, but one that is thrown at us through incentives and social pressure. There is no similar incentive or social pressure for people to perform trans identity since trans identity does not exist discursively.

As a result, trans people are not legible within Butler's original framework and because of that illegibility they have also been unable to benefit from Butler's anti-essentialist theoretical framework that could allow them to evolve their own understanding of gender. Butler's work in *Gender Trouble* was truly groundbreaking for feminism and transformed our understanding of gender from an essentialist mirroring of biological sex to a social formation that enforces an imbalance of power. In essence, trans people are both unaccounted for by Butler, as well as being left out of the progress that Butler's theory inspired. Toby Finlay, a trans scholar of gender, posits that Butler offers little to no political utility to trans people with their theory of gender (Finlay 9). Talia Bettcher, a professor of trans philosophy, similarly points out that there is a lack of concrete political strategies offered by Butler to increase the legibility of trans people (Bettcher 5.3). If these problems are addressed and the theory is adapted there is potential for a tremendous increase in the legibility of trans people essentially expanding the understanding of

gender to include trans identities. This thesis offers a critique of Butler's work, focusing on *Gender Trouble* and *Bodies That Matter*, based on the exclusion of trans people, that seeks to find a way to use Butler's theory to think outside the gender binary and thus inform our understanding of gender identities in the 21st century. My work will add to the existing body of scholarship in a unique way by threading the needle between gender essentialism and gender as a construct, ultimately showing that Butler's work does hold utility for trans people once a balance can be struck between the two schools of thought.

DEFINITIONS

Gender as a social construct is the basis of Butler's theory of gender in *Gender Trouble*. It is the most key concept to understand before any critique of Butler can be made. The basic claim that Butler makes is that gender exists contextually; it is an intersection of cultural, chronological and geographical variables that come together to exert social pressure on a subject to behave (or perform) in particular ways. Butler's theorization of gender is the idea that gender is a reflection of the society in which we live as opposed to an innate sense of self or a reflection of biological sex. They explain that "As a shifting and contextual phenomenon, gender does not denote a substantive being, but a relative point of convergence among culturally and historically specific sets of relations" (*Gender Trouble* 13). They point out first the contextual nature of gender which becomes incredibly important when trying to nail down the minutiae of Butler's theory. If gender is indeed shifting and contextual as they say, then it must follow that any reference to gender constructs should specify the context for those gender constructs. For example, Western capitalism has had a profound effect on creating and enforcing a hierarchical

performance of binary gender. Much of Butler's work assumes this context of gender without specifying it. For now, I will accept that this is the context of which they speak, but later I will problematize this lack of specificity in Butler's theory.

Butler goes on to say that gender "does not denote a substantive being" (*Gender trouble* 13). Essentially, they argue that a subject or a person is not any particular gender prior to their exposure to the society in which they are born that ascribes gender to the subject. Butler clarified this statement in *Critically Queer*, stating that "The misapprehension about gender performativity is this: that gender is a choice, or that gender is a role, or that gender is a construction that one puts on, as one puts on clothes in the morning, that there is a 'one' who is prior to this gender, a one who goes to the wardrobe of gender and decides with deliberation which gender it will be today." (*Critically Queer* 21). Butler's claim—here and elsewhere—is that there is no subject prior to gender. The word "prior" implies a chronological order of events in Butler's theory. According to Butler, a subject is gendered at the moment their sex is known and there is no time prior to this gendering where the subject exists in a gender-less vacuum. Thus even when one becomes aware of the socially constructed nature of gender, the proverbial cat cannot be put back in the bag. If a subject attempts to divorce themselves from gender they will always still be influenced in some way by the gendering imposed on them.

Lastly, in regard to definitions, the term "illegibility" is incredibly important to understand because of its relevance to trans identities. Butler defines illegibility as a juxtaposition to the dominant social understanding: "Oppositions are, after all, part of

intelligibility; the latter is the excluded and illegible domain that haunts the former domain as the spectre of its own impossibility, the very limit to intelligibility, its constitutive outside” (*Bodies That Matter* xi).

In this thesis I will use Butler's definition of illegibility as a constitutive outside to describe the position they put trans people in with their theory of gender. Trans people are illegible in their opposition to the dominant understanding of gender and this thesis will show that Butler's theory of gender furthers that illegibility.

CHAPTER 2: CRITIQUES OF BUTLER

Although Butler's theory has been influential for feminism and understandings of gender, their work has elicited its share of criticism. For the purposes of this thesis, this criticism falls into three categories: lack of material grounding in regards to the trans experience, an overly monolithic view of society, and the reification of the gender binary.

MATERIALITY OF THE TRANS EXPERIENCE

Although Butler maintains that "As a shifting and contextual phenomenon, gender does not denote a substantive being, but a relative point of convergence among culturally and historically specific sets of relations" (*Gender Trouble* 13), critics feel that Butler's theory falls short of material specificity. Vivian Namaste, a professor of feminism and trans advocate, argues that Butler's theorization of gender fails to consider the real life implications of the existence of trans people. Trans people are an integral aspect of understanding gender as a performative construct and to blur their existence by excluding them from a theory of gender performativity amounts to a lack of material consideration. Further, Butler's theory of gender as performative and prediscursive rejects the idea of an intellectual self or what some might call a soul. This thesis will refer to it as the metaphysical self, or some concept of a self that is not entirely dictated by our material conditions of existing within a body or a physical self. The metaphysical self is necessary for explaining the existence of trans people because they experience a sense of self at odds with their physical self. Without some sense of separation between these concepts it

becomes nearly impossible to explain what might possess a person to perform any gender aside from the one assigned to them. In Butler's theory, the act of transitioning or even failing to participate in the heterosexual norms of society is a radical act of protest against the dominant patriarchal establishment. But this view dangerously discounts these acts as mere protest and not evidence of a metaphysical self. It is true that trans people and those who do not participate in normative heterosexual society are protesting the establishment by virtue of their existence. But the fact that their existence can be politically utilized as a protest does not then mean that these people are engaged in a choice or indeed that their actions and lives are intended as protest. For many trans people, their transness was in no way a choice, for who would choose the scrutiny and potential for violence that comes along with such an identity? Trans and queer people do not necessarily choose to be thus: they are compelled to be so. This compulsion is so strong that for many trans people the choice at hand is between death and transitioning. Simply continuing to exist in a dysphoric state where their body does not align with their metaphysical sense of self is not an option. It is within that compulsion that I find the absolute necessity for a self aside from the physical body.

That compulsion is not a material compulsion (i.e. determined by the social world). Nor is it determined by the physicality of anatomical sex (e.g. having a vagina does not necessarily confer identification as a woman). So, the theory of gender that Butler formulates—based as it is on performativity determined by social norms—does not perfectly align with trans experiences.

Butler's theory of gender helped feminism make steps forward in understanding the Western

patriarchal system. Butler calls upon their readers to question the mimetic relationship between sex and gender and to question the roles assigned to all of us. By popularizing the notion of gender as a social construct and not an extension of sex, they show clearly that the subordinate position of women in the West had been constructed as well. With that knowledge, feminism could begin to deconstruct gender and strive for true equality. This is demonstrably politically useful, and it had a material impact on feminist discourse.

Thus, because Butler's theory does not neatly include the lived and material experiences of trans people it could be argued that trans people cannot exist in Butler's world, and to be excluded from the theory itself is certainly the same as being excluded from the progress the theory inspired. And even if trans people could benefit from the progress inspired by Butler, the unique challenges faced by trans people are largely material and the benefit from a theoretical change in our understanding of gender has little to no effect on those material problems. Namaste argues that:

An intellectual preoccupation with identity determines what we know about transsexual and transgendered people. So while we can read page after page on the deconstruction of the hegemonic sex/gender system, queer and transgender theory offer us absolutely nothing when it comes to the substantive issues of our lives. Don't look to Butler to learn about transsexuals and healthcare; don't hope to understand issues around transsexuality and addictions in the next genderqueer anthology, forthcoming from Routledge New

York. When we restrict ourselves to the identity of sex change, we simultaneously limit our understanding of social change. (Namaste 23)

The position Namaste takes here is simple: understanding that gender is a construct and separate from sex does not help us understand trans subjectivity. Namaste specifically references healthcare as a problem facing trans people that is not affected by the understanding that gender is a social construct. Healthcare is an excellent example. The medical industrial complex, problematic in its own right, has a paradoxical relationship with trans people. The paradox is that western medicine pathologizes the existence of trans people by assuming that what they needed to be “normal” was surgical/medical interventions. In the present, this medicalization occurs through the diagnosis of gender dysphoria which is codified in the DSM (the diagnostic and statistical manual of mental disorders). The academic understanding of trans people is that they are not ill at all but rather people whose sex does not match their gender expression in some way. However, if we were to take this correct understanding that trans people are not mentally ill on the basis of being trans we would simultaneously remove trans people’s access to gender affirming healthcare. Without some form of medicalization to warrant medical intervention there would be no way for trans people to access gender affirming care should they choose those interventions. The life of a trans person who does feel compelled to change their physical body to better match their conceptual sense of self is intrinsically tied to healthcare. Thus despite the knowledge granted to us by the deconstruction of gender that trans people are not mentally ill, the removal of their classification in the DSM would be truly devastating to the trans community.

None of these material and tangible problems facing the trans community can be addressed by Butler's theoretical framework of gender performativity because that framework is idealist and largely ignores the existence of trans people. The lack of attention to the material conditions and contradictions of trans identities impedes the growth in understanding of gender performativity enjoyed by queer and feminist theory.

An important aside is warranted here. Not all trans people engage with a medicalized version of trans identity. A person can choose not to alter their physical body and still be trans. This is important because not all trans people have access to healthcare of any kind let alone gender affirming care and to deny those people transhood would be exclusionary in the worst way. Furthermore, people experience dysphoria in different ways and not all trans people feel compelled to change their body. Those people are still trans as well. This aside is necessary because there is a fierce debate within the trans community around the topic of medicalization and whether or not anatomical conformity and medical intervention are requirements for being trans. There is a middle ground to be found. Namaste's point above was that an academic denouncement of associating illness with transness would paradoxically deny trans people the opportunity to alleviate their dysphoria through medical intervention. And although medical intervention should not be a requirement for trans identity, it is a very necessary aspect of transness for many trans people. Therefore, a balance must be found between our understanding that being trans is not a disease or disorder and still acknowledging the fact that trans people should have access to gender affirming care if they desire it. Perhaps a resolution to this debate

within the trans community could be found through Butler's theory of gender performativity if it were to be expanded to include the material conditions of trans identity.

Critics further argue that Butler's theory lacks material grounding on the basis of history. Isabelle Dahms, a professor of philosophy and queer history, explains that the initial concept of gender as something separate from sex was posited by John Money in 1955. Money, a psychologist and sexologist, worked with transgender and intersex people, and developed his theory of gender in an attempt to explain the phenomenon of transness. Dahms claims that "Since Money's concept of gender intends to provide a theoretical explanation as well as a standardised treatment protocol for intersex and trans people, it can be concluded that gender was from the start a discourse about intersex and trans bodies and a site of their medicalisation" (Dahms). What Dahms shows is that from the very beginning of gender being understood as a construct separate from sex, trans people have played a key role in that understanding. Butler's engagement with gender is then wholly incomplete due to their lack of acknowledgement of trans people's influence on the topic. Namaste problematizes this and accuses the academic establishment of using trans people as merely an example to show that gender is socially constructed without meaningfully engaging with trans issues.

MONOLITHIC VIEW OF SOCIETY

Nancy Fraser, a feminist contemporary of Butler, agrees that Butler's theory is not materially grounded in that they overly limit the context in which gender is constructed and

performed. But Fraser extends this critique, positing that Butler has an “overtotalized view of capitalist society as a monolithic "system" of interlocking structures of oppression that seamlessly reinforce one another. This view misses the "gaps"" (Fraser 285-6). For example, gender performativity does not travel across cultures in the way that Butler assumes. What it means to perform a cisgender male identity in the U.S. is very different from what it means to perform a cisgender male identity in China. Much of Butler’s theorization of gender relies on a patriarchal hierarchy which is specific to Western capitalism. The reinforcement of gender norms including the subjugation of women and their protection by men are features of a capitalist system that relies on these norms to function. One such example that Butler speaks of is compensation for work. The distribution of work between men and women is largely equal but the compensation for it is not. This goes far beyond just a pay gap between men and women who are doing the same jobs. In our gendered capitalist society, women historically were expected to manage the home, take care of children, and work outside the home, while men were expected to do paid work. Although most women engage in wage labor today, they are still not compensated for the work they do as homemakers and mothers. Unpaid labor of this magnitude marks an unmistakable subjugation of women within capitalism. All members of the working class regardless of gender are subjects under capitalist rule but the hierarchy within the hierarchy of class is men holding dominion over women.

This classic understanding of gender roles is what drives feminism. Roles have shifted slightly as feminism pushes back, but many gender based social inequities still exist. It is within

this contemporary context that Butler posits their theorization of gender. However, it is only within this context in which Butler's theorization holds up. The problem at hand is that Butler's argument in *Gender Trouble* is universalizing in that it discusses humanity as a whole and the idea that gendering happens to everybody everywhere inescapably. Specifically, they say that "As feminism has sought to become integrally related to struggles against racial and colonialist oppression, it has become increasingly important to resist the colonizing epistemological strategy that would subordinate different configurations of domination under the rubric of a transcultural notion of patriarchy" (*Gender Trouble* 46). The operative phrase here is the reference to a transcultural notion of patriarchy. The simple truth is that although capitalism has encroached on all corners of the world, it does not express itself in the same way for every single place on earth. Furthermore, there is a massive swath of human history that existed prior to the advent of capitalism which all begs the question: how is gender perceived outside the boundaries of the capitalist system that Butler describes?

Butler's theory references a "transcultural notion of patriarchy" but if capitalism is intrinsically tied to patriarchy as Butler describes it, then gender must be perceived at least in a slightly different way in non-capitalist societies. Butler acknowledges that gender identity is a cross section of society in that society produces different expectations of gender dependent on what particular society one finds themselves in. However, this acknowledgement is not sustained throughout Butler's work. Butler's theorization of gender does not adequately explain what society they are referring to. Fraser criticizes the monolithic nature of Butler's work as

“overtotalized.” Gender roles and expectations differ immensely from culture to culture and over time as well. It would be impossible to make the claim that every culture in existence right now has the same brand of gender performativity or even that all current societies enforce a gender binary. This is especially true once you start moving through the axis of time. There must be a point in history when capitalism and “Western” ideals interlocked to create the current notion of gender present in most capitalist countries, but that necessarily implies a time before that was the case. Furthermore, if capitalism is intrinsically linked to gender roles as Butler claims then there must be some other concept of gender in countries or societies or cultures where capitalism is not the foundation of life. Essentially Fraser challenges the veracity of Butler’s view that there is a “transcultural notion of patriarchy” that truly applies universally. This of course does not and should not discount Butler’s theories entirely, it merely asks for more specificity from Butler, a plea if you will, to prove a richer and more rigorous context for gender performativity.

REIFICATION OF THE GENDER BINARY

The final critique of Butler is that when they do include trans people, they call for a move away from the “mimetic relation of gender to sex,” expanding gender beyond a binary to include limitless interpretations of gender. But what of those trans people who feel that they do fit into a binary gender identity, but just not the one initially assigned to them? Butler claims that there is no subject prior to gender, but without prediscursivity, what cause would these subjects have to outwardly and inwardly express their gender contrary to how they were socialized? Butler posits that the subject is determined by their gender and not vice versa. The example they use is

clothing; there is no prior subject that chooses what gender they like best as they would choose what clothes to don in the morning. This applies very neatly to a binary interpretation of gender because it is the binary that traps the “one” in its subordination to its performance of gender. Someone socialized as a man does not decide to be so, existing constructs and ideas of what precisely a man is are pressed upon that subject so that they will perform their role. Through repetition of this performance the subject is in a constant cycle of self affirmation until they believe that they are a man and because of that belief they behave, speak, and dress in a certain way when in reality it is that very performance that makes them a man. However, Butler’s interpretation of gender applies much less neatly to a world where trans people exist. Trans people, despite their initial gendering and repetitive performance, experience the need to perform a gender other than the one in which they were socialized. They, as subjects, are not subordinate to their performance of gender.

Clearly, aspects of this process of gendering through repetitive performance described by Butler fail for trans people. This failure is paradoxical. Take the same subject who is socialized as a man and performs that gender identity repetitively throughout their childhood. At some point this subject becomes aware that despite their performance they have an inexplicable sense that they are not a man at all but a woman. In this case, the repetition of masculine performance does not cement their identity and some aspect of that subject desires a different performance. Thus, Butler’s interpretation of gender reifies the binary through its insistence that the subject is beholden to the gendering they endure.

Butler's account of gender is problematic in more than one way. The first is the existence of non-binary and gender fluid people. In particular, a gender fluid individual might very well go to the wardrobe of gender in the morning and decide what role and what performance they will be participating in for that day or any particular moment. This goes much further than external expressions of gender like clothing and mannerism. Gender fluid people often have a differing innate sense of their gender day to day and hour by hour. Similarly problematic to this account of gender is the existence of non-binary people. As the title suggests, non-binary people reject the gender binary entirely and prefer to be viewed as a subject outside of the gender binary. One could argue that these individuals are genderless subjects. However, the order of operations here is interesting. Non-binary and gender fluid people are still gendered from birth like everyone else and just like everyone else they cannot exist as a subject prior to gender as Butler states. Yet, at some point in their lives they experience the need to divorce themselves from gender. They are putting that cat back in the bag. In an attempt to resolve this problem, Butler claims that "There is no reason to assume that gender also ought to remain as two. The presumption of a binary gender system implicitly retains the belief in a mimetic relation of gender to sex whereby gender mirrors sex or is otherwise restricted by it" (*Gender Trouble* 10). That is to say that gender performativity's prediscursive nature can still exist outside of a binary. Taking our non-binary individual as an example once again, Butler would claim that that individual is still a gendered subject in that they are performing a gender, just not a gender that fits into the binary. But if it is true that gender does not need to remain binary within the constraints of Butler's theory as they

suggest, then the prediscursive element of their theory becomes muddled. Butler defines gender as socially constructed and a point of convergence of pressures on a subject. This definition would require some social pressure on a non-binary person to be non-binary. That the non-binary person is in any way pressured to be so by society is false. In fact quite the opposite is true.

The issue of agency or a lack of it becomes quickly apparent within Butler's theory of gender. The discordance between the lived experience of trans people who do experience an innate sense of gender that differs from the socially constructed one they are assigned, and Butler's idea that no such innate sense exists, is an issue of agency. Butler acknowledges this through rhetorical query:

If there is no subject who decides on its gender, and if, on the contrary, gender is part of what decides the subject, how might one formulate a project that preserves gender practices as sites of critical agency? If gender is constructed through relations of power and, specifically, normative constraints that not only produce but also regulate various bodily beings, how might agency be derived from this notion of gender as the effect of productive constraint? (*Bodies That Matter* x)

Butler attempts to answer these queries posed in the introduction of *Bodies That Matter* throughout that work. In summary, they claim that any agency we may claim to have is subsequent to our gendering. We exist as a subject because we are gendered therefore the only way to attain agency as a subject is to first be gendered. That is to say that the process of being gendered by society is always prior to a subject's birth and we essentially do not hold any agency

over the process of gendering. They explain that our sexed and gendered bodies are our physical selves or rather that there is no subject external from our bodies. Thus if we are our bodies and our bodies are sexed and gendered before we are even born through the repetitive tradition of gender then there cannot be a subject that holds any agency over their sexed and gendered being

As shown previously, Butler's work offers society the opportunity to greatly advance its understanding of gender constructs. Much of this advance in thinking was put into practice by queer and feminist theorists. This resulted in changes to the feminist understanding of gender roles and the agency held by women. Essentially, the realization was that gender roles were ascribed by society hierarchically, thus subjugating women. Because these roles were enforced by society and not by the nature of sex itself women could protest this hierarchy by rejecting their traditional role. Queer theory blossomed from Butler's theory of gender performativity and resulted in genderqueer people having legibility to define themselves insofar as they understood that their gender was not intrinsically tied to their sex. However, the same cannot be said for the transgender movement. Dean Spade, a trans activist, argues that trans people are constantly left out of this progress:

Trans people are told by the law, state agencies, private discriminators, and our families that we are impossible people who cannot exist, cannot be seen, cannot be classified, and cannot fit anywhere. We are told by the better-funded lesbian and gay rights groups, as they continually leave us aside, that we are not politically viable; our lives are not a political possibility that can be conceived. (Spade 19)

Arguably, trans women in particular are included in the progress of feminism as a whole, but as Namaste points out, there are specific issues trans people confront that require different political strategies than the feminist movement. Finlay furthers this point by showing the frustrating nature of Butler's work: "My primary critique of Butler is that her theoretical exploration could not exist without trans people's experiences of violence, yet her resulting theory lacks political utility for trans and non-binary communities" (Finlay 9).

That very lack of utility is a direct result of Butler's theorization of gender failing to put forth a framework in which trans people are legible. Butler's theory developed in *Gender Trouble* and *Bodies That Matter* is fundamentally reliant on the existence of trans people and their lived experiences. Yet, simultaneously, this theory excludes trans people. The paradoxical relationship between Butler's theory and trans people is not a problem unique to Butler or their theory. Spade argues that:

Overall, the lesbian and gay rights agenda has shifted toward preserving and promoting the class and race privilege of a small number of elite gay and lesbian professionals while marginalizing or overtly excluding the needs and experiences of people of color, immigrants, people with disabilities, indigenous people, trans people, and poor people. The institutionalization of lesbian and gay rights that started in the 1980s and produced a model of leadership based on educational privilege and a model of change centering elite strategies and law reform facilitated the abandonment of social justice struggles that concern the most vulnerable queer and trans people in favor of the advancement of

narrow campaigns to include the most privileged queers in dominant institutions. (Spade 34)

Essentially, the exclusion of trans people among other minority queer groups is problematic at the institutional level. Butler's theory of gender is merely a continuation of a long tradition of centering the most palatable of the queer community and leaving the rest behind to find progress on their own.

Butler did attempt to address these problems of exclusion in their 2004 work *Undoing Gender* in which they add nuance to their theory of gender through a discussion of trans theory and its implications for Butler's initial conception of a theory of gender performativity. In *Undoing Gender*, Butler discusses the aforementioned issue of autonomy within the trans communities access to gender affirming healthcare. They claim that "In this sense, we must be undone in order to do ourselves: we must be part of a larger social fabric of existence in order to create who we are" (100-101). The essential claim here is that in order for trans people to access care they must sacrifice their autonomy by allowing society to judge them as mentally ill. In this way, Butler attempts to resolve the tension between their theory of gender and trans theory by showing that to be trans is also to lose autonomy in the same way that Butler's original theory removes autonomy on the basis of prediscursive gender assignment. However, Bettcher makes the case that

While Butler's modified view in some ways eases the tension between their theory of gender and the demands of trans politics, it is worth noting that the theory does not

deliver many details in terms of trans oppression and possibilities for resistance. Their discussion of Gender Identity Disorder is a case in point. It leaves us with a powerful illustration of their theoretical claims about autonomy; yet it does not offer much in terms of concrete political strategies. (Bettcher 5.4)

Bettcher characterizes Butler's theory as "queer theory," maintaining that it focuses on a divorce from specific identity. Queer theory then necessarily clashes with trans theory on the basis of a stable identity. Binary trans people hold value in their identity and desire to be seen not just as gender queer but rather as binary men or women. While *Undoing Gender* offers nuance to Butler's original theorization in *Gender Trouble* and *Bodies That Matter*, as trans critiques show, it does not do enough to address those works' philosophical failures.

CHAPTER 3: BEYOND THE BINARY—TOWARD A MORE INCLUSIVE THEORIZATION OF GENDER

In this thesis, I have explored the limitations of Butler's theory as it applies to trans people and their lived experiences. Despite these limitations, Butler's theorization of gender has been profoundly important to gender theory. Although their theory is not fully inclusive of trans people, it has the potential to be responsive to the lived experiences of trans people. So where can these concepts intersect to create a version of Butler's theory that has the same transformative potential and fully includes trans people? I posit that Butler's theory of gender performativity can be adapted to be inclusive of trans identities by redefining performativity as it relates to gender, acknowledging a subject's existence prior to gender, and by widening the scope of their theory beyond the limited lens of the western world. These adaptations will make Butler's theory a powerful tool for all people, regardless of gender.

REDEFINING PERFORMATIVITY

Performativity is a central aspect of Butler's theory of gender. They position gender itself as a performance that has been repeated so many times it feels natural or innate to the subject. To perform gender could be as simple as the clothes one chooses to wear in the morning or as complex as the way a subject is able to empathize with other people. Regardless, all of it, Butler claims, is a performance. Butler posits that "If gender attributes and acts, the various ways in which a body shows or produces its cultural signification, are performative, then there is no preexisting identity by which an act or attribute might be measured; there would be no true or

false, real or distorted acts of gender, and the postulation of a true gender identity would be revealed as a regulatory fiction”(*Gender Trouble* 180). However, as this thesis has already shown, the existence of trans people is in conflict with the idea that gender is sheerly performative. Moreover, there must be some aspect of gender that is innate to the subject that allows for the existence of trans people. Finlay characterizes this point well:

Butler contends that ontologies of gender must be citational, meaning that they are determined in reference to an existing, authoritative discourse” As a result, the expressions of gender that qualify as intelligible and recognizable are fundamentally constrained by the discursive context in which gender is performed. In problematizing gender as a real characteristic of persons, Butler elucidates an important question about the epistemology of gender that has theoretical implications for trans and non-binary communities. Without an ontologically real gender that is epistemologically knowable to the subject, trans and non-binary people’s capacity for self-identification with a gender category different from that which we were assigned at birth, and with which we are traditionally interpellated, is compromised. (Finlay 7)

Because of these limitations, Butler’s theory of gender performativity must be redefined in order to make trans people legible. One could argue that trans people are merely performing gender and that their performance just doesn’t align with their sex. But this would miss the crucial element of Butler’s theory: there is no subject prior to gender. Trans people are gendered subjects that realize at some point in their life that not just their sex, but their previously assigned

gender is not the reality of their identity. It would be impossible for a person to be trans from birth definitionally, since they are transitioning from a former gender to a latter gender. So, trans people are performing gender but they are doing so as previously gendered subjects; they were in essence a subject prior to their current gender performance. Thus, performativity as an aspect of gender cannot be theorized as solely prediscursive, or fixed by a given social order from the first moment of a subject's existence.

So, trans existence always begins as a binary gendered existence and their drive to perform a gender not assigned to them stems from a deep seated dysphoria that can only be resolved by performing the gender they are driven to perform. They are not reaffirming their assigned gender to themselves, but rather disavowing it. It follows that, if Butler's theory of gender performativity can be tweaked in any way to include trans people it must be along the lines of allowing for an innate sense of one's gender stemming from something beyond mimetic performance. Following from that, we might understand gender as a social construct that is a repetitive performance that affirms and instills social traditions of gender, but that also can be altered by the subject's innate conception of their own gender.

A SUBJECT PRIOR TO GENDER

The performative nature of gender in Butler's theory of gender necessitates the existence of a subject that is doing that performance. However, because that subject is assigned that gender from the moment of their existence they are engaged in the performance without being conscious

of it. Because the subject has only existed as a gendered being engaging in performance Butler makes the claim that the subject's existence itself is dictated by their gender performance.

Bettcher characterizes this well:

For Butler, behavioral manifestations of gender are often taken to express a prior gender identity that is contained within a naturally sexed body. Thus, feminine behavior is seen as expressive of an inner feminine core (contained within the body sexed female). On the contrary, in their view, such performances simply serve to generate the fiction of a pre-existing gender identity as well as the fiction of the sexed body as a natural container of this identity. In other words, behavioral manifestations are prior to gender identity and sexed body (rather than the other way around). The illusion of a stably sexed body, core gender identity, and (hetero) sexual orientation is perpetuated through repeated, stylized bodily performances that are performative in the sense that they are productive of the fiction of a stable identity, orientation, and sexed body as prior to the gendered behavior.

(Bettcher 5.1)

Essentially before their performance began (e.g. they were born into discourse) there was no subject. As touched on in the previous paragraph, whether or not there is a subject prior to the gendered experience is integral to the legibility or lack thereof of trans people in Butler's theory of gender. Butler takes a complex position on the topic of subject priority, positing that,

If identity is asserted through a process of signification, if identity is always already signified, and yet continues to signify as it circulates within various interlocking

discourses, then the question of agency is not to be answered through recourse to an “I” that preexists signification. In other words, the enabling conditions for an assertion of “I” are provided by the structure of signification, the rules that regulate the legitimate and illegitimate invocation of that pronoun, the practices that establish the terms of intelligibility by which that pronoun can circulate. (*Gender Trouble* 183)

In this passage, Butler claims that the subject or the “I” only lays claim to its existence as a subject through its external signification as a subject. This is a direct consequence of language being a restricting factor in our lives. Without some way to refer to a subject that subject is illegible. For example one might see a dark shadow across the room and be terrified by the mystery of what it could be. The shadow is an “it,” a non-thing, an unknown, until we turn on the light and discover that the shadow was just a robe on the back of the door. Once we can externally signify that the robe is a robe it becomes a robe but before that signification it is illegible to us. The same is true of a person or subject, prior to their signification from the outside world they are not a subject, they are representative of Butler’s “constitutive outside.” Crucially, external signification includes gendering. Thus, the subject cannot be a subject as an “I” with agency cannot exist prior to its gendering. And yet, the “I” experienced by trans people is a subject that uses its agency to reject its external significations that Butler claims lend that subject the agency it is using.

The change to Butler’s theory in this instance is actually quite simple and in line with the previous redefining of performativity. In order to make trans people legible in Butler’s

framework, the primacy of the subject must be acknowledged. It cannot be true that there is no subject prior to gender as Butler claims because every trans person existed as a subject prior to the gender they currently perform. That prior subject may well have been gendered but at some point that gendering began to feel incorrect to the subject and the subject themselves begins to perform the gender that feels correct. If this is true of trans people it's equally possible that it is true of cis people as well. A woman socialized as a woman who wishes to continue to exist as a woman still holds primacy over her gendering because being a woman feels correct to her as a subject. There is simply no dissonance between the gendering she has received externally and the sense of gender identity she feels internally. There must be an "I" somehow separate from its external cultural signification to allow for some level of individual agency and mastery over one's identity within the world. It is within this agency that the mere possibility of a world beyond gender exists. Without agency we are all doomed to continue in our binary performances.

WIDENING THE SCOPE

A widening of Butler's theorization of gender in regards to its cross cultural implications is the element in making the framework inclusive and useful for trans people. Butler's theory accepts a patriarchal hierarchy perpetuated by capitalism that leads to the subjugation of women and the empowerment of men as the precondition for performativity. The performances of binary gender that Butler describes are a direct result of a patriarchal hierarchy positioned as a universal

experience of humanity. In essence, all subjects are beholden to this tradition of gender norms that dictate our actions, behaviors and social characteristics.

So how can this scope be widened? Certainly binary gender is a product of patriarchy but non-binary gender couldn't be because capitalist patriarchy requires the gender binary to retain its power. Additionally binary gender identities divorced from sex pose the same problem to the patriarchy because by unsettling the fixity of gender, they call the binary itself into question. Despite the patriarchal repression of these identities they continue to emerge within the patriarchal framework which would signify that these identities are (for lack of a better word) natural to the human experience. In all likelihood humanity has always held within it individuals who defied the modern expectations of gender attributes in line with sex. But not every culture rejected these people because not every culture relied on the gender binary to maintain its status quo. So if Butler were to widen their scope to culture as it stands on the axis of time and on the axis of culture outside the dominant culture at the time of Butler's theorization, one could begin to imagine a world where trans people are not repressed, but celebrated.

However, the problem at hand is that for Butler, gender itself is a product of patriarchal hierarchy. Butler queries:

If the body is not a 'being' but a variable boundary, a surface whose permeability is politically regulated, a signifying practice within a cultural field of gender hierarchy and compulsory heterosexuality, then what language is left for understanding this corporeal

enactment, gender, that constitutes its 'interior' signification on its surface? (*Gender Trouble* 177)

To Butler, gender is a direct result of the establishment of a repressive hierarchy. Gender exists for that purpose, and therefore, prior to the establishment of said hierarchy, if there even is a time prior in Butler's conception, gender did not exist. According to Butler, then, gender as a social construct began as a tool of the patriarchy. Gender roles that enforce masculinity and femininity exist to maintain the subjugation of women under patriarchal rule. Therefore, Butler's framework suggests that gender, as we conceptualize it now, could not have existed prior to the patriarchy because the two are intrinsically linked. This thesis pushes back on that notion. Gender is not and cannot be a feature exclusive to patriarchy. Our current conception of gender as a binary and the subordinate position of women in this binary certainly is, but gender is more than the current formulation and greater than the patriarchy of the West. Gender is a product of human expression, the desires of behavior enacted by a subject with agency. The dominant framework seeks to define and limit those expressions into a binary where certain actions are correct or incorrect dependent on a mimetic relationship to sex attributes, but just because the dominant framework attempts to control these expressions it does not necessarily follow that the expressions are in actuality controlled. Trans people are the proof. They are merely subjects using their agency to express themselves in the way that feels right to them. In the current context those expressions might still exist within the binary of gender created by the patriarchy or they may not but in either case these identities are a result of the agency of the subject not of

the preconception of gender enforced on them. Therefore, to be trans is not a conscious protest of the system of gender enforced and created by the patriarchy, it is an expression of an entirely separate system of gender created from the agency of individuals.

THE POTENTIAL OF A NEW TOOL

The evolution of Butler's theory as previously claimed, is queer theory which has given a tangible concept to non-binary people in terms of their ability to grasp their existence.

Essentially queer theory has greatly increased the collective understanding that gender is socially constructed, thus society can change gender and the expectations associated with it. If gender is socially constructed and, thus not a product of sex, the possibility of rejecting gender identity, or moving throughout the spectrum of gender becomes open. But as Namaste points out, queer theory isn't helpful when it comes to binary trans people accessing the care that they need. In today's political climate access to care has become increasingly limited, and under attack. The current administration refuses to acknowledge the existence of trans people, claiming that the only genders are those that align with sex, and that it is not possible to change one's gender even within the binary. This has material impacts on the trans community. Gender markers on passports are forcefully reverted for binary trans people and the option of an X or non-binary gender marker has disappeared. Spade drives this point home:

For trans people, administrative gender classification and the problems it creates for those who are difficult to classify or are misclassified is a major vector of violence and

diminished life chances and life spans. Trans people's gender classification problems are concentrated in three general realms: identity documentation, sex-segregated facilities, and access to health care." (Spade 77)

This all serves to decrease the legibility of trans people in society and puts them at grave risk. If a trans woman is forced to identify as a man, that woman could be put in any number of situations that would hold extreme danger, like being placed in a men's prison, or being forced to use men's public restrooms, or being incorrectly identified in the event of a health emergency. Now more than ever, trans people need a tool to help attain legibility and ultimately use that legibility to enact positive political change. Reinterpreting Butler's theory of gender can offer us this tool.

Fittingly Butler's final paragraph in *Gender Trouble* will help to prove the final point of this thesis. Butler's final claim is that

The task here is not to celebrate each and every new possibility qua possibility, but to redescribe those possibilities that already exist, but which exist within cultural domains designated as culturally unintelligible and impossible. If identities were no longer fixed as the premises of a political syllogism, and politics no longer understood as a set of practices derived from the alleged interests that belong to a set of ready-made subjects, a new configuration of politics would surely emerge from the ruins of the old. Cultural configurations of sex and gender might then proliferate or, rather, their present proliferation might then become articulable within the discourses that establish

intelligible cultural life, confounding the very binarism of sex, and exposing its
fundamental unnaturalness. (*Gender Trouble* 189-90)

In their final paragraph Butler gestures toward the possibility of laying a concrete foundation for undoing the binary, resisting the patriarchy, and doing so in a way that is not necessarily alienating to those that exist within the binary. They argue that this queering should be done through proliferation of our conception of gender and understanding that gender culturally as much more than a binary. In essence, if we are to break free of the binary that traps us, we must show that gender was never a binary, but rather a multitude, an infinite array of individualized expressions. This thesis has shown ways to put Butler's concluding gesture into practice.

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