Why Five Sexes Are Not Enough

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Do intersexed individuals – those of us born with ‘ambiguous’ sexual characteristics – have a political obligation to identify as members of a third, or even a fourth or fifth, sex? It would seem that the unwilling recipients of medical treatment for bodies that cannot be easily described as either male or female must decide whether to identify as intersexed, even after the body parts that medicine calls intersexed have been removed in childhood. This is because for some patients, the suggestion that genital surgery in infancy has successfully eliminated their intersexuality constitutes an unacceptable capitulation to medical normalisation. ‘I was not born with the genitalia of both men and women; I was born with child-sized intersexed genitals’, insists gender theorist Morgan Holmes (2000, 99). Seen in this way, a baby that has (for instance) testes and a small phallus without a urethra does not have an ‘ambiguous’ combination of male and female genitalia – male gonads and a clitoris, one might say – but rather a perfect, and perfectly comprehensible, set of intersexed genitals. Therefore in Holmes’s view, genital surgery cannot clarify one’s sex as either male or female; it simply injures one’s intersexed genitalia. Accordingly, an identity other than male or female seems to be the most politically appropriate response to injurious genital surgery. In other words, only by refusing to identify as female or male can a post-surgical individual counter surgery’s claim to make a patient readily determinable as either one sex or the other.

In a pertinent essay on queer theory, transgender performance artist Kate Bornstein has contested what s/he calls ‘the problem of suffocating identity politics’ (1997, 16). Building on Bornstein, my starting point in this chapter is that the medical management of intersexuality, when experienced by patients as morally and physically injurious, creates as one of its negative effects precisely the ‘suffocating identity politics’ that Bornstein criticises. For example, when surgery is performed on an infant to reduce a clitoris that is perceived by clinicians and parents to be overly ‘masculine’ for a genetic ‘female’, and when that infant grows up to resent the surgery which has impaired clitoral sensation, a dilemma of identity politics seems to consume the post-surgical individual: ought they to identify, as a point of political principle, as ‘intersexed’ not ‘female’? ‘If I label my postsurgical anatomy female, I ascribe to surgeons the power to create a woman by removing body parts’, states leading patient activist Cheryl Chase (1998, 214). In this way, it seems that if
one wishes to voice objections to surgery performed for an intersex condition, then it’s necessary to identify as ‘intersexed’, in order for one’s objections to be politically cogent.

I take very seriously the statements by Chase and Holmes as symptomatic of the problem of genital surgery. Such surgery puts them (and me) in the suffocating position of apparently needing either to align one’s identity with one’s sexual politics (by identifying as intersexed), or conversely to relinquish the political critique of intersex medicine by docilely passing as female or male. To dismantle this unreasonable opposition, I want to follow Bornstein in advocating ‘the abandonment of politicised identities in favour of the politics of values’ (1997, 16). Therefore in this chapter I will use insights from queer theory’s interrogation of identity politics to argue that a queer ‘politics of values’ offers a better way of understanding the identities claimed by individuals with atypical genitals – those of us who have received surgery, as well as those who have not. I will argue that the sex that one claims as an identity is a matter of the politics of values, not of a person’s descriptively apprehensible anatomy, or of one’s identity as a description of one’s anatomy. In addition, I’ll advance a polemical recommendation regarding the identities that ought to be claimed by those without atypical genitals.

I am going to begin by critically analysing an influential and controversial intervention into the identity politics of intersex. In the course of my analysis, I’ll also explain the intellectual context of that intervention in early-1990s queer theory.

Biology through History

In 1993, feminist and biologist Anne Fausto-Sterling published an article in the prestigious organ of the New York Academy of Sciences, the *Sciences*. Titled ‘The Five Sexes: Why Male and Female are Not Enough’ (1993a), her essay was the cover story of the journal’s March/April edition. It was also printed in the *New York Times* on 12 March (1993b). The problem posited by the essay’s title is simply one of finding enough terms to describe five sexes, rather than the current terms that represent only two – and hence, it would seem, the identification as intersexed of those who have such atypical body parts. However, Fausto-Sterling advances her argument about the number of sexes not from the starting point of anatomy, the language and numeration of body parts, but interestingly from the starting point of history.

The ‘Five Sexes’ begins by telling the story of Levi Suydam. In 1843 Suydam, who was reportedly reputed to be ‘more female than male’, was examined by a physician in order to confirm whether he was entitled to vote in a Connecticut election (Fausto-Sterling 1993a, 20). Although the presence of a phallus vouched, to the physician’s eyes, for Suydam’s maleness and hence for his right to suffrage, it was discovered after the election that Suydam regularly menstruated. The puzzled physician later noted that not only was Levi Suydam’s body atypical (for it transpired to feature a vaginal opening in addition to a phallus) but also that
Suydam had ‘feminine propensities’: for example, a fondness ‘for pieces of calico’ (1993a, 20). In particular, Suydam enjoyed ‘comparing and placing … together’ the pieces of cloth, wrote the doctor (Epstein 1990, 119). These revelations lead Fausto-Sterling to comment of Suydam that: ‘Both his/her physique and his/her mental predispositions were more complex than was first suspected’ (1993a, 20). As we will discover, this emphasis on complexity – specifically sexual complexity that requires valuation beyond what has ‘first’ been perceived – will become critical to her essay’s argument.

It is not until after Suydam, and a brief discussion about the legal accommodation in Western cultures of only two sexes, that Fausto-Sterling introduces the biology of intersex. Testes, ovaries and the medical terms ‘female pseudohermaphrodite’, ‘true hermaphrodite’ and ‘male pseudohermaphrodite’ – terms to which I will return to below – make their first appearance at this point. And this structure, of turning to biology through history, is repeated shortly afterwards, which suggests that it has a significance beyond the stylistic: Fausto-Sterling’s detailed exposition of embryological sexual differentiation also begins surprisingly with the narrative of Hermaphroditus. ‘According to Greek mythology’, she recounts, Hermes and Aphrodite ‘parented Hermaphroditus, who at age fifteen became half male and half female when his body fused with the body of a nymph he fell in love with’ (1993a, 22). The text then moves without segue to the observation that ‘In some true hermaphrodites the testis and the ovary grow separately but bilaterally; in others, they grow together within the same organ, forming an ovo-testis’ (1993a, 22). There follows a substantial discussion of sexual development in embryos. To be sure, the tale of Hermaphroditus has nominal relevance to true hermaphrodites. But Hermaphroditus’s transformation is a love story, not a lesson in gonads – which weren’t understood in ancient Greece to determine sexual differentiation anyway (Laqueur 1990, 4–5, 26).

I propose a better way of understanding the mythic story’s placement. Structurally, the Greek myth’s appearance repeats Fausto-Sterling’s earlier manoeuvre during the Suydam story from history to biology. And later, the manoeuvre is performed once again in the slightly different form of a turn from history to biomedicine (1993a, 23). I argue that Fausto-Sterling uses history to introduce biology for two interrelated political purposes: to make intersexuality familiar, and to de-familiarise contemporary approaches to intersex. Hence, on the one hand, she states reassuringly that ‘Intersexuality itself is old news. Hermaphrodites … are often featured in stories about human origins’, before attending to recent developments in biomedicine (1993a, 23). On the other hand, Fausto-Sterling also observes that ‘Ironically, a more sophisticated knowledge of the complexity of sexual systems [by medicine] has led to the repression of such [sexual] intricacy’ (1993a, 23). The submerged foil to this key sentence is its implicit claim that a more sophisticated knowledge of history will allow recognition of precisely the sexual intricacy that current medical knowledge and practice fails to recognise. By means of this rhetorical strategy, she claims, ‘medical accomplishments [in “biochemistry, embryology, endocrinology, psychology and surgery”] can be read not as progress but as a mode of discipline’ (1993a, 24).
It appears, then, that describing intersex is a political act. By striving to make intersexuality familiar – located at the very root of the story of humanity – while concurrently making the contemporary medical treatment of intersex unfamiliar, Fausto-Sterling indicates that our acknowledgement of sexual diversity in history will illuminate the objectionable treatment in the present of individuals with atypical sex characteristics. The personalisation of this axiom is that if only it were possible for an individual to identify conclusively as ‘intersexed’, then a particular political standpoint regarding the appropriateness of one’s medical treatment would follow from that identification – namely that treatment is a ‘mode of discipline’, which disregards (or ‘represses’) the sexual intricacy denoted by the identity ‘intersexed.’

On Difference

In addition to making medical treatment unfamiliar, Fausto-Sterling’s recurrent structural prioritisation over the discourse of biology of an eclectic range of intersex histories – ancient Greece, nineteenth-century America, early Biblical scholarship, Plato, the Jewish books of law and Europe in the Middle Ages are all mentioned – serves to emphasise the irreducible influence of culture on the perception and classification of sexual biology itself (1993a, 20–23). This was a principal insight of Thomas Laqueur’s historical monograph *Making Sex*, published three years before the ‘Five Sexes’, and it is a concern that animates Judith Butler’s *Bodies That Matter* (1993), which appeared in the same year as Fausto-Sterling’s paper.

In this regard, the ‘Five Sexes’ essay not only follows Laqueur’s contention that ‘Two sexes are not the necessary, natural consequence of corporeal difference’ (1990, 243) but also enacts an essential tenet of feminist science studies (on which Fausto-Sterling had previously published widely): the body can be described or accessed only through its non-biological social context. As feminist scientists Suzanne Kessler and Wendy McKenna had put it in 1978, ‘Our seeing of two genders leads to the “discovery” of biological, psychological, and social differences’ (1978, 163). Moreover, as Butler would say in *Bodies* nine months after the publication of the ‘Five Sexes’, ‘what constitutes the fixity of the body, its contours, its movements, will be fully material, but materiality will be rethought as the effect of power, as power’s most productive effect’ (1993, 2). This reformulation by Butler and others of materiality would rapidly become a central topic for debate in queer theory during the 1990s; in brief, queer theory’s denaturalisation of the body would take place by the exposé that the sexed body is, in fact, always different from itself, from its own effected appearance of naturalisation. For some commentators, like Butler in much of *Bodies*, the locus of such difference is power; for others, like Fausto-Sterling repeatedly in the ‘Five Sexes’, it is history.

So in one sense, when biology is read through history, the gendered body is ‘seen’ differently, to use Kessler and McKenna’s terms. The shortcomings of a two-sex system are exposed. Such is Fausto-Sterling’s hope. Her essay has this revelatory
aim in common with Gilbert Herdt’s innovative historical and anthropological anthology *Third Sex, Third Gender*, which too was completed in 1993. In his preface and introduction to that volume, Herdt laments that people who do not fit ‘the sex/gender categories male and female’ have been ‘marginalised, stigmatised and persecuted’ in Western cultures even though ‘sexual dimorphism is not inevitable, a universal structure’ (1996, 11, 80). In consonance with Herdt’s anthology, Fausto-Sterling employs history to disclose that dimorphism is neither inevitable nor universal: in this fashion, in the ‘Five Sexes’, history is difference.

**Fausto-Sterling’s Herminology**

Yet Fausto-Sterling also posits a kind of difference, a sexual complexity, which is distinct from history – in the case of Suydam, such complexity takes the form of ‘physique’ and ‘mental predispositions’. Similarly, she reports ‘contrasts and subtleties’ between and within intersex conditions, which are ‘so diverse’ that they are detectible only through exploratory surgery (1993a, 22). Correspondingly, Fausto-Sterling hopes that in an ideal future, sexuality would be ‘celebrated for its subtleties’ (1993a, 24). It is perhaps, therefore, on the level of biology that the intricate sexual characteristics, for which the terms male and female ‘are not enough’, are located after all. Consider then Fausto-Sterling’s central claim about the creation of categories to accommodate this sexual complexity:

… the standard medical literature uses the term intersex as a catch-all for three major subgroups with some mixture of male and female characteristics: the so-called true hermaphrodites, whom I call herms, who possess one testis and one ovary …; the male pseudohermaphrodites (the ‘merms’), who have testes and some aspects of the female genitalia but no ovaries; and the female pseudohermaphrodites (the ‘ferms’), who have ovaries and some aspects of the male genitalia but lack testes. (1993a, 21)

There are no new sexes yet. The tone is taxonomic, the discourse anatomical. In this excerpt, Fausto-Sterling’s language employs the conventions of biology instruction in order to fold together knowledge of the names for features (taxonomy) with knowledge of the features themselves (anatomy). As if it were a biology textbook, the article introduces readers to an umbrella term, intersex, and then identifies the term’s ‘three major subgroups’. The strategy is remarkable because it mimes orthodox biological accounts of sexual difference (which it calls ‘the standard medical literature’) in order to borrow their rhetoric of incontestability, but then adds, initially through abbreviation (‘true hermaphrodites’ is innocuously compressed to ‘herms’), two adventurous new labels – ‘merms’ and ‘ferms’.

Proof positive that for Fausto-Sterling describing intersex is a political pursuit, the proposed subgroups proved to be as contentious as they were audacious. Denounced as ‘maddening’ in the *New York Times* by the Catholic League for
Religious and Civil Rights (1995), Fausto-Sterling’s terminology – a herminology – was adapted by writer Melissa Scott to become ‘lems’, ‘herms’ and ‘fems’ in her 1995 novel, Shadow Man, which won a queer science fiction award from the Lambda Literary Foundation. Nevertheless, one correspondent to the Sciences, R.P. Bird, savaged Fausto-Sterling’s proposals as ‘deranged’ (1993, 3).

Next, in a manoeuvre that Bird calls ‘truly bizarre’, and which Fausto-Sterling later conceded ‘clearly … struck a nerve’, she proposes that the merms, ferms and herms are themselves sexes (2000b, 79). This proposition of five sexes emerges only after the authority of biology, which readers might have imagined to vouch for the existence of just two sexes, has been unravelled by history. I argue that this is because the proposition of five sexes requires language that is not simply biological; in making the controversial leap from the identification of ‘three major subgroups’ to the proposal that there are in reality five sexes, the tenor of Fausto-Sterling’s argument strikingly departs from biological description: ‘I suggest that the three intersexes, herm, merm and ferm, deserve to be considered individual sexes each in its own right’ (1993a, 21). This assertion, in marked contrast to its taxonomic precursor concerning sexual subgroups, is put forward in the language of values. Herms, merms and ferms here deserve to be considered sexes, each in its own right. A two-sex system is therefore berated by Fausto-Sterling as not merely factually erroneous, but as a schema ‘in defiance of nature’ (1993a, 21; my italics).

I am suggesting that the essay’s critical move to a five-sex system is notable for its consubstantiality with a move to the rhetoric of values. Whereas a subgroup ought to be acknowledged for the sake of scholarly completeness and scientific rigour, a sex, on the other hand, apparently deserves the right to acknowledgement. Because of this right, it would be politically wrong not to acknowledge a sex. This is significantly different to Fausto-Sterling’s assumption, which I have explored above, that describing intersex biology is an inherently political project. The difference is that at precisely the point where she proposes five sexes, Fausto-Sterling’s rhetoric of values indicates that the description of intersex biology is political only because non-binary sexes have an intrinsic right to be recognised. This right motivates, but also exceeds, the sexes’ accommodation in the descriptive language of biology.

Moreover, for Fausto-Sterling the extent and variety of sexual difference in general, beyond intersexuality, warrants similar credit. ‘I would argue further that sex is a vast, infinitely malleable continuum that defies the constraints of even five categories’, she continues (1993a, 21). Although the declaration that sex is a continuum might seem initially to be descriptive, her statement’s force is not situated in the continuum’s facticity – because no direct evidence is presented of this inexpressibly ‘infinitely malleable’ array – but instead is located again in the language of rights. The proposal of a sexual continuum is a call for the valuation of a sexual diversity radically resistant to the biological taxonomy of categories and subgroups. ‘No classification scheme could more than suggest the variety of sexual anatomy encountered in clinical practice’, Fausto-Sterling cautions later in the essay (1993a, 22). Expressed in the vocabulary of values rather than the language of anatomy, this continuum is said to defy the constraints of even a five-sex system from which it deserves the right to be free.
To recapitulate, Fausto-Sterling is doing more than pointing out factual errors in embryology and sexology. She is using exhortative language to contest the enforced containment within *any* taxonomic discourse of sexual diversity. So, in addition to what Fausto-Sterling’s pivotal essay says about the need for a five-sex system, it also demonstrates intriguingly such a system’s redundancy.

**Politics of Passing**

To explain why the project of articulating why ‘male and female are not enough’ would dovetail with the redundancy of descriptive language about intersex (in the form of an admission that five sexes too are repressively taxonomic), we need to revisit the story of a person who did not describe himself as a member of a non-binary sex: Levi Suydam.

Immediately following the story of Suydam in the ‘Five Sexes’ is an assertion by Fausto-Sterling that ‘Western culture is deeply committed to the idea that there are only two sexes’ (1993a, 20). The statement frames Suydam’s story as notable for the reason that it demonstrates the unfairness of a commitment to two sexes. The crudeness of the binary sex ‘idea’ is hereby set up in opposition to the complexity of Suydam’s physique and mental disposition. However it is not obvious that Suydam’s story should bear upon Fausto-Sterling’s call for the recognition of five sexes. Actually, the story shows that Suydam accomplished his aim – of casting a Whig vote – by finding politico-legal accommodation within a two-sex system.

Certainly the question that seems to be raised by the historical story is whether Suydam simply allowed the Connecticut physician to make a mistake, in order to pass as male and to obtain male privilege. I want to argue, though, that this is the wrong kind of question to ask, because it presumes the possibility of a descriptive correspondence between the identification of one’s genitalia (penis, vagina, clitoris, etc.), and one’s identity as a member of a sex (male, female, hermaphrodite, ‘merm’, etc.). If one understands Suydam’s passing as merely an instance of a discrepancy between a person’s intersex biology, and the way that person’s biology is described (in a two-sex system that is ‘not enough’ to permit an accurate description), then there are two mutually exclusive ways of characterising the significance of an intersexed person’s passing.

On the one hand, ‘When someone is discredited, a degree of hiding is always required’, Herdt writes in *Third Sex,* and the fact that passing occurs in many instances of third sex and gender suggests that power commonly sanctions reproductive ideas and dimorphic roles’ (1996, 79). In this view, an intersexed person passes because their intersexuality is neither socially nor economically sanctioned. Not to pass would be to put oneself at a social and economic disadvantage. In Suydam’s case, it would have placed him at a political disadvantage too, for he would not have been allowed to vote. On the other hand, according to Julia Epstein’s 1990 commentary on sexual ambiguity in the journal *Genders,* ‘To marry, to vote, to teach, to love: the activities of ordinary social relations involve boundary crossing when
practiced by these [intersexed] individuals.’ This is because, as Epstein continues, ‘Social boundaries depend on difference and hierarchy’; therefore ‘Hermaphrodites highlight the privilege differential between male and female precisely because they cannot participate neatly in it’ (1990, 124). In this latter view, the intersexed person who passes is a transgressive hero, illuminating and subverting sexual power relations by even their smallest act of passing.

Both these views are reductive. To live in a body that cannot be adequately described by the labels ‘male’ and ‘female’ is neither necessarily subversive, nor does it automatically lead an individual to identify as a member of a third, fourth or fifth sex. For example, just as it is often sensible for gay individuals to avoid drawing attention to their sexuality in non-gay public spaces, in order to avoid homophobic violence, so too are transgendered individuals in transphobic environments usually safer if perceived by others to be non-transgendered. As Leslie Feinberg showed in hir novel *Stone Butch Blues* (2003) – published, like the ‘Five Sexes’, in 1993 – this is not a matter of capitulation to dominant prescriptions concerning sexuality and gender. When sexually dissident individuals pass as non-gay or non-transgendered, they do not robotically become apolitical and acquiescent. In the face of the threat of violence, they are often being simply canny. Similarly, Suydam was, it seems, content to be identified as a man. ‘With Suydam safely in their column the Whigs won the election by a majority of one’, records Fausto-Sterling (1993a, 20). That Suydam was classed male by the local physician made possible nothing less than his political participation in nineteenth-century history.

My analysis shows that Suydam’s story thematises a crucial distinction which Fausto-Sterling does not make: the difference between describing the existence of more than two sexes, and identifying as a member of a non-binary sex category. It is arguably the case that, on an individualistic level, the two-sex system worked in Suydam’s favour, because it enabled him to claim the male right to suffrage, and to be recognised as a man within the public sphere, while simultaneously embodying certain ‘feminine propensities’ and enjoying calico.

Having made explicit this difference between identifying intersex and identifying as intersexed, I think we can appreciate the curious way in which Fausto-Sterling both advances and retracts the proposal of five sexes. That curious turnaround is not a contradiction in her argument, but a measure of the contradictory cultural position of intersexuality – subversive and subverted, transgressive and regulated, hidden and yet strenuously searched for, all at the same time. If identifying as a member of a third, fourth or fifth sex can lead to disenfranchisement, then a five-sex system is not an escape from, but a symptom of, the ‘suffocating identity politics’ precipitated by the social (in Suydam’s time) and medical (in the late twentieth century) ‘disciplining’ of intersexed bodies.

To draw together the threads of my analysis so far, it might be true that Suydam’s anatomy could be described as neither female nor male but as something else; indeed, Suydam may have referred to it thus in private. Likewise, when sexual dissidents pass in public, they do not automatically negate the sexualities and sexes that they claim within their communities, or privately among their families and lovers. Therefore it is not the case that the physician just used the wrong term
‘male’ – to identify publicly Suydam’s sex. Rather, my contention in the next part of this chapter will be that the sex that one claims as an identity is not a matter of description at all, but of socially situated values.

**Identities as Evaluative**

In an important paper, titled ‘Identity Judgements, Queer Politics’, Mark Norris Lance and Alessandra Tanesini have argued for a non-descriptive understanding of identity claims. Along with other queer theorists such as Alan Sinfield and Judith Butler, Lance and Tanesini reject ‘the tired, and by now tiresome, argument that identities presuppose essences’ (2000, 42). Essentialism presumes that a person’s social identity correlates with, and is motivated by, some fixed aspect of a person’s character or body. For instance, feminists like Germaine Greer and Janice Raymond have proposed that male-to-female transsexuals are not women because for Greer and Raymond the identity ‘woman’ is necessarily and essentially linked to certain experiences and body parts, such as a girl’s childhood, and the possession of XX chromosomes (Greer 1999, 64–74; Raymond 1979). In this essentialist view, an identity is a description. Consequently, a correctly claimed identity is neither more nor less than the attributes and experiences to which it refers; if the latter are not present in an individual, then the former is false, because the individual does not match the criteria (such as the possession of XX chromosomes) described by the identity (such as woman). Lance and Tanesini note that the reasons for the rejection by queer theorists of essentialist models of identity have centred upon the perceived limitations on sexuality and pleasure that essentialism entails (2000, 42). For example, essentialism can’t explain the significance of cross-gender identification in sexual fantasies; in an essentialist account, such fantasies are simply descriptively incorrect.

In like manner, as we have seen, Fausto-Sterling objects to the reining in by medicine of sexual diversity. Her concerns are borne out by Chase’s follow-up letter to the *Sciences*, wherein Chase boldly founded the Intersex Society of North America (ISNA), which has become the foremost intersex patient advocacy group (1993, 3). In her letter, Chase discloses, ‘Unfortunately, the surgery [for intersex] is immensely destructive of sexual sensation as well as one’s sense of bodily integrity.’ For many post-surgical patients, left ‘wishing vainly for the return of body parts’ – as Chase puts it – an identity that presupposes a sexed bodily essence is a bitter impossibility. In its removal of body parts such as the clitoris, genital surgery tampers with the descriptive correlation that essentialism presupposes between an individual’s attributes and identity.

For instance, intersex surgery raises for essentialism the question of how many of the body parts described by the essentialist identity ‘man’ would need to be surgically removed before an individual ceased to be describable as a man. But Chase’s point in her letter, with which I agree, is that the issue faced by post-surgical intersexed individuals is one of identifying as a sex even without meeting
essentialism’s descriptive criteria. ‘I get a kick out of it’, intersexual Hale Hawbecker has written, ‘when a male friend says, “Hale, you have balls”. I have been tempted to laugh and tell him, “No I don’t, actually, but then I have not really missed them much either”’ (Hawbecker 1999, 113). Essentialism cannot explain Hawbecker’s wry and robust male identity, other than to say that it is descriptively wrong. And this is essentialism’s problem, not Hawbecker’s.

By understanding identity as a matter of the politics of values, we can formulate a better account of the identities asserted by individuals with atypical sex anatomies. This will be, moreover, a queerer account in its refusal of essentialism. It is apt for intersexuality, then, that Lance and Tanesini refrain from asking ‘what sexual identities might be’ (2000, 42). Instead, they hold ‘that questions about the importance of identity claims offer a better starting point’ (2000, 42). Their queer distinction regarding sexual identities (such as straight and gay) maps onto the analytic shift that I’ve advocated in my discussion of the ‘Five Sexes’ from the description of intersex to the significance of identifying as a particular sex. What is one doing – socially, politically – when one makes such a claim?

The key idea put forward by Lance and Tanesini is that an identity claim is evaluative. In other words, such a claim is principally and actively an instance of the politics of values. ‘In our view to claim an identity for oneself is to endorse a cluster of attitudes, behaviours and judgements on the part of oneself and of society, and to undertake a commitment to defend their appropriateness’, Lance and Tanesini submit (2000, 47). Put another way, one’s identity can be described – in terms of attitudes, behaviours and judgements – but when one claims that identity, one is offering to others not a description of the identity, but rather actively making a particular evaluative commitment, which in turn places a demand upon others.

To explain this, consider a vignette offered by Lance and Tanesini: ‘There is a world of difference in the significance of knowingly serving pork to someone who dislikes it and to a practising Muslim’ (2000, 44).1 To understand the relevance of this example, let us imagine that pork is being offered to guests at the dinner table. The guest who says, ‘I’m a Muslim’ when the pork arrives from the kitchen is claiming the identity ‘Muslim’. In so doing, he is neither indicating that he physically cannot eat pork, nor that he happens to dislike its flavour. In this way, an identity claim, such as ‘Muslim’, describes neither an aspect of an individual’s biological constitution, nor a character trait produced by social construction (2000, 42–3). The claim is not a description.

Whilst the Muslim who refuses pork at the dinner table makes an identity claim, a woman who declines pork because she does not like its flavour is not making any such claim. Moreover, even if the dislike of pork that she describes is biological, its biological aetiology does not make her refusal a matter of identity. Conversely, ‘I’m a Muslim’ is an evaluative statement that commits its speaker to certain behaviours and attitudes (including, of course, not eating pork), and, crucially, also invites respect from others for the speaker’s attitudinal and behavioural commitment.

1 The following discussion also adapts Lance and Tanesini’s examples of ice cream, socialism and motherhood.
This example shows that although an identity claim can of course be described (otherwise the vignette of the Muslim could not be offered), an identity claim is not itself descriptive, but actively evaluative.

In exactly the same way, a moral code is eminently describable, even though the code itself is not a description of behaviour, but an exhortation to behave in a certain fashion. My comparison of an identity claim with a moral code is not arbitrarily chosen, because I am suggesting that an identity claim is a type of moral code. Hence, where the identity Muslim is claimed but Muslim attitudes, behaviours and judgements are wholly absent from the identity’s claimant, the identity has been claimed erroneously, and for specifically moral reasons. That this error of identification is not merely a matter of an individual’s failure to match a given description is shown by the fact that, in contrast, although we might be surprised to learn that the woman who dislikes roast pork loves gammon, we would not expect her to defend her tastes, because the public expression of her tastes does not constitute an identity claim. But to act counter to the commitments that one endorses when one claims the identity ‘Muslim’ would mean quite simply that one was not a Muslim. The deficiency in that scenario is thus not descriptive but moral – even spiritual. An identity claim in this way constitutes a commitment, so the measure of its accuracy is the evaluation of its claimant’s integrity, not the determination of whether their language about identity is properly descriptive.

Counterintuitive as it may seem, I say that identity claims about one’s sex work in the same manner. Levi Suydam sought legal recognition for his male identity – not for his genitalia, or for his liking of calico. Similarly, the social, legal and medical endorsement pursued by pre-operative transsexual individuals illustrates how claims to be of a particular sex are not descriptive of one’s anatomy. A pre-operative transsexual woman, for instance, does not seek the social recognition of her pre-operative biology, but rather of the female identity that she claims. On this basis, I suggest that the claim to be a particular sex functions as an endorsement of sex-specific treatment by others, and symmetrically, that by identifying as a member of a sex, one places oneself under the obligation to act in a manner consonant with the behaviours associated with that identity claim. This is how a person passes. Divergence from such behavioural and attitudinal values is possible, but tends to necessitate an explanation – sometimes under threat of violence. And that is why a person passes.

What I’m arguing, then, is that the relation between one’s identity and one’s politics is, through and through, a matter of values – both personal and social – not of descriptive correspondence. This ‘politics of values’ offers a way forward from Fausto-Sterling’s faltering descriptivism, because it opens a route to a discussion of why people would identify publicly as belonging to a sexual minority – whether gay, lesbian, or a third, fourth or fifth sex. Corroborating this, when in 2000 Fausto-Sterling would return to the idea of five sexes in the Sciences, she would begin with neither history nor biology but with Cheryl Chase and ISNA, commenting that ‘Intersexuals are materialising before our very eyes’ (2000a, 19). So although identification as a member of a sexual minority could lead to childhood genital surgery, it could also enable participation in a subculture (such as a patient
advocacy group) organised around the goal of claiming rights for one’s minority. Significantly, and contrary to Greer and Raymond, that goal does not depend on everyone in the subculture having the same biology or essence. Because identity claims do not merely reflect but are what Kate Bornstein calls the politics of values, I will conclude by contending that for political and moral reasons, even non-intersexed individuals should claim the identity ‘intersexed’.

**Descriptivism as Privilege**

At the start of this chapter, I suggested that to identify as either ‘female’ or ‘male’ seems politically inadequate for those of us who object to our surgical management, because such identities appear tacitly to endorse the normalising surgery (which Fausto-Sterling has called a ‘mode of discipline’) that we have received. Yet my analysis has shown that this problem is not caused by a descriptive shortcoming in the use of the terms ‘female’ or ‘male’ to name unusual bodies – instead, it’s because of the particular values that the identities ‘female’ and ‘male’ actively endorse. I want to propose that the burden of this problem ought to be borne not by people with atypical sex anatomies, but by the non-intersexed majority. Their refusal to identify as male or female would change the values associated with those identities by unfixing the terms’ descriptive force.

My proposal may seem akin to literary and film theorist Judith Halberstam’s argument that the postmodern fictitiousness of gender makes everyone transsexual, because genders and sexes are always already transposable, transitional and strange (1994, 226). But I am advocating a deliberate repudiation on moral grounds of male and female identities, not simply an awareness of how postmodernity allegedly destabilises essentialist notions of gender and sex. For comparable reasons, Lance and Tanesini argue that because ‘The primary social markers of a positioning as straight are the trappings of privilege’, people who are not gay, and who have a commitment to sexual diversity, should refuse the identity ‘straight’ (2000, 49–51). To the extent that an identity claim to be of a particular sex is an evaluative endorsement of a way of being treated, and of one’s entitlement to behave in certain ways, the identity claims ‘male’ and ‘female’ cannot be appropriate, because they endorse and perpetuate one’s access to unjust privileges. One of these privileges is descriptivism itself.

I argue that descriptivism, far from standing in value-free opposition to evaluative language about identity, is itself a value system. And it is morally deficient. In underpinning the essentialist accounts of identity that I criticised above, descriptivism disenfranchises intersexed individuals. Further, as my discussion of Suydam and Fausto-Sterling indicated, such disenfranchisement does not occur just because there aren’t enough terms to denote intersexed anatomies. If that were the case, then intersex would remain in principle describable, requiring only additional sex categories for its accommodation. That would mistake part of the problem for the solution. Rather, it is specifically unwanted genital surgery
– with its aim of making genitals describable – that causes the cultural dominance of descriptivist accounts of identity to be agonisingly disenfranchising for people with unusual sex anatomies. This is because post-surgical individuals, as I stated at the beginning, find ourselves in the unreasonable position where no description of one’s surgically modified sexual anatomy seems right, even though a description of one’s pre-surgical sex seems politically necessary.

It is this dilemmatic position that fundamentally distinguishes intersex politics from transgender and transsexual politics, because the ability to identify one’s sex has been fractured by surgery in a morally and physically injurious way that is irreparably prior to the desires and identifications of the individual in the present. In contrast, trans politics tends to centre on the realisation of desires and identifications that are knowable to the trans individual, and which require merely social acknowledgement. The problem of intersex surgery is that it can render an individual irrevocably uncertain over how to describe their desires and identifications in the first place; any description seems perilous, because it is an unwitting reiteration of the descriptivism that has been so objectionably inscribed into one’s body by genital surgery.

Consequently, the identity claims ‘male’ and ‘female’, when made by people with non-intersexed anatomies, are morally indefensible because they constitute a commitment to the descriptivism that disenfranchises intersexed individuals. Now, this is different from Bornstein’s point, made in the year following the ‘Five Sexes’, that a person who identifies as ‘male’ or ‘female’ perpetuates ‘the violence of male privilege’ (1994, 74). I appreciate the feminist value of Bornstein’s insight, but as the writings of Greer and Raymond demonstrate, there is no necessary overlap between feminist and intersex politics. Indeed, some feminists regard intersex politics as anti-feminist, because they consider the description of individuals as either male or female to be prerequisite to social justice. For the purposes of distinguishing intersex politics from feminism, my recommendation that non-intersex individuals should relinquish the identity claims ‘male’ and ‘female’ shifts focus from the inequalities between men and women (critiqued by feminism) to the injustice of descriptivism that is peculiar to intersex treatment. Descriptivism devalues intersex, so descriptivism should be devalued, via the repudiation of those identity claims that reinforce it.

Finally, if my suggestion seems impractical, consider Suzanne Kessler’s letter to the Sciences, written in response to Fausto-Sterling (1993, 3). Kessler agrees with Fausto-Sterling that the positive valuation of intersex is a worthwhile goal, but she argues importantly for its achievement by means that are directly converse to Fausto-Sterling’s proposal of five sexes. Fausto-Sterling’s project ‘ignores that in the everyday world gender attributions are made without access to genital inspection’. According to Kessler, in a remark that captures queer theory’s dramaturgic zeitgeist during the first half of the 1990s, it is ‘the gender that is performed, regardless of the configuration of the flesh under the clothes’ that takes precedence in everyday life. Writing again in the Sciences in 2000, Fausto-Sterling would agree with Kessler that ‘It would be better for intersexuals and their supporters to turn everyone’s focus away from genitals’ (2000a, 22). If Kessler is correct that in everyday life the
emphasis is on gender performance, not genitalia, then this certainly means that intersexed people (like Suydam) can pass as ‘male’ or ‘female’. But it means equally that people who identify currently as ‘male’ or ‘female’ can – and I think, should – pass as intersexed.

Suggested Further Reading


References


Why Five Sexes Are Not Enough


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