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Possibility, legitimacy, and the new ontologies of choice: a comment on Brubaker

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ABSTRACT

In *Trans*, Rogers Brubaker makes a major argument about the contentious politics of the contemporary self. In this commentary, I first lay out what I think is the solidity of the book's contrasting tableau of the functioning of race and gender in American society and beyond. I then point to Brubaker's bundling together of issues of legitimacy and issues of ontology and begin to imagine what alternative analyses can come out of their unbundling – suggesting that race and gender are perhaps more analogous social formations than *Trans* argues. Finally, I bring attention to the role of ontological hierarchy in the formulation and policing of identity claims and conclude that the return of biology and the new empire of choice may not be two parallel, independent developments but one and the same process. Theoretically, I amplify one of the book's epistemological contributions by calling for a reflexive turn in social-constructionist thought.

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In *Trans: Gender and Race in an Age of Unsettled Identities* (2016), Rogers Brubaker takes a two-headed, chiasmatic American story about the possibilities and impossibilities of identity shift – why Caitlyn Jenner was able to become a woman while Rachel Dolezal could not become black – and turns it into a major argument about the contested politics of the contemporary self. In this commentary, I lay out what I think is the solidity of the book's contrasting tableau of the functioning of race and gender in American society and beyond. Then I point to Brubaker's bundling together of issues of legitimacy and issues of ontology and begin to imagine what alternative analyses can come out of their unbundling – suggesting that race and gender might perhaps be more analogous social formations than *Trans* argues. Finally, I offer to amplify one of the book's silent epistemological revolutions by calling for a reflexive turn in social-constructionist thought.

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Givness and chosenness as categories of practice

Among others of his trademark contributions, Rogers Brubaker consistently warned us throughout his career about the pitfalls of confusing categories of practice and categories of analysis (Brubaker 2012). The stance may have sounded positivistic to detractors of Bourdieu's and Bachelard's "epistemological rupture" (Bourdieu, Chamboredon, and Passeron [1968] 1991), but this would have been neglecting a fairly anti-positivistic implication of distinguishing between the two uses of categories: the prohibition for researchers to legislate on everyday categories of practice. *Pace* Durkheim ([1912] 1995), however you define religion in a sociological study, for a given purpose, gives you no right to impose this definition on people's practical concerns and to dismiss their own categories as "prenotions". What happens, then, when the categories in question are so closely tied to the history and identity of the social sciences as in the opposition between naturalness and social construction? Can analysis so easily be separated from practice, and *vice versa*?

As an advocate of ethno-racial constructionism against essentialism, Rogers Brubaker has, in several books and many articles, defended social construction as a tool of analysis and set of objective empirical findings (Brubaker 2002, 2004, 2013; Brubaker et al. 2006). He insisted on the contingency of ethnic taxonomies and on the unequal salience of ethnicity – a measure he offered to dub "ethnocity", after "religiosity" – depending on places, moments, and situations. Already in Brubaker's 2015 book, *Grounds for Difference*, one chapter on the "return of biology" suggested his approach may take a new direction. The most obvious reason was that he went beyond ethnicity to compare race and gender as two regimes of differentiation and inequality, beginning to insist not so much on their similarities as on their differences. In so doing, he departed from purely analogical thought while avoiding the blanket refusal of systems-level comparison often attributed to intersectionality theory. But the comparative focus came with a more fundamental shift. Instead of simply weighing the pros and cons of social construction and biological determinism as tools of analysis, Brubaker considered the cultural authority of biology and made it an *object* of analysis (see Morning 2011). In so doing, he laid the path for quite a different research programme, one studying constructedness and unconstructedness, nature and culture, givenness and chosenness, essentialism and anti-essentialism, mutability and immutability as dichotomies of practice.

Then came the more explicit realization found in *Trans*: that the "return of biology" is not eclipsing a putatively subjectivist parenthesis. Rather, biology and subjectivity, genes and feelings turn out to be equally contemporary and comparably potent sources of truth about the human person, competing in the new political-ontological race to be the primary locus of identity.

Sex vs. race?

The book's empirical argument is built around the contrast between gender and race as "different systems of embodied difference" (151). There is perhaps a tension here between this quest for an explanation of systemic differences and the more classic and possibly more scholastic exercise in political sociology that consists in mapping and "clarifying" positions on a given issue. True, Brubaker does provide hints as to why some commentators take a stance on one topic that may seem at odds with their stance on the other one (noting, for example, that "cultural conservatives" are more committed to gender norms than to racial segregation). But *Trans* is more interested in what this pattern of positions – and, chiefly among them, why there are so few racial "voluntarists" compared with an emerging liberal consensus against gender essentialism – says, not about the debaters, but about the nature of race and gender as two distinct contemporary social formations.

Brubaker walks a tight rope well known to social scientists: on the one hand, his exploration of "thinking with trans" implicitly acknowledges that these two axes of power and difference *could* function the same way; on the other hand, the bulk of his analysis is devoted to explaining how they do not, and why it was unlikely anyway. It is indeed no small irony, he notes, that although the biological foundations of sex are more solidly grounded than those of race, sex is increasingly thought of as something that can change whereas intra-generational racial migration is frowned upon as "not a thing" (6). Why is there no one to argue for gender essentialism and racial voluntarism given that gender is more fundamental to human identity than race? Brubaker provides a set of convincing historical and political arguments to elucidate the paradox, but perhaps the most compelling explanation goes beyond mere historical contingency. Indeed, whereas "sex determination begins anew with each generation" (138) and is "increasingly understood as an identity solely owned and controlled by its individual bearer" (146), he observes, race can hardly abstract itself from intergenerational references. In other terms, "the individual owns her body, but not her ancestry" (141).

Not that the "cultural authority of biomedical science" (65) has closed off possibilities for racial trans-ness, to the contrary (Morning 2011). As the emergence of the one-drop rule in post-slavery U.S. history illustrated, racial betweenness itself is "a matter of interpretation" (102) and does not automatically come with mixed ancestry: it can be made to symbolically appear and disappear. Thus, although the increasing cultural salience of racial mixedness in twenty-first century U.S. culture and society is often attributed to the rise in intermarriages, the latter alone does not explain the retention of mixedness as a "social convention" (102). Ironically, mounting biological fetishism might have played an equally important role in the recent waning of hypodescent

as intermarriage itself. Thanks to autosomal tests, for example, which allow inquiring about racial ancestry in gradated terms, biology does argue for racial mixedness – the trans of between if not always the trans of beyond, to borrow from Brubaker's typology. Indeed, genetically validated mixed ancestry not only authorizes but *demand*s "affiliative self-fashioning". In past decades, U.S. citizens have switched from black to mixed, or white to Native American, in greater numbers than before.

Most of the time, however, choosing does not mean changing. The "cultural logic of authenticity" allows for sex change but makes race change almost a contradiction in terms, at least intra-generationally. If, Brubaker argues, terms like "cis-racial" and "transracial" are currently out of reach, it is because there are no widely available tools for thinking of race as subjectivity in ways that would make it autonomous from physical appearance and biological ancestry. In the realm of racial identity, the trans of travel is less easily embraced than the trans of between. One can identify *with*, but not seriously *as* a race that is not already validated as part of one's heritage.

"Possible and legitimate"

Brubaker's analytical contrast between the possibility of transgender and the impossibility of transracial – at least when migration is concerned – is illuminating in many ways. Yet, in the remainder of this comment, I would like to argue further in the direction of sameness, and suggest some of the observed differences may be more superficial than it appears.

First, as it happens, the tension between objectivity and subjectivity traverses both systems of difference and does not allow any clear divide along which race would sit on the side of objectivism while gender would embody the new subjectivism. On the one hand, for race as much as for gender, the language of subjectivity is not only present in the formulation of identity claims but also their policing. The requirement of serious subjective identification can be elevated as a psychological condition for physical sex change; it can be used to dismiss opportunistic uses of ethnic-minority ancestry as mere "box-checking"; it can inform African-American suspicion over the racial consciousness of first-generation black immigrants (62). On the other hand, in the realm of gender as in the realm of race, change is often justified in the name of the unchosen and subjectivity needs to be backed up by objectivity (Meyerowitz 2002). "The language of givenness, essence, objectivity and nature is deployed not only by those who *contest* the legitimacy of certain identity claims but also by those who *advance* those claims" (64, emphasis in the original), *Trans* aptly notes.

Second, the book's ostensible mixing of issues of axiology and issues of ontology may lead it to exaggerate the race-gender contrast. Tellingly, the two guiding questions of its "field of argument" (21) are "can one legitimately

change one's gender?" and "can one legitimately change one's race?" (22). Brubaker contrasts the essentialist position, according to which race and/or gender "cannot legitimately be changed" (21) with the voluntarist position, according to which they "*can* legitimately be changed" (21, emphasis in the original). The author claims to assess "the possibility and legitimacy of moving between categories" (43) and to explain what makes it "easier and more legitimate to choose and change one's sex or gender than one's race or ethnicity" (139). Even when the book makes a distinction between the issue of "objectivity" and that of "appropriation" (two themes present in the Doelezal controversy), the question of objectivity appears suffused with the question of legitimacy (37), and follows an order of priority dominated by the latter: *if* legitimate, *then* possible. One might want to interrogate this a priori intertwinement of ontology and axiology. The latter defensibly reflects a de facto interlacing of the two issues in reality itself. For example, access to protected subordinate categories – male-to-female transgender, white to black – is now more heavily policed than upward migration because it is seen as an illegitimate attempt at stealing hard-fought civil rights protections that were originally devised against the advantages of the downward migrant's origin category. However, such bundling together may also oversimplify the relation between legitimacy and possibility and blind us to some subtleties of trans claims and their societal policing.

After all, one of the reasons intermarriage between whites and blacks in the U.S. was considered illegitimate was because race shift between generations was deemed possible. Brubaker similarly reminds us about activists critical of the adoption of black children by white families that

it was precisely their concern that transracial adoption *could* lead to changes in racial identity – in particular to the loss of one's authentic identity for want of social support for it – that underlay their commitment to strengthening and stabilizing racial identity. (20, emphasis in the original)

Many things that are illegitimate are so precisely because they are possible – indeed, illegitimacy for the most part rests on possibility. Conversely, could it be that some ontological changes are judged legitimate *because* they are deemed impossible? What happens to ontology when legitimacy and possibility come to be seen as two separate domains?

Police, ontology, hierarchy

It turns out that the "policing of identity claims" (56) does not always take the form of prohibition. Beyond the possible and the impossible, mapping ontology – needless to say, as an "ontology of practice" – unavoidably confronts the analyst with ontological hierarchy: between essence and appearance, being and doing, authenticity and performance, the legal and the real or, more to

the point, nature and culture, sex and gender, race and ethnicity. After all, *Trans'* analogy with international migration (74–80), whose metaphoric deployment is felicitous to a point, conjures up a human domain in which policing often takes place not by preventing mobility but by a gradation of rights and statuses for those who moved across borders anyways (Chauvin and Garcés-Masareñas 2014). As a political sociologist, Brubaker is very much interested in rights and legitimacy – and the focus on concrete rights is of course amply justified in order to account for what the new regime lets you do and does not let you do. Thus, the book is convincing when it maps the rise of performative “self-identification” as *legally* sufficient to change sex in a small but increasing number of countries. However, there are different ways to allow something. For example, western states’ new relatively liberal focus on identity rights could be read as a pragmatic move to separate the question of rights from the question of truth, or even a way of giving up on legislating truth altogether. In the realm of identity politics, this begs the question not of *whether*, but *how much* objectivity is really attributed to the “putative objectivity of the subjective” (136). What happens to the truth of identity when identity is thought to determine its own truth? Does “I am” mean the same thing in a world made of two sexes thought of as unchosen and in a world where a social network offers its nearly two billion users to pick one among seventy-one “gender options”?¹

Brubaker rightly claims that “movement between sex categories has achieved broad public acceptance” (90). But what one means by acceptance is another matter and the book may be lacking a sufficiently precise sociology of acceptance. Indeed, the contemporary gender regime is more ambivalent about sex change than *Trans* states, although the book’s conclusion acknowledges ominous political limitations, such as with the conservative contestation of so-called bathroom bills in the U.S. (149; see Schilt and Westbrook 2015). True, quite similarly as for race, newly empowered biological fetishism has made it easier to recognize and validate intersexuation and other forms of physical gender continuity – the trans of between. It has made all the more necessary for the sexed body to reflect the gendered self in some objective form, with or without a surgical operation. But the same fetishism may have simultaneously made sex change ontologically more problematic. Although it could have been otherwise, the modern construct of sex in many ways involves the idea that one cannot *really* change it, until perhaps genetic engineering make it possible to “invoke the symptom” of biomedical authority.

As Brubaker’s book notes after others, so many trans ontologies do not claim to change sex: this is the case, for example, when “gender” change is deemed sufficient regardless of what happens to physical sex, or when bodily change is carried out in order to match a mismatched but unchanging sexed subjectivity (Mak 2012). This is also the case of the “trans of beyond”, whether it involves differentialist demands for recognition *as* trans men and

women, or the unbundling of various bodily transformations traditionally associated with sex change (114–116). But, although the trans of between and the trans of beyond can be hailed as victories against rigid categories, they can equally be interpreted as performative heeds to the contemporary unattainability of the trans of migration.

Indeed, in the realm of race as in the realm of gender, fully successful shifts requires concealment (which, the book notes, itself often demands actual geographical migration). What is the status of an ontological change that is only possible when it is hidden? Contrary to what *Trans* implies, “sex assigned at birth” does not play a radically different ontological role as racial ancestry in symbolically preventing complete categorical migration – perhaps even a stronger role given that it constrains *intra*-generationally rather than *inter*-generationally. Both racial and gender shifts remain symbolic operations whose full epistemological success rest on their own erasure or, in the case of Caitlyn Jenner, the universal knowledge and agreement typical of collective secrets, “the best-kept and worst-kept of secrets (since everyone [keeps them])” (Bourdieu [1980] 1990, 114). Even collectively validated as a post-operative “ex-transsexual”, it is likely that Caitlyn Jenner will forever “not [be] located in the same category space as ‘man’ and ‘woman’” (115), not of her own choosing but given the very publicness of her past and transition. The question of political legitimacy appears secondary to this economy of collective ontological good faith. Even if Rachel Doeelzal had lived through the “burden” of racism due to an earlier cross-race performance (say, from age 5), even if Caitlyn Jenner had modified her body and physiology while a teenager, the burden would make their claims more *legitimate* (say, from a feminist or anti-racist perspective) but, in today’s dominant ontology, the burden itself is unlikely to make the being.

The social construction of social construction

A lot had been said up to now in gender and race scholarship about the cultural construction of nature (Butler 1991; Guillaumin 1995). By contrast, however, there had been very little on the cultural production of “culture” (or the thematization of the social as “social”) even though the construction of nature and the construction of culture are evidently two sides of the same process. This was because critical social scientists were too busy defending social constructionism as a tool of analysis. In this intellectual context, by assessing the cultural authority of social constructionism along that of biology and other possible “sources of the self” (Taylor 1989), *Trans* can be read more broadly as an invitation to take a reflexive turn in social-scientific reasoning, one that has vague counterparts in some corners of anthropology (Schneider 1984; Descola and Pálsson 1996; Descola 2013) but had yet to be given sociological teeth.

Indeed, compared with Brubaker's earlier work, *Trans* carries out a discreet epistemological shift by considering social-constructionist claims about gender and race no longer as mere analytical findings to argue *with* but as *sui generis* social facts deserving distinct sociological analysis. To use a second-degree version of the famous Thomas theorem, if humans define social constructionism and its statements as real, then they are real in their consequences. True, the type of artifactuality uncovered by social-constructionist approaches cannot be equated with subjectivist truth-claims. On the one hand, social constructionism itself is marked by the objectivist–subjectivist polarity and can be deployed as much to bolster identity claims as to deconstruct them. On the other hand, as *Trans* notes and as we saw earlier, claims based on subjective identification often use the language of objectivity and unchosenness. Yet, when contrasted with the deeper immutability and exteriority of biological processes, the cultural sources of identity made available by the social sciences are clearly located on the side of performativity, chosenness, changeability and (collective or individual) subjectivity. Thus, I see *Trans*' inquiry into contemporary ontologies of choice as a step towards a reflexive and pragmatic sociology of "social construction".

At times, though, the book reverts to evaluating naturalness and construct- edness as tools of analysis, which can be confusing (110). Rogers Brubaker also spends a lot of time categorizing about modes of categorization, as when he offers to distinguish between "liberal, radical, and performative forms of political opposition to racial categorization" (124), testifying to a legislative and nomothetic ambition which is perhaps at odds with the book's implicit post-categorical stance. By showing clear preference for "anticategorical categories" in the realms of race and gender, Brubaker normatively positions himself close to the "identity without an essence" of queer theory (Halperin 1995, 62). For the book, welcoming "the greater awareness of the construct- edness, artificiality and elasticity" of categories (146) nevertheless risks slipping back into approaching performativity as something "out there" that reflexive modernity would simply uncover.

"There is no deep identity, no being apart from doing", states Brubaker, summarizing the new "performative understanding" of racial identity; "identity is performance all the way down" (145). *Trans* also cites Riki Wilchins finding that "gender refers not to something we are but to something we do", and Holly Boswell proclaiming that "gender may be nothing more than a personal matrix of personality traits" (116). Brubaker convincingly argues that the performative turn has contributed to "the declining authority of ancestry over racial and ethnic classification" (145). But the sole focus on the opening up of possibilities risks forgetting that, like "betweenness", performativity is itself "a matter of interpretation" (102). What, then, does the performative turn really perform?

What happens to ontology when ontology is thought of as performativity? And what new ontologies are generated by the new dramaturgy? Answering this question would require further empirical investigation into the social and symbolic effects of the performative turn in popular culture – a project which is beyond the scope of this commentary but which I aim to undertake elsewhere. I nevertheless suggested here already that, as a category of practice within and without academia, “performative identity” tends to performatively devalue identity along a new ontological hierarchy. Saying that gender and race are not something we are but something we do may contribute to making them just that way by rendering what we do less consequential for what we are. In many ways, thus, the performative turn is an ontological turn. Thus, the return of biology and the new empire of choice are perhaps not simply two parallel, equally contemporary developments: they could well turn out to be one and the same process.

Note

1. Although the conclusion of the book states that race and gender were “long understood as distinctly stable” (131), historical evidence from the U.S. – some of it addressed in the book – provides a more ambivalently fluid picture (Chauncey 1994; Roediger 2005), suggesting that some forms of identity stability have increased rather than decreased.

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