

Taking public responsibility for gender: When personal identity and institutional feminist politics meet

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Abstract

This essay explores the challenge that soft decertification poses for feminist politics. In soft decertification, people continue to have a formal legal sex/ gender status; however, public and other bodies act as if such status was no longer determinative (at least in certain contexts). As glimpses of soft decertification emerge, what are its implications for gender equality initiatives hitherto focused on addressing the asymmetrically patterned lives of women and men? What new ways of understanding gender are coming to the fore, and what challenges arise for bodies engaged in equality governance in trying to address them? This essay explores these questions through the prism of responsibility - the ethical, political, and legal obligation to pay attention or respond that different bodies have because of their capacity to undo or ameliorate social inequalities and other injustices. Specifically, it asks: What does responsibility for gender entail when gender is treated as both institutionalised and self-determined; public and private? The essay addresses two contexts where equality governance approaches gender as a site of institutional re-making and redress. The first concerns the front-stage initiatives and policies of public sector provision; the second concerns the back-stage scenes of organisational action, where informal decision-making arises. In both cases, taking responsibility for gender, as an institution, is far from straight-forward. This essay explores the importance of doing so - not just despite, but because of, the complex conditions responsibility confronts when institutional forms also exist as individual attachments.

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Introduction

In the global north, understandings of gender are shifting as the unquestioned assumption of two natural sex-based groupings is shaken. In Britain, the prevailing view still seems to lean towards perceiving gender as binary and relatively stable (see Peel and Newman, this issue). However, momentum is building for an account of gender as personal, self-determined, and plural (e.g., Cannoot and Decoster 2020).¹ Proponents and many commentators view this understanding of gender as progressive. However, it has encountered criticism on different grounds. Sex-based rights feminists argue that it diminishes the significance of biological sex – which they deem a stable feature of life and at the heart of women’s oppression (see Jeffreys 2014; Sullivan 2020). Others object to the decentring of gender’s systemic or structural character, which arises in moves to depict gender as individually authored or possessed (see Venditti 2020; more generally, Walby 2007).

Competing accounts of gender as identity-based, sex-derived, and structural have faced each other in different fora and decision-making processes, including admissions policies for women’s refuges, transgender policies in schools, admittance to women-only parliamentary shortlists, census questions and guidance, toilet signage, prison allocation procedures, women’s sports, university ‘no platform’ decisions, and employer policies on acceptable speech.² One site where disagreement has arisen concerns the cluster of proposals currently emerging to de-register, de-classify or decertify sex/ gender (e.g., see Cruz 2002; Cooper and Renz 2016; Quinan et al. 2020).³ Our focus in this Special Issue is the last: decertification – where the state (and state law) withdraws from registering, assigning, or confirming an individual’s sex/ gender status. As Robyn Emerton and I discuss (this issue), different versions of decertification exist.

¹ See also <https://yougov.co.uk/topics/politics/articles-reports/2020/07/16/where-does-british-public-stand-transgender-rights>; last accessed 17 August 2020.

² For arguments on different sides, see Hines 2020; Jeffreys 2014; Murray and Blackburn 2019; Pearce et al. 2020; for further discussion and sources, see other articles in this Special Issue.

³ Whether and how to use the language of gender, sex, or sex/ gender is a source of considerable dispute. In this article, I use gender to foreground the social manifestation and production of differences organised in tighter or looser fashion around the social relations and categories of male/ female, masculine/ feminine, recognising these terms continue to have salience for gender categories and politics that reject their binarism. In the analysis here, gender encompasses and constitutes sex as socially meaningful. This does not mean that sex refers only to ideational processes. Both gender and sex are materially (including bio-socially) generated and enacted in ways shaped by spatial, economic, and techno-historical processes among others. I use sex/ gender in those instances where either or both terms apply or where I want to indicate disagreement over which term is applicable.

The version we address in this Special Issue does not remove sex/ gender from state purview as a matter of equality and social justice concern. However, its implementation would mean people no longer have a formal sex/ gender status – placing gender on a par with sexuality or ethnicity, organising principles of inequality that state law recognises for remedial purposes without people being formally assigned to a category.

The proposal to decertify sex/ gender seems, at first glance, to align with an understanding of gender as identity-based.⁴ Termination of the currently standard process of registering sex at birth supports, it would seem, a process in which individuals choose (or come to know) their own identity on their own terms (see also Jenkins 2018). Indeed, one justification for decertification is that if sex and gender become (recognised as) self-authorized identifications, they no longer have a necessary or sensible relationship to formal legal status. This has led some feminists to criticise both gender self-identification and decertification (see Cooper and Emerton, this issue). Yet, decertification can be tied to more social (or structural) critiques of gender. Decertification is a legal technique of withdrawal that may help to diminish gender's organising power. While the effects of decertification can only be speculated upon, it appears to support gender's undoing as a formative aspect of society in several significant ways. Decertification would enable people to live without an official sex/ gender status; it would disrupt the confident allocation of people to categories, which gender as a hierarchical ordering process relies upon; and perhaps most provisionally, it might disturb the normalisation of sex/ gender as something that *belongs* to individuals. In these different ways then, decertification could withdraw a taken-for-granted legal bolster holding our current sex/ gender system in place.

At the same time, and in many respects, decertification is a modest act, one unlikely by itself to significantly transform how sex/ gender is socially organised. In discussing decertification with critics, as part of our ESRC project, *The Future of Legal Gender*,⁵ several people commented that decertification would be ineffectual, premature, and utopianly unviable. One union official remarked when interviewed,

⁴ The focus on self-authoring or self-identifying one's gender also aligns with a gender-as-diversity approach (see Cooper 2019a).

⁵ <https://futureoflegalgender.kcl.ac.uk/>

“I can see the government thinking, this is an easy way for us to say that we are addressing sex discrimination and gender inequality. We will just say that sex doesn't exist anymore. ... And then, because sex doesn't exist, sexism doesn't exist. I don't know how that helps women.”

A council officer made a similar point:

“It makes certain things invisible, doesn't it? I know that some people would say that that will help to tackle sexual harassment. If everybody socialises in the same way, that will help undermine this whole basis on which men [are] socialise[d] in a different way to women. I agree with that. At the same time, I think that it's not going to die out overnight, is it? We still live in a very patriarchal, you know; just not [having] designated legal gender, it's not going to like do away with the whole patriarchal society that we live in.”

Yet, decertification in Britain may already be informally underway – at least in some respects. In this “soft” version of decertification, public and other bodies act *as if* a sex/ gender status assigned or confirmed by the state is no longer determinative. Instead, greater recognition and authorial power is given to individuals to determine their own sex/ gender identity. In this version of decertification, certain potential features are less pronounced (or present). For instance, as I discuss below, people are assumed to have a sex/ gender, which public (and other) bodies should recognise and respond to. Thus, there is little evidence of moves to abandon or abolish sex/ gender as a classificatory structure among public bodies. At the same time, growing recognition of new, emerging sex/ gender categories, and the growing tendency to make individuals the privileged site of identification and authorisation, beg questions about the enduring pertinence of sex/ gender for public policymaking and law.

The development of informal decertification is a source of celebration for some and dismay for others. In this essay, I reflect on its implications for gender politics, particularly for a politics intent on countering the institutional inequalities that gender (as a formation which includes sex) continues to express and produce. These politics can be, and are, framed in different ways, including as a politics of inclusion, recognition, redistribution, empowerment, and protection. Here, I focus on two political agendas: to remake gender as diverse, inclusive,

and self-directed; and to undo gender as an asymmetrical structural force (begging the critical question of whether gender could ever become anything else). The question that this essay poses is whether and how these different political projects might cohere. Their collision is very publicly evident as I explore. But can a politics oriented to gender as a feature of personhood (one increasingly described as rightly private) also attend to gender as a forceful, asymmetric social patterning? I want to explore this issue in two ways. First, I consider gender as a public matter, and the different ways such publicness is understood. Of special concern here is gender's institutional dimensions, by which I mean the socially patterned and unequal rules, roles, norms, processes, spaces, and activities taken to comprise it (see Martin 2004). Second, I consider two settings where gender's current institutional form has been challenged; both involve public organisations where decertification's de facto operationalisation is emerging and so glimpsed. Certainly, some grass-roots communities also approach gender as a diverse, self-identified, personal feature of human subjects that is outside any state determination; however, I am interested in public bodies' actions because proposals to decertify gender foreground formal change at the state level. As a political proposal, decertification can appear as a unitary claim – it either exists, having been introduced by states (and state law), or it does not. This essay focuses on an intermediate space in which decertification is present as soft law or policy that is also uneven in its presence and contested. In such conditions, I want to consider what it means to take responsibility for gender's asymmetric institutional patterning as something to remake or, alternatively, to unmake. Thus, the essay does not focus on establishing the normative argument that bodies *should* take responsibility for gender, but rather considers what such responsibility could mean and the challenges it confronts.

Responsibility is often tied to the culpability that a subject has for harms caused; other times it constitutes a duty to maintain what is. My interest here is in the responsibility that comes from a capacity to make a difference in ways oriented to transforming gender, and specifically to undoing the inequalities it gives rise to and expresses. Today, different bodies – state and non-state, collective and individual – take responsibility for changing how gender is patterned. While for grass-roots activists and communities, this responsibility is usually deemed voluntary (and so a matter of morality, ethics, or politics), my focus is on bodies with statutory, functional, or formal responsibilities. Specifically, I consider the equality governance sector – a loose network

of bodies whose policies and practices have been important in developing and institutionalising progressive-liberal equality norms. My first setting concerns equality approaches in British local government and specialist equality bodies, drawing on interview data from a subset of fifteen semi-structured conversations.⁶ These were conducted with officials and other equality staff, purposively sampled for their organisations' proactive approach in engaging with critical and changing understandings of gender-based inequalities and exclusions. My analysis explores the tensions these bodies have faced in responding to competing gender agendas, and the approaches that get organised out from such public state projects. But exercising responsibility for doing gender differently is not just about public bodies' front-stage – often modest or cautious – actions. Critical accounts routinely assume a clear line between public bodies, on the one hand, and grass-roots activist networks, on the other (as I have explored in more detail elsewhere, see Cooper 2016, 2019b). Yet, the reality is that these distinctions are often blurred, unstable, and partial (Newman 2012). Informal actions, shaped by wider activist politics, can be undertaken within public bodies, drawing on the opportunities, authority, and resources that are institutionally available. These actions may be dismissed as ad hoc, improvised, and unintended; however, progress within (and by) public bodies sometimes happens because of unplanned and unofficial action or decisions that exceed what was expected to take place.⁷

In the final part of this essay, I consider how organisational staff may informally seek to exercise responsibility for gender's symbolic inequalities and alignments. My discussion draws on a fictionalised micro-scenario based on a personal experience a few years back: of an interview panel with three women and one man (or so it seemed), where the question was posed of who should chair, and whether it should be a woman. The experience, and particularly the awkward uncertainty surrounding the 'naming' of gendered subjects in the room, places some of the challenges of pursuing feminist politics – in conditions of gender's growing privatisation – in sharp relief. What it also reveals is the entanglement that minor, seemingly trivial, gender-based

⁶ These interviews formed a small sub-set of over 100 interviews carried out as part of the ESRC project on The Future of Legal Gender. Other interviews were conducted with trade union officials, feminist and transgender organisations, women's refuges and other shelters, the sports sector, the adult care field, central government, lawyers and legal drafters, school managers and educators, representatives of religious organisations, academics, and wider publics.

⁷ I have explored this further in Cooper 1994; 1998.

dilemmas can generate as personal identifications and attachments get tangled with socio-political interventions. Can gendered statuses be named or is this to make improper assumptions about what people are? Do people carry gendered meanings beyond those they intend to express? And how can these be addressed? One challenge is how to understand and engage with the social/ personal “knots” which contribute to (and often drive) public and legal discourse when it comes to gender and other relations of inequality. My example concerns one micro-scaled interaction; however, political symbolism, representation, gendered styles of practice, and good optics routinely emerge at larger scales in relation to affirmative action initiatives, such as women-only parliamentary shortlists (discussed in Cooper and Emerton, this issue). To explore how responsibility for redoing gender is taken up and challenged in this interview panel example, I draw on the dramaturgical concept of the “scene” (see also Edelman 1985; Hajer 2005). Scenes, such as this one, confront the complexity of gender as socially patterned, increasingly de-standardised, personally invested in, and subject to competing frames of intelligibility around what gender is, means, and does. As such, it also confronts the challenge of sustaining a critically attentive relationship to gender where no option or way forward seems fully satisfactory given what else is at stake.

Gender as private identity

Accounts of gender as self-determined (or self-identified) routinely treat gender as something that is, and should be respected as, “deeply personal” (Davis 2014: 48).⁸ As one set of British guidelines for transgender children in schools states, “Gender – the way that a person feels about themselves in relation to their physical and mental self; the basis of their identifying as male, or female, or neither, or either, both” (sic).⁹ In their response to the Scottish Government’s review of the Gender Recognition Act 2004, Stonewall Scotland wrote: “someone’s gender identity is inherently private and individual, and should not be subject to another’s approval”.¹⁰ Legal scholar Lena Holzer (2018: 10-11) also describes how gender has become “a private issue” for

⁸ For different ways of approaching this, see also Katyal 2017; Paechter 2006; Quinan and Bresser 2020: 7.

⁹ https://www.cornwall.gov.uk/media/13620644/schools-transgender_guidance_booklet-2015.pdf, p. 16: last accessed 17 August 2020.

¹⁰ <https://www2.gov.scot/Resource/0053/00539455.pdf>; last accessed 2 September 2020.

some, quoting fellow legal academics Marjolein van den Brink and Jet Tigchelaar who suggest that gender should be identified “as a sensitive personal identity marker” (2015: 40).

The notion of gender as personal or private dovetails with a gender-as-identity approach. But what does it mean to describe gender in this way? Discourses of privacy, in other contexts, signal seclusion. Seyla Benhabib (1993: 106), discussing Arendt (1958), locates it in aspects of the “‘domestic-intimate’ sphere” that are “hidden from the glare of the public eye”. Private can identify a space – of dwelling and domesticity, or a zone of non-intrusion; it can identify an individual relationship of property or belonging,¹¹ a lack, or something that is non-political, unstaged, intimate, and unaccountable. Not all these meanings of privacy come into play in relation to the political expression and development of gender-as-identity. Instead, here, a cluster of meanings assemble around self-realisation, voluntary disclosure, comfort, and intimacy (see also Cannoot and Decoster 2020). This cluster mirrors a similar constellation of meanings, norms, and practices that cohered in late twentieth century liberal discourses on homosexuality, also around the terms of privacy. Homosexuality became depicted as intimate, personal, self-realised, and entitled to protection - to insulate it from conservative attack as well as from a more radical and expansive politics of gay liberation and political lesbianism. In relation to both gender and sexuality, privacy validates norms of protection and formal equality rights, rationalised by the value (or inevitable presence) of gender and sexual orientation as necessary features of self-growth and self-expression.

Claims to privacy can be important; however, as a political account of gender (as well as of sexuality) it has its limits. For the discussion that follows, two stand out. First, discourses of privacy locate gender *within* individual subjects, as something which belongs to subjects in intimate, proprietary, responsible ways, rather than to society. Valeria Venditti (2020: 69) writes, “gender identity sanctions the autarchy of the subject. The very concept of ‘self-determination’ rules out of the legal sphere the relational aspects of gender. The sovereign rhetoric deployed in the law clashes with the hurdles that arise in the social unfolding of gender.” In other words, privacy as self-determination risks treating the subject as the author of their own gender; a

¹¹ Feminist scholarship has explored the relationship between gender, property, and possession in different ways; see for instance, Butler and Athanasiou 2013; Davies 1994; Katyal 2017; Nedelsky 1990; see also Cooper and Renz 2016.

gender that is unshaped by other forces, including other gender norms and practices. Second, discourses of privacy trouble and tend to delegitimize the place of critical engagement when it comes to questioning the values underpinning gendered norms, practices, and forms, or in reimagining what gender could become. These two problems shape the discussion that follows, which focuses on gender's "public" life – a concept I use expansively to explore the unequal, socially patterned, staged, and shared ways that gender operates. My discussion foregrounds the institutional character of this life, but it is not only in these accounts that gender's public dimensions appear.

Gender in public

Despite the growing pervasiveness of norms that treat gender as a private dimension of personhood, gender's presence within British public discourse is unquestionable. Today, in Britain, gender is discussed and argued over in ways that seem quite remarkable given prevailing understandings of gender only a few years ago. Feminist, transgender, and non-binary perspectives have quickly become part of public and media discourse;¹² employers incorporate (or are urged to incorporate) new gender categories;¹³ and concerns over anti-trans sentiment and transphobic behaviour more generally have raised public awareness of the normative pressures of gender conformity and transgression's costs.¹⁴ Much of the recent public focus on trans and non-conforming gender identifications foregrounds the importance of being "seen" and validated by the state (or by employers and service providers) as recognition becomes a pathway to dignity and respect.¹⁵ Recognition is also advocated for material reasons where its absence causes some

¹² E.g., see Arwa Mahdawi, "He, she, they ... should we now clarify our preferred pronouns when we say hello?", *The Guardian* 13 September 2019: <https://www.theguardian.com/lifeandstyle/2019/sep/13/pronouns-gender-he-she-they-natalie-wynn-contrapoints>; last accessed 3 September 2020.

¹³ E.g., see for instance, <https://www.essex.ac.uk/-/media/documents/directories/human-resources/supporting-trans-non-binary-staff.pdf> and <https://www.personneltoday.com/hr/gender-identity-pronouns/>; last accessed 3 September 2020.

¹⁴ E.g., see *Hackney Council Inclusive Language Guide*: <https://hackney.gov.uk/equality-diversity>; last accessed 3 September 2020.

¹⁵ See Christie Elan-Cane, evidence to the Women and Equalities Committee, Transgender Equality Inquiry, 13 October 2015, HC 390, p. 32: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/transgender-equality/oral/23159.pdf>; last accessed 25 February 2019; also James Morton, evidence to the Women and Equalities Committee, Transgender Equality Inquiry, 13 October 2015, HC 390, p. 13:

identities, and sometimes also some bodies, to be excluded or erased from spaces, services, and activities (see Ryan 2018; Spade 2015).

In his discussion of transgender politics, Paddy McQueen (2015: 121) takes up Cillian McBride's notion of a "deficit model" of recognition, in which the problem is unevenly distributed resources of acknowledgment and address, such that some have very little or none. Yet, while gaining "proper" or adequate recognition has proven an important dimension of contemporary gender activism, the concept of public also signals other kinds of politics, including those organised around interpersonal relations and action within everyday life.¹⁶ Here, new gender meanings are asserted, inhabited, and developed, as actors (deliberately or otherwise) challenge conventional gender norms, including those of gender intelligibility (e.g., see Nordmarken 2014). Also posed, as well as troubled, in the process is the connection between gendered forms of public appearance, and personal identification or feeling. For the most part, public expression of gender diversity is advocated (and justified) on the grounds it reflects an inner gender. Since this gender is a core aspect of someone's personhood, they have the moral (and so should have the legal) right to express it freely and safely within the public sphere. Gender-as-identity approaches, such as the international human rights Yogyakarta Principles, recognise that gender identity and expression may not converge;¹⁷ and people should not have to give shape to their inner gender in any specific way. However, both should be protected (see also Butler 2015: 61). Public gender expression forms a part of personhood even if it does not coincide with someone's gender identity.

Elsewhere, I have explored some of the difficulties in identifying, in non-stereotypical ways, what gender means in this approach (see Cooper 2019a). But what interests me here is the relationship between gender identity and expression, on the one hand, and an institutional account of gender, on the other. If gender is a legitimate terrain of political engagement, where

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/transgender-equality/oral/23159.pdf>; last accessed 25 February 2019.

¹⁶ There is an interesting resonance here with Arendtian perspectives on the public realm, which focus on the courageous creation of new meanings, practices, and relations through action in front of and with others; see also Butler 2015; Dossa 1989; Honig 1995.

¹⁷ *The Yogyakarta Principles plus 10*, adopted 10 November 2017, Geneva: http://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf, p. 6; last accessed 30 August 2020.

do gendered subjects and personal gendered investments fit? Liberal approaches treat gendered subjects (particularly adults, but not only adults) as the agents of action and the holders of rights, as they also treat them as the source of their own gender identity and meaning. Yet, if we typically communicate more and other than we intend, what does this mean for gender? Gender critical feminists, who treat sex as immutable, suggest “male bodied” persons express male power regardless of how they identify.¹⁸ I do not pursue that argument here; at the same time, I am reluctant to treat gender – as currently understood and manifested (that is along its current conceptual lines) – as something that exclusively belongs to, and is controlled by, the gendered subject, given the complex factors that shape how gendered subjects and practices emerge, are enacted and read, and the complex factors that shape what follows. If gender exceeds our own personal projects of identification – or the social-cultural-psychic maps that normatively orient us even when we repudiate their terms (see also Jenkins 2016, 2018), if gender is a social process, fundamentally, rather than a personal trait, how gender is made becomes important. Such scenes of making exceed subjects’ gender identifications but, in the sites that I discuss, they simultaneously are compelled to engage with them.

The discussion that follows explores the relationship between social inequality and individual identity through the register of responsibility. When gender is primarily understood as a private attachment, public responsibility takes a specific form: namely to protect and empower people’s gender-property so subjects can express their gender as freely and fully as possible. Much contemporary activism around gender aligns with this approach. But if responsibility for gender aims to counter gender’s socially pervasive and asymmetrically patterned character – its capacity to structure and shape state apparatuses, social divisions, norms, and epistemologies as well as people’s activities, assumed roles, desires, and interests – how should we account for this gender? Over many decades, feminist theory has drawn on different conceptual frameworks and figures to encapsulate gender’s form, from axes, systems, regimes, and organising principles to performances, language, grammar, doings, and discourses. Across and within these approaches (since they give rise to multiple versions), different cuts and joins in how gender is imagined,

¹⁸ For one elaboration of gender critical views, see *Forstater v. CGT Europe and Others* ET 2019, Case Number 2200909/2019.

actualised, and in the movement between the two come into play. Here, I focus on gender's institutional dimensions – as one register of publicness that treats gender as a social patterning with force. Institutional thinking has its limitations. But what is useful about it, in this context, is its emphasis on durability, inequalities of power, and the ways in which different social features cohere to form something forceful and meaningful. These qualities provide the impetus for taking responsibility, as I go on to discuss.

Gender's institutional dimensions

A tremendous body of feminist work, too extensive to enumerate, has detailed and analysed gender's durability and significance within social life: how gender shapes people's desires, behaviour, and choices; relations of violence, exploitation and discrimination; and the development of social institutions, from schools, economy, and law to the very notion of public and private domains. One useful strand of feminist work explores how gender shapes (and is embedded within) other institutions, including those of government (e.g., Chappell 2006; Lowndes 2020). While I am concerned in this essay with a governmental exercise of responsibility in relation to gender, I also want to consider the institutional qualities of gender itself. Patricia Martin (2004) helpfully sets out twelve institutional dimensions, which she argues gender shares (see also Lorber 2000; Risman 2004). These include social practices that persist across space and time, specific roles, procedures, rules, norms, social expectations, embodied agents, tangible things, and self-legitimizing ideologies. Thus, we might consider gendered practices of empathy and violence; parents' and workers' roles; the procedures and rules in place for establishing and changing one's legal gender status; how gender imbues life-course expectations, bodily movement, and care-work; the gendering of clothes, toys, novels, and dance; and ideologies that depict gender differences as natural, elective, or something else.

In exploring gender's institutional character in Britain, it is important to recognise the parts that other social relations and processes play, including race and class (e.g., see Anthias 2008; Crenshaw 1989; Grabham et al. 2008; Walby et al. 2012). It is also important to recognise gender's institutional inconsistencies; how gender can take multiple forms; shifts and blurs; and is challenged and remade by different kinds of social agency (see also Connell 1987; Risman

2018: 36). These elements of multiplicity and contingency, shot through with inequalities of power, are foregrounded within critical institutional writing (see Cleaver and de Koning 2015), which also emphasises the place of “bricolage”: as “people, consciously and non-consciously, assemble or reshape institutional arrangements, drawing on whatever materials and resources are available, regardless of their original purpose” (Cleaver and de Koning 2015). At the same time, central to an institutional approach are the linkages (if not necessarily inevitable linkages) between different aspects of gender’s patterning. Much feminist work focuses on these, since it is the arrangements and connections between bodies, resources, experiences, statuses, options, and power – in all their inequalities – which make gender critically intelligible (see also Markovits and Bickford 2014).

Gender’s intelligibility, however, does not take a common unitary form. Current struggles over the authenticity of self-identification reveal the heightened levels of disagreement that exist regarding gender’s institutional character, particularly its key statuses, relations, and harms. While different perspectives exist, two have come to dominate public debate. One “side” focuses on the privileged status of “cis” gender,¹⁹ and the harms caused to those who cannot or choose not to conform to a stable, dualist framework; the other “side” focuses on the gender-subordinated status of women, and the harms that make up this subordination (see Peel and Newman, this issue; also Cooper 2019a; Pearce et al. 2020). These diverging accounts draw on, and give shape to, different cuts and joins in gender’s material life, as they also, in turn, act upon it. Nevertheless, despite these differences, and the changes in gender’s institutional form which in turn to shortly, recognising that gender has a patterned life that is forceful and un-equalising is crucial if gender is to be treated as having the necessary durability, systematicity, and social force to matter, and so give rise to relations of responsibility. In the absence of such patterning, gender loses its critical salience as a contemporary socio-political category.

¹⁹ The term “cis” is used to identify people whose gender (or sex) is assumed not to have changed from the way they were classified at birth.

Responsibility for gender

Responsibility is often approached, particularly in legal contexts, as a set of obligations activated through retrospective lines of causation. In other words, responsibility arises from tracking what a body has caused or, at least, has benefited from. Critical theorists have complicated and collectivised this account of responsibility (e.g., Young 2006). However, past-facing questions of causation and culpability are not my concern here. Since gender is ongoing, contemporary, and ubiquitous, a more useful way of framing responsibility, for my purposes, focuses on the responsibilities that flow from different bodies' capacities, given the power they exercise, to respond to social arrangements that are hazardous, normalising, and animating, that have been inherited, and that continue to act (see also Cooper and Herman 2020). But if responsibility comes from an ability to make a difference, what does responsibility for gender entail?

Responsibility is often associated with maintenance – keeping something in good working order. In this sense, responsibility may be vigorously mobilised to re-discipline and order gender, as a “complementary” and hierarchical relationship, as the Christian Right has long attempted. For social conservatives, more generally, responsibility for gender as an institution is to keep it up and to assign responsibility for its upkeep. But responsibility for gender can work in other ways. Many have written about the work and attention people put into their own gender-performances, as they assume responsibility for personal gender maintenance in conditions where failure or breakdown may cause other bodies – formally or informally – to intervene (see Bartky 1988; West and Zimmerman 1987; Wilchins 1997). However, maintenance-oriented responsibilities are not the kinds of responsibilities I want to consider. In their contributions to this Special Issue, both Sumi Madhok and Vanessa Munro helpfully draw attention to responsibility's risks, when it works to individualise or disempower, and so reinforces existing inequalities and geopolitical relations of control. With their hesitations in mind, I want to consider an outward-facing responsibility for remaking and unmaking gender. In doing so, I focus on the challenges, and sometimes tensions, that have arisen for governance bodies navigating feminist concerns about gender's imposed asymmetric force alongside newly emerging concerns that self-identified gender claims be acknowledged and respected. The encounters (and sometimes confrontations) between different political agendas take shape in

organised equality governance policies, initiatives, and provision, as well as in organisational scenes of micro-action. While the first foregrounds official, front-stage enactments, the second attends to what is undertaken backstage, when organisational workers deploy the resources, roles, and spaces they occupy for supplementary ends.

Equality governance has long approached gender as an institutional problem of barriers and brakes necessitating reforms to remedy unfair rules and norms, and empowerment strategies for those subordinated by them. These responses to the problems that gender poses were also identified in interviews, conducted as part of the project on the Future of Legal Gender, with those holding an organisational equality brief. Interviewees described the need for:

“measures [] to try and help natal women overcome disadvantage that's linked to their reproductive functions. For example, a lot of problems in employment can be linked to pregnancy and maternity discrimination... [There's also] the long-term disadvantages suffered over the lifetime of a woman's working career, because of disruption and things like that.”

“What we are trying to do is identify the barriers that you might experience as a student and as an employee because of your gender.”

“Let's say, think about education. You are thinking about the curriculum, is it relatable to girls, as well as boys? Thinking about achievement between girls and boys, and what is holding girls back or what's holding boys back.”

“It is about empowerment, I think, isn't it? And it's about ... I use the word, equality. It's about having protected characteristics and having some sort of disadvantage or prejudice or reasons why you are not able ... you are not on an equal playing field with your neighbour and trying to overcome those issues so that it's, you know, fairness and the rest of it.”

Long-standing concerns with the unequal social field that women, particularly, have faced, have been accompanied more recently, and in some cases confronted, by a different set of concerns. Gender here is less a name for asymmetric disadvantage and barriers than a descriptor of needs

and interests. Several interviewees described the institutional changes needed and being undertaken to recognise different kinds of gendered subjectivity.

“Post-Equality Act [2010], they were really keen for us to start collecting ... data. We ask whether people are male or female, whether they are non-binary ... And that would generally be used as a starting point for service needs and specific questions as well.”

“I do think that it’s useful to name the groups that we work with, so pregnant women, pregnant trans men, pregnant non-binary people, they have very different experiences and different needs.”

Approaching gender as an institution with multiple subject-positions, equality governance interviewees stressed problems of exclusion and erasure.

“If you are not identifying as either [male or female] then you are being made to make a fixed choice, which cuts at the heart of who you are as a person. ... Will you not receive a service because you are non-binary? No, you won’t *not* receive a service, but in order to receive that service, in some instances, you are receiving it as a man or a woman.”

“So, when we did the trans needs assessment... non-binary came out as quite a large proportion of that... There was quite a number of issues. And one of the things that came out was the Mx honorific... Again, it's this thing about labels actually being, in some regards really, really significant for people. If I can't tick the right box on the form for my honorific, for my gender, then I don't exist.”

Recognition for other gender identifications was described as essential, even as it challenged the conventionally established ways that governmental organisations responded to (and enacted) gender.

“If we didn’t say non-binary, there would be a whole load of people in the city that don’t exist. Literally don’t exist. We are trying to be explicit because we want non-binary people to come and join the council perhaps in recruitment, or we want to make sure that they are recognised. So, wherever we have got – it’s more about recognising a community that’s there.”

Moves by equality governance staff to enact norms, rules, and forms of address in line with a self-determined account of gender demonstrate a soft form of decertification. While people continue to bear a formal legal sex/ gender status, this status was treated as non-determinative (or less relevant) in a range of circumstances, where self-identification was considered more salient. This move to self-identified gender, however, did not go uncontested. One significant challenge came from advocates of women's sex-based rights, concerned with women's sex-based vulnerability, and their need for protection from violence, harassment, sexual intrusion, and male dominance (see also Peel and Newman, Munro, this issue). There is a long critical history regarding the place of vulnerability and protection within feminist politics – not least because of its socioeconomic, racialised, and sexualised implications (e.g., see Hunt 1990). However, discourses of vulnerability rose to prominence within public feminist discourse in the late 2010s in the course of opposing legal reforms to relax how gender categories and the movement between them were to be regulated. Demands to retain sex-specific provision, based on narrowly defined notions of who constituted a woman, provided a strategic claim and, also, a goal within the struggle over gender's classificatory terms (see also Bailey 2008: 579).

Equality governance actors, we interviewed, described the political pressures within their sector to respond to activist demands that the distinct legal status of sex be given proper recognition.

“We have had challenges – we had a challenge about the fact that in some areas of our ... in some of our wording, we use “gender” rather than “sex” or “sex and gender”. We thought, okay, actually, that is a fair challenge, because the protected characteristic in the Equality Act is “sex”. If you are listing it, you put sex; that's fine. In some of our internal documents we actually expand, and we explain what we mean, or we put “sex/ gender”. We just think that's fine.”

“We do use – would prefer to use gender because it's a broader term. You've also got to consider the issues of non-binary and things like this. But, under pressure, and in recognition that the legal term is actually sex...Our response is, we will use “sex” when it is specifically about the protected characteristics. But at all other times, we would prefer to use “gender” when we are talking more generally.”

In this way, equality governance became a site where disagreement between gender projects got played out: as one project coded public responsibility in terms of inclusion and recognition; and another focused on public bodies' responsibility to undo the harms and injustices faced by women as a sex. Yet, in this ongoing dispute over the use of sex and gender as categorical terms, what can get overlooked is the common ground between the two positions. One part of this common ground was their shared emphasis on social subjects – whether as the site of sex or of gender. Focusing on subjects is, of course, important. It recognises that gender's harms and injuries (including those associated with sex) are felt by people. It also recognises that organisational attempts at reform are carried out by sexed and gendered individuals who bring their own experiences, histories, and politics to the process. But one risk in foregrounding subjects is that it can normalise sex/ gender as something that just *is*. Certainly, the equality governance sector addressed, and continues to address, structures of disadvantage, attending to gender's institutional features, from stereotyping in schools to the criminal justice system's response to sexual violence, to care-work norms and practices. However, the processes through which subjectivities *become* gendered (and, some would argue, sexed), the attachments and investments that form part of these processes, and the recognition of gendering as a social process, are rarely explicitly addressed.

A subject-first approach coincides with a liberal understanding of gender in which people's right to a (recognised) gender, and public treatment of gender as something of value, supersede more critical forms of political engagement. This creates problems for those feminist accounts which seek to question gender itself – not just the unequal allocations of goods that gender differentiations have historically been tied to. But should public bodies participate in this endeavour; and if so, how? Given their institutional power and authority, participating in projects which challenge people's self-identifications on the basis that they are the ideological effects of damaging gendering processes, treating certain people as proxies for excessively-powerful statuses, or articulating political goals and new common-sense norms outside of a progressive-liberal gender consensus can seem fraught. One striking refrain from our interviews was a felt public responsibility to be careful and proportionate, to mediate, build bridges, and be inclusive, a responsibility that interviewees characterised as expected of bodies, such as local councils, when engaged in equality governance. One equality officer told us,

“I would not write a speech or kind of draft a note for my [chair] ... that might have a... highly strident and polarising framing. ... I think it’s just being sensitive that you can meet your legal duties and promote all the values that I have mentioned in a way that tries to bring people along with you and not alienate certain aspects of communities unnecessarily.”

Another remarked,

“Some people will say to us, well, there is a theatre called [], they’ve got gender-neutral toilets, why don't we have? We are not a theatre; we have to cater for the whole community. We are a council. We do have to – we have to strike a balance. We don't want to just sort of pander to the most conservative, but at the same time, we are serving the whole community.”

Yet, public bodies are not unitary formations, with a single ethos or approach; and treating them as singularities can miss the diverse (and sometimes divergent) agendas, activities, and norms of their parts (see also Cooper 2016; 2019b: ch. 3). These parts include procedures, spaces, and objects; they also include human subjects. Public bodies exercise responsibility for unmaking and remaking gender through the actions of their staff, clients, politicians, partners, and others. While these are sometimes undertaken explicitly in the organisation’s name, street-level actions and other micro-decisions can also involve informal organisational practices. Here, actions may exceed what was formally intended or anticipated as human parts of public bodies pursue progressive gender norms, including norms that go beyond the official discourse of removing barriers, equalising opportunity, recognising group-based needs, or supporting individual rights. Indeed, it may be in these seemingly less powerful, less official actions that gender’s *structures* can get named and confronted – at least symbolically. In my final discussion, I explore this process by considering one micro-scene of gender-based responsibility. Given the minor (even trivial) status of this scene, I should stress that it has not been chosen for its importance to gender’s unmaking or remaking. Rather, its utility lies in the informal organisational power it tracks, its invocation of the intractability – but also the pull – of symbolic dilemmas, and in how it exposes the complications generated by soft decertification and attendant moves to privatise gender.

It concerns an episode in which a small group of organisational members were selected to fulfil a brief task: to interview someone for a job. Together, they had to decide how to act. Taking responsibility for gender's unmaking or remaking can sometimes seem straight-forward – policies and action that respond to explicitly biased rules or stereotypical norms, for instance. But this was not the case here. Instead, what seems, at first glance, an easy decision becomes increasingly complicated and uncertain. Tracing the decision, and the gendered subjects on whom it rests, also brings a wider constellation of action into view. Here, the dramaturgical language of “scenes” is helpful – not just as an interpretive frame, but as a concept that folds in particular forms of actualisation as well as imagining, including in ways that centre and decentre “the decision”.

Using informal organisational resources to take responsibility for gender

Taking responsibility for gender, as I have explored, can involve new policies, initiatives, and rules that seek to revise one room or corner in gender's institutional house. But responsibility can also operate in less tangible ways – to involve, instead, a movement into a relationship of attention and social proximity as Pat Noxolo and colleagues discuss (2012), drawing on Gayatri Spivak's (2008) work. This movement into attention became evident in this episode, where an attempt to symbolically resist gender's unequal normative alignments momentarily redirected an organisational “scene”, away from what it was “supposed” to be doing.²⁰ It concerns an interview panel with three women and one man (or so it seemed), drawn from different parts of a large organisation. Political and social theory typically equates the public domain of strangers and citizens with spaces and discourses outside of work (as well as outside of the home). Yet, in contemporary post-industrial states, large workplaces often provide the sites where public relations of citizenship, acquaintance, and stranger-interaction take place as people who do not know each other (or at least not well) gather to perform a task. In the scene here, sifting through preliminary decisions before the candidate's arrival, the question arose of who should chair. As

²⁰ My discussion of a “scene” is influenced by different currents of work on the dramaturgical dimensions of social and political practice. However, in contrast to some work, I do not rely on a division between performers and audience or treat a scene as necessarily invoking a powerful narrative or drama; for further discussion, see Alexander (2017).

mentioned at the outset, this is a fictionalised account loosely based on something that took place; so, let us imagine the boardroom table around which the four people sit, and one of them suggests that a woman should chair. The others look uncomfortable and indicate their surprise that such a suggestion has been made. But why? Is it too intrusive and assuming, claiming something about those who are present that should remain unsaid? Or is it that the proposal is too mechanistic: too simple and unsubtle for the complex relations of inequality at stake? What might taking responsibility for gender here entail?

Elsewhere in this Special Issue, Robyn Emerton and I explore a scaled-up version of the issues this scene poses. Prioritising women on parliamentary shortlists and other forms of positive action – with their consequential need to “determine” what people “really are” (see also Bailey 2008) – is often undertaken to change who or what is represented, who does the representing, and the style that representation takes. In the context of an appointment or job interview, it might be supposed that a woman chair would make women candidates feel more at ease and better understood; that it might shift the style of the interview, the questions asked, and deliberations on candidate performance afterwards; and that it might give a woman a welcome opportunity to chair. But while the last may be empirically true, the material benefits for users and recipients from having women in positions of authority, including political authority, is far from clear (see Childs and Krook 2009; Childs and Lovenduski 2013). Thus, I want to focus instead on the cultural norms conveyed, where having a woman chair is intended to counter (or at least to avoid reinforcing) gendered assumptions about what authority looks like (see also Chappell and Waylen 2013; Connell 1987). The association of authority with masculinity has long been something feminism has sought to counter. But suggesting a woman should chair an interview panel to avoid the “image” of a man commanding proceedings, flanked by three women, is also not a straight-forward proposition.

One obvious and important complication is that gender is unlikely to be the only inequality, sutured to authority, at stake. If the decision is to help undo or refrain from reiterating normative codings of authority and power, then economic, racialised, dis/ability-based, sexualised, national and other social relations may also need to be considered in any pursuit of “representational justice” (see Madhok, this issue). But does addressing these different relations

depend on naming and identifying those who are present? How straightforward is this? In the case of gender, some of those present may identify with genders other than male or female or with no gender at all. We may *think* there is a man and three women, but this may be wrong. Transgender people may be wrongly identified, but others may be also (see Watson 2016).²¹ The current momentum to privatise gender also may make it inappropriate to declare what other people are, assuming and asserting something that is for them, and only for them, to disclose *if they want to*. In a sense, the interview panel grouping might be construed as one of strangers where people, in Richard Sennett's (1992: 63) terms, become "question marks to each other". While people routinely make assumptions about each other's gender, what acting-as-strangers suggests is that these assumptions are increasingly unreliable, difficult, and imperialising. In other words, gendered readings of others may be faulty in the sense of not corresponding with a person's own self-identification. They may seem impossible where a person's gender is unreadable or unplaceable within conventional categories. And ethically and morally, gender-based assumptions may be received as improperly intrusive or simply as being in "bad taste".

Then, there are other dilemmas. The argument that a woman should chair to avoid reinforcing the socio-cultural association of authority with masculinity may seem to *prefigure* gender – representing it as if it were otherwise; but this may be at the expense of a more authentic account of what the gendered hierarchy is really like. Let us imagine that the man on the panel is more senior; does having a woman chair create a false or misleading optics? Should hierarchical inequalities be presented *as they really are*? Neoliberal tendencies to make things look good to mask or sanitise far more distasteful realities has generated much scathing comment.²² But in the context discussed here, does a critique of masking and dissembling too quickly dismiss the performative work done by *how things appear*? This suggests that it may not be essential for the person who seems to be a man to identify as one, or for the person read by

²¹ One municipal space where the risk of misreading people's gender identities has arisen is in sports and leisure centres. A council officer told us, "We are asking people not to try and second guess a gender when they come in. If somebody comes and says: where are the changing rooms? Instead of immediately going, the female [changing room is] over there... to say: we have got a male changing there, a female changing there. There is an accessible changing room there and allowing them to make that choice. It's about trying not to question people as they come in. And trying not to put them in that awkward situation."

²² Clothing companies' use of cosmopolitan advertising visuals to present themselves as promoters of cultural diversity, while exploiting low paid workers in the South, has rightly been critiqued (e.g., Hennessy 2013).

other panel members as a woman to identify as a woman all the time. Personal gender attachments are not being asked for, assumed, or disclosed. What matters is what *the scene is doing* through its different parts – including human parts, not necessarily who (in a personal sense) is doing it. This also means that what the scene is doing will exceed what is intended, that it is interactively and collectively forged, heterogeneous (even multiple), and that it will be understood in diverse ways.

Scenes do different things, and responsibility can face in different directions. It can represent *what could be*, including in prefigurative registers which treat this “could be” as if it is what “is” (see also Cooper 2020). Scenes can also represent *what is* critically – presenting power relations in their starkest polarity; and scenes can represent and enact dissent and change. Scenes also involve action beyond what “appears”. I started with the optics in the decision of who should chair, but these optics (whether prefigurative or critical) may be complemented or complicated by what is said – as utterances reinforce, undermine or cut across what seems to be taking place,²³ for instance, the woman chair who repeatedly defers to a male panel member or makes sexist comments to interviewees.²⁴ In other cases, utterances may self-consciously mark a critical awareness of an inequality that, it is feared, will be reproduced by the optics of what appears. The verbal/written apology that is sometimes given for poor-appearing optics is one instance of this – why all the speakers at an event, for example, are men or white – an apology that rarely goes down well even as the reactions it encounters and provokes form a significant part of the scene (see also Ahmed 2005).²⁵ Exercising responsibility for gender can also take up other senses and movements. Scenes of apology may involve gestures and action, such as people exiting in disgust. In other contexts, the optics of a senior man chairing an interview panel might be momentarily undercut by an avuncular pat as a woman lays her hand on his shoulder; or

²³ The recent linguistic turn to “uterus” or “penis-havers” to counter the assumption that bodily characteristics align with sex demonstrates some current lines of contestation in the gendered politics of what is uttered; see Cooper and Emerton (this issue) for further discussion.

²⁴ This is a point which others have made in relation to the tensions between women’s descriptive and substantive representation; e.g., see Phillips (1995).

²⁵ For a helpful discussion on the non/performativity of expressions of commitment to antiracism, see Ahmed (2012). Political theory often focuses on what is visible, and what is said (and heard) – using idioms of speech, sound and vision that sit uncomfortably with feminist and critical disability politics. Jacques Rancière’s work in political theory exemplifies this tendency.

troubled by the lingering odour of stress, indicative of (or narratable as) tension – perhaps a row – prior to the job applicant’s appearance in the room.

I have flagged gender’s institutional dimensions, in this essay, to foreground patterned relations, practices and norms that cannot be reduced to “my reproductive body” or “who I feel I am”. One limitation of contemporary discourses on gender is the emphasis placed on personal identity or sex-based subjecthood at the expense of socially formative gendering processes, including what gender might become. Yet, focusing on who chairs an interview panel, as the target for responsibility’s exercise, may similarly seem to re-inscribe gender back onto subjects. It may not be the gender the person self-identifies as having; however, the analysis so far suggests that gendered scenes are made up of and delimited by the apparent (that is, legible) genders of those taking part. But scenes are not containers and magnifiers of human action alone. We can therefore think of the scene itself as making (and so, as also remaking and unmaking) gender through its objects, tempo, powers, constraints, spacing, bodies, talk, and other parts. As non-unitary arrangements, scenes can also carry and convey a range of political projects and registers, including ones that collide. A scene, for instance, may bear arguments in favour of sex-based rights, meeting arguments in favour of self-determination; and both may meet arguments in favour of a more structural approach to how gender operates. These arguments, importantly, do not only exist as utterances. Scenes also enact claims through a range of material and practical actions. As such, we might think about people taking responsibility, collectively, for the multiplex character of what the scene is making and doing, rather than just for their own actions or for the decision that is taken – two conventional registers of accountability.

Decisions are often important. Even micro-scaled ones, such as the question of who should chair, can draw people in. Their oftentimes sticky, sometimes seductive, force holds participants in a relationship to the limited options available (with its risk of normalising or giving force to those limits). Yet, as material and symbolic processes, decisions can also be granted too much weight. Different literatures in political theory and policy studies have questioned the stress placed on the decision, demonstrating also how decisions can be thwarted, ineffectual, trumped, ignored, and unpredictable in their consequences (e.g., Mackay 2014). Discussion of responsibility can contribute to an imperial imaginary of the decision since

responsibility is deemed to be exercised in and through the choices and determinations made. But responsibility can be approached in more polycentric ways.

Taking responsibility for the scene also means taking responsibility for what is excluded from it, for its effects, and for the histories that have bequeathed it a particular shape, as Madhok points out (this issue). This is not necessarily a responsibility that imposes a practical duty to act, for this might prove impossible or ineffectual where the capacity to make a difference does not lie within the scene. Even within the limited range of decisions that a scene constitutes as makeable, a correct response may prove impossible as the interview chairing decision reveals. Here all options remain unsatisfactory since none can fully address the complex and divergent factors which they present themselves as a response to. Gendered inequalities, authority's alignment with masculinity, and the other relations of inequality at play, cannot be meaningfully undone or remedied by making a choice about who should chair. Thus, we might approach responsibility instead, here, as a responsibility to enter into a relationship of attention, to notice, to care, and to exercise care. In organisational contexts, this may mean marking and drawing close those institutional processes that are routinely or officially constituted as too remote or commonplace to demand attention. In this way, micro-scenes, such as the one discussed, can temporarily adjust or put in motion a reordering in organisational geometries of concern.

Conclusion

This essay has adopted a broad conception of gender's public life to argue for its recentring within gender politics against the contemporary tendency to approach gender as an intimate property of the self.²⁶ This public recentring is not because individuals' experiences of gender are unimportant – in fact, the reverse. To the extent that gender's harms come from its institutionalised norms, power, and asymmetric effects, relegating gender to personal

²⁶ For a contrasting depiction of gender's association with property in this conflict, see Kay Green, "Time for socialists to take action against gender stereotyping", *Morning Star* 17 October 2019: <https://morningstaronline.co.uk/article/f/time-socialists-take-action-against-gender-stereotyping>; last accessed 17 August 2020. She writes, when "organisations like Stonewall, Pride and LGBT Labour march into the *heart of women's territory, and declare it the property of others...* even those who don't object, but wish to negotiate the terms of the takeover – are called 'anti-trans'" (italics added).

characteristic obscures its complex social character and force. It suggests already-gendered individuals meet a wider world that recognises or thwarts who they are. This ignores how gender is both made and making, that produces as well as restricts, as gendered social worlds shape, stimulate and redirect the formation of personhood, in the process rendering “the self” intelligible in hegemonic and, sometimes, counter-hegemonic ways. Gender has a life that is not satisfactorily captured by either individual identification or natal sex; and it is this life, in its myriad settings – or rather as a life that takes shape through, and from, the myriad settings which help compose it, from schools and workplaces to gyms and prisons – that remains important.

Today, progressive views on gender diverge along several lines. They diverge in whether gender should be undone or equalised; whether others’ gender expressions should be treated as sites of personal autonomy and self-making or as sites of political critique; and on whether the primary gendered divisions to be critically undone (or remedied) follow lines of sex or gender transitioning status. Yet, to the extent that gender is recognised as involving asymmetrically patterned differences, questions of responsibility for countering these myriad differences and their effects remain. How responsibility is done will vary with the bodies involved. Grass-roots groups may address systemic relations and structures that public bodies pursuing progressive-liberal gender agendas may steer clear of, foregrounding instead the (self)identified needs of gendered groups and individuals. But public bodies do not act as unitary entities (or at least not only as unitary entities). To the extent that their composition includes human agency, actors may use the informal authority and power they possess to counter regressive gender alignments, as my final discussion explored.

In this case, responsibility invokes the surplus capacity and power of organisational subjects who can do more than is required – who can use the spaces, opportunities, resources, and authority of their role for not anticipated (or more than intended) ends. While literature on street-level discretion typically focuses on practical acts of micro-responsibility, organisational discretion can also be used symbolically to counter structures of power.²⁷ Responsibility here

²⁷ One controversial micro-drama I researched in the 1990s concerned a London primary head teacher, Jane Brown, who turned down subsidised tickets to take her pupils to the ballet *Romeo and Juliet* claiming, to the promoter, that among other reasons the play could be described as “heterosexist” (see Cooper 1998: ch. 5). While Jane Brown

may be less about making the right decision, in contexts where this proves impossible (or unknowable), and more about a readiness to bear some of the weight of being attentive and to where this may lead. As one council officer told us, worried about the danger of gender being forgotten, “the challenge is of keeping gender on the agenda...when we've got so many other things to consider.” Yet, in pursuing responsibility, moments of non-responsibility, playful forms of irresponsibility, and the refusal to always be attentive, are also important to consider (see Munro, this issue). Public bodies may sometimes seek to close-down scenes of contested or unofficial responsibility-taking on grounds of illegality, impropriety or because they distract attention from “more important things”. But progressives may also consciously take a break from their assumed responsibility to remake or unmake gender for reasons of self-care, play, to gain critical distance, or to take care of other stuff (e.g., see Halley 2008).

Running through this essay has been the question: what responsibility is gender due? The growing momentum for self-determination suggests gender is due respect, recognition, and at times the state’s classificatory withdrawal. While recognising the sharp concerns that underpin this formulation, this essay has taken a different approach: to explore the critical attention that remains important since gender’s shape is a social shape that exceeds its conventional human outline and contours. Critical attention towards gender on account of its asymmetrical institutional force is a well-established aspect of feminist analysis. The question this essay has posed and traced through two sites where the challenge of soft decertification has surfaced is: what does critical attention mean; and how can responsibility be taken to unmake or remake gender in conditions where gender is also claimed as personal, even private, and so unmoored from the limits and restrictions of an imposed binary structure?

References

Ahmed, Sara. 2012. *On being included: Racism and diversity in institutional life*. Durham, NC: Duke University Press.

received marked support within the local community, others denounced her actions as irresponsible, and as placing sexual politics above working-class children’s need to access England’s “high” culture.

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- . 2005. The politics of bad feeling. *Australian Critical Race and Whiteness Studies Association Journal* 1: 72-85.
- Alexander, Jeffrey C. 2017. *The drama of social life*. Cambridge: Polity Press.
- Anthias, Floya. 2008. Thinking through the lens of translocational positionality: An intersectionality frame for understanding identity and belonging. *Translocations: Migration and Social Change* 4 (1): 5-20.
- Arendt, Hannah. 1958. *The human condition*. Chicago: University of Chicago Press.
- Bailey, Stanley R. 2008. Unmixing for race making in Brazil. *American Journal of Sociology* 114 (3): 577-614.
- Bartky, Sandra Lee. 1988. Foucault, femininity and the modernization of patriarchal power. In *Feminism and Foucault: Paths of resistance*, eds. Lee Quinby, Irene Diamond, 61-86. Lebanon, NH: Northeastern University Press.
- Benhabib, Seyla. 1993. Feminist theory and Hannah Arendt's concept of public space. *History of the Human Sciences* 6 (2): 97-114.
- Butler, Judith. 2015. *Notes toward a performative theory of assembly*. Cambridge, MA: Harvard University Press.
- Butler, Judith, and Athena Athanasiou. 2013. *Dispossession: The performative in the political*. Cambridge: Policy Press
- Cannoot, Pieter, and Mattias Decoster. 2020. The abolition of sex/ gender registration in the age of gender self-determination: An interdisciplinary, queer, feminist and human rights analysis. *International Journal of Gender, Sexuality and Law* 1 (1).
<https://www.northumbriajournals.co.uk/index.php/IJGSL/article/view/998>
- Chappell, Louise. 2006. Comparing political institutions: Revealing the gendered "logic of appropriateness". *Politics & Gender* 2 (2): 223-35.
- Chappell, Louise, and Georgina Waylen. 2013. Gender and the hidden life of institutions. *Public Administration* 91 (3): 599-615.
- Childs, Sarah, and Mona Lena Krook. 2009. Analysing women's substantive representation: From critical mass to critical actors. *Government and Opposition* 44 (2): 125-145.
- Childs, Sarah, and Lovenduski, Joni. 2013. Political representation. In *The Oxford handbook of gender and politics*, eds. Georgina Waylen, Karen Celis, Johanna Kantola and S. Laurel Weldon, 489-513. Oxford/ New York: OUP.
-

-
- Cleaver, Frances, and Jessica De Koning. 2015. Furthering critical institutionalism. *International Journal of the Commons* 9 (1): 1-18.
- Connell, R.W. 1987. *Gender and power*. Cambridge: Polity Press.
- Cooper, Davina. 2020. Towards an adventurous institutional politics: The prefigurative ‘as if’ and the reposing of what’s real. *The Sociological Review* 68 (5): 893-916.
- . 2019a. A very binary drama: The conceptual struggle for gender’s future. *feminists@law* 9 (1). <https://doi.org/10.22024/UniKent/03/fal.655>.
- . 2019b. *Feeling like a state: Desire, denial, and the recasting of authority*. Durham, NC: Duke University Press.
- . 2016. Transformative state publics. *New Political Science* 38 (3): 315-34.
- . 1998. *Governing out of order: Space, law and the politics of belonging*. London: Rivers Oram.
- . 1994. *Sexing the city: Lesbian and gay politics within the activist state*. London: Rivers Oram.
- Cooper, Davina, and Didi Herman. 2020. Doing activism like a state: Progressive municipal government, Israel/Palestine and BDS. *Environment and Planning C: Politics and Space* 38 (1): 40-59.
- Cooper, Davina, and Flora Renz. 2016. If the state decertified gender, what might happen to its meaning and value? *Journal of Law and Society* 43 (4): 483-505.
- Crenshaw, Kimberlé. 1989. Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory, and antiracist politics. *University of Chicago Legal Forum* (1989): 139-167.
- Cruz, David B. 2002. Disestablishing sex and gender. *California Law Review* 90 (4): 997-1086.
- Davies, Margaret. 1994. Feminist appropriations: Law, property and personality. *Social & Legal Studies* 3 (3): 365-91.
- Davis, Heath Fogg. 2014. Sex-classification policies as transgender discrimination: An intersectional critique. *Perspectives on Politics* (2014): 45-60.
- Dossa, Shiraz. 1989. *The public realm and the public self: The political theory of Hannah Arendt*. Waterloo, Ontario: Wilfrid Laurier University Press.
-

-
- Edelman, Murray Jacob. 1985. *The symbolic uses of politics*. Chicago: University of Illinois Press.
- Grabham, Emily, Davina Cooper, Jane Krishnadas, and Didi Herman. 2008. *Intersectionality and beyond: Law, power, and the politics of location*. London: Routledge-Cavendish.
- Hajer, Maarten A. 2005. Setting the stage: A dramaturgy of policy deliberation. *Administration & Society* 36 (6): 624-47.
- Halley, Janet. 2008. *Split decisions: How and why to take a break from feminism*. Princeton: Princeton University Press.
- Hennessy, Rosemary. 2013. *Fires on the border: The passionate politics of labor organizing on the Mexican frontera*. Minneapolis: University of Minnesota Press.
- Hines, Sally. 2020. Sex wars and (trans) gender panics: Identity and body politics in contemporary UK feminism. *The Sociological Review* 68 (4): 699-717.
- Holzer, Lena. 2018. *Non-binary gender registration models in Europe: Report on third gender marker or no gender marker options*. ILGA-Europe. https://www.ilga-europe.org/sites/default/files/non-binary_gender_registration_models_in_europe_0.pdf (last accessed 8 October 2020).
- Honig, Bonnie. 1995. *Feminist interpretations of Hannah Arendt*. University Park, PA: Penn State Press.
- Hunt, Margaret. 1990. The de-eroticization of women's liberation: Social purity movements and the revolutionary feminism of Sheila Jeffreys. *Feminist Review* 34 (1): 23-46.
- Jeffreys, Sheila. 2014. The politics of the toilet: A feminist response to the campaign to 'degender' a women's space. *Women's Studies International Forum* 45: 42-51.
- Jenkins, Katharine. 2018. Toward an account of gender identity. *Ergo* 5 (27): 713-744.
- . 2016. Amelioration and inclusion: Gender identity and the concept of woman. *Ethics* 126 (2): 394-421.
- Katyal, Sonia K. 2017. The *numerus clausus* of sex. *University of Chicago Law Review* 84 (1): 389-495.
- Lorber, Judith. 2000. Using gender to undo gender: A feminist degendering movement. *Feminist Theory* 1 (1): 79-95.
- Lowndes, Vivien. 2020. How are political institutions gendered? *Political Studies* 68 (3): 543-564.
-

-
- Mackay, Fiona. 2014. Nested newness, institutional innovation, and the gendered limits of change. *Politics & Gender* 10 (4): 549-71.
- Markovits, Elizabeth K., and Susan Bickford. 2014. Constructing freedom: Institutional pathways to changing the gender division of labor. *Perspectives on Politics* (2014): 81-99.
- Martin, Patricia Yancey. 2004. Gender as social institution. *Social Forces* 82 (4): 1249-1273.
- McQueen, Paddy. 2015. *Subjectivity, gender and the struggle for recognition*. Basingstoke: Palgrave Macmillan.
- Murray, Kath, and Lucy Hunter Blackburn. 2019. Losing sight of women's rights: The unregulated introduction of gender self-identification as a case study of policy capture in Scotland. *Scottish Affairs* 28 (3): 262-89.
- Nedelsky, Jennifer. 1990. Law, boundaries, and the bounded self. *Representations* 30: 162-189.
- Newman, Janet. 2012. *Working the spaces of power: Activism, neoliberalism and gendered labour*. London: Bloomsbury.
- Nordmarken, Sonny. 2014. Becoming ever more monstrous: Feeling transgender in-betweenness. *Qualitative Inquiry* 20 (1): 37-50.
- Noxolo, Pat, Parvati Raghuram, and Clare Madge. 2012. Unsettling responsibility: Postcolonial interventions. *Transactions of the Institute of British Geographers* 37 (3): 418-29.
- Paechter, Carrie. 2006. Masculine femininities/feminine masculinities: Power, identities and gender. *Gender and Education* 18 (3): 253-63.
- Pearce, Ruth, Sonja Erikainen, and Ben Vincent. 2020. TERF wars: An introduction. *Sociological Review* 68 (4): 677-698.
- Phillips, Anne. 1995. *The politics of presence*. Oxford: Clarendon Press.
- Quinan, C.L., and Nina Bresser. 2020. Gender at the border: Global responses to gender-diverse subjectivities and nonbinary registration practices. *Global Perspectives* 1 (1). <https://doi.org/10.1525/gp.2020.12553>.
- Quinan, C.L., Verena Molitor, Marjolein van den Brink, and Tatiana Zimenkova. 2020. Framing gender identity registration amidst national and international developments: Introduction to 'Bodies, identities, and gender regimes: Human rights and legal aspects of gender identity registration'. *International Journal of Gender, Sexuality and Law* 1 (1). <https://journals.northumbria.ac.uk/index.php/IJGSL/article/view/971>
-

-
- Risman, Barbara J. 2018. *Where the millennials will take us: A new generation wrestles with the gender structure*. Oxford: OUP.
- . 2004. Gender as a social structure: Theory wrestling with activism. *Gender & Society* 18 (4): 429-50.
- Ryan, J. Michael. 2018. Gender identity laws: The legal status of global sex/ gender identity recognition. *LGBTQ Policy Journal* 8: 3-15.
- Sennett, Richard. 1992. *The fall of public man*. New York: W.W. Norton.
- Spade, Dean. 2015. *Normal life: Administrative violence, critical trans politics, and the limits of law*. Durham, NC: Duke University Press.
- Spivak, Gayatri Chakravorty. 2008. *Other Asias*. Malden, MA: Blackwell.
- Sullivan, Alice. 2020. Sex and the census: Why surveys should not conflate sex and gender identity. *International Journal of Social Research Methodology* 23 (5): 517-524.
- van den Brink, Marjolein, and Jet Tigchelaar. 2015. Gender identity and registration of sex by public authorities. *European Equality Law Review* 2 (2015): 29-40.
- Venditti, Valeria. 2020. Gender kaleidoscope: Diffracting legal approaches to reform gender binary. *International Journal of Gender, Sexuality and Law* 1 (1).
<https://www.northumbriajournals.co.uk/index.php/IJGSL/article/view/986>
- Walby, Sylvia. 2007. Complexity theory, systems theory, and multiple intersecting social inequalities. *Philosophy of the Social Sciences* 37 (4): 449-70.
- Walby, Sylvia, Jo Armstrong, and Sofia Strid. 2012. Intersectionality: Multiple inequalities in social theory. *Sociology* 46 (2): 224-240.
- Watson, Lori. 2016. The woman question. *TSQ: Transgender Studies Quarterly* 3 (1-2): 246-253.
- West, Candace, and Don H. Zimmerman. 1987. Doing gender. *Gender & Society* 1 (2): 125-151.
- Wilchins, Riki Anne. 1997. *Read my lips: Sexual subversion and the end of gender*. Ithaca, NY: Firebrand Books.
- Young, Iris Marion. 2006. Responsibility and global justice: A social connection model. *Social Philosophy and Policy* 23 (1): 102-130.
-