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35 (Mis)gendering

Os Keyes¹

I came out as trans, in fits and starts, when I began my PhD. My rationale was that it would be smoother to come out at the start of my PhD than in more familiar contexts where I was already known under my old name, pronouns, and identity. In early 2019 I happened to go to a used bookstore in Seattle with a colleague who had only known me as my new self. I absentmindedly gave the clerk my phone number to take advantage of my discount card—and the clerk casually read out my pretransition name from his screen.

This is a not-uncommon occurrence for me. Changing your name is hard for US immigrants, and updating your name in every (infrequently used) logging system assumes an amount of spare time I lack. My usual reaction is to grit my teeth. My reaction here, in front of a (posttransition) friend, was internal panic. A wall between contexts had been breached; my friend knew my pretransition name, could use it out of forgetfulness or to trawl for who I used to be rather than who I am, or could communicate it to others who might do the same.

¹ Any work is the product of many minds, gratefully stolen from. In this case, I am grateful to Frances, for teaching me to live, David, Jodi, and Charlotte, for teaching me to write, and Nikki, for teaching me the joy that comes with writing with and for those who matter. My many thanks to Adam Hyland and Ridley Jones for their patient copyediting of my impatient scribbling. *Vel ich shtarben mit gezangen.*

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Context

Part of the point of this anecdote is that before we talk about gender or (mis)gendering, we must first talk about context and self. A person's identity and/or presentation is contextual to some degree: it differs between locales and between temporal moments. You behave differently with your friends than with your coworkers. You behave differently now than you would have five years ago. In each place you have a different identity and/or presentation, some very close to each other and some drastically different. These identities and presentations are shaped by a complex mixture of "architectural affordances, site-specific normative structures, and agentic user practices" (Davis and Jurgenson 2014, 482): what the space permits you to do, what other occupants consider (in)appropriate for you to do, and what your (current) sense of self *is*.

Crucially, contexts sometimes "collapse," with multiple contexts (and their associated expectations and norms) suddenly overlapping. This carries with it a demand that you satisfy both sets of expectations and (particularly if unexpected) opens up the possibility of embarrassment or harm. Collapses can be the result of overlapping multiple identities or of information from a long-departed context coming back to haunt you (Brandtzaeg and Lüders 2018).

Gender

Gender is one such contextual phenomenon. As Viviane Namaste (2000, 140) puts it, gender is "a social function, neither timeless nor historical." On the whole, gender takes different forms in different societies. Some societies have two socially recognized genders; some have more; some see rigid gender roles as entirely alien (Oyèrónké 1997). Even societies that appear to match a

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normative Western gender framework may use very different criteria for determining someone's gender and the appropriateness of their presentation (Darwin 2018). Gender has varied throughout time within the "same" society, with gender roles and associations looking very different today from a century ago (Laqueur 1990). Gender is constantly being reshaped within societies by new technologies, cultural understandings, and senses of embodiment (Shapiro 2015); by shifts in time and shifts in space.

The same is true on an individual level. Our sense of who and what we can be is constantly shifting, unfolding, changing, and never completed: it varies between places with different rules, expectations, and possibilities and alters as we proceed through life and engage in the continuous and never-ending process of becoming. This roiling complexity of identity is *particularly* apparent to transgender (trans) people: those of us who transition between gender categories and identities. Doing so brings with it, as sociologist Harold Garfinkel (2006, 59) put it, "uncommon sense knowledge" of gender. We are different people today from those we were at birth. We may be out as trans in some spaces but not others, hide with family but not at work, or hide as cisgender (nontrans) at work but not at home. As a consequence we gain an unfortunately deep knowledge of the structures of gender: what accountability mechanisms exist, what standards are at play in different situations, what meets these standards, and what is insufficient (Fricker and Jenkins 2017).

The reason for that deep knowledge (and my use of the term *unfortunately*) is that Western society does not like to think of gender as contextual in the slightest. Anthropologist Michael Lambek (2013, 838) notes that the "forensic ideology"—the view of people as "unique, continuous and unitary actors... carrying moral responsibility for past and future deeds"—is a defining feature of Western modernity. A person is expected to be authentic at

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all times and for this to mean the same thing at all times. A person's gender must be "natural": it must meet the overarching expectation that it consistently match across space and time, all the way back to birth. The very existence of trans people, which proves the illegitimacy of such a claim of naturalness, is thus treated as an affront. We are often met with invalidation, harassment, assault, and the constraint of life chances since pushing us out of sight and existence is the one certain way to keep that myth of naturalness alive.

Misgendering

One form of invalidation is *misgendering*, addressing someone with gendered terms of address that do not match their identity.

Although academia has spent scant time on misgendering, we-as-academics do know some things about it. We know that experiences of misgendering are associated with negative health outcomes (McLemore 2015). We know that the *gender entitlement* associated with misgendering—the presumption on the part of the (usually cisgender) person doing it that they have the sole authority to know the trans person's gender—represents, and reinforces, the rigid and constraining normative model of gender. We know that misgendering is, in philosopher Stephanie Julia Kapusta's (2016, 502) words, "harmful, oppressive and contestable": that, even if only for a moment, it denies the legitimacy of trans people's self-knowledge and denies us a voice in our own destinies. And it is rarely "only for a moment"—one often experiences it as a ubiquitous feature of day-to-day life.

We-as-trans-people know different things, and far more viscerally. We know that this contestable denial of voice does not simply feel contestable: it feels like being pinned in place with a precision that would make a lepidopterist seethe with envy. A similar phenomenon—*deadnaming*

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(referring to a trans person by the name we were assigned at birth, rather than the name by which we are known now)—can be experienced in a very similar way: as marking, as pinning in place, and as a denial of legitimacy.

Misgendering and deadnaming sweep context aside, denying you the possibility of different selves at different places in different points in time. Your existing self is irrelevant, invalid, and dismissed. Your “true” nature is stamped on you, whatever you do.

In both cases this refusal of context and agency can have very material consequences. It often serves specifically to *mark you as trans* and to communicate to you that your trans status has been noticed by those around you. In a society where transphobia is rife and violence is common, this marks you as vulnerable.

Stateful Data and Administrative Violence

The marking of trans people does not just occur in personal interactions; it also occurs through data. Yet scholars investigating data rarely consider trans people at all. This is not to say that gender does not appear in data theory but to say that it makes an appearance largely in the abstract—largely *as* theory (Leurs 2017). A trans reader of Cheney-Lippold’s (2018) “We Are Data,” for example, will be deeply amused to discover that it is novel, shocking even, for personal attributes such as gender to be determined without our consent. Trans scholars do not need the metaphor of a “doppelgänger” or “double” to imagine the far-fetched possibility of an alien person whom, over your denials, others insist on treating as your true self (Haggerty and Ericson 2000; Robinson 2018).

Whether data theorists know trans people exist or not, data *systems* certainly do. Historian Mar Hicks (2019), writing in the *IEEE Annals of the*

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History of Computing, describes trans Britons' navigation of the national insurance system in the 1950s, working to correct the names and genders associated with their records in the (newly computerized) databases. Lars Z. Mackenzie (2017) discusses trans Americans' experiences with credit report systems, to which they become illegible on transition. Turning to the more transparently coercive and malevolent, Beauchamp (2018) unpacks trans efforts to respond to the new security state post-9/11 and the data systems (from identity cards to biometrics) that came along with them.

In each case of trans people struggling to survive these systems, we see what Spade refers to as *administrative violence*, "the ways in which systems that organize our lives in seemingly ordinary ways—determining what ID we carry, what government records exist about us, how roads or schools or garbage pick-up are organized—produce and distribute life chances based on violent forms of categorisation" (Nichols 2012, 41). National insurance IDs are used to determine eligibility for state pensions and are required for employment. Inaccuracies can spell disaster for the material well-being of trans citizens. Credit scores, in a US context, are essential not just for loan access but also for employability and access to rental housing. The consequences of illegibility in immigration, border security, and policing contexts, particularly for already Othered populations, should be obvious.

But we also see a refusal of contextuality. These systems demand that citizens and their biographies be consistent in order to be considered "authentic." Those who are not are illegible, invalid, and disadvantaged: the issue is not a doppelgänger but a dybbuk, a dead life clinging to you and weighing you down. Reformist attempts to resolve this—logging one's change of gender marker—also require outing one's trans status, fixing it as an additional factoid the system's users can access and so collapsing context in a

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different way. In both cases we are made vulnerable to harm; in both cases a symbolic kind of violence is additionally done by requiring us to witness our own vulnerability and the assumption of our illegitimacy.

The Violence of Stateless Data

But data systems are much wider than administrative systems: we live in a datafied *society*. A vast range of actors, from corporations to individuals, have access to analytical systems, databases, and tracking mechanisms. Data studies has long investigated how this brings new actors into play, allowing them to construct their own assemblages of tracking, identification, and logging (Haggerty and Ericson 2000). The credit reporting systems discussed as administrative violence provide an excellent demonstration of this: while such systems are legally mandated, they are administered by private companies.

But traditional notions of administrative violence are silent on actors and their systems when it does not involve the state. This leaves a worrisome gap. Systems administered by nonstate actors can commit violence against particular populations and create space for additional violence by third parties. This has led to Anna Lauren Hoffmann's (2017, 11) definition of the term *data violence*: "The harm inflicted on trans and gender nonconforming people not only by government-run systems, but also the information systems that permeate our everyday social lives."

As an illustration of data violence, consider background check websites. Generic, ubiquitous, and endlessly frustrating, they populate search results for any name you can think of, promising private information for anyone willing to pay. In the case of at least two of my friends, googling their phone number produces websites that associate that number with their deadname. In other words, these websites' business models serve to

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functionally mark and out those people as trans; to collapse the distance between contexts in which one is out or not, opening up the possibility of physical violence or discrimination and rendering it impossible under normative views of gender for them to be considered “natural.”

Background check websites are not unique in this; one could point to abandoned Myspace accounts or outdated academic publications as other examples. In all of these cases, the state is nowhere to be seen, and yet the possibility and probability of violence through data remain. The presence of data, not just about our current selves in our current contexts but about *our past selves and contexts*, becomes a weapon to be wielded that prohibits vulnerable populations from obtaining a present. It opens up what philosopher M. Draz (2018, 14) evocatively calls “memory that burns”: the persistence of data about gender that sears one’s sense of self. Even when no (online) data is available, the case of the used bookstore demonstrates how easily this marking and burning can take place—at least book discount records are correctable. Unknown data stores replicated an unbound number of times, and accessible to an arbitrary but undetermined number of people, are an entirely different thing.

Just as with administrative violence, these systems alter life chances and trajectories, given the stigma attached to trans existences and the range of possible consequences of being outed. What happens if the new friend who googles the phone number is, unbeknown to the trans subject, a bigot? What happens if these data are obtained en masse and used to determine access to private-sector, rather than state, opportunities? And just as with administrative violence, there is an additional layer of harm done through the trans subject’s awareness of this exposure and vulnerability—through the sensation of being pulled back through time and context and of being inexorably pinned to one’s

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past. Through these data stores and the way they surface, our past selves are made available to unknown publics, outing the often complex nature of our gendered selves and in the process making clear our nonconformity. As a consequence, they expose us to violence, to outing, and to the possibility of ill treatment.

Conclusion

As we travel through an increasingly datafied world, we leave traces and forms of identity, in a society that often expects certain crucial markers of identity (such as gender) to be consistent. When these encysted representations of past selves burst—over and over again—they open up space for outing, marking, and the possibility of violence. To be misgendered is to be gendered incorrectly; to be (mis)gendered is to be gendered in a way that, by collapsing contexts, leaves one vulnerable to harm. The gendering does not have to be “incorrect”—it merely has to be unexpected in the current context, rendering one vulnerable to those who witness it.

My point in all of this is not that *any* datafied society is harmful or that “big data” is inherently violent. The work of Shaka McGlotten (2016) and Mendenhall et al. (2016) provides examples of these technologies being used by African American communities to create and reclaim space; Mackenzie’s (2017) work, mentioned earlier, also articulates ways these systems (accidentally) provide paths for trans people to *evade* constraints. But all of this work is dependent on contextuality being recognized and permitted; on credit reporting systems not being able to “see” everything; and on technological spaces that have not been colonized. Such spaces are outliers in a world where datafied systems, by surfacing seemingly innocuous data, render the Other additionally vulnerable—and additionally monstrous.

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For critical data studies scholarship to be truly critical and do more than illustrate a narrow and monolithic range of the datafied society's consequences, it must consider (among many others) trans lives. It must consider the contextuality of gender specifically and identity more broadly, the way data systems work to *strip* contextuality, and how we might preserve and rebuild that. It must consider not only the flows of data but the eddies: the *dead* data, left static and in place until it is reanimated in a temporal context where it can do harm. Only then can we work to be free.

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