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TOO “FULL OF GENDER”

HOW ACTIVISTS CONCEPTUALIZE THE PROMISES AND PITFALLS OF GENDER-NEUTRAL IDENTITY DOCUMENTS

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Abstract

The social movements literature identifies a dilemma that activists face between principles of affirming and deconstructing identity. Drawing on in-depth interviews with 85 activists from diverse political perspectives, this article shows that, in discussing identity documents (IDs), progressive activists took a practical approach that recognized both the advantages and drawbacks of recognition. They expressed support both for initiatives that would provide additional sex/gender marker options—beyond M or F—on IDs and those that would remove sex/gender markers from IDs altogether. This article argues that progressives readily perceived the drawbacks of recognition in the case of IDs because this context—more than others—cues concerns about state regulation and surveillance. Conservatives, who advocate for limiting government power in other contexts, were less likely than progressives to support the idea of removing sex/gender markers from government IDs, appealing to other priorities to justify this stance. Together, these findings underscore the extent to which expediency motivates social activists. They also show how both political orientation and social context shape preferences for emphasizing versus de-emphasizing sex/gender.

Key words: identity documents (IDs), X markers, gender-neutral IDs, identity politics, gender identity, transgender, nonbinary, gender neutrality

Take out your driver's license. What is on it? In addition to the license number, date of expiration, and name, it may have your address, date of birth, whether you wear prescription eyeglasses, your hair and eye color, height and weight, and sex/gender. If you live in the United States, at the time of this writing, you will have a sex/gender marker on your driver's license. Depending on the state in which you live, you may have X for sex/gender if you are not easily classifiable as male or female, do not identify as either male or female, or do not wish to have M or F on your identity document (ID). Should everyone have options beyond M or F? Do sex/gender markers belong on driver's licenses at all?

The nomenclature of M (male) or F (female) ostensibly refers to biological sex—a social determination that a person is male or female based on biological criteria such as genitalia at birth (West and Zimmerman 1987). Increasingly, however, states permit people to change sex markers on ID cards to reflect a gender identity—a person's own sense of whether they are a man/boy, a woman/girl, or neither/both—that may diverge from sex assigned at birth (Currah and Moore 2009). At these cases, the M or F on ID cards is arguably better understood as a *gender identity marker*, or *gender marker* for short.¹ This article's use of the term *sex/gender markers* acknowledges that biological sex and gender identity are often conflated.

It has long been accepted that there are several deeply-held and taken-for-granted assumptions about sex/gender, including: 1) that biological sex determines and is consistent with how one identifies (Lorber 1994); 2) that sex/gender is binary so that everyone is either male/man or female/woman (Lucal 1999; West and Zimmerman 1987); 3) people hold each other accountable for behaving in ways that concord with social expectations associated with sex category (West and Zimmerman 1987).

Recent changes to identity cards reflect a waning collective commitment to these principles, while further undermining them. Increasingly, one may change one's sex/gender

marker, eroding the link between biological sex and social gender (but see Westbrook and Schilt 2014 for how this varies by social context). The X marker belies the idea that everyone is male or female, acknowledging people who are intersex (are not easily classifiable as female or male) or nonbinary (identify as neither male/men nor female/women). Finally, allowing people the choice of not putting an M or F on an ID or removing sex/gender markers from identity cards altogether potentially weakens accountability to sex category (West and Zimmerman 1987). Removing sex/gender markers from IDs also arguably challenges the state or federal government's authority to categorize people by sex/gender (Currah 2022; Currah & Moore 2009; Spade 2015).

Today, U.S. policies governing sex/gender markers are unsettled—or in a state of contestation and flux. During such “unsettled times,” people are more likely to explicitly articulate meaning systems that often remain implicit during “settled times” (Swidler 1986). This provides a research opportunity to study meaning systems governing sex/gender in the contemporary United States. Seizing this opportunity, this article examines how 85 gender activists from diverse political orientations responded to a series of questions about gender-neutral IDs. Specifically, it examines whether they expressed support reforms to add gender categories to IDs or to remove them altogether and why. It explores how progressives balanced the promises and risks associated with demands that the state recognize multiple gender identities versus calls to limit the state's ability to classify by sex/gender. It examines how conservatives weighed a commitment to limiting government power with that of preserving traditional gender roles. Activists are on the forefront of social change, pushing for or against it. As such, their views both reflect and influence broader public attitudes. In-depth interviews combined with interpretive analysis can capture how people's opinions map onto broader

worldviews and their relative ease with these worldviews (Pugh 2013), providing insight into this cultural moment.

BACKGROUND: MARKING SEX/GENDER ON IDENTITY CARDS

Although many people take for granted that identity cards include sex/gender, this field was only added to U.S. passports in 1976 (Ghoshal 2020). In contrast, sex/gender was on the earliest U.S. driver's licenses, but driver's licenses themselves were not introduced in the U.S. until the early twentieth century and took thirty years to become commonplace (Adair 2019). Early driver's licenses—"part of a trend toward codifying vital data as categories of personhood"—included a field for "color" and for sex/gender (Adair 2019, 573). In fact, some argue that it was the inscription of race on document cards that led to the presumption that sex/gender should be noted as well (Adair 2019). At some point in the mid-twentieth century, the notation *race* "quietly disappeared from most US driver's licenses" (Adair 2019, 587). In contrast, the 2005 Real ID Act required that all states mark sex/gender on their driver's licenses to be accepted at federally administered sites (Adair 2019).

Recently, legal scholar Anna James Wipfler (2016) has advocated for moving sex/gender from the "legal" field of birth certificates—which appears on the certified copies that people receive and use as legal forms of identification—to the "medical and health" section, which does not. In 1949, "Legitimate: Yes, No" was moved to this section, as was race in 1968. "Length of Pregnancy" and "Weight at Birth," have always been in this section. Moving sex/gender to this section would preserve in the record information about genital sex appearance, while protecting against the "high likelihood of misuse," i.e., discrimination (Wipfler 2016, 532). The American Medical Association (AMA) recently endorsed this proposal (Branigin 2021).

Meanwhile, opinion polls highlight large gaps between Democrats and Republicans in attitudes about sex/gender markers. A Pew Research Center poll showed that 60% of Democrats agree but that 79% of Republicans *disagree* that people should be given options beyond man or woman when asked to identify their sex/gender (Graf 2019).

This survey did not ask about support for limiting the federal or state government's power to categorize people by sex/gender markers in the first place, which may reflect less public awareness of the potential benefits of this approach. Given that conservatives often voice support for limiting government power (Rudolph and Evans 2005), we might expect them to support the idea of limiting governmental authority to categorize people by sex/gender. Yet, conservatives may also be willing to embrace state power and limit individual liberty to enforce traditional gender roles or other priorities (Skocpol & Williamson 2016).

Just as the Pew survey did not ask whether people would support removing sex/gender markers from IDs altogether, so too state governments have largely overlooked this possibility (Braunschweig 2020). Yet, as some lesbian, gay, bisexual, transgender, queer, intersex, and more (LGBTQI+) activists and scholars have noted, adding X marker options to identity cards further legitimizes the state's prerogative to categorize and control people, while leaving intact both the valuing of masculinity over femininity and of gender conforming people over gender nonconforming people (Braunschweig 2020). As Wipfler (2016, 521) has argued, "creating a third gender marker reinforces the notion that every police officer, border guard, bouncer, store clerk, or other regular reviewer of IDs has a right to know the bearer's gender." For this reason, Wipfler (2016, 543) contends that "the answer to the various Identity Crises is less state emphasis on gender identity, not more." Likewise, Spade (2015, 87) has called for "resistance strategies that understand the expansion of identity verification as a key facet of racialized and gendered maldistribution of security and vulnerability" (see also Braunschweig 2020).

THEORETICAL FRAMEWORK

Identity Politics

Discussions about what information should be included on government-issued IDs offer a quintessential case of identity politics. Social movement scholar Nancy Whittier (2017, 376) defines identity politics as “organizing around the specific experience or perspective of a given group. . . that has identity visibility as a goal.” Identity politics is typically used to refer to “women, queers, religious minorities, and racial minorities” and issues that have particular importance for these groups (Walters 2017, 477). Given this, it is not surprising that identity politics elicit backlash. Political conservatives equate identity politics with “political correctness” or “wokeness,” while neo-Marxists dismiss identity politics as a distraction from the so-called real politics of economic inequality (Bernstein 2005). Many queer theorists, in turn, argue that identity politics legitimize the very categories that produce inequality in the first place (Spade 2015)—calling for their elimination (Bernstein 2005).

Social movement scholars underscore the bind activists face in emphasizing or downplaying identity. In an influential article, sociologist Joshua Gamson (1995, 390) argued that “fixed identity categories are both the basis for oppression and the basis for political power.” Focusing on lesbian and gay mobilization, Gamson (1995) asked whether movements that aim to deconstruct the social categories on which their group membership is based will ultimately undermine their own existence, dubbing this a “queer dilemma.” Historian Joan Scott (1996) addressed this same paradox in the context of feminists who, by speaking on behalf of women, risk reinforcing the very category that they hope to abolish (see also Brown 2000; Minow 1990). Recently, Wipfler (2016, 521) observed that trans rights advocates are likewise caught between wanting to “achieve respect for every person’s gender identity” and seek[ing] the deconstruction of the very category by which they are united” (see also Brubaker 2016).

People who are *transgender*, or *trans*, identify in a way that diverges from their sex assigned at birth. *Trans rights* refers to trans people's civil rights.

Other scholars have pointed out how identity projects that shore up one category—including gender, sexuality, or gender identity—risk obscuring other forms of inequality, such as race, ethnicity, or colonialism (K. Crenshaw 1991; Moraga and Anzaldúa 2015; Spivak 1993). Legal scholar and trans activist Dean Spade (2015, 87) has noted that the “trend toward recognition and inclusion demands... has created significant political division between people whose race, class, immigration, and gender positions and privileges give them the capacity to benefit from such inclusion” and those without such privilege.

Calls to add X markers on identification cards are often assumed to come down squarely on the side of identity recognition, rather than category deconstruction. Thus, a recent New York State bill to add an X marker was dubbed the “Gender Recognition Act” (News 12 Staff 2021), as was California's 2017 law (Transgender Law Center n.d.). Yet, we do not know if this is the only way that gender activists understand the function of the X marker. Meanwhile, removing sex/gender from IDs altogether has been proposed as means of “blurring the processes of categorisation and hence the hierarchical organisation of gender identities” (Braunschweig 2020, p. 87; see also Spade 2015; Wipfler 2016).

Degendering vs. Gender Inclusivity

Like social movement scholars, gender scholars have grappled with the tension between emphasizing or downplaying identity. Second-Wave feminist scholars and activists argued that the very categories “masculine” and “feminine” were inextricably tied to gender hierarchy, so that achieving gender equality required diminishing the salience of gender, what sociologist Judith Lorber (2005, xiv) dubbed *degendering*.

In turn, to stoke fear, conservatives argued that promoting gender equality would completely eradicate sex distinctions. In the 1970s, anti-Equal Rights Amendment (ERA) activist Phyllis Schlafly warned that promoting legal sex equality would lead to women fighting on the front lines of war, same-sex marriage, and “co-ed” public restrooms—signaling an unstoppable slide towards a “gender-free” society (Schlafly 1977; see also Solomon 1978).

Recently, LGBTQI+ activists have called for the celebration of a wide range of gender identities that proliferate the gender binary. In response to activism from GLAAD—an LGBTQ organization that focuses on media representations of LGBTQ people—in 2014, Facebook announced it would offer users 50 different options for gender identification, including “non-binary,” “intersex,” “gender fluid,” “gender variant,” “genderqueer” and “neither” (Ball 2014). Previous scholarship has dubbed this approach *gender inclusivity* (Saguy and Williams 2019). In a 1995 article, Bem (1995, 329) concluded that her previous efforts to “turn the volume down” on gender were misguided. She now asserted that “turning the volume up” on gender, or exploding and proliferating gender categories, was “a more effective way to undo the privileged status of the two-and-only-two categories of sex/gender/desire that are currently treated in Western culture as normal and natural.”

This article contributes to both the social movements literature and gender literature by highlighting the complementary role that deemphasizing and emphasizing gender can play in activism that seeks to advance equality based on gender, sexuality, and gender identity. It shows how preference for emphasizing, versus de-emphasizing, sex/gender is shaped both by political orientation and by social context.

DATA AND METHOD

This article draws on a diverse sample of 85 gender activists—interviewed between April 23, 2018, and June 7, 2021. It considers activists' views about how gender-neutral forms of identification can be used to advance a progressive gender justice agenda or threaten traditional understandings of sex/gender.

Sample

The sample was identified for a larger project examining various usages and understandings of the concept of gender neutrality. It includes people who have spoken publicly about gender-neutral parenting, gender-neutral restrooms, gender-neutral pronouns, or gender-neutral IDs, among other issues. Many of these people were affiliated or employed by political organizations, from diverse political orientations, engaged in gender issues. From a full sample of 93, 6 were removed because they did not directly discuss IDs.

The people interviewed vary in their expertise on the topic of gender-neutral identity cards. Some have published scientific studies or first-hand accounts or are cited in news reports on the topic. A few noted that they had not thought much about the topic before the interview. That even some activists focused on gender issues had not thought about this issue before the interview provides evidence of the extent to which this topic remains “unsettled” (Swidler 1986). Interviewing people who are experts on gender issues in general but not on IDs specifically provides a window into how people use “culture in action” to make sense of an issue during unsettled times (Swidler 1986).

Sixty-nine of the people interviewed were progressives. Following the lead of the activists interviewed, this article employs the umbrella term *progressive* for people involved in LGBTQI+ activism, feminist activism, or both. Some were focused on feminism (N=25); others were focused on LGBTQI+ activism (N=50). Several were equally committed to both, so that

the total adds up to more than 69. Even among those focused on one form of activism, many expressed support for both causes. Several progressives worked at nonprofit organizations, including the Gay and Lesbian Alliance Against Defamation (GLAAD) and the Human Rights Campaign (HRC). These organizations function within the liberal tradition of working with government institutions to enact reform. Other progressives criticize these organizations for being assimilationist, for marginalizing low-income people, people of color, and transgender people, or for being co-opted by neoliberalism and conservative egalitarianism (Cohen 1997; Minter 2006; Spade 2015).

Thirteen people interviewed were conservative. The smaller subsample of conservatives reflects difficulty encountered in recruiting conservatives, many of whom did not trust a university professor or graduate student to fairly portray their perspectives. One of the conservative activists also identified as feminist. Conservatives differ from each other in various ways, including in their attitudes toward the state. As with most qualitative work, this article does not make claims about how representative either subsample is of the larger population of progressive or conservative gender activists. This is especially true given that the size and content of these broader populations have not been determined.

Three respondents identify as radical feminists and actively oppose transgender rights. Of these, two are members of Women's Liberation Front (WoLF), which defends "women's reproductive autonomy and right to bodily sovereignty," while working with conservative organizations to oppose transgender rights. The third belongs to the LGB Alliance USA, whose website suggests that gender transition is driven by homophobia (LGB Alliance ND). Many on the political left would label these activists Trans Exclusionary Radical Feminists (TERFs), but they perceive this label as derogatory.

This article identifies by name, with their permission, people who are recognizable public figures on the topic of identity documents since their identity is relevant for understanding their position and influence. This also offsets somewhat the risk of presenting the author—a cisgender white woman—as the expert, while relegating transgender interviewees “to the role of testimony-machines” (Ashley 2019). To further mitigate this risk, this article cites research conducted by transgender and nonbinary scholars.

The sample includes people living and working in geographically and politically diverse regions of the United States—in urban centers on the East and West coasts; in smaller towns on the East coast; in the Midwest; and in the South, including locations across Texas. The sample is diverse in terms of age. Table 1 provides the average age for each group, along with other demographic characteristics.

INSERT TABLE 1 HERE

While the subsamples of conservative and progressive gender activists are similarly diverse in terms of geographic region and age, they differ when it comes to race and gender identity (see Table 1). All the conservative gender activists were white; none identified as transgender, nonbinary, or intersex. As such, they all could be categorized as cisgender, including eleven women and two men, although they often objected to that term. All three of the feminists who are actively working with conservatives to oppose to trans gender rights were white (cisgender) women. As shown in Table 1, 35 percent of progressive gender activists identified as non-white and 58 percent identified as non-cisgender, i.e., as transgender, nonbinary, genderqueer, two-spirit, or intersex. Trans and nonbinary people are overrepresented within the sample of progressive activists compared to the proportion of the public—7.1 percent LGBT by one estimate (Jones 2022)—and, possibly, compared to the universe of progressive

gender activists. Given the extent to which trans and nonbinary activists have taken up the term *gender neutral* in recent years (Saguy and Williams 2019), however, this sample may better represent the subgroup of gender activists engaged specifically with issues associated with this term, including IDs.

The Interview

The author, along with another faculty researcher and two graduate student researchers, conducted the interviews as part of a larger project. The author, other faculty researcher, and one of the graduate student researchers identify as white cisgender women. The second graduate researcher identifies as Black and nonbinary.

Forty-three of the interviews were conducted in person. When an in-person meeting was impossible, including during the global COVID-19 pandemic, interviews were conducted remotely via Skype or Zoom. Consistent with research demonstrating that online interviews can be as effective as in-person interviews (Jenner and Myers 2019), the remote interviews and in-person interviews were close in length, averaging 79 minutes and 11,275 words versus 83 minutes and 11,315 words, respectively.

This article draws primarily on responses to a short series of questions about gender-neutral forms of identification. Responses to these questions across the interviews generated a total of 150 single-spaced manuscript pages, or over 55,000 words. This portion of the interview began with an open-ended question about whether respondents had heard of “gender-neutral forms of identification” and general related thoughts. A follow-up question asked:

We’ve seen two types of gender-neutral identification. One involves removing sex category from ID cards. A second type involves giving people the option of using a gender-neutral marker, as we’ve seen with some countries allowing

people to put an X on their passport, instead of an M or an F. Do you have thoughts on which one of these would be a better option?

Data Analysis

All interviews were recorded and fully transcribed; some quotes in this article have been lightly edited for clarity. The author used the software HyperResearch to code each interview. The author used the “flexible coding” approach to index the “transcripts with broad codes that reflect the questions asked in [the] interviews” and then created a report that included all discussions of gender-neutral identification, organized by the person interviewed (Deterding and Waters 2021, 715). Finally, the author carefully read through the reports to identify recurrent themes.

INSERT TABLE 2 HERE

In a subsequent stage, the author identified specific instances in which a person discussed either eliminating markers from IDs or adding a third choice of a nonbinary option to IDs and created a table showing the total number of respondents who: 1) expressed openness to the idea of removing sex/gender markers from IDs; 2) expressed openness to the idea of providing one or more nonbinary sex/gender marker options for IDs; 3) expressed a preference for adding—compared to removing—sex/gender markers from IDs; 4) expressed a preference for removing—compared to adding—sex/gender markers from IDs; 5) mentioned that biological sex is usually important; 6) mentioned that biological sex is usually irrelevant; 7) mentioned that biological sex is sometimes important and sometimes irrelevant. Table 2 shows the proportion of all respondents, among those who discussed the given theme, who endorsed the view or made the point in column 1. Below the proportion, Table 2 provides the raw numbers, divided by the raw number of people who spoke to the relevant topic during the interview.

This article compares how the subsamples of progressive (N=69) versus conservative activists (N=13) responded to items 1–7. The author also analyzed differences between the subsample of activists focused primarily on feminist causes (N=25) and the subsample of those focused primarily on LGBTQI+ causes (N=50) and reports on the one meaningful difference below.² This article also queries internal contradictions and ambivalences within each interview, differences within each subsample, and commonalities across groups of interviews.

FINDINGS

The progressives took a practical approach in managing the tension between recognizing people's identities and destroying identity categories. In responding to questions about gender-neutral IDs, they expressed support both for providing additional sex/gender marker options on IDs and for removing sex/gender markers from IDs altogether, sometimes presenting the former as a step toward the latter. Moreover, while many argued that providing additional gender markers served to *recognize* gender identity, others argued that X markers *conceal* sex/gender. Concerns about state regulation and surveillance—more salient in this context than in others—seemed to heighten awareness of the drawbacks of state recognition of identity. Conservatives were less likely than progressives to support additional sex/gender marker options or removing them altogether—despite advocating for limiting government power in other contexts. In justifying this position, they argued that: 1) sex is a pre-political fact; and 2) there are overriding practical interests that require marking binary sex on IDs.

Recognizing Versus Deemphasizing Gender Identity

As shown in Table 2, 90 percent of progressive gender activists, in comparison to 15 percent of conservative gender activists, expressed openness to the idea of adding an X marker

to IDs. This is consistent with opinion polls that highlight large gaps in attitudes based on political affiliation about adding sex/gender markers (Graf 2019).

For some progressive gender activists, the X marker recognizes nonbinary gender identity. “I think it’s important for people to be recognized for who they are and be able to express that if they want to,” said a young nonbinary activist. A drag performance artist, writer, and producer who identifies as nonbinary—spoke about getting “my gender-neutral marker on my... REAL ID,” and that “it felt so affirming to get my ID with X on it.” A transgender woman, who identifies as nonbinary, said: “I want the X... Because it’s so nonbinary. I just like that. I just love it.”

Yet, other progressive gender activists spoke about using the X-marker to *resist* or “abstain from” gender classification. Jaime Grace Alexander—a nonbinary trans woman activist artist who was part of a coalition that got an X marker option added to the Baltimore state ID and helped craft testimony for the Maryland bill (Harmon 2019)—explained: “I don’t see it as a third category. I see it as the X goes over the letter that was there, if that makes sense. So, it’s like hiding and concealing the more information that somebody would be looking for from my ID.” Alexander has “increasingly been telling cisgender people, when they go to get their license updated to change it to X.” Alexander recounted how their mother and grandmother—both cisgender women—did this so that now “both have an X on their license with me.” Alexander explained that, in putting an X on their driver’s licenses, their mother and grandmother “are, through this small measure, abstaining [from] binary gender for their IDs.” Playing with the metaphor, Alexander imagined aloud their mother or grandmother saying, “I’m on a diet. I’m full of gender. Thank you. I couldn’t possibly [have another bite].”

A queer transgender man, working at a large LGBTQ organization, explained that some of the advocacy for adding an X marker came from cisgender “women who didn’t want every

piece of data about them in the world to tell the world that they were women, because of gender bias” and concerns about “data privacy.” In other words, while some people use the X marker to affirm nonbinary (or intersex) identity, others use it to conceal—or minimize—sex/gender.

Still, requiring people to choose a sex/gender marker nonetheless cues the idea that sex/gender is relevant and that the state has a right to categorize people by sex/gender. For this reason, some activists advocate for removing sex/gender markers from ID cards altogether. Indeed, among progressive gender activists interviewed, 85 percent expressed support for this idea.

Some progressive gender activists noted that having to choose M, F, or X forces nonbinary or intersex people to choose between “safety and authenticity,” in the words of one activist who identifies as nonbinary. This person explained that, while having an X marker feels like it would be most authentic, it also feels unsafe because “that immediately identifies me as being non-normative. And that means that if somebody is of the discriminatory type, that’s a big old red flag that I’m walking around with that goes, ‘hey, come discriminate against me.’” According to this person, “if we simply take gender off of identification, I don’t have to... choose between safety and authenticity.” This bind differs from the one identified in the literature between emphasizing and deconstructing identity. Rather than ideological, it is practical, rooted in a concern about bodily safety and state surveillance.

Indeed, half of the progressive gender activists expressed a preference for removing sex/gender from IDs rather than adding X marker options, compared to one third who expressed a preference for adding X marker options (see Table 2). One, who works at PFLAG—the first and largest organization for LGBTQ people, their parents and families, and allies—said: “adding a third or fourth or fifth category seems kind of like a partial solution” since “as long as we have categories, there will be people who don’t fit in them.” Similarly, a young nonbinary lawyer who

has done advocacy work around gender-neutral IDs, described “this trend to having nonbinary or X” as “a really important middle step” toward “the future that I would like, which is I don’t think that the government needs to know my gender.” A transgender rights activist and staff attorney at a large civil rights organization said: “To me, the long-term goal would be to get rid of gender on ID.” These comments suggest that there might be a temporal dimension to how activists navigate the dilemma between affirming and deconstructing identity categories, where affirming gender identities that transcend the gender binary is viewed as a step toward destroying the gender binary itself.

Several progressive activists argued that, since sex/gender markers on IDs are no longer reliable indicators of biological sex (since many states allow people to change them to match a gender identity at odds with sex assigned at birth), they no longer serve “a real purpose,” in the words of one trans activist who identifies as nonbinary, and should be eliminated. One employee of a transgender rights organization noted that “not all M marked people” have prostates, just as not all people with an F on their ID have a “vulva and a vagina” (see also Westbrook and Saperstein 2015; Westbrook and Schilt 2014). Rather than use this to argue that we should insist that sex assigned at birth be marked on IDs, this person pointed to this as evidence that we should not “be putting any of those categories on IDs.”

On April 10, 2018, in response to advocacy by the National Center for Transgender Equality (NCTE), the Centers for Medicare and Medicaid Services dropped sex/gender markers from 47 million Medicare cards (National Center for Transgender Equality 2018). Two weeks later, Mara Keisling, Founding Executive Director of NCTE, said in an interview with the author: “Nobody will miss it because there was no societal or programmatic reason for it being there. It’s just always been there.... But sex is required by the Real ID Act at the federal level. So, driver’s licenses have to have sex on them for now. We’re going to fix that in

the next decade.” Keisling took a practical approach to sex/gender markers on IDs asking: is there a societal need for them? If not, they should not be on identity cards (see also Davis 2017; M.L. Walters 2013). Likewise, the PFLAG member quoted above asked: “If there’s no practical useful need for a gender marker on a government issue ID, why have it at all?” Similarly, after saying that his long term goal would be “to get rid of gender on ID,” the staff attorney quoted above asked: “Why is it there, what does it do, why do we need it?.”

Sex/Gender Classification and State Power

Not everyone interviewed embraced initiatives to add additional sex/gender marker options or to remove sex/gender markers from IDs altogether. As shown in Table 2, a small minority of progressives did not express support for adding additional sex/gender markers (10%) or for removing sex/gender markers altogether (15%). Among the conservative activists, only eleven (85%) opposed both initiatives. None of the feminists opposed to trans rights expressed support for either reform.

People offered a variety of arguments to oppose these initiatives. Conservatives asserted the truth of the sex binary and the government’s right to collect and use information about sex/gender. Conservatives committed to small government tended to nonetheless defend government involvement in sex/gender classification by: 1) denying that this is an instance of governmental intervention by asserting that sex is a pre-political fact; and 2) emphasizing what they perceive to be overriding practical interests, such as national security or medical care. Several conservative activists emphasized the financial cost of changing IDs, especially given that this issue—according to them—concerns only a small minority of people. Radical feminists opposed to trans rights made many of the same points as conservatives. Some progressives voiced concerns that removing sex/gender markers from IDs could erode the state’s ability to

track various forms of gender inequality or negatively affect transgender people's access to medical care, a challenge for which they offered creative solutions.

A conservative activist and member of the Eagle Forum, the organization founded by Phyllis Schlafly to oppose the Equal Rights Amendment, explained why she thought sex/gender was a pre-political fact: "Sex is a way of identifying people. Just as eye color and hair color are ways of identifying people." Likewise, a conservative activist and member of the Family Research Council asked: "Why did we require people to put male and female on their driver's licenses in the first place? Was it because we're transphobic and we hate people who experience gender dysphoria? No. It's because there is a really practical reason to be able to identify if somebody is who they claim to be." This assumes that sex/gender markers match a person's appearance, which is not always the case.

A religious conservative activist—a member of the bipartisan Hands Across the Aisle Coalition, which opposes gender identity legislation—argued that the government has the right to collect and use information about sex and to limit those categories to male and female:

The ID is not yours. The ID is issued by the government.... I think it is a ridiculous crime to alter those documents to be anything other than male or female. For national security reasons, for statistical purposes. It's—that should be accurate. That's a record that would be kept for all of history. And it is not for people to manipulate for their own proclivities.

This person unapologetically defended the idea that the only true sex categories are male or female. For her, changing that, for people's "own proclivities," is both "ridiculous" and a "crime." This person works at the Family Research Center—a conservative organization with a mission to "advance faith, family, and freedom in public policy and the culture from a biblical

worldview” (Family Research Council ND). As such, a commitment to sex/gender binary may shape this person’s views more than, say, a commitment to smaller government.

Conservative activists commonly cited health and healthcare as providing overriding justification for the state to collect and use information about sex/gender on IDs. One member of Independent Women’s Forum (IWF)—an organization committed to limited government, economic liberty, and personal responsibility (Independent Women’s Forum ND), explained why she thought it was important to have assigned sex on drivers’ licenses: “Let’s say you had surgery, and you look like the opposite sex than you actually are, it’s especially important that your driver’s license says you’re a man. Right. Because then they know, this could be a problem with his prostate as opposed to her hormones.” According to this perspective, sex at birth creates physical differences that should be marked on official ID. To remove it, many conservatives argued, could be a matter of life or death.³

The two WoLF members made similar arguments. One said that it is “horribly dangerous” to deviate from assigning everyone M or F based on genitalia at birth, citing medical risks (“the paramedics need to know whether that person is female or male in order to administer proper treatment”), public health statistics (“if we’re going to have a bunch of X markers, that’s going to create a lot of problems for our society’s ability to conduct effective public health research and to make sensible policy decisions that come from that research”), and crime statistics (“quite frequently a male person who quote unquote identifies as a woman and commits sometimes pretty horrific crimes—sex crimes, violent crimes—and consistently that is being reported in the news as a crime that is quote unquote committed by a woman”). According to this person, it would be “a good thing” to be able to “turn back the clock a couple of decades and get back to... having male and female markers that were accurate.” The LGB Alliance USA member hit many of the same points.

Neither conservative activists nor progressives were a monolith, however. Two conservative activists—both of whom were members of organizations advocating for smaller government—expressed openness both to the idea of adding X marker options to ID cards and to the idea of removing them altogether. A conservative activist who works at FreedomWorks—an organization that advocates “the principles of smaller government, lower taxes, free markets, personal liberty and the rule of law”—said she thought these reforms were “fine” and, echoing progressives, suggested that adding X markers could function as a first step toward removing sex/gender markers altogether. Another conservative, who described herself as “a traditional conservative with libertarian leanings,” said: “if they want to get rid of the boxes, I don’t really care. Or they add a third option, fine.” Immediately afterward, she noted, however: “I think a lot of these boxes are less about discrimination or, you know, assigning a certain identity to people than it is information gathering, right? [laughs] The government just needs to know how many women versus how many men.” By asserting that sex/gender is a pre-political fact and dismissing arguments that it is discriminatory to collect information about sex/gender, she trivialized these proposed reforms, even as she expressed openness to them.

Among progressives, ten percent (6 out of 60 who answered the question) did *not* support adding X markers to IDs and fifteen percent (10 out of 68 who answered the question) did not support removing sex/gender markers from IDs altogether. One progressive activist maintained that we should continue to mark sex on birth certificates because “there are infant mortality rates that happen differently depending on the sex of an infant” and we need to be able to track that. This activist, while expressing support for adding X marker options, nonetheless voiced worry that if gender-creative parents put an X on the birth certificate of their children without intersex conditions, this might “skew our understanding of intersex rates.” The insistence that the state be able to track demographic data echoed concerns raised by

conservative activists, even if none of the conservatives specifically mentioned intersex conditions, which—through their very existence— challenge the sex binary. Other progressive gender activists voiced worries that removing sex markers might render sex discrimination invisible, echoing concerns about colorblindness (K. W. Crenshaw and Harris 2019).

Despite being cast as “biology deniers” by conservatives, not all progressive gender activists dismissed the relevance of biological sex. As shown in Table 2, among the 56 progressive gender activists who discussed whether sex/gender is relevant for IDs, 19, or 34 percent, mentioned situations in which biological sex is usually (3 people or 5 percent) or sometimes (16 people or 28 percent) relevant. This was the one question for which there was a meaningful difference between LGBTQI+ and feminist activists. Seventy-six percent of LGBTQI+ activists said that biological sex was usually irrelevant, compared to 45 percent of feminists.⁴ Future research should examine this further.

Like conservatives, progressives were most likely to mention the medical context when discussing the relevance of biological sex. One trans woman activist who runs an organization that supports LGBTQ+ youth said: “my sex listed in their database is female, which feels very affirming. But also, as somebody that does not have the biological and organ makeup of someone who perhaps is female-bodied from birth, that complicates my medical care.” Unlike the conservatives, however, progressives did not argue that it was important to know one’s biological makeup in every situation. As the trans activist quoted above put it: “other than that [specific medical context], I don’t see why it’s necessary anywhere else.”

Kimberly Shapple, a former member of the Tea Party who became a transgender activist after accepting that her seventh child was a trans girl (Shapple 2021), insisted that biological sex has implications for “parameters for blood pressure” and for “potassium levels and sodium levels.” A practicing nurse, Shapple said, “those little variations in numbers could

really suck for [my daughter] if they're going off female parameters. I know that's not the winning answer, but these are the things I lay awake at night and think about." Shappley's comment, "I know that's not the winning answer" suggests conflict between her beliefs in sex differences and a worldview that good trans activists minimize the relevance of biological sex.

Sharing her worst fears about her daughter, Shappley asked: "Do I get her a medic alert bracelet? I don't know. If they find a body in a field, they're going to be looking forever for a little girl because they found a body with a penis." After weighing the benefits and risks of removing sex/gender markers from identification cards, Shappley mused: "I almost wish there was a way to just list her as a transgender female so people would be expecting that she has a penis." Unlike the conservative activists, Shappley did not take the existence of her child's penis to mean that her child is a boy (see Gonsalves 2020; Meadow 2018). Rather, Shappley acknowledged that her child having a penis (and a scrotum, a prostate, a Y chromosome, and so on) is relevant in some—but not all—social contexts. This led Shappley to consider ways to signal, in specific contexts, a sex/gender status other than cisgender male or cisgender female.

Indeed, while some activists opposed to trans rights wistfully spoke of turning the clock back, some progressive gender activists imagined new forms of categorization that would ensure appropriate medical care without conflating biological sex and gender identity. One activist, who identified as nonbinary and transmasculine, noted that "people [in LGBTQI+ activist circles] are talking about an organ checklist: Does this person have a uterus? Does this person have whatever? And this is actually more relevant criteria." Presumably, this checklist would be used in medical settings but not necessarily on identity cards.

DISCUSSION AND CONCLUSION

This article has shown how, in grappling with the tension between affirming and deconstructing gender identity, progressive gender activists take a practical approach that acknowledges both the advantages and drawbacks of recognition—and state recognition specifically. Several of the progressives spoke of these two reforms to IDs—adding X marker options and removing sex/gender altogether—as not only compatible but as having a temporal dimension, in which affirming gender identities that transcend the gender binary can facilitate the ultimate destruction of the gender binary itself. Likewise, political theorist Paisley Currah (2022:96) has recently written about how, “as an advocate for transgender equality,” he has pursued a “traditional rights-based approach to recognition,” while, as a political theorist, he has “argued for the ‘disestablishment’ of sex.” Currah (2022:96) asserts that these two positions “are not necessarily incompatible” and that:

one might see them, instead, as inhabiting different time frames, or moving at different speeds: one is a short-term objective of recognition to alleviate the material problems of misclassified individuals in the here and now, and the other is a long-term vision of a government that does not tell anyone what sex they are.

Currah (2022:97) notes that, while ending sex/gender classification is often positioned as more radical than adding an X option, the use of one or the other strategy depends on “what position is most intelligible and useful in a particular context.”

Indeed, far from naively calling for affirming gender identity in all settings, progressive gender activists stressed that disclosing a nonbinary sex/gender identity can sometimes be dangerous. They noted that, while it sometimes feels affirming to have one’s sex/gender identity recognized, other times, one is too “full of gender” to possibly have another bite. In other words, rather than uncritically demanding recognition, progressive gender activists demonstrated

cognizance of its drawbacks. Because the risks of state control and surveillance are especially salient in this context, the case of identity documents seemed to make people more aware of the downsides of recognition.

While generally supporting initiatives to remove sex/gender markers from IDs, several progressives nonetheless voiced worries that doing so might render sex discrimination invisible—echoing concerns about colorblindness (K. W. Crenshaw and Harris 2019). Like conservatives, some progressives also worried that medical care could be negatively affected if medical providers lack accurate anatomical information, pointing to some shared concerns across political divides. Recent initiatives to move information about sex assigned at birth to the “medical and health” section of birth certificates would preserve it for use in research and medical care, while removing it from the certified copies that people use as legal identification (Wipfler 2016). Raising awareness about this possibility could increase public support for this change and for removing sex/gender markers from IDs by reassuring people that the information would exist elsewhere. Likewise, as others have pointed out (Braunschweig 2020), removing sex/gender from IDs should not prevent surveys and forms from asking people to disclose their sex/gender when the goal of the survey is specifically to assess gendered inequalities (see also Davis 2017).

Some progressives discussed alternative ways of categorizing people within a medical context, e.g., as transgender men or women, or using an “organ checklist” to better capture their physiology. Future research should examine how medical institutions are responding to the growing disconnect between sex/gender categorization and anatomy (Gonsalves 2020; Meadow 2018) and how well various alternative forms of categorization serve patients.

One reading of the interview transcripts is that, while both progressives and conservatives rely on a mind/body split, they split the mind and body differently. For

conservatives, gender identity follows (or should follow) the body and specifically genitalia. In contrast, progressives are more likely to discuss gender identity as largely independent of genitalia, although some draw on biological explanations by locating gender identity in, say, hormones or the brain (see Meadow 2011).

In-depth interviews can capture not only people's professed *opinions* but also the *feelings* these opinions bring up within a broader social context (Pugh 2013). LGBTQ+ activist Kimberly Shappley's comment, "I know that's not the winning answer," when discussing how her transgender daughter's body differs from that of a typical cisgender girl, highlights discomfort among some progressives with acknowledging that biological sex differences sometimes matter. This uneasiness may stem from a political context in which acknowledging sex differences is read as biological essentialism or even transphobic. Yet, it is important that we be able to have these conversations to ensure transgender people receive appropriate medical care (see Strangio 2015). We also need to have these conversations if we are going to continue to advance research and teaching on sex and gender.

The finding that conservatives did not generally support adding X markers or removing them altogether may seem unsurprising given that conservatives generally endorse the gender binary and biological essentialism. Yet, defending the state's right to collect and use information about people's sex/gender or even control driving privileges in the first place could be seen as running counter to the goal of limited government. Indeed, in the 1920s and 1930s, white rural Georgians blocked legislation introducing driver's licenses on the grounds that they were "merely taxation" (Adair 2019, 582). In contrast, in the interviews, conservatives defended government involvement in sex/gender classification by naturalizing biological sex and appealing to overriding government interests. This provides further evidence that conservatives' support for limited government is not absolute, but varies dramatically by the issue (Skocpol &

Williamson 2016), as we have also seen with conservatives' willingness to use the government to limit individual freedom in the case of reproductive health.

Many of the people interviewed—both progressives and conservatives—treated sex/gender markers as a transgender issue. Yet, a few progressives acknowledged how, historically, sex/gender classification served primarily as a “mechanism for the oppression of women” (Currah 2022:38). Today, resistance to reforming sex classification policies can be understood as driven not only by animus against transgender people but also by “a much larger anxiety about the changes feminism has wrought” and a will to enforce traditional gender norms (Currah 2022:23).

In sum, this article has shown how, in grappling with the tension between affirming and deconstructing gender identity, progressive gender activists took a practical approach that acknowledged both the advantages and drawbacks of recognition—and state recognition specifically. In interviews, progressive gender activists denaturalized identity cards by asking: “why, when, and to whom does my gender matter?” (see also Davis 2017; Wipfler 2016). They simultaneously embraced initiatives to provide additional sex/gender marker options on IDs—beyond M or F—and proposals to remove sex/gender markers from IDs altogether. Moreover, while many celebrated how providing additional gender markers *affirms* gender identity, others emphasized that X markers can be used to *conceal* sex/gender. The context of IDs seemed to cue concerns about state regulation and surveillance and to underscore the downsides of (state) recognition. In contrast, few conservative activists expressed support either for adding X markers or for removing sex/gender markers altogether. Conservative activists managed the tension between their support of state-issued IDs and a commitment to small government by: 1) denying that this is an instance of governmental intervention by asserting that sex is a pre-political fact (i.e., naturalizing sex/gender); and 2) emphasizing what they perceived to be

overriding practical interests, including national security and medical care. These findings highlight how practical concerns motivate social activists and how both political orientation and social context shape preferences for emphasizing versus de-emphasizing sex/gender.

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TABLES

TABLE 1: DEMOGRAPHICS OF CONSERVATIVE AND PROGRESSIVE ACTIVISTS INTERVIEWED (N= 85)

	Conservative Gender Activists (<i>n</i> = 13)	Progressive Gender Activists (<i>n</i> = 69)	Feminists Opposed to Trans Rights (<i>n</i> = 3)
Average Age	42 years	42 years	51 years
Proportion non-white	0 (0/13)	0.35 (24/69)	0 (0/3)
Proportion non-cisgender	0 (0/13)	0.58 (40/69)	0 (0/3)
Proportion cisgender women	0.85 (11/13)	0.39 (27/69)	1.0 (3/3)
Proportion cisgender men	0.15 (2/13)	0.01 (1/69)	0 (0/3)

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Notes

¹ Drawing on West and Zimmerman's (1987) typology, one gender scholar (S. Crawley 2022, 10) argues that "what is on a birth certificate or medical ID card is sex category." For West and Zimmerman (1987), *sex*, *sex category*, and *gender* are all social determinations produced through interaction. While *sex* is based on biological criteria, such as external genitalia or chromosome tests, *sex category* is based on observable cues, such as dress, secondary sex characteristics, or voice (West and Zimmerman 1987). Finally, *gender* refers to how people hold others accountable for behaving in ways consistent with expectations based on their sex category (West and Zimmerman 1987). Although highly cited, West and Zimmerman (1987) is frequently misunderstood, even by gender scholars and activists (S. Crawley 2022). People are more likely to employ the terms *sex* and *gender identity*—the latter understood as a person's own sense of whether they are male or female (Human Rights Campaign n.d.)—than *sex category*. In recognition of this, and of how biological sex and gender identity are often conflated, this article refers to the M, F, or X on identity documents as *sex/gender markers*. It accepts, however, West and Zimmerman's (1987) central insight that, whatever we call it, determinations that someone is male/man or female/woman are always based on social interactions, whether they occur among medical professionals or among everyday people (see also S. L. Crawley, Whitlock, and Earles 2021; Westbrook and Schilt 2014).

² The author did two sets of comparisons, one that included the respondents who were equally committed to LGBTQI+ activism and feminism and one that excluded these activists. The results are consistent across the two sets of comparisons. Tables available upon request.

³ On the flip side, having a driver's license that does not match one's lived sex category can also put one at the risk of physical violence (see Strangio 2015).

⁴ If we exclude activists equally committed to both LGBTQI+ activism and feminism, these percentages are 80 and 43, respectively.