



PERFORMATIVITY, PRECARIETY AND SEXUAL POLITICS¹

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Abstract

Gender performativity is one of the core concepts in Judith Butler's work. In this paper Butler re-examines this term and completes it with the idea of precarity, by making a reference to those who are exposed to injury, violence and displacement, those who are in risk of not being qualified as a subject of recognition. There are issues that constantly arise in the nation-states, such as claiming a right when there is not a right to claim, or being forced to follow certain norms in order to change these norms. This is particularly relevant in the sexual policies that are shaped within the nation-states.

Key words

Performativity, precarity, sexual policies, post-structuralism

I thought that I might take this opportunity to think again about gender performativity and to try to give an account of how I moved from a focus on performativity to a more general concern with precarity. Performativity was, to be sure, an account of agency, and precarity seems to focus on conditions that threaten life in ways that appear to be outside of one's control. Are these two concepts as different as they might at first appear? To conduct this comparison, or to describe this passage, let me briefly review what is meant by gender performativity and also what is meant by precarity, and then let me explain what has prompted me to change my focus, to some degree, but also to point out what has not changed.

To say that gender is performative is to say that it is a certain kind of enactment; the "appearance" of gender is often mistaken as a sign of its internal or inherent truth; gender is prompted by obligatory norms to be one gender or the other (usually within a strictly binary frame), and the reproduction of gender is thus always a negotiation with power; and finally, there is no gender without this reproduction of norms that risks undoing or redoing the norm in unexpected ways, thus opening up the possibility of a remaking of gendered reality along new lines.

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Precarity, on the other hand, describes a few different conditions that pertain to living beings. Anything living can be expunged at will or by accident; and its persistence is in no sense guaranteed. As a result, social and political institutions are designed in part to minimize conditions of precarity, especially within the nation-state, although, as you will see, I consider this restriction a problem. Political orders, including economic and social institutions are to some extent designed to address those very needs, not only to make sure that housing and food are available, but that populations have the means available by which life can be secured. And yet, “precarity” designates that politically induced condition in which certain populations suffer from failing social and economic networks of support and become differentially exposed to injury, violence, and death. Such populations are at heightened risk of disease, poverty, starvation, displacement, and of exposure to violence without protection. Precarity also characterizes that politically induced condition of maximized vulnerability and exposure for populations exposed to arbitrary state violence and to other forms of aggression that are not enacted by states and against which states do not offer adequate protection. So by precarity we may be talking about populations that starve or who near starvation, but we might also be talking about sex workers who have to defend themselves against both street violence and police harassment.

Precarity is, of course, directly linked with gender norms, since we know that those who do not live their genders in intelligible ways are at heightened risk for harassment and violence. Gender norms have everything to do with how and in what way we can appear in public space; how and in what way the public and private are distinguished, and how that distinction is instrumentalized in the service of sexual politics; who will be criminalized on the basis of public appearance; who will fail to be protected by the law or, more specifically, the police, on the street, or on the job, or in the home. Who will be stigmatized; who will be the object of fascination and consumer pleasure? Who will have medical benefits before the law? Whose intimate and kinship relations will, in fact, be recognized before the law? We know these questions from transgender activism, from feminism, from queer kinship politics, and also from the gay marriage movement and the issues raised by sex workers for public safety and economic enfranchisement. So these norms are not only instances of power; and they do not only reflect broader relations of power; they are one way that power operates. After all, power cannot stay in power without reproducing itself

in some way. And every act of reproduction risks going awry or adrift, or producing effects that are not fully foreseen. It is in this way, I would suggest, that a Derridian notion of iterability enters into a Marxist conception of the reproduction of domination and, indeed, the reproduction of personhood (an important part of materialism according to the Marx of *The German Ideology*).

When I speak about the subject in such contexts, it is not a “subject” who is the sovereign precondition of action and thought. But it is a socially produced “agent” and “deliberator” whose agency and thought is made possible by a language that precedes that “I”. In this sense, the “I” is produced through power, though not the deterministic effect of power. Power relies on a mechanism of reproduction that can and does go awry, undo the strategies of animating power, and produce new and even subversive effects. The paradox or quandary that emerges from this situation is one that we find in politics all the time: if the terms of power lay out “who” can be a subject, who qualifies as a subject of recognition, in politics, or before the law, then the subject is not a precondition of politics, but a differential effect of power. It means as well that we can and must ask the question, “who” comes after the subject, not expecting another form of the subject to emerge in historical time, but because some name must be reserved for those who do not count as subjects, who do not sufficiently conform to the norms that confer recognizability on subjects. What do we call those who do not and cannot appear as “subjects” within hegemonic discourse? It seems to me that there are sexual and gender norms that in some ways condition what and who will be “legible” and what and who will not. And we have to be able to take into account this differential allocation of recognizability.

It seems that we must do this in order to understand those forms of living gender, for instance, that are misrecognized or remain unrecognizable precisely because they exist at the limits of established norms for thinking embodiment and even personhood? Are there forms of sexuality for which there is no good vocabulary precisely because the powerful logics that determine how we think about desire, orientation, sexual acts and pleasures do not admit of certain modes of sexuality? The difference between a structuralism (even a structuralist psychoanalysis) and a post-structuralism embedded in the dynamics of power is that the former would simply dismiss all claims of recognition as impossible (and make of that a timeless pathos or a perennial joke). The latter, however, would have to ask

why some forms of sexual life are so much more possible than others, and why some seem to embody the unthinkable and even the unlive-able.

The performativity of gender is thus bound up with the differential ways in which subjects become eligible for recognition. Although of course I accept that full recognition is never fully possible, I also accept that there are differential ways of allocating recognizability. The desire for recognition can never be fulfilled – yes, that is true. But to be a subject at all requires first complying with certain norms that govern recognition – that make a person recognizable. And so, non-compliance calls into question the viability of one's life, the ontological conditions of one's persistence. We think of subjects as the kind of beings who ask for recognition in the law or in political life; but perhaps the more important issue is how the terms of recognition – and here we can include a number of gender and sexual norms – condition in advance who will count as a subject, and who will not.

So it is, I would suggest, on the basis of this question, who counts as a subject and who does not, that performativity becomes linked with precarity. The performativity of gender has everything to do with who counts as a life, who can be read or understood as a living being, and who lives, or tries to live, on the far side of established modes of intelligibility.

Let me offer an example that directly relates this issue of performativity to that of precarity. Some of you may know that illegal immigrants in May of 2006 took to the streets in Los Angeles and started to sing the national anthem of the United States. In fact, they sang the national anthem of the United States in English and in Spanish, and a Spanish version was widely circulated on the web. They also sang the national anthem of Mexico, and sometimes they would sing one anthem right after the other. What kind of public performance was this street singing? Their aim was to petition the government to allow them to become citizens. But what was the way in which they made their petition? Indeed, what kind of performative exercise was this singing?

They were exercising the right of free assembly without having that right. That right belongs to citizens. So, they were asserting a right they did not have in order to make the case, publicly, that they should have that very right. But obviously, they did not need to have the right in order to make a case that they should have that right. Luckily, they were not arrested, but they could have been. For the most part, illegal

immigrants stay away from any situation in which they might be caught, imprisoned, and deported. But in this instance, they made themselves very public, exercising a right that belongs to citizens precisely because they do not have that right.

As you may know, there are political battles in the state of California and elsewhere in the United States about whether English should be the obligatory language for all public services, and in all public schools. Those who defend the “English-only” policies are fearful about how much Spanish is already spoken, but also, a dozen other languages in California. If the language of the public sphere is supposed to be English, according to the English-only advocates, then singing the national anthem in Spanish is something of an outrage. At one level, singing in Spanish simply asserts that Spanish-speaking people are part of the United States, are already its citizens, and when they are not its citizens, they are workers, indeed, necessary labour – and not only in the fields, but also in the urban centers. But to sing the anthem in Spanish is also to call attention to the cultural presence of the Spanish language; indeed, the state of California would be unthinkable without the public presence of the Spanish language. This is not a prediction, but something that is already true. To sing in Spanish is to assert the multi-lingual reality of the public sphere, and to refuse those privatization strategies that require English in the public, and relegate other languages to the home, regarded of course as a pre-political sphere (which it never has been).

Singing the song is also an active way of trying to expose publicly the disavowal of both the Spanish language and of illegal workers in a public sphere that is already pervaded by Spanish-speakers and illegal workers. In this way, the song vocalizes of the phantom in the public sphere, the sudden visibility and audibility of those who are supposed to remain invisible and inaudible, are supposed to work hours that are illegal according to established labor law, who fear becoming ill since they will not be able to pay for care, and who are paralyzed with fear when they see police or when their workplaces are raided by “Homeland Security”, and who themselves have no legal protection against exploitation.

So the singing doubtless performs several functions, but let me just underscore the two that I have mentioned above: (a) the singing is a way of articulating a right to free expression, to freedom of assembly, and to the broader rights of citizenship by those who do not have that right, but exercise it anyway. And

this raises the question of how it is a right can be exercised when it is not already conferred. (b) The singing in Spanish on the street gives voice and visibility to those populations that are regularly disavowed as part of the nation, and in this way, the singing exposes the modes of disavowal through which the nation constitutes itself. In other words, the singing exposes and opposes those modes of exclusion through which the nation imagines and enforces its own unity.

In my recent work, including the small book I wrote with Gayatri Chakravorty Spivak (*Who Sings the Nation-State?*) I turn to the work of Hannah Arendt in order to consider her description of (a) how the nation-state is structurally linked with the production of stateless persons and (b) how those who are stateless nevertheless can and do exercise rights even when, precisely when, those rights are nowhere guaranteed or protected by positive law. Perhaps the singing on the street can be understood as one instance through which a right is exercised even when no right exists, or precisely when no right exists. Importantly, for Arendt, the exercise of this right can never be something that an individual performs. It has to be an action with others, and it has to be public. Indeed, in her terms, it has to enter into the sphere of appearance. For Arendt, the efficacy and the true exercise of our freedom does not follow from our individual personhood, but rather from social conditions such as place and political belonging. And it is not that we first need a place or a mode of belonging, but that the rights we exercise are grounded in pre-legal rights to belonging and to place. She refers to “the right to have rights, or the right of every individual to belong to humanity, should be guaranteed by humanity itself (Arendt, 1966:298).

What is interesting here is that Arendt is asserting this right without being able to justify it through recourse to prior grounds. Her assertion of the “the right to have rights” is itself a kind of performative exercise; she is establishing through her writing the right to have rights, and there is no ground for this claim outside of the claim itself. In the same way, those who lay claim to their rights through singing the anthem in public and in Spanish are articulating a right in the moment of enunciation itself. It is not through recourse to existing law, but rather through a certain exercise of freedom. Indeed, the performativity of the assertion in Arendt and the singing in the street is understood as an exercise of freedom. There is no freedom that is not its exercise; freedom is not a potential that waits for its exercise. It comes into being

through its exercise. The right to free speech, the right to public freedoms does not exist in an ideal sphere, but it is precisely that which comes into being when the song starts to be song, or when Arendt writes the sentences that both name and exemplify the freedom at issue.

One can see how this kind of Arendtian politics is at once performative and universalizing: She writes, “our political life rests on the assumption that we can *produce* equality through organization, because man [*sic*] can *act in* and *change* and *build* a common world, together with his equals and *only* with his equals.” (Arendt, 1966:301). Equality is here presumed as a precondition of making and changing the world. But equality only exists to the extent that people do, in fact, make and change the world on equal terms. Although some might say that this is a performative contradiction, it is rather a logic of the performative without which there can be no politics. To be a participant in politics, to become part of concerted and collective action, one need not only make the claim for equality, but one needs to act and petition within the terms of equality. The “I” is thus at once a “we”, without being fused into an impossible unity. To be a political actor is a function, a feature of acting on terms of equality with other humans. Equality is a condition and character of political action itself at the same time that it is its goal.

Of course, the criticism of the nation-state has been circulated for some time, even as the continuing power of the nation-state is everywhere acknowledged. Gayatri Chakravorty Spivak herself has made a series of arguments showing how the borders of the nation-state were established in the service of colonialism, and that who counts as a citizen of the nation-state is in no way answered by pointing to the populations that live within its borders. If we look at the carving up of nation-states in the last century, they are very often the consequence of colonial struggles and ways of continuing colonial power, even in the midst of de-colonization. Whereas Arendt argued that the nation-state invariably produces stateless peoples, Spivak argues that the nation-state is brought into being on the backs of stateless peoples, and that this is the legacy of colonialism in the making and sustaining of the nation state. Arendt (1966) restricts her study in *On Totalitarianism* to European nation-states, and this kind of analysis cannot work to describe the function of the nation-state within contemporary global conditions. Spivak has written, for instance, that, on the one hand, “The nation-state belongs to Europe,” but, on the other, it is not possible to

claim, in happy or utopian terms, the globe as one's place of belonging. We cannot pretend to have transcended the nation-state. She writes,

"Only a part of us lives as a subject in the globalized world, but how are we calling it "a home?" Where do we pay our taxes? How is it, that anybody's home today is 'our globalized world?' Because things move fast? Because there are specific groups of migrants who have crowded old Europe? As walls have gone up between the US and Mexico, between Israel and Palestine, and neither India nor China will let the Tibetans cross a border, we are wishfully thinking of a world without borders, because European states can cross into each other? This is colonial behaviour."

In other words, those who emphasize porous boundaries, transnational circuitry, and the end of the nation-state are not realizing that migrancy and deportation are forcibly regulated throughout the globe, and that such ideas of hyper-mobility are based on patterns of mobility within the European Union or between first-world countries.

Spivak (2008) asks, what happens to our thinking about the nation-state when we consider state formation in Africa? She writes,

"When the colonialists left Africa, they left impossible borders that masqueraded as partitions of nation states. Africa is going to give us something, which will be quite different from our old ideas of the ineluctable connection between nations and states. ...The partition of Africa by the imperial colonial powers lead ultimately to the establishment of some forty-eight new states, most of them with clearly defined boundaries. ...each independent African state is made up of a whole host of different ethno-cultural groups and nations, having different historical traditions and therefore interstate boundary disputes. Not only did these artificial boundaries create multi-ethnic states, they ran across pre-existing groups, ethnicities, states, kingdoms and empires. ...Some of the states that emerge from the partition were giants, like the Sudan and Congo ...Some states have miles and miles of coast line, while others are landlocked with no access to the sea, [Some have ...]no borders; and then some states like the Gambia and Somalia have only a border or two to police, others have four or more and Congo has seven. ...how can a state without access to the Sea or without fertile land really develop? Can one imagine the problems of security and of smuggling confronting these states with so many borders to patrol?"

So, Spivak asks us to think in new terms about nation-states in order to adjudicate some of these problems. We cannot rest easily with the idea that the state represents a given nationality, understood as monolithic and monolingual. We cannot rely on such definitions when we are thinking about contemporary nation-states. She writes, "Hannah Arendt was prescient when she talked about the fact that nation states, the connection of nation and state is just a blip in history." – that it is a transient and historically contingent nexus Spivak voices sharp skepticism about the story we have received about "how the nation-state is now broken up, replaced by a global order which ought now to be regarded as our collective home. The analysis of

Africa, in her view, shows us that this view is anachronistic. Africa is also the place for the experimentation of NGOs, and even, as Spivak puts it, “a laboratory for thinking and doing non nation-centered states. There is no connection between the language boundaries of Africa and so called national boundaries. This is not merely the case [because of] the existence of tribal languages, although that too is important, as [it is in] Latin America. In the Indic context, by contrast, what is interesting is early bilingualism between aboriginal and Indo-European languages, [and] this is not a European encounter. So again, what is our model of translation? Let us think about these histories, hardly peripheral [to the topic of the nation-state].

Interestingly enough, Spivak ends here with recourse to the problem of “translation.” In her terms, the act of cultural translation is the way of bringing about a new understanding. I want to suggest that this sustains strong resonance with my own concept of performativity. Performativity characterizes both the singing of the nation-state and Arendt’s conception of how we exercise rights.

Spivak’s point is that we cannot imagine a state as corresponding to a single nation, where the nation is understood as culturally uniform and monolingual. The examples from Africa that she cites show that the borders of the state divide populations from one another, but also force populations together who do not share linguistic or cultural ties. Moreover, such states produce disenfranchised populations who are regularly exploited by state-sponsored capitalism – precarious populations, to be sure. Since there is no return to the monolingual nation-state, no matter what the “English-only” partisans maintain, the task of cultural translation as a crucial way to produce alliance in difference. What she promotes is not a simple multiculturalism, but a practice of translation as a condition of subject-formation, even a way of dispersing the very notion of the subject. How then do we take up this task to think about translation as a performative exercise? Is it not translation that takes place when the US anthem is sung in Spanish? And is it not translation that characterizes the everyday life of multi-lingual states and non-state institutions of governmentality?

Spivak notes that the indigenous poor have to acquire dominant language in order to be represented by politics and law, and that this means that those who fail to translate into monolingualism have no chance to assert rights within recognizable codes. So it is all very well that Arendt identifies for us, in ideal terms, the kind of rights that those without rights can exercise. But can they always do it, and does

their act of exercising rights performatively induce the right they exercise? In Arendt, that way of exercising rights is presumed to work even when there are no supporting conditions, economic or political, for that exercise of rights. What Spivak teaches us is that under conditions of subalternity, especially within the Global South, the only way to lay claim to rights is through assimilating to those juridical structures which were not only built upon the effacement and exploitation of indigenous cultures, but continue to require that same effacement and exploitation. Indeed, the very act by which one petitions for rights within those legal strictures reconfirms the power exercised through that law, a power of the state which, in the service of global capital, reproduces the stateless class. In this context, then, the practice of translation (which is something other than an assimilation to mono-lingualism) is a way of producing – performatively - another kind of “we” – a set of connections through language that can never produce a linguistic unity. This is why Spivak tells us that translation is the experience of the impossible (which is not the same as saying that there is no translation). The point is to negotiate the right to speak, and to make sure that the voiceless are given a right to speak. And yet, this obligation cannot be the same as supplying or imposing that voice. An impossible and necessary bind, but also the model for a collectivity that does not presupposes sameness. We can then return to the question: what does it mean to lay claim to rights when one has none? It means to translate into the dominant language, not to ratify its power, but to expose and resist its daily violence, and to find the language through which to lay claim to rights to which one is not yet entitled. Like those squatter movements that move into buildings in order to establish the grounds to claim rights of residency; sometimes it is not a question of first having power and then being able to act; sometimes it is a question of acting, and in the acting, laying claim to the power one requires.

How then does this example lead us back to the question of performativity and precarity? We can see that the various modes of laying claim to public space and to citizenship require both translation and performative modes of expression. But let us remember that performativity does not just refer to explicit speech acts, but also to the reproduction of norms. *Indeed, there is no reproduction of the social world that is not at the same time a reproduction of those norms that govern the intelligibility of the body in space and time.* And by ‘intelligibility’ I include ‘readability in social space

and time' and so an implicit relation to others (and to possibilities of marginalization, abjection, and exclusion) that is conditioned and mediated by social norms. Such norms are made and re-made, and sometimes they enter into crisis in the remaking; they are vectors of power and of history. There are those who have limited access to "intelligibility" and there are others who epitomize its symbolic iconography, so the reproduction of gender norms within ordinary life is always, in some ways, a negotiation with forms of power that condition whose lives will be more liveable, and whose lives will be less so, if not fully un-liveable.

The theory of gender performativity presupposes that norms are acting on us before we have a chance to act at all, and that when we do act, we recapitulate the norms that act upon us, perhaps in new or unexpected ways, but still in relation to norms that precede us and exceed us. In other words, norms act on us, work upon us, and this kind of 'being worked on' makes its way into our own action. By mistake, we sometimes announce that we are the sovereign ground of our action, but this is only because we fail to account for the ways in which we are in the process of being made. We do not know, for instance, what precisely the norms of gender want of us, and yet we find ourselves moved and oriented within its terms. When a child is "gendered", that child receives an enigmatic demand or desire from the adult world; the primary helplessness of the child is, in this case, a profound confusion or disorientation about what it is that gender means, or should mean, and a confusion as well about to whose desire the desire for gender belongs. If what "I" want is only produced in relation to what is wanted from me, then the idea of "my own" desire turns out to be something of a misnomer. I am, in my desire, negotiating what has been wanted of me.

If we take this perspective, then gender performativity does not necessarily presuppose an always acting subject or an incessantly repeating body. It establishes a complex convergence of social norms on the somatic psyche, and a process of repetition that is structured by a complicated interplay of obligation and desire, and a desire that is and is not one's own.

When we act, and act politically, it is already within a set of norms that are acting upon us, and in ways that we cannot always know about. When and if subversion or resistance becomes possible, it does so not because I am a sovereign

subject, but because a certain historical convergence of norms at the site of my embodied personhood opens up possibilities for action. And even though we sometimes plan actions, deliberate on what course to take, and resolve upon intentions, it is not finally possible to think of pursuing subversive strategies exclusively as a fully deliberate and intentional set of acts. Certainly, we can and do try and discern various strategies that might contest dominant gender norms, and those strategies are essential to any radical gender and sexual politics. But we would doubtless make a mistake if we thought that we might remake our gender or reconstruct our sexuality on the basis of a deliberate decision. And even when we decide to change gender, or produce gender, it is on the basis of some very powerful desires that we make such a choice. We do not precisely choose those desires.

Of course, gender and sexuality are different issues, but I do not think they can be fully dissociated. Certain forms of sexuality are linked with phantasies about gender, and certain ways of living gender require certain kinds of sexual practices. There are significant and widespread discontinuities between gender norms and normative sexuality, as we know. But in relation to both gender and sexuality, none of us has the choice of creating ourselves *ex nihilo*. We are transformed and acted upon prior to any action we might take. And though we can radically rework our genders or even try to rework our sexualities (though often failing), we are in the grip of norms even as we struggle against them.

In my view, gender is a passionate comportment, a way of living the body with and for others; and although sexuality is not reducible to gender in any sense, it is crafted and mobilized by signifiers that none of us actually choose. You might decide on what kinds of sexual relations you want; indeed, you might decide who enters you and whom you would like to enter, but even then, you are not deciding on the passion. You are deciding about what to do about something that is in part already decided for you, something that is prior to deliberation and never fully within its control. You are given over before you decide where and when to give yourself over. Performativity is a process that implies being acted on in ways we do not always fully understand, and of acting, in politically consequential ways. Performativity has everything to do with “who” can become produced as a recognizable subject, a subject who is living, whose life is worth sheltering and whose life, when lost, would be worthy of mourning. Precarious life characterizes such lives who do not qualify as

recognizable, readable, or grievable. And in this way, precarity is rubric that brings together women, queers, transgender people, the poor, and the stateless.

It is worth remembering that one of the main questions that queer theory posed in light of the AIDS crisis was this: how does one live with the notion that one's love is not considered love, and one's loss is not considered loss? How does one live an unrecognizable life? If what and how you love is already a kind of nothing or non-existence, how can you possibly explain the loss of this non-thing, and how would it ever become publicly grievable? Something similar happens when the loss or disappearance of whole populations becomes unmentionable or when the law itself prohibits an investigation of those who committed such atrocities. For the queer movement, this was emphatically the case with AIDS, and remains the situation on the African continent and for all those populations throughout the globe who have no access to new drugs or no way to pay for them. These are but a few of the ways in which the differential distribution of grievability takes place, and when it does not actually lead to the annihilation of those who are already socially lost or socially dead, it ties them in knots without hope of ever becoming undone.

In the end, the question of how performativity links with precarity might be summed up in these more important questions: How does the unspeakable population speak and makes its claims? What kind of disruption is this within the field of power? And how can such populations lay claim to what they require?

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