

“I have to do so much more work... to let them know I’m different”

X Gender Markers, Binary Logics, and Nonbinary Labour

Victoria Clowater
McMaster University

Abstract: Nonbinary Ontarians may now get an X gender marker on IDs and birth certificates, and gender markers have been removed from Ontario health cards. These changes are part of a broader movement to prevent discrimination against nonbinary and transgender people in Canada. Nonetheless, those who adopt X markers still find that the gender binary structures their experiences in institutional contexts in ways that render nonbinary existence unthinkable. This paper explores the shortcomings of gender marker reform by considering how, to have their identities recognized, nonbinary people must initiate institutional change themselves. By bringing Ahmed’s (2021; 2019) work on complaint into conversation with reproductive labour, this paper discusses how nonbinary people must labour to reproduce conditions that allow for their existence as nonbinary. While gender marker reforms may help dismantle binary logics, the current implementation of gender marker expansion and removal in Ontario cannot accomplish this.

Keywords: nonbinary; X markers; transgender studies; anthropology of the state; Government of Ontario; complaint

Résumé: Les personnes non binaires de l’Ontario peuvent désormais obtenir un marqueur de genre X sur leurs pièces d’identité et leurs certificats de naissance, et les marqueurs de genre ont été supprimés des cartes d’assurance maladie de l’Ontario. Ces changements s’inscrivent dans le cadre d’un mouvement plus large visant à prévenir la discrimination à l’égard des personnes non binaires et transgenres au Canada. Néanmoins, celles et ceux

qui adoptent le marqueur X constatent toujours que la binarité des genres structure leurs expériences dans les contextes institutionnels d'une manière qui rend l'existence non binaire inconcevable. Cet article explore les lacunes de la réforme des indicateurs de genre en examinant comment, pour que leur identité soit reconnue, les personnes non binaires doivent elles-mêmes initier un changement institutionnel. En mettant en relation les travaux d'Ahmed (2021; 2019) sur la plainte avec le travail reproductif, cet article examine comment les personnes non binaires doivent déployer des efforts pour reproduire les conditions qui permettent leur existence en tant que personnes non binaires. Si les réformes relatives aux marqueurs de genre peuvent contribuer à démanteler la logique binaire, la mise en œuvre actuelle de l'élargissement et de la suppression des marqueurs de genre en Ontario ne permet pas d'atteindre cet objectif.

Mots clés : non binaire ; marqueurs X ; études transgenres ; anthropologie de l'État ; gouvernement de l'Ontario ; plainte

Introduction

In the Canadian province of Ontario, X gender markers¹ were made available on driver's licences and photo ID cards in May 2017, and an X option was added to birth certificates in 2018. Gender markers were removed from health cards in 2016. According to the Government of Ontario (2020a), X markers were introduced "to reduce the risk of trans and non-binary² people facing harassment or discrimination because their ID is not consistent with their gender identity."

Supporting documents are not required to change the gender marker on an Ontario driver's licence or photo ID card to X; the change is made by request at the public administrative services branch, Service Ontario. This standard, whereby an individual is considered an expert in their own gender identity, rather than relying on medical "expertise" to validate their gender identity, is known as a self-attestation standard (Wipfler 2016) or self-determination model (Vipond 2015). Gender marker changes from M to F or F to M do require supporting documents, such as a doctor's note confirming that an individual does not identify with the gender they were assigned at birth; I refer to this as a "medical standard." Gender marker changes on Ontario birth certificates always require supporting documents, including when changing the marker to an X.³

There has been a growing critique of X markers from transgender studies and trans activists, but transgender people are also its primary advocates. In this article, I explore the utility—and futility—of both gender marker expansion (that is, adding an X marker) and removal (removing markers altogether). This paper adds to conversations (Ashley 2018a; Eng 2010; Irving and Hoo 2020; Spade 2015; Vipond 2015) on the insufficiency of policy reform to prevent discrimination and provides a helpful rejoinder to celebrations of gender marker expansion (for example, Government of Ontario 2017).

Context

Despite expansion and removal in Ontario, the binary remains deeply entangled in bureaucracies and systems, including in interactions with front-line employees at public and private institutions, in medical contexts, and in administrative settings, including in the Ontario government's own database. Some institutions have implemented new gender designations in their administrative systems, added new fields on forms, and established training regimes to provide inclusive services to nonbinary clients. Nonetheless, binary logics that unsee nonbinary people persist in the technological architecture of institutions, in administrative norms, and in the minds of gatekeepers, upholding barriers to access for those outside the gender binary.

To be recognized as nonbinary subjects, nonbinary people must perform additional labour not required of cisgender people. Participants regularly remarked on how, even after obtaining an X marker, work was required to be recognized as nonbinary. Ember,⁴ a participant in their mid-40s living in Toronto, expressed their frustrations with being unable to escape recognition within the binary; even decisions of what to wear were fraught with considerations about how they would be gendered by others. Ember was frustrated that they only seemed to have access to gendered subjecthood that was either/or, man or woman, rather than being understood as existing outside the binary. They wanted freedom from the binary, but felt the constant pull of its logics, saying, “I have to do so much more work... to let them know I'm different.” Ember's words illustrate the labour performed by participants in their institutional encounters.

Drawing on Ahmed's (2021; 2019) work on complaint, I examine efforts at systemic change as a form of reproductive labour. Nonbinary people must engage in additional labour to reproduce conditions that allow for their existence as nonbinary. This labour might include filing complaints about

discrimination; obtaining supplemental paperwork to corroborate their gender identity or to challenge instances of misrecognition;⁵ educating gatekeepers about their institution's policies and procedures; and contending with gatekeepers who continue with business as usual even after policies are changed. In short, nonbinary people must take on the labour of unravelling the logics that unsee them.

While the Ontario government provides X markers, it has not modified its systems to recognize nonbinary people; the work of reproducing more inclusive systems is largely left to the very people X markers are meant to accommodate. While some institutions are open to change, such changes are only possible when nonbinary people take on the labour of complaint, when administrative tools allow for nonbinary possibilities, and when institutional gatekeepers are willing to provide nonbinary people services.

Scholarship on Gender Markers

Various scholars have been critical of gender marker expansion, and there have been calls to remove gender markers altogether (Davis 2017; Wipfler 2016). Some have expressed concern that adding an X marker may reify a third gender category (Davis 2017, Wipfler 2016), which runs counter to the self-conception of many nonbinary people, who generally conceptualize their gender as being outside the gender binary, or as fluid, rather than as a fixed point on a gender spectrum (Barbee and Schrock 2019; Finlay 2017). Reifying a third gender category may constrain gender variance and norm transgression (Davis 2017; Finlay 2017). Stryker, Currah, and Moore argue that by definition, categories limit what can be contained within them, while genders are “potentially porous and permeable spatial territories,... each capable of supporting rich and rapidly proliferating ecologies of embodied difference” (2008:12, in Malatino 2019:643). Spade (2008) connects the collection of citizen data such as sex at birth to the expansion of state surveillance. While he views calls to eliminate state data collection altogether as simplistic, he argues that collection of these data should be reduced, “seek[ing] a nuanced skepticism of surveillance that acknowledges its role in systemic domination” (750).

The legitimation of gender identity through the state has also been critiqued; for instance, Falek (2024) considers the “dispossession of gender(ed will)” (117) central to incarceration in Canada, tracing how X—and nonbinary recognition—is only available to those who meet expectations of proper citizenship, which precludes incarcerated people. Canadian carceral logics are

structured around anti-Blackness and anti-Indigeneity, making nonbinary recognition and proper citizenship particularly tenuous for BIPOC nonbinary Canadians. Through X, Canada portrays itself as a “safe space for trans people” (125), building on a long discourse that frames Canada as a progressive “liberation nation” (Murray 2015) for LGBT people, a framing that relies on racialized nations as a foil, contrasting Canadian tolerance with imagined violent and homo/transphobic attitudes towards queer people.

Feminist Perspectives on Complaint and Labour

To understand the role of nonbinary labour in challenging binary logics, I bring Ahmed’s (2019; 2021) work on complaint into conversation with reproductive labour. Ahmed considers how normativity is reproduced by institutions; institutions are built around assumptions of whom they are for and facilitate the smooth passage of those who are considered normal, excluding those who are not. Complaint is framed as an avenue for access, but it rarely leads to structural changes. Thus, complaint can become a continual, repetitive form of labour.

Ahmed (2019; 2021) argues that institutional diversity initiatives are tools for impression management, rather than for systemic change, and they do not tangibly address the exclusion of those who are not normal. The momentum of past logics, beliefs, and policies can override changes made in the interest of diversity; they do not necessarily stop gatekeepers from doing what they previously did. Because complaining is generally not viewed as positive by its targets (often those in power), filing a complaint can have effects that tarnish complainants. Furthermore, those without resources, social capital, or other privileges are less able to complain, and are most disadvantaged by complaining.

I see complaint as a form of reproductive labour, a concept from Marxist feminist scholarship that focuses on the unpaid labour overwhelmingly performed by women (Duffy 2013) required to reproduce conditions so that workers (typically men) can perform wage labour (Benston 2019 [1969]; Secombe 1976). As a framework to examine how labour is inequitably allocated according to gender, race, and class, reproductive labour is a valuable analytic for considering how the labour of systemic change is assigned to marginalized people, rather than to those in power.

The expectations assigned to transgender people have previously been considered as forms of labour (David 2015; Hegarty 2017; Irving and Hoo 2020;

Linander et al. 2019). David (2015) examines trans affective labour in the workforce in relation to the labour expected of transfeminine and third-gender call centre employees in the Philippines, who are expected to motivate and care for their colleagues and put on performances, echoing the prominence of trans women in the local entertainment industry. Irving and Hoo (2020), looking at transgender un- and underemployment in Ontario and British Columbia, consider affective labour as an expectation of employees in the post-industrial economy to illustrate how transgender embodiment influences perceptions of employability. Hegarty (2017) looks at how trans-identified *waria* in Indonesia have monetized affective labour by charging for media appearances and interviews, providing an income for *waria* and exercising national belonging. Linander et al. (2019) discuss the everyday affective labour of trans people in Sweden as they assess risks to their safety, provide emotional support to friends experiencing discrimination, advocate for their identity, and educate others on transgender issues.

I focus here on the reproductive labour of nonbinary people in institutional contexts, particularly within public services and institutions. For participants, laborious encounters also occurred outside institutional contexts, demonstrating the limitations of legal documents for nonbinary recognition and the proliferation of binary logics in everyday contexts.

Binary Logics

I propose the term “binary logics” to describe a collective set of assumptions about gender that structure everyday lives in places like Canada: (1) the bioessentialist assumption that there are two sexes, male and female, (2) the normative assumption that gender identity and expression naturally correlate to assigned sex; and (3) the heteronormative assumption that attraction to the opposite sex/gender is natural and expected, that sexuality naturally aligns with biological reproduction, and that sex/gender naturally aligns to specific parenting roles. Binary logics uphold normative understandings of gender, embodiment, and sexuality, and work as collective assumptions about the nature of men and women. These logics constrain the possible categories into which one might be interpellated, precluding existence outside these categories.

Binary logics provide a framework to consider how trans exclusion is reproduced and for understanding the decisions of actors involved in this reproduction. “Logics” structure how we understand the natural order of the world. By considering sex/gender as a set of logics operating through a binary

decision-making process (gender is *this* OR *that*; *this* gender means sexual attraction to *that* one), we see how actors make unconscious decisions that uphold cisnormativity, cisgenderism, and heteronormativity, demonstrating why and how exclusionary biases are structurally maintained, and how well-meaning people reproduce trans erasure.

Binary logics and their effects have consequences for nonbinary citizenship. Participants frequently spoke about the barriers they experienced when assumptions were made about their gender based on their assigned sex (in their records) or their appearance (which led to assumptions about their assigned sex). As I demonstrate below, government services and administrative processes are constructed around a state's imagined citizenry. While X ostensibly expands legitimacy to nonbinary people, there remain many administrative contexts where nonbinary people are reinterpellated into the binary or excluded from this imagined citizenry.

Methods

From October 2020 to June 2021, I conducted virtual semi-structured interviews with eleven nonbinary people in Ontario, ten of whom had at least one document with an X marker. All participants lived in Ontario and identified as nonbinary. Seven participants identified as white, three as racialized, and one as Black. Three participants indicated that they were disabled. Some participants noted that their whiteness (or their perceived whiteness) likely affected their interactions with institutional gatekeepers. My study does not aim to be representative of the experience of nonbinary Canadians with X markers, and certainly, the challenges of navigating bureaucracies can be compounded for racialized, disabled, and/or otherwise marginalized nonbinary individuals. While interviewees and community members felt that this research was important, it was difficult to find people willing to meet with me to discuss their experiences. I believe that the stresses of the COVID-19 pandemic may have prevented some potential participants from participating in an interview. I also consider that people from marginalized communities may have faced disproportionate challenges during the pandemic, and these voices may thus be underrepresented in this research.

Findings: Experiences with X

A major theme throughout all interviews was the additional labour required for recognition in institutional contexts. Key sites of exclusion were the

technological architecture of public institutions and services, government forms, and interactions with gatekeepers. Binary logics shaped the interpellation of nonbinary people in these contexts.

Technological Architecture

The technological architecture of institutions was often not modified to recognize more than two genders, including Service Ontario's own systems. Several participants discovered that obtaining an X marker did not change their gender marker on Service Ontario's back-end. Nonbinary people were still coded as male or female, and this binary coding often appeared on documents or was shared with other institutions.

I obtained an X marker in 2019, but I did not realize that I was still assigned an F in Service Ontario's database. While living in Toronto, my home did not have a driveway, so I had a city-issued permit to park on the street. Toronto parking division's database is linked to Service Ontario's data. When it was time to renew my parking permit in 2021, I was sent a letter addressed to "Ms. Victoria Clowater." I called the city to ask why they used a gendered honourific, wondering if they inferred my identity from my voice or my first name. The representative I spoke to said that this information was from Service Ontario, and that the city's system was designed to require this information. They used honourifics to be polite and formal in their correspondence, and these were linked to Service Ontario's gender data. The representative explained to me that they wanted to change the system so that they did not misgender nonbinary people, but it would "take time" to recode their system.

Malatino (2019) and Pitts-Taylor (2020) discuss how waiting and liminality are part of the trans experience. While these authors discuss the indignities of waiting for gender-affirming medical care, I mobilize this here to consider the waiting that is asked of nonbinary people seeking recognition. This request is often made by institutions that, like Toronto's parking division, express that they want to change their systems, but that this will "take time." When an institution asks nonbinary people for patience, they are asking them to accept misrecognition until an unspecified future time (that often does not arrive). Experiences of waiting—for a complaint to be heard, for technological architecture to be updated—were a common theme in interviews.

Several participants described encounters with Service Ontario's back-end information. Quinn, a Toronto-based activist in their late 20s and an early adopter of the X marker, discovered the back-end while updating their address

at Service Ontario. In this process, the employee prints off a form with the applicant's information, including their new address, legal name, and gender marker; the applicant must sign to verify the information. The gender marker on this form is drawn from the back-end data, and thus showed Quinn's assigned gender rather than an X. Quinn had an issue with the binary marker; they were being asked to confirm that their information was correct, but according to all their legal documents, it was not, and Quinn felt it would be fraudulent to affirm incorrect information. Quinn asked the employee why this information was retained; the employee replied that this was "because we need to know what you *really* are."

Quinn asked the employee to update this incorrect marker. The employee asked for a doctor's note—which is not required to obtain X markers on IDs—to confirm Quinn's gender identity. However, Quinn already had a doctor's note and had brought it just in case; a common example of participant hypervigilance. Participants often anticipated not being recognized as nonbinary and brought documentation to corroborate their identity. Quinn provided the note to the employee, along with their birth certificate and birth registration, both of which had X markers. Nonetheless, the employee either could not or would not change the marker, and Quinn was unwilling to sign a form that was false, so they left without updating their address, now aware that X was, in their words, a "band-aid" or "cosmetic" solution rather than a substantive change.

Remarking on their options for recourse, Quinn noted, "legally... I could have filed [a complaint]... on paper, there's that option.... But how accessible is that for people who are disabled,... who are neurodiverse,...who are racialized,... who are just straight up poor? And also who has the time?... Legal processes are expensive." As a racialized, disabled, low-income individual, Quinn was not speaking in the abstract but was reflecting on their own complaint experiences. A few years before the X marker was added, Quinn filed a human rights complaint against Service Ontario because nonbinary gender identity was not recognized. This experience had been a significant burden for Quinn. Ahmed (2019) explains how authorities can strategically obstruct complaints by overwhelming complainants with additional labour to advance their complaint, dragging things out, ignoring, burying, or dismissing complaints, and discouraging complainants. Quinn felt that the Human Rights Tribunal, which resolves these complaints, pressured them to take a financial settlement (which Quinn eventually did) rather than continue to pursue their complaint:

If you sue the government, they will make you choose between paying you out and taking them to court.... you can spend years busting your disabled, broke butt to try and get them to change stuff. [They discourage you by saying,] “we can fund your [gender-affirming] surgery [through a financial settlement] or we can actually take this to court.” So a lot of nonbinary and trans people who are often very poor, because systemic transphobia... is a barrier to employment... just end up [settling]. And then Service Ontario pats itself on the back saying, “... we took care of it, we’re cool now.”

Quinn described how “as part of the agreement, Service Ontario... make[s] people sign off that... this is considered resolved now that [they]’ve paid you out. So you can’t come back and sue or complain,” even if an injustice persists. Past complainants can complain about new issues, but “they’re often so discouraged from the whole process that they just can’t.” Quinn could have filed another complaint about the binary marker on Service Ontario’s back-end, but they did not want to go through the complaints process again. They saw the error on this form as a flaw with Service Ontario’s system that was not their responsibility to solve, and critiqued the government’s unwillingness to address discriminatory practices without a complaint; “as a nonbinary person, I [am] expected to just come in and fix it or fuck off... THEY need to fix it, [they] need to bring it up with [their]... higher up[s] because I’m just a person trying to access services.” Because complaint is laborious and often does not result in substantive change, complaint is not always an appealing choice.

Ahmed argues that not complaining can ease passage through an institution; this is sometimes true, but not always. When Quinn refused to sign the form at Service Ontario, they could not update their documents. This did not make things easier for them, as there are consequences to having an outdated address on an ID. Police can issue fines for this, it may be more difficult to prove your identity at another institution (like the bank), and individuals may miss important mail such as jury duty summonses, potentially leading to consequences. Quinn’s refusal contested the insufficient recognition of their gender, but it may also generate more labour.

Rae, a public servant living several hours north of Toronto, filed a complaint against the government to have their gender identity recognized at work, a grievance which took eleven years to resolve. Rae’s complaint, which they referred to as a “battle,” led to the addition of an X marker in their employer’s HR system, along with the option to remove one’s gender altogether. Even

though Rae felt victorious, and their complaint led to change, the residue from this experience informed their future choices. Rae wanted to “claim their identity” in other contexts, but they wondered, “how can I get there with the least harm to what dignity I have left?... I don’t want to have the same sort of nasty battle that I had for eleven years.... It took so much out of me.”

Pitts-Taylor (2020) considers the power relations that are exercised during periods of “administered waiting,” describing how waiting can be an “experience of inequality” (647). Seeking help from the state and waiting for it to be administered sends a message that one is inferior (Auyero 2012; in Pitts-Taylor 2020); this power experience can produce “submission, weariness, and precarity” (646) for the person waiting, and this wait is often experienced as “neglect, punishment, or work” (650). Furthermore, needing to comply with gatekeeping practices in order to have access to one’s imagined self is often experienced as dehumanizing (Pitts-Taylor 2020). Rae’s wait lasted over a decade, and in the process, Rae felt that their dignity had been stripped from them because their identity was being questioned.

Rae discussed how they almost immediately “stepped up into human rights activism” when they began their job, describing it as necessary for their circumstances to be “survivable.” Berlant (2007, cited in Pitts-Taylor) uses the term “slow death” to describe “the debilitation of being “worn out by the activity of reproducing life” (p. 759). For Rae, being deprived of legibility and recognition was exhausting; “misrecognition wears away at the resilience of trans subjects and makes the daily arts of living more difficult.... it produces fatigue” (Malatino 2019:641). This fatigue made Rae reluctant to pursue complaint again, even though they find misrecognition similarly unbearable.

Rae also spoke about their experiences with auto insurance and health benefits. While these are not public services in Ontario, they interface with public services—auto insurance with transportation and health benefits with healthcare. Both use sex/gender data for actuarial purposes⁶ or for health-related billing, and almost exclusively use binary categories. After Rae changed their licence gender marker to X, they “went to [their auto insurer] and I said... ‘I wanna update my profile. I’m obligated to update you when my information changes.’ That’s in the contract!”

They said, “Well, [X is] not in our system.”

“How do you deal with it?” I said to them... “We’ve had X around now for... four years! You got no policies, nothing.” They demanded I

produce my driver's licence. So I... proved that yes, I've got that X. Their response? "It'll take a couple of years to... change things." Because they gotta change their whole computer system and get policies and procedures in place.

Rae chose to opt out of the labour of complaint on this issue, as they were tired of fighting for inclusion. Still, Rae was invested in the outcome and "ma[de] sure that they... give me regular updates." For Rae, this was not just a matter of recognition; there were also legal considerations. Rae felt that it could be fraudulent not to provide their insurer with their legal gender, particularly given a situation in 2018 where a man fraudulently changed his legal gender to save on automobile insurance (Ashley 2018b).

Another challenge for Rae was workplace health benefits. Their health insurer allows them to submit their claims online, but when doing so, Rae "[only] saw M and F [as options]. I'm not submitting my claim under those circumstances because that's not who I am. That's fraudulent." Having just settled a complaint with their employer, and because Rae's health insurance provider received their demographic data from their employer, Rae felt that their insurer should have their correct gender. Rae called their insurer and asked, "Why haven't you got this updated yet?" Until their system is updated, the insurer had to find a way for Rae to submit the claim without requiring Rae to enter their gender, as the online form did. "So in this case, it... had to be done with a customer service agent manually over the phone, rather than online. It took away convenience." This will need to be done for as long as it takes for the insurer to update their system—if, in fact, they do so. This loss of convenience shows how binary logics penetrate institutional procedures long after new legal categories have been implemented, and thus, recognition still requires labour.

Government Forms

Through these interviews, it became clear that transgender people were often not part of the citizenry imagined on government forms, creating barriers to access for government documents and services. For example, even though X markers became available on birth certificates in 2018, Request for Birth Certificate forms were not immediately updated to reflect this option, leading to contradictions within the administrative process (see also Spade 2008). One of the mandatory fields on the form asked, "Why are you requesting [a new birth certificate]?" Only four answers were initially available: "First time applying," "Lost Birth Certificate," "Stolen Birth Certificate," and "Damaged or

destroyed Birth Certificate.” None of these pertained to changing a gender marker, and the form did not initially include a write-in “Other” option. Transgender people seeking a new birth certificate thus did not have clear instructions for completing this form, nor were their reasons for completing the form considered by administrators; in this way, they were not part of the imagined citizenry that might request a birth certificate.

I discussed this issue with a law student who facilitated a pro bono law clinic for trans people navigating name and gender marker changes. They stated that many people changing their gender marker did not check one of these boxes when filling out this form, as the options did not apply to their request. However, it was a mandatory field, so the application was usually returned, unprocessed, to the applicant. One solution was to include an affidavit with the application, signed by a lawyer, explaining why the applicant did not check any boxes. However, this solution was not well known, and many applicants did not have access to a pro bono clinic or could not afford a lawyer’s services, so this created a significant barrier. Thus, even where gender marker expansion occurred, the channels through which people could obtain updated documents were not simultaneously amended, creating more barriers and generating more labour for nonbinary and trans people. Here, policy change did not lead to new procedures, showing how nonbinary citizenship remains unthinkable in administrative contexts.

Participants Riley, Cam, and Noa/h expressed frustration with forms that only included binary gender options. Forms were a common site of self-advocacy for participants, who would often write in a third gender option by hand. Riley recently added a third option on their intake form at a blood test clinic. Cam got into an argument with an administrator at their university’s health clinic after handwriting that they were “nonbinary” on a form. The administrator told Cam that “nonbinary” was not a valid option; they “have to put the marker that’s on your ID.” Cam pointed out that there was an X on their ID, and no gender marker on their health card, but was still required to put down a binary marker. Ironically, Cam noted, the theme for their university’s health services department that year was trans inclusion in healthcare. Ahmed discusses how diversity initiatives are often implemented for impression management, as an image of what an organization is, invoked to create an impression that something is being addressed without *actually* addressing anything. Rather than enacting substantive change, it is the diversity initiative that becomes the thing that *is done*, as evidenced by a university health services

department that dedicates a year to trans inclusion while simultaneously denying a trans gender identity.

Participants regularly encountered resistance from gatekeepers who were inadequately trained on or resistant to following new inclusive policies. When Rae went to change their gender marker to an X at the Service Ontario in their small town, the employee demanded a doctor's note. Rae pointed out that there was a self-attestation standard in place. The employee, however, argued that they were not subject to these rules as they were a franchise location and thus not government employees, a claim which is inaccurate. After a while, the service was provided by the employee's supervisor. Rae will not go back to their local Service Ontario because of this experience. They now drive to the next closest branch, 40 minutes away, to avoid a site where they experienced discrimination; the experience left a residue that informs their future decisions.

Seven of the ten participants with X markers faced barriers at Service Ontario when changing their gender marker. Rae and Aspen were asked to provide unnecessary supporting documentation.⁷ Ember and Spencer encountered employees who were unaware of the X gender marker option or unfamiliar with the procedure to change a gender marker. Ember described their anxiety when the Service Ontario employee called across the room to their colleagues for help:

It's not private, there's tons of other people around me.... the [employee]... sa[id] out loud, "I've never put an X on gender before. That's so strange...."—they looked to [the employee on] their right, and they're like, "Have you ever put an X on gender before?"... They didn't look at me to see how... I was feeling... my eyes are literally telling them, "Stop saying this out loud! This is personal to me." The person next to them couldn't help,... so they had to go to a totally different person, and I could hear them across the room talking about it.... I was feeling extremely outed... Extremely disrespected. And just wanting to leave.

Ahmed compares an old policy to a "well-trodden path" (2019:152); despite the institution of a new policy, familiar routes are still followed, and new pathways do not disrupt the usual. Employees did not know about these new pathways, implemented additional barriers, or were not attuned to the concerns of those for whom these pathways were implemented.

Analysis: Removal vs. Expansion

Gender marker removal is often suggested as an alternative to gender marker expansion. As I explore above, expansion did not necessarily lead to nonbinary recognition. I argue that removing gender markers from documents has similar effects. While gender markers were removed from Ontario health cards in 2016, assigned sex is still indicated in health records, and binary logics remain intact in healthcare contexts. The removal of markers did not disrupt the usual routes taken; the momentum of past beliefs, policies, and logics continues to override these changes. This leads to additional labour for nonbinary people, who have to constantly clarify their gender and correct assumptions about their healthcare needs. While some institutions are open to change, these changes are only possible when nonbinary people are able to take on the labour of complaint, when hospital systems allow alternate gender markers, and when hospital staff are willing to accommodate.

Participants understood the relevance of binary gender categories in medical contexts. Men's and women's healthcare considerations are often distinct and different; factors such as hormonal profile, sexual and reproductive health needs, disease risk, and other healthcare considerations often cluster according to gender. However, these considerations are not one-size-fits-all, even among cisgender patients. In trans medical care, these assumptions create more problems than they solve.

Several participants identified that their assigned sex was not appropriate for them in medical contexts. One participant, who was assigned female at birth and had had a mastectomy, a hysterectomy, and was on testosterone, described themselves as follows: "I have testosterone as my dominant hormone, so hormonally I'm male. Skeletally, I'm female, gonadally I'm null... so I... refer to myself as a nonbinary sex person as well as... nonbinary gender."⁸ The removal of gender markers from health cards did not make healthcare more inclusive for this participant, and their assigned marker was not relevant to their healthcare needs. For instance, the participant received frequent reminders from Cancer Care Ontario to get a mammogram, even though these were no longer physically possible because of their mastectomy.

Quinn suggested that rather than using F and M as a shorthand, the medical relevance of sex/gender could be better captured with a summary of details such as hormonal profile, chromosomes, sexual activity, reproductive organs, and genitalia:

Anatomy [is] important, but I don't think that [sh]ould be represented in M or F.... [One possibility could be a] code [that indicates], "this person has breasts, but also a prostate. This person has no breasts but has a uterus and ovaries. Or, this person doesn't have breasts and doesn't have a prostate, but also doesn't have a uterus." There needs to be a code for all... these configurations to make sure people are getting the healthcare they need.

This approach could result in better care by improving the legibility of bodies that don't conform to binary logics.

However, even this might not disrupt the usual routes taken by care providers, as demonstrated by Ember's experiences getting an abdominal scan; hospital staff preparing Ember for the scan assumed that their physical appearance neatly mapped onto their internal organs when choosing what body parts to shield. It wasn't until after the scan, when the provider saw a note about Ember's gender identity, that Ember was perceived as something other than cisgender. In this case, even the presence of a gender marker or a set of relevant medical details did not disrupt the healthcare provider's route down a familiar pathway.

Rae discussed their frustrations with how their assigned gender informed assumptions about their needs: "Some of my health needs are based on my identity.... I have to constantly say, 'No, that letter doesn't apply. You have to have conversations with me'—especially mental health, because I've had to seek mental health support—'you need to understand my identity in order to provide effective support and therapeutic intervention to me.'"

Noa/h made regular trips to the hospital due to hir disability and had several negative interactions self-advocating in healthcare contexts. Because this labour was so repetitive, Noa/h tried to change the gender marker in hir medical record to a U (undesignated or unspecified). Ze acquired a letter from hir physician, supporting Noa/h's request. Noa/h brought this letter to Service Ontario, where ze were informed that this change was not possible. Ze were given a phone number in case they wanted to complain to "the bureaucrats higher up" (Noa/h's words). Ultimately, Noa/h chose not to pursue a complaint, as ze felt that this was unlikely to accomplish anything; Noa/h saw several friends go through the complaints process and witnessed how much work it was for them and felt that complaint did not lead to success or to change. Noa/h did not just carry the residue of hir own complaints; hir decisions were also

informed by the experiences of others. However, Noa/h did find ways to address hir gender marker concerns at one hospital, where hir deadname⁹ was still on file, despite having legally changed hir name. Noa/h presented hir name change certificate to have hir name updated on-file and was also able to have hir gender changed to “unknown” in that hospital’s system.

Birth Certificates

Of eleven participants, only Quinn had corrected their birth certificate to an X. Rae also wanted to correct their birth certificate and birth registration; they saw their assigned marker as a “mistake” that they were forced to live with, but that did not reflect who they are. The birth registration held great symbolic potential for Rae; they considered it to be “the most vital [document to change], because it acknowledges who you are from the minute you were born.” Changing this marker to an X would, for Rae, sever associations with the gender category they described as “thrust upon” them at birth.

Rae took issue with the medical standard for gender marker changes on birth certificates. Because they lived in a rural area and their family doctor had recently retired, they could not access medical services to obtain a doctor’s note and correct the gender marker. Rae felt that the medical standard was a barrier to justice that should be challenged, but their own complaint experiences informed their reluctance to take on this labour.

Rae had considered pursuing a referral to a gender identity clinic in Toronto, where they could obtain a doctor’s note, but ultimately felt that this would still be “jumping through hoops.... I’ve had enough of it.... I want to rip out the hoops and break down the barriers.” For Rae, abolishing the medical standard was important, but this would require a complaint: “I consider myself a survivor and a fighter, but I’m asking myself, do I want this?.... It’s... about choosing your battles. I have to consider the impact on myself.... how do I get *what* I want but still maintain my... sense of dignity?... If you have to fight somebody, even if it’s a legal process, it’s still stripping away some of your dignity because [your identity] gets questioned.” For Stanley (2011:15; cited in Malatino 2019:639), waiting for recognition is an experience of “near life;” “a term that indexes the experience of living with one’s humanity withheld, insistently interrogated, rarely ever assumed” (639). Rae’s reluctance to pursue a complaint, to not have their identity interrogated or their dignity stripped, might be understood as a reluctance to return to this experience of “near life.”

Rae also felt that their past labour should have led to change; not just in one facet of the government but in all its jurisdictions. After all, if the lack of nonbinary recognition was found to be discriminatory in one context, it likely would be in other contexts. Rae expressed frustration that despite spending eleven years fighting discriminatory policies, they continued to experience the discrimination they fought against.

For Rae, the waiting that was inherent in the complaints process—not just the waiting for a complaint to be filed, heard, resolved, but the waiting that came after, the wait while a system was changed—also dissuaded them from complaining:

You have to think, what if you went to a battle, what would the end result be? Well... a human rights mediator or arbitrator might say, “Okay, yeah I see, here’s the issue, you gotta change it, but you need time to change it,” and they’re gonna give them an appropriate time if a judgement was to come down.

This motivated Rae to “find a different path” for claiming their identity, until they were certain they wanted to pursue a complaint.

Retaining Gender Data

While it is possible to amend birth registrations and birth certificates, this does not change what is listed in government records. Documents themselves may display the amended gender marker, or none at all, but the government retains all previous gender information in its records (Ontario Women’s Justice Network n.d.). Participants felt that this undermined their gender identity and put them at risk, as it created a government record of transgender citizens, which could be used against them by an anti-trans government.

The back-end classification on driver’s licences, and the maintenance of assigned markers in birth registrations, is not mentioned on the Government of Ontario’s websites about “changing your sex designation” (2016; 2020b; 2021). These websites state that “gender or sex information is collected or displayed by the Government of Ontario only when it is relevant or necessary” (2021). However, most participants contested the relevance and necessity of their assigned gender. Retaining assigned gender, while claiming to only retain information that is “relevant or necessary,” sends a message that the government sees assigned gender as an inalienable truth.

To understand why this information is retained, I want to return to Quinn's interaction at Service Ontario, where the employee stated that the government retains this information because they "need to know what you *really* are." Though not an official government statement, the statement reflects the government's gender essentialism; it is necessary to retain a record of a citizen's gender assigned at birth because it represents something that is believed to be inalienable; what one *really* is. Under the status quo, assigned gender is retained regardless of gender identity, lived gender, biology, hormonal profile or other factors differentiating trans, nonbinary and intersex people from binary categories to which they are assigned. This "essence" demonstrates the persistence of binary logics; despite one's identity, and any gender affirming care that one may have pursued, they will forever *really* be their assigned gender.

Prior to the addition of X markers on IDs, Rae and Quinn had both filed human rights complaints against various branches of the government because their gender identity was not recognized. Both felt that their complaints contributed to the eventual addition of X markers. Quinn believed that the government realized it would be cheaper to implement an X category than to continue to be taken to the human rights tribunal over the matter (which happened at least three times between Rae, Quinn, and Luna Ferguson (a nonbinary person who publicized their human rights complaint (Ferguson 2017, 2018))). Even after at least three formal complaints, the government still has not implemented substantive changes that recognize nonbinary existence. In this way, nonbinary "recognition" in Ontario is a form of impression management that ultimately leaves the binary intact, a diversity initiative that does not equate to a substantive change, one which uses a narrative of nonbinary inclusion to create an image of a government which accommodates its nonbinary citizens without actually changing its practices and systems to accommodate them (Ahmed 2019).

Conclusion

In this article, I demonstrate the reproductive labour of nonbinary people in institutional contexts, where, despite the addition of X markers, nonbinary people still face systemic exclusion and erasure. Ontario provides a test case for gender marker reform; should the options be expanded, or should gender markers be removed? The Ontario context demonstrates how binary logics are deeply encoded in bureaucracies in ways that are not easily resolved through

either approach. Institutions continue to uphold the binary, raising questions about the value of these investments for those in power.

The government's stated aim of the X marker was to reduce the harassment and discrimination faced by nonbinary people, and to only collect sex/gender data when necessary. However, the ways in which the X marker was implemented cannot reduce discrimination, as X is not equal to M and F, and the government retains gender information in ways that the participants in this research feel are unnecessary. The policy change continues to be discriminatory, because nonbinary people are still not fully recognized. To be recognized by the state and to access services to which all citizens are entitled, nonbinary people must do more work than their cisgender counterparts, even when the state says it is invested in inclusion.

Through Ahmed's work on complaint, the X marker can be understood as a diversity initiative; through X, Ontario is framed as a "safe space for trans people" (Falek 2024:125) even as trans people are left outside of the imagined citizenry. While the X marker was instituted because of nonbinary people engaging in the labour of complaint, the experiences of participants explored in this paper illustrate how little substantive change has occurred. Ultimately, the X marker is a surface-level change that leaves binary logics intact in institutional contexts, creating problems for nonbinary people.

Viewing complaint as a form of reproductive labour emphasizes the work that goes into maintaining the status quo and how administrative systems normalize and exclude. This framing helps illustrate that these processes are not agentic; exclusionary processes are upheld even when policies are changed, systems remain coded through binary logics, administrative tools remain unchanged after a new policy is instituted, and gatekeepers continue to uphold the status quo. Considering the labour that is required from nonbinary people to challenge their own exclusion illustrates how exclusion is reproduced and emphasizes that policies are not practices.

Instead, recognition requires continual labour from those looking to be recognized. This labour *takes* from complainants; it takes time, resources, and energy. It takes up mental space. It is *work* to challenge a system through complaint. Framing this work as "reproductive labour" emphasizes how institutional norms not only exist but are themselves reproduced, facilitating smooth passage for those considered "normal" (Ahmed 2019) and instituting challenges for those outside the norm.

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Victoria Clowater

McMaster University

clowatev@mcmaster.ca

Notes

- 1 The term “gender marker” is used by scholars and activists (Justice Trans n.d.; Vipond 2015). On government-issued documentation, the field is called “sex marker,” and the conventional markers used (M and F) refer to sex.
- 2 While not all nonbinary people consider themselves transgender, many do, including most participants in this research.
- 3 There is no gender-neutral option for birth registrations in Ontario, and an X marker on birth certificates is only available to those 15 or older (Government of Ontario 2021). Parental permission is required for those aged 15 to 17. On Ontario birth registrations, there are three options for the “sex of [a] child;” “Female,” “Male,” and “Undetermined (not known).” However, Undetermined is “not a gender-neutral option” (Government of Ontario n.d.); it is for instances where “the birth attendant (for example, doctor, midwife) is not able to medically determine whether a child’s sex at birth is male or female” and is only used if this has been indicated by a birth attendant.
- 4 Pseudonyms are used for all participants.
- 5 For examples of nonbinary people’s experiences with erasure and misrecognition, see Barbee and Schrock 2019; Johnson et al. 2019; Matsuno et al. 2024
- 6 Men under 25 generally pay higher car insurance premiums than women in Canada (Southwick 2018), except in provinces where gender-based premiums are banned. Auto insurance rates are higher for men under 25 because they “are generally at higher risk of collision than women of the same age” (Southwick 2018). This practice was challenged in the Supreme Court of Canada (*Zurich Insurance Co. v. Ontario (Human Rights Commission)* 1992) on the grounds that that this practice

discriminated on the basis of sex, age, and marital status, but the differential premium was found by the Supreme Court to be a *bona fide* justification for discrimination (see also Ontario Human Rights Commission n.d.).

7 Spade (2008) also discusses this occurring at Social Security Administration offices in the United States.

8 In referring to this participant's embodiment as "nonbinary sex," I am not implying that binary trans people pursuing gender-affirming care must consider themselves "nonbinary sex."

9 "Deadname" describes a name that a transgender person no longer uses, often one they were called from birth.

References

Ahmed, Sara. 2019. "Use and the University." In *What's the Use?: On the Uses of Use*, edited by Sara Ahmed, 141-196. Durham: Duke University Press.

—. 2021. *Complaint!* Durham: Duke University Press.

Ashley, Florence. 2018a. "Don't be so Hateful: The Insufficiency of Anti-Discrimination and Hate Crime Laws in Improving Trans Well-Being." *University of Toronto Law Journal* 68(1): 1-36. <https://doi.org/10.3138/utlj.2017-0057>

—. 2018b. "Man who changed legal gender to get cheaper insurance exposes the unreliability of gender markers." *CBC*, 28 July. <https://www.cbc.ca/news/canada/calgary/alberta-man-changes-gender-insurance-transgender-rights-1.4764839> (accessed 27 November 2025).

Barbee, Harry, and Douglas Schrock. 2019. "Un/Gendering Social Selves: How Nonbinary People Navigate and Experience a Binarily Gendered World." *Sociological Forum* 34(3): 572-593. <https://www.jstor.org/stable/48558558>

Benería, Lourdes. 1979. "Reproduction, Production and the Sexual Division of Labour." *Cambridge Journal of Economics* 3: 203-225. <https://doi.org/10.1093/oxfordjournals.cje.a035421>.

Benston, Margaret. 2019 [1969]. "The Political Economy of Women's Liberation." *Monthly Review* September, 1-11. https://doi.org/10.14452/MR-071-04-2019-08_1.

David, Emmanuel. 2015. "Purple-Collar Labor: Transgender Workers and Queer Value at Global Call Centers in the Philippines." *Gender and Society* 29(2): 169-194. <https://doi.org/10.1177/0891243214558868>.

- Davis, D. Amy. 2017. "The Normativity of Recognition: Non-binary Gender Markers in Australian Law and Policy." *Advances in Gender Research* 24: 227–250. <https://doi.org/10.1108/S1529-212620170000024014>
- Duffy, Mignon. 2013. "Reproductive Labor." In *Sociology of Work: An Encyclopedia*, edited by Vicki Smith, 728–730. Thousand Oaks, California: SAGE Publications.
- Eng, David. 2010. "Introduction: Queer Liberalism and the Racialization of Intimacy." In *The Feeling of Kinship: Queer Liberalism and the Racialization of Intimacy*, edited by David Eng, 1–22. Durham: Duke University Press.
- Falek, Joshua. 2024. "Passports, Prisons, and Every Space Between: Gender Self-Determination, Anti-Blackness, and the Capacity of X." *Transgender Studies Quarterly* 11(1): 111–134. <https://doi.org/10.1215/23289252-11131728>
- Ferguson, Luna. 2017. "I'll Keep Fighting Until I'm Legally Recognized as a Non-Binary Canadian." *HuffPost Canada*, 25 October. https://www.huffingtonpost.ca/joshua-m-ferguson/ill-keep-fighting-until-im-legally-recognized-as-a-non-binary-canadian_a_23255775/ (accessed 27 November 2025).
- . 2018. "Opinion: My Non-Binary Birth Certificate a Victory for Trans Community." *Toronto Star*, 8 May. <https://www.thestar.com/opinion/contributors/2018/05/08/my-non-binary-birth-certificate-a-victory-for-trans-community.html> (accessed 27 November 2025).
- Finlay, Toby. 2017. "Non-Binary Performativity: A Trans-Positive Account of Judith Butler's Queer Theory." *Laurier Undergraduate Journal of the Arts* 4:59–69.
- Government of Ontario. n.d. "Newborn Registration Service." *Government of Ontario*. <https://www.orgforms.gov.on.ca/IBR/start>. (accessed 6 October 2025).
- . 2016. "Gender on Health Cards and Driver's Licences - Ontario Newsroom." *News.Ontario.ca*, 29 June. <https://news.ontario.ca/en/backgrounder/40957/gender-on-health-cards-and-drivers-licences> (accessed 19 June 2021).
- . 2017. "New 'X' Gender Option Now Available on Ontario Driver's Licences – Ontario Newsroom." *News.Ontario.ca*, 20 March. <https://news.ontario.ca/en/bulletin/44018/new-x-gender-option-now-available-on-ontario-drivers-licences> (accessed 8 November 2025).
- . 2020a. "Gender and Sex Information on Government IDs and Forms." *Ontario.ca*. <https://www.ontario.ca/page/consultation-gender-and-sex-information-government-ids-and-forms> (accessed 19 June 2021).

- . 2020b. “Change the Sex Designation on Your Government IDs.” 2020b. *Ontario. Ca.* <https://www.ontario.ca/page/change-sex-designation-your-government-ids> (accessed 19 June 2021).
- . 2021. “Changing Your Sex Designation on Your Birth Registration and Birth Certificate.” *Ontario.Ca.* <https://www.ontario.ca/page/changing-your-sex-designation-your-birth-registration-and-birth-certificate> (accessed 19 June 2021).
- Hegarty, Benjamin. 2017. “The Value of Transgender: Waria Affective Labor for Transnational Media Markets in Indonesia.” *Transgender Studies Quarterly* 4(1): 78–95. <https://doi.org/10.1215/23289252-3711553>.
- Irving, Dan and Nathan Hoo. 2020. “Doing Trans-Economic Justice: A Critique of Anti-Discrimination Laws and Inclusive Employment Policies.” *Canadian Journal of Law and Society/La Revue Canadienne Droit et Société* 25(2): 197–220. <https://doi.org/10.1017/cls.2020.15>
- Johnson, Kelly C., Allen J. LeBlanc, Julianna Deardorff, and Walter O. Bockting. 2019. “Invalidation Experiences Among Non-Binary Adolescents.” *The Journal of Sex Research* 57(2): 222–233. <https://doi.org/10.1080/00224499.2019.1608422>
- Justice Trans. n.d. “Gender Marker – Ontario.” *Justice Trans.* <http://justicetrans.org/regional-information/ontario/gender-marker/> (accessed 9 April 2021).
- Linander, Ida, Isabel Goicolea, Erika Alm, Anne Hammarström, and Lisa Harryson. 2019. “(Un)safe spaces, affective labour and perceived health among people with trans experiences living in Sweden.” *Culture, Health and Sexuality* 21(8): 914–928. <https://doi.org/10.1080/13691058.2018.1527038>
- Malatino, Hil. 2019. “Future Fatigue: Trans Intimacies and Trans Presents (or How to Survive the Interregnum).” *Transgender Studies Quarterly* 6(4): 635–658. <https://doi.org/10.1215/23289252-7771796>
- Matsuno, Em, Nat Bricker, and Noelani Collazo. 2024. “‘The Default Is Just Going to Be Getting Misgendered’: Minority Stress Experiences Among Nonbinary Adults.” *Psychology of Sexual Orientation and Gender Diversity* 11(2): 202–214. <https://doi.org/10.1037/sgd0000607>
- Murray, David. 2015. *Real Queer? Sexual Orientation and Gender Identity Refugees in the Canadian Refugee Apparatus*. Lanham: Rowman and Littlefield.

- Ontario Human Rights Commission. n.d. “Discriminatory auto insurance rates allowed for *bona fide* reasons.” *Ontario Human Rights Commission*. <https://www3.ohrc.on.ca/en/discussion-paper-human-rights-issues-insurance/case-summaries> (accessed 27 November 2025).
- Ontario Women’s Justice Network. n.d. “Making Gender and Name Changes on Identity Documents.” <https://owjn.org/changing-identity-documents/>.
- Pitts-Taylor, Victoria. 2020. “A slow and unrewarding and miserable pause in your life’: Waiting in medicalized gender Transition.” *Health* 24(6): 646–664. <https://doi.org/10.1177/1363459319831330>
- Secombe, Wally. 1974. “The Housewife and Her Labour under Capitalism.” *New Left Review* 83 (1). <https://doi.org/10.64590/bdk>
- Southwick, Reid. 2018. “Alberta man changes gender on government IDs for cheaper car insurance.” *CBC Calgary*, 20 July. <https://www.cbc.ca/news/canada/calgary/change-gender-identification-insurance-alberta-1.4754416>. (accessed 8 October 2025).
- Spade, Dean. 2008. “Documenting Gender.” *Hastings Law Journal* 59 (4): 731–842. https://repository.uclawsf.edu/hastings_law_journal/vol59/iss4/1.
- . 2015. *Normal Life: Administrative Violence, Critical Trans Politics and the Limits of the Law*. Durham: Duke University Press.
- Vipond, Evan. 2015. “Trans rights will not protect us: The limits of equal rights discourse, antidiscrimination laws, and hate crime legislation.” *Western Journal of Legal Studies* 6(1): 1–20.
- Wipfler, AJ Neumann. 2016. “Identity Crisis: The Limitations of Expanding Government Recognition and the Possibility of Genderless Identity Documents.” *Harvard Journal of Law and Gender* 39: 491–554.
- Zurich Insurance Co. v. Ontario (Human Rights Commission). 1992. 2 SCR 321. <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/895/index.do> (accessed 8 October 2025).