

Why Sex Is Not Binary

The complexity is more than cultural. It's biological, too.

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Two sexes have never been enough to describe human variety. Not in biblical times and not now. Before we knew much about biology, we made social rules to administer sexual diversity. The ancient Jewish rabbinical code known as the Tosefta, for example, sometimes treated people who had male and female parts (such as testes and a vagina) as women — they could not inherit property or serve as priests; at other times, as men — forbidding them to shave or be secluded with women. More brutally, the Romans, seeing people of mixed sex as a bad omen, might kill a person whose body and mind did not conform to a binary sexual classification.

Today, some governments seem to be following the Roman model, if not killing people who do not fit into one of two sex-labeled bins, then at least trying to deny their existence. This month, Prime Minister Viktor Orban of Hungary banned university-level gender studies programs, declaring that “people are born either male or female” and that it is unacceptable “to talk about socially constructed genders, rather than biological sexes.” Now the Trump administration’s Department of Health and Human Services wants to follow suit by legally defining sex as “a person’s status as male or female based on immutable biological traits identifiable by or before birth.”

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