Trans* policy, politics and research: The UK and Portugal

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Abstract

This article explores law and social policy regarding trans* activism amongst trans* and non-binary social movements, and academic research addressing trans* in the UK and Portugal. In considering different possibilities for theorising gender diversity, this article positions a politics of difference and embodied citizenship as fruitful for synergising the issues under discussion. The authors consider recent law and policy shifts around gender recognition in each country and examine the gaps and the connections between policy developments, activism and research around trans*. Though each country has divergence in terms of the history of trans* activism and research, the article identifies significant similarities in the claims of activist groups in the UK and Portugal and the issues and questions under consideration in academic research on trans* and non-binary.

Keywords

trans* and non-binary, trans* embodied citizenship, trans* policy and research, Portugal, UK

Introduction

The overlaps and gaps between academia, social policy and politics offer a prolific field for inquiry on topics as diverse as academic impact, public sociology and the links between academia and social movements. In this article, we consider trans* as a mobilising theme in law and social policy, on the one hand, and academia, on the other. Our understanding of trans* in this article includes both transgender people who wish to be part of the binary system of male and female and people who do not (non-binary). We support the view that trans* policy, politics and research must enable room for a range of gender-based identities, including gender fluidity and non-binary. Key issues raised in the article concern the ways in which trans*-related claims became the focus of concern for policy makers in the UK and Portugal, the extent to which trans* has been used as a focus of interest in the academic

arena in the UK and Portugal, and the ways in which trans* has reconfigured the social debate and the theoretical imagination around embodiment, agency, intimacy, recognition and citizenship.

The article is situated within current discussions around citizenship and gender-based authenticity in the UK and in Portugal. Embodying a particular mode of trans* lived experience, one that fulfils the expectation of gender binarism even in contexts in which gender identity laws would enable gender fluidity, seems to remain a cultural precondition for recognition. These cultural expectations have been identified and denounced in the sphere of activism in the countries under consideration in this article (Santos, 2013, 2016).

The article also considers the role of collective action, and most specifically trans* social movements and non-governmental organisations (NGOs), as a trigger platform for both political change and theoretical innovation. In doing so, we focus on the often contrasting contexts of Portugal and the UK. By centring our analysis on these two geographical locations we hope to demonstrate the resilience of certain narratives and practices around which both trans*-based policy and research evolve despite the different historical and political legacies that Portugal and the UK embody. On the one hand, the UK is often mentioned in Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning (LGBTIQ) literature as a leading political actor from which early LGBTIQ activism and lesbian and gay studies emerged. On the other hand, Portugal remains described as a Catholic, conservative country with a familistic welfare regime (Trifiletti, 1999), even if it offers one of the most striking examples of the impact of LGBTIQ activism in law and social policy (Hines, 2013).[1]

Despite historical differences, both Portugal and the UK have gender recognition laws that move beyond compulsory surgical interventions or other types of bodily modification. Before engaging in a critical revision of the state of the art of trans*-based policy and research in Portugal and the UK, however, the article considers how differences and similarities play out in how citizenship is used to claim trans* rights and visibility. In the next section we offer a reflection on different theoretical frameworks in accounting for trans* rights and suggest the use of trans* embodied citizenship as a way to look beyond the body whilst retaining the centrality of trans* lived experiences.

Theorising citizenship and difference

The notion of citizenship has long been at the core of theoretical contributions and political concerns regarding vulnerable subject positions (Lister, 1997; Young, 1989). The

construction of citizens as those who are able to participate publicly in decisions that affect their lives, and to make claims which are heard and recognised, brought to light new layers of exclusion, as well as new opportunities to frame citizenship beyond a narrow understanding of a strictly social and political set of formal rights. From the 1990s onwards, drawing heavily on contributions by feminist and queer academics, and inspired by developments advanced by social movements in Europe and North America, sexuality started to be regarded as a crucial element of citizenship (Plummer 2003; Richardson, 2000; Weeks, 1998). As Roseneil et al. point out:

> the complex entanglements and gendered valencies of 'public' and 'private', 'political' and 'personal', 'rational' and 'emotional', and 'mind' and 'body' in constructions and practices of citizenship have been almost exclusively the critical terrain of feminist and queer scholars. (2013: 901)

In relation to formal recognition, issues such as access to partnering and parenting rights, including marriage, civil partnership and adoption, acquired centre stage in struggles around equality policies and sexual freedom. Concepts such as 'intimate citizenship' (Plummer, 2003) and 'the sexual citizen' (Bell and Binnie, 2000; Weeks, 1998) became increasingly popular, grounded as they already were in the daily experiences of people living and loving beyond the heteronorm (Roseneil, 2005). More recently, topics such as medically assisted conception or surrogacy, and fierce debates around abortion across the globe, have contributed to studies on reproductive citizenship (Roseneil et al., 2016). Intimate, sexual and reproductive citizenship offer productive tools to theorise gender diversity.

In both the UK and Portugal, the autonomy in determining one's identity through self-identification has been a consistent mobilising topic for claims and action against the power ascribed to the medical field. In the UK such resistance has been framed under the umbrella of human rights, whereas in Portugal demands have clustered more around citizenship, equality and social justice. Common to both contexts is the emphasis on depathologisation as a way to reclaim autonomy over one's bodies and identities, whilst at the same time rejecting the centrality of psychiatry in trans*-related processes, with a particular focus on the psychiatrisation of lived experiences (Davy, 2015). In this regard, we advance the notion of trans* embodied citizenship as a way to acknowledge the importance of lived experience and self-determination regarding trans* claims and identities. Embodied citizenship is different from bodily citizenship (Outshoorn et al., 2015) in the sense that it does not take body integrity or body modification as the core for demands around recognition. On the contrary, trans* embodied citizenship invites us to look beyond the body in its strict sense,

whilst at the same time retaining the legitimacy of lived experience, of bodily autonomy, of overcoming obstacles to full access of (intimate, sexual or reproductive) citizenship by embracing rights as a non-negotiable common ground.

However, the notion of citizenship is frequently inter-linked with a politics of recognition which attempts to re-shape social justice on the basis of reinstating recognition that has been previously denied. In the work of recognition theorists Fraser (1995) and Honneth (1995) recognition is placed at the heart of individual identity formation and experience. Theories of politics of recognition emerged in the 1990s and were inter-linked with the politics of social movements centred on the identities of race, class, gender and sexuality. Taylor (1994) was explicit in this linkage, arguing that a theory of recognition was fundamental for understanding the political struggles and demands of identity-based movements. From this perspective, social justice is not possible without recognition.

Theories of recognition have, though, been subject to critique. Heyes (2003) and McNay (2008), for example, argue that recognition theory presumes a fixed self: 'certain features of a person lie dormant, awaiting discovery by the individual who then presents this authentic self to the world and demands positive recognition for it' (McQueen, 2016). Further critiques suggest that recognition theory assumes a fixed group identity (Appiah, 1994; Hines, 2013). While this may work in favour of those deemed to 'fit' the characteristics of a particular identity, those who project alternative identity markers are positioned outside collective identity. Debates around the place of trans* women within feminism are a pertinent example. The qualitative research by Hines (2013)thus draws out the ways in which a politics of recognition can work to exclude trans* people from LGB and feminist movements. A politics of recognition is therefore problematic for theorising gender diversity as it may contribute to the construction and replication of identity-based narratives around authenticity or gendered 'realness'. This is especially problematic from a queer lens that is attuned to the myriad of non-binary ways through which gender becomes daily enacted and structurally silenced. A framework of recognition, then, not only bears down on everyday life experience through practices of exclusion, but, as this article goes on to suggest, impacts on how trans*-related laws and social policy are designed and implemented. Thus, pro-trans* laws and social policy often remain focused on binary conceptualisations of the body, disregarding the nuances through which trans* lived experiences and embodiments are managed and negotiated in the everyday. Somewhat paradoxically, then, gender fluidity becomes further silenced through legal and social policies around trans* that reproduce traditional frameworks that foreground authentic binary gender. Moreover, these silences

have been at the core of social movement critique against otherwise emancipatory laws which become captured by strict visions of what gender diversity is. In the two geographical contexts under analysis in this article, gendered authenticity is a much contested terrain. In advancing the notion of trans* embodied citizenship to enable self-recognition of a diversity of gendered identities and bodily states, then, we conceptualise citizenship as distinct from a politics of recognition. A politics of difference (Young, 1990) provides a productive framework through which to theorise gender diversity. This approach hones in on the distinct structural positions, embodied experiences and identity claims amongst members within a minority movement alongside theorising these distinctions in relation to wider society. In contrast to calls for assimilationism, difference from this perspective is celebrated and understood as offering productive potentials through which to form political alliances. We suggest that this offers a more fruitful framework through which to account for gender diversity without slipping back into debates about who is most (or least) authentically gendered.

With this theoretical framework in mind, we now move to critical engagement with trans*-based policy and research in both geographical locations under consideration: the UK and Portugal. More than a rigid analytical script of symmetrical issues, in this article we recognise that different contexts offer different strategies and outcomes. Therefore, some of the issues discussed were included because of their relevance – political or otherwise – in the specific location to which they refer – for example, intersex issues are considered more so in relation to the Portuguese context than they are in the UK.

Trans* policy within a UK context

Over the last decade and a half, issues concerning the rights afforded to trans* people have appeared on the UK political agenda. In 2002, Goodwin and I v. instigated a case against the UK government (*Goodwin& I v. United Kingdom Government*) in the European Court of Human Rights (ECHR). The plaintiffs argued that in not enabling trans* people to change their birth certificates and to marry, the UK government was in breach of their human rights. Ruling in favour of the claimants, the ECHR held that the UK government's failure to alter the birth certificates of trans* people and to allow them to marry in their acquired gender role was a breach of the European Convention on Human Rights. This landmark case was instrumental to the UK 2004 Gender Recognition Act, which, two years later, was enacted to enable legal recognition. The Goodwin case was supported by the trans* lobbying organisation Press for Change (PfC), which since the 1990s, had been campaigning for legal

recognition. Following legal success, PfC worked with the UK government in shaping the emerging gender recognition legislation, which had a significant impact on the lived experiences of trans* people in the UK and beyond (Davy, 2011; Hines, 2007, 2013).

The UK Gender Recognition Act (GRA) (2004) enabled trans* people to change their gender and marry in their acquired gender. Of central importance to trans* campaigning organisations and social movements was that the new law did not insist that the applicant had undergone body modification practices such as surgical procedures or hormone therapies. Such a recommendation would, it was argued, greatly discriminate against the citizenship rights of trans* and non-binary people who could not or did not wish to alter their bodies through medical means (Davy, 2011). Thus, the GRA was passed without surgical or hormonal intervention criteria. This did not mean, however, that the process of gender recognition was wholly autonomous from medical discourse or practice. Central here is the concept of 'gender dysphoria', which remains a key classificatory term within medical discourse and practice (Sharpe, 2007, 2009; Hines, 2007; Davy, 2011). Moreover, 'gender dysphoria' is seen as symptomatic of 'gender identity disorder', which is written into the GRA as a pre-requisite condition of gender recognition. Thus, the Gender Recognition Panel – made up of medical professionals– which assesses applications for gender recognition, requires confirmation from a psychiatrist of a diagnosis of 'gender identity disorder'. Hines's (2013) research exploring trans* people's experiences of the GRA[2] found that the continued role of psychiatrists in the recognition process was viewed negatively by many of those who had, or were in the process of, applying for recognition, with many stating that psychiatric professionals should not be involved in the process of gender recognition. The continued pathologisation of trans*, and its writing into law, has been the focus of activist campaigning in the UK over the last decade and has recently been addressed by the UK Parliament's Transgender Equality Enquiry (2016).

Led by the cross-party Women's and Equality Committee, the Transgender Equality Enquiry took place between 2015 and 2016 to 'look at how far, and in what ways, transgender people still have yet to achieve full equality; and how the outstanding issues can most effectively be addressed' (UK Parliament, 2016: 2). In addition to addressing legal recognition processes as set out in the GRA, the enquiry focused on a broad range of policy issues as they affected marriage and relationship recognition, hate crime, health, the media, education, social care, employment and criminal justice.[3] In conclusion, the Report stated that 'Whilst Britain has been among the countries that have gone furthest in recognising lesbian, gay and bisexual rights, our society is still failing this test in respect of transgender people, despite welcome

progress in recent years … It became apparent during the inquiry that there is a complex and extensive hierarchy of issues that need to be addressed' (UK Parliament, 2016: 5).

The Report positioned the evidence required for gender recognition as set out in the 2004 GRA as a key problematic area: 'the requirement to provide documentation regarding a diagnosis of gender dysphoria was particularly contentious. … "the continued 'pathologisation' of transgender identities [i.e. treating them as a disease or disorder] through the 2004 Act causes significant offence and distress"' (UK Parliament, 2016: 7). The Report quotes evidence given to the Enquiry by James Morton from the campaigning organisation the Scottish Transgender Alliance:

> A number of trans* people … have been really traumatised and humiliated by the process where they have [had to say whether they have] undergone various medical treatments. The Act says you should be able to access your gender recognition without necessarily having those, and yet the gender recognition panel has insisted on really intrusive levels of detail about the surgeries that people have undergone or their intentions for future surgery. (UK Parliament, 2016: 7).

Also giving evidence to the Enquiry from a legal perspective was human rights lawyer Peter Dunne. Dunne advocates for a recognition framework based on self-referral rather than medical referral, which is currently followed in a number of countries:

> In the decade since the 2004 Act was first introduced … a seismic shift has occurred at the interface between gender identity advocacy and human rights law. Many transgender individuals now view 'self-declaration' as the most appropriate vehicle through which the State can recognise preferred gender. (UK Parliament, 2016: 7).

The Report concluded in favour of the UK adopting a process of self-referral and urged the government to make such changes to legal processes. The calls from trans* social movements for depathologisation have thus been heeded by the UK cross-Parliamentary Transgender Equality Committee. An individually based framework of evidence is seen to offer greater levels of dignity and autonomy for applicants. Yet whether or not the Report's recommendations in this respect will be actioned by government in its review of the GRA remains to be seen. The issue of the medicalisation, and an inter-linked pathologisation, of gender diversity was also apparent in the Report's findings on health provision. As discussed elsewhere in this themed issue (Davy et al.), National Health Care Service (NHS) provision for trans* people was addressed as an area of concern in the UK Enquiry and, in line with the view of campaigning organisations, was identified as inadequate. Thus, the Report stated

'We have found that the NHS is letting down transgender people, with too much evidence of an approach that can be said to be discriminatory and in breach of the Equality Act' (UK Parliament, 2016: 20). Central to this was the continued understanding in treatment protocols of gender diversity as symptomatic of a mental health issue: 'We are concerned that Gender Identity Services continue to be provided as part of mental-health services. This is a relic of the days when transgender identity in itself was regarded as a disease or disorder of the mind and contributes to the misleading impression that this continues to be the case' (UK Parliament, 2016: 21). Depathologisation of gender diversity as it is interwoven through the law, policy, and medical understandings and practice was, then, identified by the Enquiry as crucial for the protection of trans* people's human rights.

While the issue of the medicalisation of the current gender recognition process and protocols for treatment were highlighted as key in the Enquiry, a broad range of additional policy recommendations were made in respect of the inequalities faced by trans* people across of a range of social and public spheres. Despite the GRA of 2004, the Enquiry found discriminatory practices in the fields of education, criminal justice, family life and the media. It was found that young trans* and non-binary people faced bullying from peers at school and that staff at all educational levels often dealt unsuccessfully with changes of gender pronouns and names. Such experiences, it was found, impacted on young people's educational performance and on their mental health. Practices towards trans* people in the criminal justice system were found to be extremely poor. The issue of people not being placed in a prison appropriate to their gender was of particular concern, and the bullying of, and self-harm and suicide by, trans* prisoners was un-proportionally high compared with the rest of the prison population. The issue of spousal consent, where the non-transitioning partner must agree to the change of marriage, or the marriage be annulled, before a full Gender Recognition Certificate (GRC) is issued was seen by many trans* people as impacting on their human rights. A witness from the organisation Gender Identity, Research and Education Service (GIRES) thus told the Enquiry: 'Trans* people are the only group that can have their civil rights delayed by another … What is clear is that the effect of the veto is that the "feelings" of the non-trans* spouse are given more importance than the rights of the trans* person to gain full civil participation. This is a clear indication that government considers trans people as less than equal' (UK Parliament, 2016: 15). Notwithstanding the increasing social and cultural visibility of gender diversity in the UK over recent years, it was also found that overall media representation of trans* people was poor and instances of everyday transphobia and hate-crime were frequent. Policy gaps and areas of inequality across each of these spheres constitute issues of current campaign by trans* organisations

in the UK. Health inequalities, for example, are central to the campaigning work of a number of organisations who lobby for an individual system of care that is divorced from psychiatric frameworks, the project 'Bare Bars' campaigns against carceral injustices, while the importance of media representation fuels the work of Trans Media Watch, which collaborates with cultural industries to bring about more positive representations of trans* people across the UK media. As the article will later address, these areas of discrimination have also been highlighted in UK academic research on trans*.

Trans* policy within a Portuguese context[4]

One of the earliest pieces of legislation addressing LGBTIQ-related issues in Portugal referred specifically to trans*. Indeed, after the decriminalisation of homosexuality in 1982, trans* was the first category to enter the realm of social policy through the door of health practice. In 1995, the National Board of Physicians revoked a ban that was part of its Deontological Code up until then and that forbade sex reassignment surgery, which was considered unethical and illicit (article 55). After 1995, the same Code added an exceptional ground to this ban in cases in which individuals had been adequately diagnosed with transsexuality or gender dysphoria, as long as they were not married (ILGA Portugal, 2008; Marques et al, 2012). Despite the profoundly pathologising language, the blatant discrimination based on marital status and the power granted to medical doctors in determining gender identity, this piece of social policy enabled several types of bodily modification to be performed to trans* people under the National Health Service since 1995.

This change in the National Board of Physicians did not come about as a result of claims put forward by LGBTIQ activists. Rather, in 1995 collective action in the field of LGBTIQ issues was still dispersed and in its very early days. When activism became a hub for legal claims and change, mostly throughout the 2000s, lesbian and gay issues gained precedence over issues about bisexuality or trans*, which were included in the acronym from the outset but struggled with the absence of an influential representation.

Over the last ten years, the rights of trans* people in Portugal have started to be framed and voiced autonomously, even if still covered by the larger umbrella of LGBTIQ activism and struggling with shortage of financial and human resources. The trans* movement in Portugal started to mobilise around formal recognition, particularly in the aftermath of the murder of Gisberta, a trans* woman killed in 2006 in the city of Oporto by a group of male children and teenagers who were living in a Catholic-based institution (Santos, 2013).[5] This event triggered media attention to the specificities of trans* people as a population subject to

widespread violence, including the absence of protection under the law. As a result of demands expressed by LGBTIQ organisations, especially by a small number of trans* activists who became more visible after Gisberta's murder, the Penal Code changed in 2007 in order to include sexual orientation – but not gender identity – as an aggravating factor in case of hate crimes, alongside hatred based on race, religion, politics, ethnic or national origin, and gender (article 132). Despite the absence of 'gender identity' from the Penal Code, the inclusion of sexual orientation was regarded as an achievement, signalling a positive impact of the LGBTIQ movement and opening the gate to protection against violence to all LGBTIQ citizens.

Another field of interest regarding trans* policy is related to the legal process of naming a child or choosing a name when acquiring formal recognition based on gender identity. In the Portuguese context, the pool of available names is informed by gendered and nationalistic criteria, which have not been adequately investigated nor questioned by the women's movement or other movements for sexual equality so far. More specifically, the rules which apply when planning to name a newly born child or to change one's name (e.g. as a trans* person) are published in the Civil Registration Code, under the Ministry of Justice. Every name must be recognised under the Onomastic Index and chosen names cannot raise doubts concerning the gender of the person (Civil Registration Code, article 103, No 2a). Such compulsory gender binary in naming practices and norms offers a powerful example of the resilience of the cis/gender and sexual normative system that often finds strongest allies amongst legal and policy actors (Santos et al., 2017).

The issues around naming raise significant questions, that flow over from the policy realm into the daily experiences of trans* and non-binary people. At a recent conference in Lisbon, Stephen Whittle said:

> When people ask me about my gender, I tell them I don't know. In other words, it's just enough to be me. … I know I am Stephen. The most important thing is being the person we name ourselves. (Whittle, 2016)

And, indeed, questions related to gender authenticity have acquired central stage in trans*-based politics in recent years in Portugal. The topic has triggered animosity and devoted reactions on both sides of the cis/trans* gender divide. But perhaps even more interestingly, gender authenticity has been discussed with passion within the trans* community, with dissent around depathologisation on the basis of who is more or less authentically trans* (Cunha, 2016). The issue of authenticity needs to be interpreted in light of self-perceived

identities. In 2014, the Fundamental Rights Agency issued a report based on a survey to self-identified trans* and intersex people. More than half of the participants in this survey did not identify exclusively with the binary categories women/men. Empirical data such as this pushes for the acknowledgement of gender fluidity as a key element when discussing theories and politics of gender diversity in the Portuguese context. Certainly, activists, politicians and other decision makers seem increasingly aware of gender diversity as a floating concept that describes a spectrum, more than a fixed location.

This is partially mirrored by the Gender Identity Law (Law no. 7/2011, 15 March) approved by the Portuguese Parliament in 2011, celebrated by activists and in the media as amongst the most progressive in the world at the time, enabling sex markers to be changed in official documents regardless of any bodily modification. According to a 2015 report published by API – Action for Identity, an organisation which works on trans* and intersex related issues, this law was the first worldwide to comply with the Yogyakarta Principles[6] to its full extent, protecting applicants from the need to go through any sort of bodily modification, hormonal treatment or sterilisation, as was previously the case (Pereira and Ferreira, 2015).

However, more recently the 2011 Gender Identity Law triggered increasing criticism from trans* and intersex organisations who denounced aspects in which the law became dated and failed to offer adequate response. Throughout 2015 and 2016, trans* and intersex activists have been invited by political parties, government offices and parliamentary commissions to provide suggestions in order to update the law.

One of the central expectations of activists, politicians and other professionals who criticise this law is to overturn the centrality currently ascribed to health professionals in granting mandatory evidence of individual trans* status. Although body modification through the use of hormones or surgery is not required before accessing gender recognition, the law states that people who apply for gender recognition at the Civil Registry Office must provide a 'Report that supports a diagnosis claiming gender identity dysphoria, which is also known as transsexuality. The diagnosis has to be made by a multidimensional medical team specialising in clinical sexology and operating in public or private health establishments in Portugal or abroad' (Law no. 7/2011, 15 March). This report, which must be submitted together with the application, needs to be signed by at least one physician and one psychologist. For the emerging trans* activist movement in Portugal, the involvement of sexologists and psychologists as gatekeepers to recognition represents the continued pathologisation of

gender diversity. The removal of psychiatric authority is currently under challenge by most trans* activists, as has been the case in the UK, as discussed above.

Besides depathologisation, claims put forward by trans* and non-binary activists regarding formal rights include diminishing the bureaucratic weight of administrative procedures, gender self-determination for people over 16 years old, gender recognition to citizens from other countries living in Portugal, the end of any gender-based categories in official forms or identification cards, the possibility of accessing a larger pool of gender-neutral names and the prohibition of medical intervention on intersex new-borns or children without their informed consent. These changes will have a strong impact on the lived experiences of trans* and non-binary children and adults who will acquire greater authority over medical doctors in determining self-identity and representation. An immediate spin-off of this discussion was the recent announcement made by Minister Eduardo Cabrita that Portuguese schools will have to address children and teenagers by their chosen name, regardless of the formal name change happening only after turning 16 years old.[7] In March 2017 the government agreed to a final version of the text covering justice, health and education issues. The revised version will erase the former need for a biomedical report confirming a trans* identity and will enable self-determination from 16 years old onwards, and younger children will have the right to be treated in schools according to their chosen name regardless of legal documents. This revised version of the law was thoroughly negotiated with the ministries of Health, Education and Justice with the strong coordinating input of the Secretary of State for Citizenship and Equality, Catarina Marcelino. At the time of writing, Secretary of State Catarina Marcelino, interviewed in June 2017, expected that this revised Gender Identity Law would be discussed and approved in Parliament by the end of 2017 or early 2018.

Researching trans* in the UK

Empirical research on trans* from UK scholars has, in the main, been produced by social scientists and has connected closely with social, cultural, legal and policy shifts;[8] in many ways producing a qualitative exploration of the impact of these developments on trans* people themselves. In mapping a diversity of trans* practices in contemporary society, the body of work developed by Richard Ekins (1996) and Dave King (2006) has worked to challenge a universal understanding of trans*. Surya Monro's (2001, 2005) notion of 'gender pluralism' similarly counters a undifferentiated model of trans*, instead pointing to a spectrum of identities and practices as an alternative to the binaries of male and female.

Stephen Whittle's intervention problematised a wholly deconstructive reading of trans* that had characterised the then dominant perspective of trans* studies coming out of the humanities in the USA: 'Real life affords trans* people constant stigma and oppression based on the apparently unreal concept of gender. This is one of the most significant issues that transgender people have brought to feminism and queer theory' (Whittle, 2006: xii). A focus on 'lived experience' is thus evident in UK scholarship over the last decade, much of which has developed out of empirical research projects. Hines's (2007, 2009, 2013) body of work has explored the impact of social, cultural, policy and legislative changes on the everyday identities and experiences of trans* people in the UK. As discussed above, Hines's work has qualitatively explored the impact of gender recognition law and policy on trans* people's everyday lives. This work concluded that the legal and policy changes around gender recognition that were enacted in 2004 were largely welcomed by trans* participants and, overall, seen to mark greater moves towards citizenship parity. Yet, as indicated earlier, significant policy gaps remained and greater levels of education about gender diversity amongst, and training for, professionals in health, education, social care and social justice, and in the cultural industries, was stressed. Hines' empirical work has also focused on networks of care and practices intimacy, foregrounding the importance of care networks and intimate relationships in filling the gaps left by policy and professional services.

The impact of gender transition on intimate relationships and kinship structures is also apparent in Tam Sanger's (2008) work. Sanger argues for an 'ethics of intimacy', which takes account of a diverse range of intimate practices and formations in contemporary UK society. Empirical research again drove Zowie Davy's (2011) work on embodiment, which explored trans* people's divergent bodily experiences and aesthetic practices. Davy's later work (2015 and in this themed issue) has carried forward the questions of gender and embodiment to a sociology of health, particularly in respect of trans* people's experiences of primary healthcare. As discussed above, the healthcare experiences of trans* people are at the forefront of current policy recommendations, indicating the links between UK work on transgender and the claims of trans* social movements. Research by Elizabeth McDermott and Kristina Roen (2016) into mental health service provision for trans people similarly maps on to campaigns for a more sensitive system of mental healthcare as it relates to gender diversity. Finally, Sarah Lamble's (2012)research on the experiences of trans* people in prison in the UK raises concerns that echo social movement claims and policy recommendations around injustices faced by trans* people in the UK criminal justice system, particularly in relation to the issue of incorrect gender segregation and lack of knowledge about gender diversity amongst criminal justice professionals. Of increasing significance is

the issue of non-binary identity and experience, and work by UK scholars such as M.J. Barker (2016) and Ben Vincent (forthcoming) points to the specific needs of this population for whom a framework of recognition and rights needs to move beyond the binary models of male and female.

Central to this body of scholarship is the argument that personal life emerges through, and intertwines with, the political. A 'sociology of transgender' (Hines, 2009) thus traces the formations of power within and through gender and sexual categories; exploring how gender shifts feed into wider debates around the meanings of gender, sexuality and embodiment; themes that are also fore-grounded in the emerging field of work on trans* in Portugal.

Researching trans* in Portugal

Despite significant changes in law and social policy in recent years (Santos, 2013), LGBTIQ studies lack the type of recognition ascribed to other fields of knowledge in Portuguese academia. Even within departments of social sciences and humanities in which embodiment, gender and sexuality could find a safe space to flourish, the epistemological status of LGBTIQ studies is still questioned on a daily basis, tacitly framed as too politicised or subjective to aspire to scientific status. As a result, funded research on LGBTIQ issues is scarce in Portugal and there are no doctoral programmes engaging with these as main subject areas. Within this broader context, trans* as a specific research topic can be described as very recent, intermittent and sporadic. However, some contributions have countered the previous conceptual or empirical void, as this section of the article will briefly discuss.

Trans* as a concept had been part of the scientific literature for over a decade, though most of the times under the umbrella acronym LGBTIQ and without further consideration regarding trans* issues. The bottom- up initiatives in the political field have coincided with the emergence of dispersed studies addressing trans* issues, most of which result from PhD thesis of students with a background in social sciences. The very few existing empirical studies focusing on trans* in Portugal can be seen to be clustered around three major themes.

A first cluster of contributions can be framed as a historiography of activism and legal claims, mapping main events and key actors in local trans* politics. An example of this strand of work is the first study to consider trans* as an autonomous field of scientific inquiry within social sciences in Portugal. Conducted by the sociologist Sandra Saleiro in 2013, this study counters the silence around the specificities of trans* activism and politics, ascribing it a place of its

own, a focus of analytical attention that is autonomous from the overruling LGBTIQ acronym. Saleiro identified 'a social void, related to the lack of information about transsexualism and transgender; and a sociological void, corresponding to the inattention of the discipline to these phenomena' (2013: 4) in the Portuguese context. Her work aimed specifically at countering this void by mapping out gender diversity both in social movements and society at large. Rather than imposing biomedical labels, this study respected the categories provided by trans* people who participated as interviewees.

A second theme gathers contributions that address socio-cultural representations of trans* and non-binary people, including identity-based characterisations of trans*. Recent research by psychologist Liliana Rodrigues (Rodrigues, 2016; Rodrigues et al., 2013) offers a good example of this strand. Drawing on 'a perspective that is critical, feminist, trans*, and intersectional' (2016: 7), Rodrigues explained her aim to be double-fold: to contribute to the (de)construction of trans* people's identities; offering a critique to gender binarism and highlighting ways in which people cross gender in multiple ways, whilst also discussing the depathologisation of transsexuality as a way to extend the human rights of trans* people. Other examples of this strand are the works produced by Ana Lúcia Santos, who wrote the first MA thesis on intersex in Portugal, drawing on philosophy and gender studies (Santos, 2012), and the recent MA dissertation produced by Joana Brilhante on representations of trans* amongst university students (Brilhante, 2016). In 2016, the INTIMATE research project, funded by the European Research Council, based at the Centre for Social Studies (University of Coimbra) and coordinated by one of the authors of this article (Santos), has conducted an exploratory study on naming, mapping out how restrictive laws on naming are interpreted, integrated or subverted by parents of trans* or intersex children; in 2017, INTIMATE conducted a comparative study on networks of care amongst trans* people in Portugal, Spain and Italy, highlighting the importance of friendship and informal care provision.[9]

Finally, a third cluster of studies on trans* in Portugal focuses on healthcare and the role of health professionals. This last cluster of contributions is the most prominent, and is almost exclusively authored by psychologists, despite some contributions from psychiatry and legal medicine (Marques et al., 2012). Two significant names in this field are Carla Moleiro and Nuno Pinto (Pinto and Moleiro, 2012; Moleiro and Pinto, 2015), both of whom are psychologists working in trans*-related issues and part of the research team of the research project Gender Identity Law: Impact and Challenges of Juridical Innovation in the Transgender Field. This study received public funding and was conducted between 2014 and

2016. The project focused on the administrative procedures of the 2011 Gender Identity Law, assessing its implementation, identifying and seeking to overcome the difficulties to legal recognition and understanding the impact of the law on the social and psychological well-being of trans* people. Headed by psychologist Carla Moleiro, this constituted the first comprehensive study on medical care and gender identity in the Portuguese context.[10] It included a survey by questionnaire, as well as in-depth interviews to trans* people, activists and medical doctors. The law was described by most trans* participants as very important in facilitating access to the right to one's identity. Other key findings included the link between discrimination and well-being and mental health, and in this respect the Gender Identity Law was perceived by trans* participants as having been crucial regarding access to employment, access to public services, as well as improvement in family and intimate life. The formal procedures for name change in Civil Registration Offices after the 2011 Gender Identity Law were reported to be smooth and regular. This study also encountered obstacles and difficulties in the implementation of the law, most of which are related to individual absence of knowledge about the formal procedures and the power ascribed to medical doctors and psychologists, namely those – only 33 – who are authorised by the National Board of Physicians to provide a formal statement confirming the existence of a 'deviance in gender identity'. The study concluded that many professionals included in that list could not provide a justification for having been included and that they were not all necessarily trained to address trans*-related issues.

Another comparative research project with a strong concern with health (mostly sexual health) is Trans* Rights, funded by the European Research Council, between 2014 and 2019.[11] One of its analytical strands is 'Vulnerability, bio-power and health', and it considers welfare regimes, healthcare systems and medical practices in Portugal, France, the UK, the Netherlands and Sweden. Although outputs of this research project are still largely unknown, this is, to date, the largest study to be funded in Portugal on trans* issues.

Though trans* studies are in its infancy in Portugal, there no longer exists a conceptual or empirical void, as was the case only five years ago. Despite the still limited research on trans* within a Portuguese context and taking into account the disparate disciplinarity of these studies, it is possible to identify some common features between them. Most are produced within an academic context– especially at the level of doctoral programmes – which emerge within the formal boundaries of a discipline. Psychology is the field that gathers a larger amount of academic experts and inputs. However, the work produced displays a high level of interdisciplinarity, drawing on accounts produced across a range of fields in social sciences

and humanities, including sociology, philosophy and anthropology. All research on trans* in Portugal has been conducted by cis gender-identified academics, with no known trans*-identified authors or Principal Investigators in the field.

Conclusion

This article started by considering different ways of theorising gender diversity in relation to the policy changes and political claims under consideration in the UK and Portugal. We argued that the notion of embodied citizenship productively brought together the key political claims for embodied agency and self-determination emerging from the social movements in both countries. Further, we suggested that a politics of difference was helpful for moving beyond claims for gendered authenticity that the legal frameworks in both countries encourage.

The sections that followed explored the claims of, and policies relating to, trans* people in the UK and Portugal. The two countries under consideration have very distinct economic histories, which have impacted significantly on their particular welfare regimes. Economic insecurity in present times, moreover, impacts more severely on the Portuguese social welfare system than in the UK – despite significant cut backs to the UK's National Health Service. These structural factors are significant since, as we have explored in this article, laws and policies relating to the rights and recognition of trans* people in both cultures are deeply intertwined with medical practice and thus social welfare provision.

Another key difference between the countries that has emerged in this article concerns the history of trans* activism. In Portugal, trans* social movements have quite recently emerged from LGBTIQ activism, while in the UK trans* activist organisations and support groups go back to the 1970s. There are also differences relating to the status of trans* research in the academy, with scholarship on trans* emerging very recently and being spread across more disciplines in Portugal, compared to work developing in the 1990s in the UK and being more firmly located in the discipline of Sociology.

Yet, despite these key differences, this article has indicated many connections in policies, politics and research regarding trans* across the UK and Portugal. Both countries have recently enacted gender recognition laws, enabling trans* people to change birth certificates to their acquired gender. Moreover, neither legal framework requires surgical intervention. Both frameworks of recognition are, however, locked into medical discourse and practice that continues to pathologise trans* people. De-pathology and routes to self-definition of

gender identification are thus high on the campaigning agendas of trans* and non-binary activist movements in both the UK and Portugal. Common themes between trans* activist movements are also evident in the campaigns to address gender recognition claims of young people and improve health care provision.

Theories of embodied citizenship point to the ways in which the material body is central to practices of governance; bodies are a means through which rights are attributed or withheld. Moreover, embodied discourses, particularly around which bodies are productive (or non-productive), have material consequences for people with non-normative bodies. Such themes are key to the lived experiences of trans* people and feature strongly in our consideration of trans* policy and politics in the UK and Portugal. Thus issues of concern to trans* people in both geographical contexts links to questions of bodily autonomy and the ability to self-define gender identity. Subsequently, as we have explored, issues around bodily experience, discourse and practice are high on the political agendas of trans* social movements in both countries. As we argued, though, debates around the body and citizenship may problematically dovetail into debates around who has the 'right' (or the 'wrong') body. Here new understandings and practices of embodied normativity may emerge from the margins to become the indicators of, and for, bodily citizenship. Debates around gendered authenticity based on accessing (or not) surgeries within trans* communities, for example, may set up new hierarchies based on standards of 'realness', which work to structure who is viewed to be trans* 'enough' (Vincent, forthcoming). Additionally, laws and policies around gender recognition may serve to give material rights to some trans* people, for example, those who have accessed surgical interventions, while denying recognition and benefits to others, for example, those who experience their gendered body as non-binary. A politics of difference, whereby difference is credited rather than subsumed, is important in order to remain mindful of citizenship's tendency to favour assimilationism and normalcy.

This article has indicated that academic research on trans* in the UK and Portugal links with these themes as they are understood and practised in policy and activism. Thus, in both countries, research has sought to qualitatively explore the meanings of shifting law and policy (for example, gender recognition law) and has indicated the gaps in current provision (for example, non-recognition for non-binary people). Here the links between academic research and social movement organisation emerge and solidify.

In reviewing the current state of both policy and politics in the UK and Portugal, this article has indicated that the current laws pertaining to gender recognition are under review in both

countries, with activist and academic synergies hopefully giving way to policy which moves further towards depathologisation and a more comprehensive framework for fully recognising the diversity of a myriad of genders.

Notes

1. In 2016 one of the last legal barriers to LGBTIQ citizens was removed in law and included adoption and free access to medically assisted conception regardless of sexual orientation and marital status. Same sex marriage was granted in 2010 and civil partnerships have been recognised by law since 2001 (Hines, 2013).

2. The project Gender Diversity, Recognition and Citizenship was funded by the Economic and Social Research Council (ESRC) and carried out in the School of Sociology and Social Policy at the University of Leeds between May 2008 and May 2010. Various qualitative methods were employed to collect data including textual/policy analysis; 25 in-depth one-to-interviews; two focus group interviews; analysis of virtual materials.

3. For the full *Transgender Equality Report* see UK Parliament (2016).

4. The sections on Portugal included in this publication draw on research funded by the European Research Council under the European Union's Seventh Framework Programme (FP/2007-2013) / ERC Grant Agreement 'INTIMATE - Citizenship, Care and Choice: The Micropolitics of Intimacy in Southern Europe' [338452].

5. More information is available at http://fra.europa.eu/sites/default/files/fra_uploads/country-study-lgbt-legal-update-2014-pt.pdf.

6. In 2006, a group of international human rights experts met in Yogyakarta, Indonesia, and agreed on a set of guidelines regarding sexual orientation, gender identity and expression, called the Yogyakarta Principles. More information is available at http://www.yogyakartaprinciples.org/principles-en/.

7. As reported by *Diário de Notícias* (2017).

8. An exception to this is Jay Prosser's *Second Skins* (1998), which considers trans embodiment through textual sources.

9. For more information, please refer to http://www.ces.uc.pt/intimate.

10. The final results of this study were presented during a conference in Lisbon in April 2016. For more information, please refer to http://conferencia-identidadedegenero.iscte-iul.pt/index.html.

11. More information is available at https://transrightseurope.com/.

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