

Introduction to Themed Issue: Trans* Policy, Practice and Lived Experience within a European Context

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This Themed Issue, 'Trans* Policy, Practice and Lived Experience within a European Context', emerges at a time when global understandings of gender are rapidly changing across social, cultural, political, policy and legal spheres. The understanding of gender as the materialisation of the categories of male or female that are fixed at birth is in flux, and this Issue speaks to these shifts at conceptual, procedural and empirical levels.

Throughout the Issue we use the term 'trans*' as an umbrella term that includes a range of gender identities that fall across, between or beyond the categories of male and female as defined at birth. This includes people who use surgeries and/or hormonal procedures as part of the process of gender affirmation as well as people who transition in less permanent ways. We also include people who do not identify with the categories of male and female, such as non-binary and gender queer people, in our conceptualisation of 'trans*'. Following the recent move in many trans* communities, we use an asterisk – trans*- to emphasise the inclusion of non-binary, and other non-normative gender, identities and practices.

Across Europe, the increased cultural visibility of trans*people has brought issues of gender diversity into the public arena, while the organisation of social movements has meant that the political demands of trans* people are being voiced. Of particular importance here are issues around health and welfare provision. Moreover, the rights afforded to trans* people have gained centre-stage in recent years as equalities and diversity law and policy is being re-configured in a number of European countries. A language of 'rights' and 'recognition' is increasingly employed by the European Court of Human Rights (ECHR) to extend matters pertaining to social justice beyond women, and gay men and lesbians, the gender and sexual 'minority groups' previously enveloped within European equalities and diversity law and policy. Yet, the influence of ECHR case law is limited due to the different legal characters of EU law and 'traditional' international law, particularly regarding recent accession countries. Additionally, there is a shift in some European countries towards the recognition of a range of trans* identities that goes beyond the idea of people moving from one gender expression to another within a gender binary system. Non binary identities and practices – those that move

across or beyond the categories of male and female- thus raise new questions for legal, social and welfare practice, and, as yet no European country has legal recognition for gender identities that fall outside of a two gender option.

Despite the significant shifts discussed above, trans* issues thus far remain unaddressed within a European academic framework, despite the growing numbers and prominence of trans* scholars internationally. Moreover, at European levels, trans* topics remain marginalised within mainstream gender and/or women's studies. Subsequently, this proposed Special Issue speaks to the developments around, and addresses the complexities across, trans* policy, practice and lived experience within a European context.

This Issue draws on original research from key scholars in the field who critically explore the impact of equalities and diversity law and policy on individual and collective trans* practices at national levels. It is guided by the premise that a locally-specific analysis is crucial to avoid the pitfalls of universalism. Therefore, the Issue examines how trans* people in different European locales experience and negotiate shifting policy landscapes. In this way, it seeks to understand the state processes, social relations, identities and cultural values that shape discourse and practice around trans* within specific geo-political contexts, and the ways in which European law and policy is shaped by these in turn. Consequently, the articles across the Issue not only explore subjective and collective experience, but also examine the ways in which 'experience' is constructed through law and policy, and how experience contributes to de- and reconstruct official gender discourses. The Issue speaks to tensions around gender-binaries (and non-binaries). Thus while many European countries are adopting laws that recognise binary trans* people (those who identify as female or male), non-binary identifying people (those whose identities sit outside or across of the categories of male or female) remain outside of law, which assumes that medical intervention accompanies gender transition. This links to debates raised within the Issue around the continued role of medical discourse and practice in law and policy - what is termed the medico-legal. As a whole, the Issue examines legal and policy discourse and practice across different European countries in order to explore the range of ways in which trans* is being debated, contested and reconfigured in the 21st Century.

The Issue seeks to open up previously unmapped territories concerning transgender and critical social policy. It does so by interrogating a number of key dynamics across a selection

of central themes. The central themes of the Issue concern citizenship and human rights; the state and democracy; and agency, contestation and difference, and address the following key questions across its six articles:

- What are the meanings of sex, gender and sexuality, and of the relationship between these, that are embedded in law and policy, and how do these map onto legal and policy understandings of transgender?
- In what ways are binary constructions of gender being contested, re-inscribed, and debated, by trans* activists, and in welfare and medical regimes?
- What are the relationships between legislative frameworks and directives (at EU and individual EU Member State levels), implementation mechanisms, and trans* activist claims and interests?
- To what extent do trans* people feel that they are currently recognised and protected under law?
- What specific areas are of concern for policy makers working in the areas of gender diversity, for example those with remits concerning welfare, the family, and healthcare?
- To what extent do legal recognition and rights depend on medical opinion and evidence regarding trans* rights?
- What are the social, cultural and political and policy contexts that impact on the differences in the above?

As a whole, the Issue considers trans*social policy in the context of eight countries: Belgium; France; Hungary; Norway; Portugal; Slovakia; Spain and the UK; bringing together scholars from across Europe working on trans* social policy from a critical perspective for the first time. Specific issues for trans* social policy theory will be explored in a comparative context, including the medico-legal framing of trans*, trans* social policies, trans* activisms, and the operation of international groups and NGOs alongside national and European state machinery and national NGOs.

The first article considers diagnosis procedures and practices. *Democratising Diagnoses?: The role of the depathologisation perspective in constructing corporeal trans* citizenship* by Zowie Davy, Anniken Sørliie and Amets Suess is set within the context of the revision processes of the Diagnostic and Statistical Manual (DSM-5) and Classification of Mental and

Behavioural Disorders ICD-11); key documents that guide the standards of care for trans* people for medical professionals. The article explores debates regarding trans*-related diagnostic categories from academic, clinical, professional and activist perspectives. As the article shows, from a human rights framework, an international trans*depathologisation movement has emerged to demand the removal of the diagnostic classification of gender transition as a mental disorder from both the DSM and ICD. Rather than establishing trans* healthcare rights through a pathologisation discourse, as in earlier approaches, the focus now is to achieve human rights friendly laws and regulations in specific states. Thus fundamental human rights principles, such as human dignity, self-determination and bodily integrity, are utilised to challenge the power of medical professionals in the distribution of rights. As the article addresses, however, the consequences of this shift remains uncertain and there exist tensions and contradictions in the revision processes of trans*-related diagnostic categories for children, adolescents and adults.

The second article, *Trans* Policy, Politics and Research: the UK and Portugal* by Sally Hines and Ana Cristina Santos explores law and social policy regarding trans*, activism amongst social movements, and academic research addressing trans* in the UK and Portugal. 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 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. In considering different possibilities for theorising gender diversity, the article positions the theories of embodied citizenship and a politics of difference as fruitful tools for synergising policy, politics and research.

The third article, *Tran* and Gender Variant Citizenship and the State in Norway* by Surya Monro and Janneke Van Der Ros speaks to the expansion of trans* identities that are gender queer, neither male nor female, androgynous, or multiply-sexed and gendered. These developments mark a major cultural shift, from a uniformly gender-binariated system to one which encompasses a degree of gender pluralism, yet as the article suggests, this shift is not reflected in EU Directives and Policy Standards, or in the legal frameworks and policies of most EU Member States. The article uses the case of Norway to argue that there is a

divergence between the citizenship statuses increasingly afforded to trans* men and women with binary gender identities, and the exclusion from citizenship rights that people with non-binary identities face. It addresses the role of the State in perpetuating gender binaries, in key areas such as identity recognition, medical treatment, and reproductive rights.

The fourth article *Families in Transition: Parents and Children Learning about being Trans* and Parenting* by Myrte Dierckx and Lucas Platero hones in on the family as a social site of transition. Specifically, the article examines the relationships between parents and children, suggesting that an analysis of transition within the family setting allows for a reconceptualisation of parenting and child-parent relationships. Drawing on their research in Spain and Belgium, the authors explore the narratives of both parents of trans* children and young people, and trans* parents themselves. This two-fold focus allows for the questioning of assumptions about parenting and gender roles, which poses important challenges to knowledge production in this field. The article suggests that visibility of children at young ages who claim that the gender is different from that which was assigned at birth, co-exists with parents building social movements to support their children. The article also traces the ways in which parental support groups and social movements bring a challenge to a reparative approach to cases of gender diversity amongst young people, which, through therapeutic intervention, seek to change a young person's trans* or non-binary gender identity to that which was assigned at birth.

Health care provision for trans* people is also the focus of the fifth article, *Trans Citizenship in Post-socialist Societies*, by Judit Takacs, Roman Kuhar and Surya Monro. This article considers research findings regarding trans* citizenship in 14 post-socialist countries, arguing that although there are promising developments concerning citizenship rights for trans* people in some of these countries, there are also substantial citizenship deficits. In particular, there are frequently no guidelines, measures and procedures that define the standards of healthcare. The article subsequently examines the legal frameworks for gender recognition in post-socialist countries and considers the availability of trans* healthcare, addressing whether gender confirming/reassignment treatments (GRTs) are available within the public healthcare system and covered by the state health insurance. In conclusion the article makes some indicative recommendations concerning a (more) trans* inclusive social policy approach.

The six and final article in the Issue, *Transgender and Gender-nonconforming Persons and Sexual Risk* by Joz Motmans, Judith Van Schuylenbergh and Gily Coene hones in on the specific health care needs of trans* people with HIV. As the article suggests, there is an extremely high prevalence of HIV in trans* people, which the authors address in relation to stigma, discrimination and gender role normativity. Adopting an intersectional feminist approach, the authors review the literature on HIV and trans*, drawing attention to the concurrent factors of gender, social class, and ethnicity. In conclusion, the article addresses the limitations of current research in this area and makes suggestions for future policy research.

As editors of this Special Issue, we seek to foreground the specific concerns that trans* raises for social policy within European contexts. Some state legislative measures concerning legal gender recognition violate trans* people's right to personal autonomy and bodily integrity; these include reproductive and partnership rights; for example, the European Court of Human Rights (ECHR) has ruled that the sterilisation requirement in legal gender recognition violates human rights. Access to healthcare for trans* people is controlled by the medico-legal establishment, and specific human rights issues concerning the state, welfare provision, and citizenship are at stake. Trans* activism is shaped by the multiple voices within trans communities and tensions exist between those people seeking assimilation into binary gender policy and welfare regimes, and those who reject the gender binary system. Underpinning these concerns, the critique of gender binaries raises many issues for a critical social policy that has, thus far, assumed that 'male' and 'female' are two distinct, discrete, and universal categories. Including trans* people's perspectives sheds new light on theories of the state, specifically the welfare state, activism, social administration, healthcare organisation, democracy, and citizenship; all of which are issues central to this Special Issue.

Further, trans* research and theorising calls for a broader conceptualisation of gender within social policy; problematising models of gender equality and research that include only females and males, and developing approaches that address gender complexity. In providing analyses of gender (in)equalities that include trans* people, the Issue seeks to develop social policy understandings that respond to, and interpret, trans* (activist) issues. Overall, we hope that the Issue will provide a more nuanced understanding of the relationships between trans* social movements, different trans* citizens and the state, and that it will, in particular, offer

an important contribution to understandings of trans* people as political actors in a rapidly changing gendered world.

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