

**The Equality Act 2010 and Empty
Diversity: neoliberal legislation and
inequality in the lives of trans* and
sexgender nonconforming people.**

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Abstract

This thesis explores how effectively equality and diversity legislation in the UK offers recognition and protection to trans* and sexgender nonconforming people by engaging with their contemporary experiences. In order to explore these dynamics I give a genealogical and multidisciplinary context to my work. More specifically, I trace the ways in which the development of trans* and sexgender nonconforming discourses impacts on the evolving self-understanding of my research subjects. Finally, I also analyse the implications of my findings for particular forms of legally focused activism.

The thesis makes a critical examination of the much commented-on increase in trans* and sexgender nonconforming people's visibility and social inclusion in the 21st century. In order to undertake such critique I theorize the impact of structural socioeconomic and cultural changes that have taken place in the context of neoliberal governmentality, including the developments in information technologies. I focus on important issues of materiality and political economy to analyse how the neoliberal logic of inclusion of previously discriminated against populations according to their socio-economic fungibility – i.e. their ability to participate in the market – necessarily creates new forms of exclusion and marginalization.

This thesis produced a critical examination of the nature of diversity itself in a neoliberal age, focusing in particular on how the valorization of a particular form of empty diversity – i.e. a depoliticized, instrumental and commodified recognition of difference - is emblematic of the delimitations of the effects of the neoliberal project. I contend that the forms of protection grounded in neoliberal understandings of 'equality' work to mask the structurally unequal and iniquitous effects of legislation, even if they represent an improvement in relation to the previous lack of recognition. In particular the Equality Act 2010 can be seen as entrenching inequality and discrimination, rather than promoting genuine social and economic equality, by only protecting more 'legible', 'fungible' and normative experiences of trans* expression.

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Introduction

*They wanted Munroe's transness, her blackness, her womanhood and all of the glory and the capital gain of her "diversity" with none of the corollary activism and resistance that comes with her identity: the necessarily [sic] trappings of a woman as vocal about racism and marginalisation as she is - Otamere Guobadia, *The Independent**

*As trans people challenge their exclusion from language, and therefore from basic human rights, sex itself is increasingly becoming an unsafe foundation for the legal foundation of the order of human life - Stephen Whittle, *The Transgender Studies Reader**

1.1: The research focus

The starting point of this thesis was my interest in how we ended up with the construction of the protected characteristic of 'gender reassignment' as a descriptor of people who fall into the categories of what I refer to as trans* and sexgender¹ nonconforming people in the Equality Act 2010 (EA2010). I wanted to investigate the dialogic relationship between how contemporary sociopolitical culture informs the writing and enacting of laws and in turn what the sociocultural and socioeconomic impact of the laws is when enacted. In this context I focus on the EA2010, on the lives and self-understandings of trans* and sexgender nonconforming people in England and Wales, and of wider public understanding and acceptance of, or resistance to, the lives of trans* and sexgender nonconforming people in England and Wales in the second decade of the 21st century. Through an investigation of this dialogic relationship I assess the effectiveness of current legislation in offering recognition and protection to trans* and sexgender nonconforming people.

In discussing the construction and effects of laws with specific reference to the EA2010, I do refer to individual cases. Unlike some other work in legal trans* studies however, I go beyond a focus on case law to consider a broad range of fields and investigate a wider range of evidence, from theoretical perspectives, individual testimonies, analyses

¹ I expand on my use of the term sexgender, rather than sex/gender or sex and gender in Chapter 3, but comment on my use of language in the 'Terms of the Discussion' section below.

of contemporary lived experiences as well as evidence from cultural productions and reactions to them over the time I have been writing.

The EA2010 purports to offer recognition and protection to people who qualify under the protected characteristic of gender reassignment in respect of direct and indirect discrimination, harassment and victimisation in employment and the provision of goods, facilities and services. As my research progressed I became interested in why the EA2010 was framed in terms of ‘protected characteristics’ at all, and why the nine protected characteristics that were selected for inclusion in the EA2010 had been chosen, and why others weren’t. I also became interested in what this meant at a time of the changing nature of ‘work’ and what implications this has for laws that intend, as signalled in their naming at least, to promote recognition, equality and diversity. As my research developed my interests broadened and this had a profound impact on the structure of the thesis.

The main question this thesis in its final form addresses is:

How do the structure and effects of the EA2010 illustrate the tensions between the increased recognition and gains experienced by some trans* and sexgender nonconforming people and the increased marginalisation of others in the age we live in?

In relation to this question I consider various dimensions of my arguments by addressing the following sub-questions which emerged from my fieldwork:

1. How effective is the EA2010 in offering recognition and protection to trans* and sexgender nonconforming people at all?
2. What does being trans* and/or sexgender nonconforming mean in ontological and embodiment terms and what impact does being, or being perceived to be trans* and/or sexgender nonconforming have in relation to one’s ability to interact with systems of power in the world? And importantly, what impacts do they have both intersectionally and in relation to *not* being trans* or sexgender nonconforming?
3. To what extent have altering sociopolitical conditions and our changing engagements with a 24/7 information rich, marketised sociotech environment

affected people's self-understandings, and produced new hegemonic and marginalised modalities of transness and sexgender nonconformity?

4. To what extent do contemporary biological, including neurological, discourses undermine deeply culturally embedded understandings of dimorphic essentialism? What are the implications of physical lability and its cultural representations and manifestations in a neoliberal age?
5. What does a close analysis of the structure and operation of the EA2010 reveal about the conditions it was conceived and drafted in and about changing social attitudes of acceptance and repression of trans* and sexgender nonconforming people? How does the significance of such attitudes play out and manifest in the lives of trans* and sexgender nonconforming people?
6. How do conditions of increasing precarity in the lives of many people in England and Wales today materially affect the life chances of people identified as trans* and/or sexgender nonconforming?

I wholly acknowledge the wide range of these questions. They emerged as a result of my critical engagement with theoretical work but were given sharper focus by both the need that emerged as I researched to examine the sociocultural conditions in which the EA2010 emerged, and the varied and complex testimonies of my respondents. The questions are each addressed in the body of the work in order to contextualise and add depth to my main focus, framed in the main question above.

1.2: The structure of the thesis – an overview

The provision of legal recognition and protections for some trans* people, however partial or restricted, suggests that some kind of progress has been made in overcoming the high levels of often open legal, cultural and economic discrimination and misrecognition or subalternisation (Salah 2014) formally embedded in their everyday life experiences. Laws, in particular the Gender Recognition Act 2004 (GRA) and the EA2010, have been enacted at a time when trans* and sexgender nonconforming people have become more visible in mainstream culture, and in everyday life. But questions

remain about why these laws and the growth of trans* and sexgender nonconforming people's visibilities have occurred at this particular historical moment, to what extent and in what ways they are imbricated and what the delimitations of the effects and affects² for trans* and sexgender nonconforming people are. After framing these questions it is clear that any substantial research project would need not only to take account of the complexity of the sociocultural conditions in which the widely documented growth of visibility of trans* and sexgender nonconforming people has occurred but of the complexities of the direct lived experiences of such people themselves.

Throughout this work I have drawn on the evidence of my respondents, but I have situated their evidence in an arc of theoretical work which gives a framework to their experiences and has enabled me to develop my own theorising and conclusions. In the first two chapters I describe my engagement with academic literature, how it developed and how it ranges. I situate myself as a researcher and a trans woman in the process of knowledge production and consumption within the dialogic processes that I refer to above. I also situate myself as a trans* researcher in relation to my respondents and explore the possibility/impossibility of a perfect equivalence of subject positionality between researcher and respondents given inevitable shades of interpersonal difference and the power relations inherent in a research project. I seek to establish the grounds for a queer methodology which encompasses a critique of grounded theory's somewhat decontextualising approach to interpretation of respondent data. I go on to explore the range of other sources from old and new media, including the transformative effects of social media, which I have used in my research. I raise the issue of the increasing complexity in separating sources out in terms of their being considered specifically primary or secondary data.

Chapter 3 opens with a short autoethnography in which I discuss my experience of growing up in the late 1970s and not having a suitable language to describe how I felt about my sexgender conflicts. I describe how disorientating that was for me,

² When I use the term affect in this work I am referring to the stimulation of emotions or feelings associated with one's subjectification. I locate such outcomes within the parameters of performativity (Butler 1988, 1989, 2008) and they are thus related to repetition but also to access. If affects for contemporary subjects are produced in particular historicised conditions I suggest their production is imbricated in our sociocultural climate which valorises forms of diversity, a heterotopic sociotech, information rich, environment within which particular forms of messaging are created, reproduced and consumed 24/7 across multiple platforms and interactions.

emphasising how critical it is for people to find and to develop such a suitable language as a prerequisite for building nurturing and supportive lived environments in which the possibility of recognising previously hidden or repressed aspects of themselves can exist.

In structuring the research and wanting to build on what had gone before I revisit the foundational texts in transgender studies which developed in part out of a reverse discourse in opposition to a certain strain of transphobic feminism, but in the context of greater medical possibilities for trans* people and a more liberal sociocultural environment. The question of the interrelationship between environment and the self underpins all the following chapters. So in tracking and analysing the growth of transgender studies which offered trans* and sexgender nonconforming people vocabularies through which they were able to begin to understand themselves I acknowledge the positive impact of the field's discourses on the testimonies of my respondents. Following that in Chapter 4 I look at critiques of neoliberalism and engage in a discussion of normativities and assimilation in the context of the marketization of society and of individuals. This extends the focus of the work from the sociocultural to the socioeconomic and the complex interplay of these terms within a neoliberal regimen that has significance for this work.

The thesis challenges the ways in which heteronormative and some feminist discourses refuse trans* claims to legitimacy in biological terms, and counter these with a phenomenological argument for the significance of environment. I wanted to establish a material basis in order to critique both the constructed nature of the sexgender binary and the affective impact of environment on people as cultural subjects, both in terms of being productive of the environments we inhabit and of our subjectivities being delimited by those same environments. In constructing a framework to engage these subjects I chose to contextualise my findings through a discussion of embodiment and how this has been culturally interpreted by trans* and sexgender nonconforming people through the possibilities offered in our new sociotech³ environment. In Chapter 5 I explore themes of natural biological diversity, of brain plasticity and a neoliberal politics of the body. I go on to question the extent to which the impact of the internet and social networking, cited as uncritically positive by many of my respondents and in

³ I use the term sociotech to capture the manner in which many of our social interactions are mediated through the technological environment/s across or within which they take place.

transgender studies academic work, might in fact be more complex in its affects and effects in Chapter 6. The discussions in Chapters 3 to 6 form the basis for the critical discussions in Chapter 7 about the effectiveness of the EA2010 in providing effective recognition and protection to trans* and sexgender nonconforming people.

1.3: The breaking down of borderlines – new normativities

As my research progressed certain themes emerged. One significant theme is the blurring or even the breaking down of borderlines; the female*/male* binary can be scientifically challenged and sexgender crossings of self-understanding, feminine masculine non-binary, and embodiment are so various and not easily predictably mapped, hence my use of the term sexgender. I also examine the breaking down of borderlines between trans* and cis*; between embodiment and technology; between the ‘real world’ and the ‘virtual world’; between natural and social sciences; and ultimately, although only referred to in passing in this thesis, between the human and the non-human. Each of the chapters from Three to Seven engage with critical deconstruction of binaries and of fixity of sexgender in terms of embodiment and self-understanding in terms of group and individual lived experience, in relation to ontological social approaches to recognition and protection of minoritised social groups.

Such a breaking down of hetero/homo/trans-normative boundaries has been a feature of much queer, post-modern, post-colonial and transgender studies theorising. As signalled above I am interested in discussing how such theorising can be used to support an understanding of the constructed nature of embodiments and social relations and in particular how this has application to my subject matter in an age of neoliberalism.

Neoliberalism is an unwieldy concept broadly understood as the current phase of protean late-capitalism. In Chapter 4 I set out my understanding of its operation with reference to the concept of governmentality (Foucault 2008) and how this impacts the subjectivities of trans* and sexgender nonconforming people. I am also concerned with how these are understood and communicated about to and by people who do not consider themselves to be so which I explore further in Chapter 6 by examining changing cultural representations of transness and sexgender nonconformity. Consideration of this sociopolitical context has opened a space to discuss the meaning of the apparent valorisation of diversity within neoliberal polities at a time when the socioeconomic discourses of privatisation, marketization and monetisation, austerity

and hugely increasing tensions around migration and refugee statuses, otherwise mitigate against the creation of meaningfully inclusive social environments.

1.4: The terms of the discussion

I offer up deconstruction as a tool of disruption and in my use of language I have aimed to both challenge concepts that I think have become naturalised and in a meaningful way de-queered through over-frequent under-thought out usage, and I have co-opted or developed certain concepts in explanation of my ideas. Often in work associated with transgender studies, people have felt it necessary to offer extended glossaries of terminology describing the manifold terrains of transness. One feature of our current sociocultural climate has undoubtedly been an explosion of descriptors of sexgender diversities. I do not feel that I need to add to that here, and although there are some passages which engage with such naming in the body of the work I think they speak to the reader clearly without the need for additional elaboration.

There are some terms that I use that are critical to the understanding of the work such as sexgender, fungibility, empty diversity, embodiment, plasticity, sociotech and heterotopia/c. Rather than offer a decontextualised glossary here I have offered explanations of each term in footnotes or the body of the work as seemed more appropriate, as with sexgender above. I have also co-opted the Brechtian term *verfremdungseffekt* (Brecht and Bentley 1961), which translates as the alienation effect. I employ it as both a methodological tool as described in Chapter 2, to support my queering methodology, but also as an analytic and activist tool to highlight the constructed nature of who we are and to historicise and disrupt the naturalness of the environments in which we hold both subject and object positions. It is in the spirit of *verfremdungseffekt* that I consistently deploy the term ‘trans* and sexgender nonconforming’ in full which makes for purposefully challenging reading.

As a coda to my remark that I will not offer a glossary of trans* terminology I offer the following observation. In a neoliberal context a necessary normativity, which I explore as a critical part of my work, is the fungibility⁴ necessary to successfully navigate our current hyper-marketised socioeconomic environments. This clearly impacts different trans* and sexgender nonconforming people differently. And this raises the question of

⁴ Discussed at length in Chapter 4 as describing the qualities that underwrite the ability of individuals to successfully navigate contemporary marketised environments.

how laws which recognise people so narrowly and non-intersectionally can meaningfully address the issues of such a heterogeneous group of people, who cannot in a unitary sense be said to actually constitute something often referred to as ‘the trans* community’. It is this totalising and simultaneously flattening out attitude to trans* and sexgender nonconforming people and their subsumption within the protected characteristic of gender reassignment that sits at the critical heart of my project.

1.5: The development of the project

From the beginning this project was conceived as an investigation into the interrelationship between law and culture, anchored by a focus on equality and diversity law and the protected characteristic of gender reassignment. Although my thesis has actually turned out to represent that original intention there have been circumstances which at times have proved both enlightening (and sometimes simultaneously frightful) and complicating.

The proposal for this thesis was written and accepted in the autumn of 2011, after the Conservative/Liberal Democrat Coalition Government had been in power for only a year. Through the following years we have lived through what many of us feel to be what trans* academic and radical transfeminist Nat Raha describes as ‘...bitter, disenfranchising conditions’ (Raha 2015). The terms of austerity politics have made clear that there are levels of enfranchisement in a nation state whose political response to the crisis in global capitalism and the broader effects of globalisation has been to actively seek to stigmatise and other the poor, the disabled, migrants and refugees, while promoting policies that seem to encourage inclusive diversity.

It has been in reaction to these times and consideration of the powerlessness conferred on many of us and the contradictions apparent in the conflicting discourses, that the focus of my work has shifted. Although I began with trans* and sexgender nonconforming people as my focus, and this has remained consistent throughout the work, I came to the realisation that much that was wrong about this approach was its individuated focus. And it is through the introduction of complexity and a realisation that greater attention to structural analysis needed to take place that my claim to original contribution to knowledge is situated.

1.6: Original contribution to knowledge

This thesis contributes to original knowledge through its sustained and simultaneous focus on the operations of the law and its connections to wider social structures and discourses, on lived experiences and on the theoretical scholarship that aims to make sense of all of these. I make significant contributions to original knowledge by adding to existing scholarship in three different areas:

1. There has been a significant amount of work generated by the passing of the EA2010. This work has generally been focused on the effects of the Act on individuals on a case-by-case basis. While I have looked at individual cases I have also taken a more structural approach. I have analysed the structure of the Act as a piece of neoliberal legislation, contextualised by the broader sociopolitical environment out of which it emerged. I have taken this approach in order to consider the delimiting effects of the Act on the lived experiences of trans* and sexgender nonconforming people, and by extension the broader impact and significance of the Act.
2. As I acknowledge in this thesis there has been a great deal of important work in the field of transgender studies in the UK. I have added to this work by taking a broad approach which includes a more critical examination of the impact of the internet and social networking on subjectification. Additionally I have developed my discussion of subjectification with a focus on materiality, including a critical examination of scientific discourses which highlight the constructed nature of the dimorphic biological approach, and a discussion on physiological and brain lability and plasticity. Focusing on first-hand accounts of the developing lives of my respondents and their interactions with transness and sexgender nonconformity in these contexts, I have situated their experiences in an altering sociocultural environment in which some trans* and sexgender nonconforming people have been able to flourish while others have been variously impacted by increasing precarity in work and biopolitical systems.
3. Contrasting the expansion of recognitions and visibilities of previously minoritised demographic groups with the simultaneous vilification of specific groups or subgroups within the same demographics, I have

developed the concept of *empty diversity*. In doing so I have advanced thinking about the nature of diversity in a neoliberal environment. I suggest that this both highlights how, and helps to explain the extent to which, previously normative structures of sexgender are being rewritten without necessarily challenging hegemonic white patriarchal power structures deeply or effectively.

In adding to the knowledge base in this way I offer a fresh praxis, and a project within transgender studies grounded in materiality, engaging the tool of critical alienation of *verfremdungseffekt*, which along with Raha (2015) and van der Drift (2016) I term radical transfeminism. Over the following two chapters I discuss the literature that has informed the theoretical underpinning of my thesis and the methodological grounding for the main body of the work.

Chapter 1: Literature Review

The “fundamental sex difference” story makes it difficult to notice how sex differences, themselves, change shape in different environments. It also makes it hard to absorb information on important influences from social structures -
Rebecca Jordan-Young, *Brain Storm: the flaws in the science of sex differences*

Thus Rebecca Jordan-Young critiques the essentialising discourses that underwrite binary dimorphic ontologising and the tropes of patriarchy that maintain discrimination against and oppression of feminine and otherwise non-normatively expressing, embodied and identified people, both as individuals and as sociocultural and socioeconomic demographic groups. This thesis has been written at a time when much has been made of the ‘Transgender Tipping Point’ (Steinmetz 2014) as popularised by the *Time* cover featuring trans* actor Laverne Cox. Despite the headline optimism being expressed, variously by and on behalf of trans* and sexgender nonconforming people, my research suggests a contemporary situation which embraces more nuanced outcomes and I would like to reflect this in my review of the literature I have engaged with.

Transgender studies offers ‘...transdisciplinary and interdisciplinary perspectives’ (Stryker and Currah 2014) and following the epigram from Jordan-Young I engage throughout this thesis with the academic literature that in part emerged out of and accounts for, and in part has contributed to shifting and developing environmental terrains in and beyond the field. I have also engaged with a significant amount of non-academic material and I preface my discussion of my methodological justification for this in the following chapter here.

In Chapter 2 in discussing the structure of my work I recognise that it may not be perceived as particularly intuitive. However it emerged out of an engagement with the critical importance of environment in relation to subjectification and governmentality, as well as the need to engage with contemporary cultural production which has both informed, and been informed, by our current sociopolitical and material conditions. My choice of texts draws on a range beyond the academic in recognition that much cultural consumption and production routinely takes place more interactively online through social media, blogging, vlogging and the culture of 24/7 multi-platform broad- and narrowcasting, within which we are all implicated. And importantly and instructively

the borderline between what has been deemed to count as primary and secondary data in sociological writing is not altogether definable in a communicative environment in which ‘facts’ and discourses become reductively decontextualized and memed and therefore acquire their own powerful cultural meanings, distinct from but emerging out of original source materials. These materials have a wide range of provenances including academic theory and first-hand accounts of lived experience relevant to this work. And in relation to Halberstam’s quote about a scavenger methodology in the following chapter I suggest that my approach goes beyond what they claim insofar as our new information-rich sociotech environment blurs borderlines making it very difficult when researching in ‘real time’ to separate out and categorise sources in ways that have previously been held to be useful.

The following brief overview of the rationale underpinning my selection of texts underlines my intention to structure my work to provide a wide-ranging context to my discussion of what kind of law we have and why we have it now. It also acknowledges my intention to establish the critical importance of environment in providing a material basis for our phenomenological development in relation to subjectification. I discuss as well, what I feel the environmental factors have been that have influenced my selection of texts.

In relation to establishing context, I examine the genealogy of a number of discourses. I look at transgender studies and queer studies in consideration of altering parameters of normativities. I examine the emergence of biology in its enlightenment form, in relation to contemporary scientific deconstructions of the material basis for sexgender dimorphism and binarism. I go on to engage with work that tracks the shift in hegemonic (and arguably *épistémic*) assumptions that underpinned the post-WW2 consensus to those that have informed the dominant neoliberal formations of our globalised post-Fordian capitalist world today. And in relation to the effects of environment I pay particular attention to work on the natural range of human⁵ sexgender embodiment and ontologies, and also to the science of brain plasticity, and how our sociocultural, chemical and sociotech lived environments have a material and shifting effect on who and what we become as humans. Particular impactful environmental

⁵ In referring to the human here I acknowledge the significance of a posthumanism that challenges the erection and maintenance of a meaningful separation between the human and the non-human in broad ecological terms.

factors that I examine are the communicative environment in the age of the internet and ways in which it has mirrored and reinforced our wider sociocultural environment, and also the broad effects of governmentality on individuals and on group affiliations circulating within what I describe as meso- level constituencies. I challenge the uncritical acceptance that the emergence of the internet has been entirely beneficial to trans* and sexgender nonconforming people's self-development. And this wide selection of subject areas converges to inform the discussions in Chapter 7 about effectiveness of the law.

Chapter 7 is the pivotal final chapter of this work in which I draw together the themes in the context of my argument about the effectiveness or otherwise of the law in offering recognition and protection to trans* and sexgender nonconforming people. In this chapter I am not merely interested in the experiences of individual trans* and sexgender nonconforming people in relation to their experiences of the impact of the law, in this case the EA2010, in relation to recognition and protection. I also focus on examining the structure of the EA2010 in particular and to a lesser extent the GRA in order to pose the question of how we have the laws we have in the form that they currently exist? As I am not simply interested in the laws themselves, but the wider developing context in which they exist I critically examine Ministry of Justice regulations regarding the treatment of people within the criminal justice system which have been reviewed during the time I have been writing this work. I question not only if they are effective but what the significant changes reveal about contemporary sociopolitical conditions. I contrast the structure of the laws and regulations with their operation in relation to their application, and their application by critical analysis of a significant case judgement, media reports of judgements and specific cases involving trans* and sexgender nonconforming people enabling analysis of the dialogic relationship between our laws and mainstream culture.

I begin here however, by situating my discussion of the literature in the context of Michel Foucault's work on discourse and how it delimits power/knowledge. I briefly discuss his earlier concept of biopower and the body and its attraction to and influence on the field of transgender studies. Later in this chapter I discuss my engagement with his more recent theorising on the concept of biopolitics and governmentality and suggest that this has broadened the ambit of my work partly in line with more recent

politicised developments in transgender studies which have added particular insight to my conclusions about the focus of my work, the EA2010.

In between these two discussions of Foucault's work and influence I contextualise my engagement with literature with an examination of the genealogy of the nexus of developing theory and technologies which influenced texts, both trans* positive and trans* critical, which have themselves been influential in the foundational texts of transgender studies and beyond. I go on to track the development of the field of transgender studies more generally and note its changing and enlarging focuses. In doing so I acknowledge the breadth of work by academics and activists in the UK. I refer to my engagement with literature that has informed my critical analysis of embodiment and embodiment⁶ which underwrites the material basis of my theorising. And I also note my engagement with literature that describes the emergence of the internet and its effects and affective power in relation to the marketised and sociotech neoliberal environment that we all inhabit. And finally as my focus is the effectiveness or otherwise of the EA2010 in offering protection to trans* and sexgender nonconforming people I close the chapter by discussing contemporary legal scholarship that I have drawn on which informs the conclusions of my work.

2.1: Themes

In my Introduction I identified two interrelated themes that have emerged as I carried out my research. The first, as noted above, is the importance of environment to the development of personal and sociocultural discourses. The second is a breaking down of binaries and borderlines which has supported the development of trans* and sexgender nonconforming communities of interest and identity and a more trans-positive and sexgender variant sociocultural environment within which recognitions are being more broadly granted. These themes emerged strongly as a result of engaging both with the transgender studies canon and with the interactions with my respondents.

Foucault's work has been extremely influential in queer studies and certain strains of feminist theorising and in relation to my two key themes forms a crucial entry point to

⁶ I use the term *embodification* to describe people's various embodiment modification projects. I use this term to denote that our engagements with our bodies are lifelong processes and that sexgender transitions engage with modifications that are subsets of much wider less easily delineated processes, informed by pathologisation, commodification, and neoliberal strictures of self-reliance (see discussion of the Molecular Individual in Chapter 6).

my work. In my discussion of his notion of discourse below I explore the limits of what is knowable or unknowable in a shifting normative power/knowledge regime and comment on how this has affected my understanding of the delimitations of the field of transgender studies. His concepts of biopower – the complex operation of networks of power on individual bodies, and biopolitics - the exercise of power by the administration of human life at a population level – have exerted obvious attraction for trans* and sexgender nonconforming people and cultural producers. I show how these concepts have described and informed the *épistémic* environments which have influenced the multidisciplinary fields from which I have selected my literature. I also address issues raised by Foucault’s later concept of governmentality - an intricate matrix of ‘power which has the population as its target, political economy as its major form of knowledge, and apparatuses of security as its essential technical instrument’ (Foucault 2009: 107 – 108) – and suggest that lack of serious engagement with broader issues of the shifts of the structures of global political economy have limited the scope of much of the work in mainstream transgender studies.

In relation to the breakdown of binaries Foucault’s work acknowledges the constructed nature of our subjectifications, and this has provided a starting point for the deconstruction of essentialized tropes of female* and male*.⁷ In the course of my work I have engaged with literature that has a breaking down of borderlines between biological categories, as well as between ‘natural’ and technological categories – *bios* and *zoé* perhaps – in relation to embodiment but also to social interactions across what have been referred to as ‘virtual’ networks and ‘real’ life. And in the final section of this thesis I reference work that discusses the marginalisation of the primacy of the rule of law as a guarantor of the rights and recognition of citizens, as the borderlines between polity and corporate power become blurred.

Before my critical discussion of the literature in the field of transgender studies and its genealogical emergence and development let me return to a broader discussion of Foucault’s concept of discourse in order to contextualise what follows.

⁷ The use of trans*, specifically with an asterisk to denote an inclusive range of identities and embodiments within its ambit has been challenged as unnecessary. I have retained it and extended its use to all representations of sexgender nouns to underline my discomfort with the trans*/cis* structuring that much contemporary transgender literature engages with. I feel that this only erects another essentialising binary that avoids essential discussion of the power structures at work that underwrite and legitimise such categorisations.

2.2: Discourse and the delimitation of knowledge and self-knowledge

In his essay '*Foucault: Power, Knowledge and Discourse*' (2001) Stuart Hall notes that:

What interested [Foucault] were the rules and practices that produced meaningful statements and regulated discourse in different historical periods. By "discourse", Foucault meant "a group of statements which provide a language for talking about – a way of representing the knowledge about – a particular topic at a particular historical moment ... (Hall 2001: 72).

Further, Hall tells us:

Discourse, Foucault argues, constructs the topic. It defines and produces the objects of our knowledge. It governs the way a topic can be meaningfully talked about and reasoned about. It also influences how ideas are put into practice and used to regulate the conduct of others. Just as a discourse "rules in" certain ways of talking about a topic, defining an acceptable and intelligible way to talk, write, or conduct oneself, so also by definition, it "*rules out*", *limits and restricts other ways of talking, of conducting ourselves in relation to the topic or constructing knowledge about it (ibid: 72, emphasis added).*

Discourse in this context is not merely a synonym for language. Rather it refers to both language and practice. In terms of knowledge, including self-knowledge therefore, it delineates not only what can be meaningfully said and therefore thought, but also the practices that produce, reinforce and restrict what can both meaningfully and legitimately be said to exist and talked about.

According to Foucault's formulation though, discourses are not singular unifying ideologies but rather combine within what Foucault refers to as discursive formations. Groupings of discursive formations and the relationships between different discourses Foucault refers to as an *épistémé*. Different historical epochs may have different *épistémés*, however they shouldn't be understood as,

... the sum total of [an epoch's] knowledge, nor the general style of its research, but the divergence, the distances, the oppositions, the differences, the relations of its various scientific discourses: the *épistémé* is not a sort of grand underlying

theory, it is a space of dispersion, it is an open and doubtless indefinitely describable field of relationships (Foucault 1991b: 55).

In its complexity, and complexity is something that is fully acknowledged as ever present in this work, an *épistémé* is however, encompassing of the unconscious assumptions that allow, shape, restrict and disallow the activity and extent of thinkers and thought and actors and actions in any particular era. And in engaging with the materials that have informed my understanding of the historicised trajectory of what it means to be trans* and/or sexgender nonconforming in England and Wales in the late 20th and early 21st centuries, I have tried to demonstrate that the developments, the encroachments and the retrenchments reflect the changing possibilities of what *could* or *can* be said, and have been both enabling and restricting in complex and multivalent ways. And this has also been reflected in the multiple representations of trans* and sexgender nonconforming discourses across an increasing plethora of platforms, with significant impacts on sociocultural production and on the shape and delimitations of the effectiveness of laws such as the EA2010.

2.3: A genealogy of sexology: the invert to the transsexual to transgender

The genealogy of trans* or transgender scholarship can be traced back to the late 19th and early 20th centuries with the work of sexologists Karl Heinrich Ulrichs, Richard Kraft-Ebbing, Havelock Ellis and Magnus Hirschfield. They observed and described the lives, psychologies and physiologies of people whose sexualities and/or sexgender modalities could meaningfully be described as non-normative. Before the contemporary distinction between sexual orientation and sexgender identity had even been drawn their subjects were described generically as inverts.

Hirschfield's work was disrupted and dispersed by the rise of the Nazi Party in Germany. Gay himself, he had defended gay rights and his work engaged with contemporary discussions of what might be now termed transgendered or transsexual people whom he described using the term transvestite (*transvestit* in German). Two of the people that visited his famous Institute of Sexual Research in Berlin were Dörchen Richter and Lili Elbe who were amongst the first people to undergo forms of sexgender confirmation surgery⁸ (SGCS) using recognisably modern, although by contemporary

⁸ This is the generic term that I use for any surgery undertaken as part of a transition process. Other terms sometimes used are sex or gender reassignment surgery (SRS or GRS) or sex-change surgery the last of

standards primitive, techniques. They underwent orchiectomy and a form of vaginoplasty, and Elbe died as a result of complications after undergoing an unsuccessful uterine transplant.⁹

The sexologists were initially interested in describing and categorising people considered to be sexually or sexgender-deviant. Thereafter treatment became an issue and as surgical technology improved post World War II (WW2) and the isolation of human steroid (sex) hormones post-1941 and the use of such drugs as the immunosuppressive ciclosporin became possible, the medicalisation of trans* and specifically transsexual discourses became established. After WW2 Dr Harry Benjamin became involved in the treatment of trans* people after being asked to treat a young trans girl he had been introduced to by Alfred Kinsey.

His involvement with the treatment of trans* people was groundbreaking and he wrote his major work *The Transsexual Phenomenon: a Scientific Report on Transsexualism and Sex Conversion in the Human Male and Female* which was published in 1966. *The Transsexual Phenomenon* described trans* and sexgender nonconforming people as either transvestites or transsexuals and set up what came to be represented as an effective binary of trans* identities along a range of 1, the Transvestite (Pseudo) to 6, the Transsexual (High Intensity) of the 'Sex Orientation Scale' (Benjamin 1966) that had implications for the development of trans* or transgender discourses in the coming decades. The reclamation of the term transgender in the early 1990s was at least in part motivated by the perception that this binary was inadequate and damaging to people who identified as sexgender non-normative but did not feel comfortable or congruent with either of the two descriptors on offer (Feinberg 2006: 206).

Most trans* and sexgender nonconforming people in the 1950s through to the 1990s lived liminal lives in large part dictated on the one hand by social disapproval (Hurst and Swope 2014) and by medicalised strictures that mandated that to receive endocrinological and surgical treatment people had to be binary presenting, heterosexual and aspire to pass in their acquired sexgender and thereby and thereafter to

which, in the context of the discourse of sex change more generally, is usually considered archaic and inappropriate (Advocate 2016).

⁹ The film *The Danish Girl* is loosely based on Elbe's life and is an interesting example of how trans* lives are represented and homogenised within acceptable normative boundaries. It has been accurately described as a trans* film for non-trans* people.

live in stealth.¹⁰ Although trans* and sexgender nonconforming people were sometimes perceived as strategic in their adoption of normative trans* narratives in relation to their obtaining medical support (Stone 2006 – see Chapter 5) such (mostly M2F*) narratives were reproduced in newspaper reports and particularly in the biographies of trans women from the 1950s through to the 1980s. While headlines such as *Ex-GI Becomes Blonde Beauty*, ironically quoted from an online news report from 2012 entitled *60 years of sex-change ops* (Hadjimatheou 2012) following Christine Jorgenson’s very public reassignment seem supportive, they feed off and feed into this normative medicalised wrong body discourse that prevailed for many decades.

As disempowered individuals or proto-communities the trans* and sexgender nonconforming people in England and Wales who could not afford the opt-out taken by April Ashley (van Erp 2011) and Jan Morris (Morris 1988) amongst many others, of travelling to Georges Burou’s surgery in Morocco, were forced into the subaltern position of having to accept the requirements imposed by NHS clinicians which for trans women included being forced to present as normatively feminine¹¹ and compulsory heterosexuality. That the disempowered did not manage a feminist response to such an oppressive medical regime is not surprising. Nor, given the contested status of trans* people and trans women in particular amongst certain strands of 1970s feminist discourses, is the fact that the loudest feminist response to our increased visibility was Janice Raymond’s vitriolic and reactionary *The Transsexual Empire: The Making of the She-Male* (1994).

2.4: Essentialist feminist resistance to trans* authenticity and the reverse discourse

The Empire of the title is the patriarchal medical establishment whom Raymond accuses of reinforcing the sexist and oppressive sexgender (in Raymond’s terms most certainly the gender) binary, by way of inauthentic surgical and endocrinal interventions. In Raymond’s essentialist scheme the necessary requirements for womanhood are XX chromosomes and the socialising experience of having been raised as female since birth. Raymond has a very partial engagement with trans* issues in general. Her vitriol is almost exclusively reserved for trans women when she claims that ‘All transsexuals

¹⁰ To live in stealth is to pass in your post-transition sexgender all the time and not to reveal your sexgender history.

¹¹ This issue was discussed in relation to trans* and sexgender nonconforming people in general at the NHS Symposium on the Treatment and support of transgender and non-binary people across the health and care sector (NHS England 2015: 8 – 9).

rape women's bodies by reducing the real female form to an artifact, appropriating this body for themselves' (Raymond 1994: 104). Apart from the ineluctably inaccurate and offensive nature of this proposition, it clearly takes no account of trans men's embodiments or transition projects. And not unnaturally given that this was first published in 1979 there is no account taken whatsoever of the mostly yet-to-emerge discourses of non-binary, non-gendered or genderqueer people (even if, *pace* Chapter 3, it is possible to make the case that even the most binary identified trans* person may turn out to challenge binary normativity more than even they think they do).

Raymond's vitriolic and 'theological' (Riddell 2006: 149) work still has resonance with some feminists today (Jeffreys 2014), but ironically it was the targeting of Sandy Stone, a sound engineer with feminist separatists Olivia Records, which propelled Stone herself to respond and write the foundational text which inspired a generation and more of transgender studies scholars. In '*The Empire Fights Back: A Posttranssexual Manifesto*' (Stone 2006, 1987). Stone discusses trans* auto/biography and the interrelationships between trans* people and the medical establishment which produced the normalising environments so criticised by both feminists but also by many trans* people themselves. Her discussion of the issues is contextualised by her remark that 'I suggest constituting transsexuals not as a class or problematic "third gender," but rather as a *genre* – a set of embodied texts whose potential for *productive* disruption of structured sexualities and spectra of desire has yet to be explored' (Stone 2006: 231 *emphasis in original*). Stone, writing in the 1980s, felt the need to say that the potential of her approach has yet to be explored, but what are the implications of what she was suggesting and did the framing of her article delimit what was subsequently explored?

2.5: Delimitations of trans* scholarship and environment

The importance of environment is a key genealogical theme that I contend is a critical affective feature delimiting the subject matter and its treatment in the works of all the authors referenced above. In Raymond's case her call for recognition of the authenticity of femaleness is grounded in an essentialized binarised ontology of female embodiment which is specifically trans* excluding. But to further justify the exclusion she discusses the experience of female assigned people's experience of growing up in the misogynistic environment imposed by patriarchal heteronormativity. Her work which was heavily influenced by the particular environments and times out of which white

western feminism emerged, acknowledges the importance of environment on individual women, and on women as an identifiable group of people, but with cruel irony (in terms of its effects on the lived experiences and deaths of trans women from the early 1980s to the present day), fails to recognise the influencing factor of environment on her own discourse.

Queer theorists such as Butler, in deconstructing fixed essentialized conceptions of *identity* and in Butler's case of embodiment or at least its significance, also stress the importance of environment in constructing those same identities in the first place (Butler 1989, 2004, 2008, 2011). Implicit or sometimes explicit in these discourses is a critique of identity politics, assuming as it does, common interests and purposes, or sets of problems for people predicated on their experiences arising out of their perceived shared identities. Other feminists have profoundly disagreed with Butler (Fraser 1997, Moi 1999) and indeed Butler herself amended her earlier views over time (Butler 2004) but her feminist deconstruction of identity and embodiment offered people both a new way of understanding themselves and thereby approaches to new possibilities of being.

With a certain irony, given the anti-identitarianism of Butler's early work, it was very influential in trans* discourses in the emerging discipline of transgender studies and amongst trans* activists. Positively referenced by theorists such as Susan Stryker (2006) her work and the work of other queer theorists has also been criticised by transgender theorists such as Jay Prosser (1998) and Viviane K. Namaste (2000) variously for not taking the materiality of trans* body issues sufficiently seriously or for not sufficiently taking account of the material difficulties of life as a trans* person without legal recognition or protection and the implications for the life chances of trans* people.

Perhaps the fundamental point of disagreement between queer and trans* theorists can be summed up as the contestation between positions that contend that all identities are constructed and unstable and of people's understanding of themselves and their identities as being concrete and stable. In the case of many trans* theorists their understanding rests firmly on their perception that they are trans* because their gender identity has greater authenticity than their natal embodiment, which in a very real sense lets them down. I am not convinced that these positions are necessarily mutually incompatible given that the materialisation of what and who we are is necessarily

subject to environmental impact. I do however recognise that some of the hegemonic discourses underwritten by identity politics and theorising and postmodern deconstruction may be sensibly critiqued.

It is possible to critique the concept of ‘born this way’, and the wrong body discourse for example precisely because both concepts fail to meaningfully address any possibility of environmental impact or historical situatedness on people’s social, mental and physical development. Yet at the same time it is equally possible to acknowledge, as Butler seems to do in *Undoing Gender* when she writes ‘... a liveable life does require various degrees of stability’ (2004: 8) that the reverse discourses (Foucault 1998) through which people are able to recuperate some sense of meaning to their abjected lives are significant and useful. Identity politics have been embraced by communities of colour, by LGB communities and differently abled communities amongst others, in order to develop community and individual pride, and to overcome various impacts of oppression and discrimination. More fundamentally discourses developed by abjected proto-communities derived from whatever source, can make the unthinkable thinkable and the previously unliveable, liveable (see Chapter 3). And once at least liveable, in however truncated a sense, the development of communities of identity or communities of interest (both of which might describe various sectors of the trans* constituency¹²) becomes possible. These in turn may encourage spaces, either online or not (see chapter 6) in which new and more imaginative ways of being may be investigated and experienced, while simultaneously allowing community members to understand our histories differently and possibly more complexly.

2.6: Transgender studies

After the contribution from Stone other trans* and sexgender nonconforming people’s work began to emerge. Notable contributors to the early transgender studies canon were Leslie Feinberg and Kate Bornstein who focused on the persistence and complexity of transness and the stories of trans* people throughout the historical record, and the constructed nature of sexgender identity and ways of breaking out beyond the binary respectively. Their books *Transgender Warriors* (1996) and *Gender Outlaw: On Men, Women, and the Rest of Us* (1994) are early examples of books focusing on developing

¹² I use the term trans* constituency to denote a loosely identified group of people who have various and variable interests in trans* issues as I believe that to talk of a trans* community erases difference and simplifies complexity in inter-trans* interaction and trans* interactions and discourses more generally.

a sense of trans* authenticity as well as noting the diverse possibilities of transness. These themes have persisted since the 1990s and trans* and trans* positive authors, scholars and activists have had to both develop discourses which catalogue and explore the increasingly diverse and complex representations and understandings of transness and defend their/our legitimacy against reactionary sociopolitical actors and commentators and persisting strands of trans* negative feminism.

Anglophone authors such as Pat Califia (1997), Charles Anders (2002), Sara Davidmann (2010), Surya Monro (2003, 2005), Sally Hines (2006, 2007, 2010a, 2010b, 2010c), Richard Ekins and David King (2010), Julia Serano (2007, 2013), Mattilda AKA Matthew Bernstein Sycamore (2006), Paisley Currah (2014), Carol Queen and Lawrence Schimel (1997), Krista Scott-Dixon (2006), Alex Sharpe (2002, 2006, 2007, 2014, 2015, 2016), Zowie Davy (2011), Stephen Whittle (1998, 2006a, 2006b) and Susan Stryker (2006a, 2006b, 2008) to name just a few, have written about trans* issues from different perspectives. Transgender Studies is an interdisciplinary field and the authors named have covered subjects such as trans* histories, medicalisation of trans* people, crossdressing, gender crossings, sexuality, trans* citizenship, transsexuality, queer trans* expression and politics, trans* legal studies, the positive effects of the internet, transmisogyny, feminism and transfeminism, and in a UK context the development of trans discourse from a medical model to a legal model drawing upon ‘... the social sciences and psychology, the physical and life sciences, and the humanities and the arts’ (Stryker 2006a).

The *Transgender Studies Reader* (2006) (*TGSR*) edited by Stryker and Whittle gave an overview of the history of transgender studies and texts from the discourses through and from which transgender studies itself was shaped and influenced by and emerged in the last two decades of the 20th century. As Stryker tells us in her introductory article ‘(De)Subjugated Knowledges’ (*ibid*: 1 – 17) she thinks that transgender studies is,

... at its best, like other socially engaged interdisciplinary academic fields such as disability studies or critical race theory that investigate questions of embodied difference, and analyse how such differences are transformed into social hierarchies – without ever losing sight of the fact that “difference” and hierarchy” are never mere abstractions; they are systems of power that operate

on actual bodies, capable of producing pain and pleasure, health and sickness, life and death' (2006a: 3).

The seven section headings give an indication both of the breadth and the limitations of the subjects covered. Thus 'Sex, Gender, and Science', 'Feminist Interventions', 'Queering Gender', 'Selves: Identity and Community', 'Transgender Masculinities' 'Embodiment: Ethics in Time and Space', and 'Multiple Crossings: Gender, Nationality, Race' discuss the early taxonomisation of sexgender and sexually nonconforming people, the trans*/feminist/queer studies debates referred to above, the engagement with legitimising diversities of identity and embodiment within trans* and sexgender nonconforming constituencies, legal and medical issues of access to medical treatment and recognition, comparative trans* and non-trans embodiment issues and finally intersectional (Crenshaw 1991) critiques of mainstream transgender studies pre-2006 in terms of its general lack of interest in issues of ethnicity and class.

Even given these critiques, the book as a whole, important though it undoubtedly was as a capture of the genealogy of transgender studies, still underlined the general whiteness, ablebodiedness, and broad lack of class as a focus of interest (with a few exceptions) for scholars engaging in the field. Although there are some contributions discussing trans* issues intersectionally the collection demonstrates the focus of transgender studies up to the middle of the first decade of the 21st century as generally emphasising the trans* experience as *individually* experienced, largely and oddly detached from other aspects of people's lives, especially in terms of their structural disadvantages or oppressions.

In the *Transgender Studies Reader 2 (TGSR2)* (Stryker and Aizura 2013) published seven years later the editors selected works from scholars reflecting a more intersectional focus in their discussions of trans* and sexgender nonconforming issues. Unsurprisingly some of the themes in this second collection are similar, exploring issues of trans* identities, diversity and authenticity, heteronormative erasure of trans* existence in history and science, erasure of radical trans* politics contributions from mainstream assimilationist LGBT politics, issues of embodiment and feminism and transfeminism, and ongoing legal issues of recognition and protection. A check in the index however gives a greater sense of the shift in focus in the second book.

Comparing the number of references for race, class, heteronormativity and neoliberalism we find that the entries for race increase from twelve to forty in six rising

to eighteen categories; that class increases from three to eighteen in three rising to nine categories; that heteronormativity's single entry in *TGSR* increases to twenty one entries in eight categories and that neoliberalism's non-appearance contrasts with fifteen entries in six categories in *TGSR2*. Significantly economy and political economy have a combined twelve entries in the second book which contrasts which none in the first, which however has a combined total of fifteen entries under politics of identity, recognition and rights in fifteen categories. Rights are cast separately in the *TGSR2* rather than as the politics of rights and have sixteen entries.¹³

Clearly this analysis is a blunt tool but it does indicate a shift in focus which is reflected in this work. There are other acknowledgments to developing discourses as well, such as the work on erasing strict human/non-human borderlines in the Transsexing Humanimality section, and the nods to post-queer, post-Fordian space opened up by Paul Preciado¹⁴ (2013a). These animate a desire to describe trans* and sexgender nonconforming possibilities and lives in post-industrial infotech environments which support consumption of 24/7 messaging and markets which corrode old fixities and certainties, identities and embodiments as referred to above. But significantly the whole collection is bookended by two articles by Dan Irving (2013) and Morgan Bassichis, Alexander Lee and Dean Spade (2013) for which the editors' introductions contain the following:

¹³ For further context I would like to refer to the introduction to the first issue of the Transgender Studies Quarterly (TSQ) in which the editors Susan Stryker and Paisley Currah address the issue of the need for decolonialisation of the field of transgender studies. Noting that the term transgender and by implication the associated academic discipline emerged from a western and anglophone perspective they acknowledge the need to recognise the '... epistemological violence' (Stryker and Currah 2014: 7) inflicted on other cultural conceptions of sexgender non-conformity. The linguistic colonising of their varied social formations arising from the assumption that non-western sexgender nonconformities are always easily subsumed within and explicable through the same logics of transgender neologising and ontologising reveals a power imbalance and corresponding invalidation of otherness that reflects the homogenising of legible and *fungible* trans* ontology that I describe in this thesis. I reference this here in order to underscore the importance of the need to denaturalise our senses of selves and our self-knowledge through the technique of *verfremdungseffekt*, which creates space for us to recognise a different, more fluid and less human-centric form of naturalism. Here I give explicit recognition that the terms of my research are defined by a need to engage with transgender studies in particular, and are geographically specific. Having made this point it I want to stress that it is critical to acknowledge different possibilities of thinking about, and of being, sexgender nonconforming exist. Recognition of this underlines the importance of engaging with different ways of being and with knowledge documenters and producers, whose perspectives offer challenge to our own hegemonic assumptions, and even to our very personal senses of self. With this approach I hope to engender a more empathic practice.

¹⁴ There are instances of authors having changed their modality and therefore their name between first publication of a book and its reissue. As a default strategy out of respect I have chosen to refer to the most recent published name rather than refer to them by their previous name, a process negatively referred to as dead-naming.

Irving concludes that calls for transgender social legitimacy fracture transgender communities: not only are these requirements [to engage in “diversity-building” which harnesses better competitiveness] individually alienating, but they also divide middle-class trans people from those who are economically disadvantaged (Stryker and Aizura 2013: 15)

And:

Their manner of framing their work represents a growing tendency in transgender political activism and theorising. On the one hand, it shifts emphasis away from the mobilisation [sic] a small minority group of “transgender people” for participation in liberal reform efforts; on the other hand, it links specific kinds of oppression that transgender people face (such as cruel and unusual forms of punishment, including the housing of trans women in male prisons) to larger structural injustices that affect many more sorts of people, whether or not they are trans’ (Stryker and Aizura 2013: 653).

While Leslie Feinberg whose dying words were reported as ‘Remember me as a revolutionary communist’ (Advocate 2014) imbued *Stone Butch Blues* (2003) with his own strain of Marxist trans* class consciousness, a new strain of trans* scholarship more clearly based on a class politics grounded in political economy is presented in these articles by Irving and Bassichis *et al.*

In his article Irving says:

Scholars within trans studies rarely contextualise trans identities, subjectivities, and activism within historical and contemporary capitalist relations. Much scholarship seeks to save trans identities from invisibility, as well as counter the ongoing reproduction of the heteronormative binary of sex/gender through detailed analysis of the vast array of existing trans identities. There is a tendency within this commentary to reify trans identities as solely matters of sex/gender and to challenge state and institutional dominance over trans people by emphasising the necessity of self-determination of sex/gender. Such advocacy of self-determination is often coupled with arguments for human rights protection (2013: 16).

I have taken Irving's point about lack of engagement with contemporary capitalist relations seriously and my choice of literature reflects this. To reinforce this however I have also examined recent work on brain plasticity and the importance of environment in the development of human beings as individuals and our (over)-achievement as a species. The focus on plasticity has phenomenological implications for trans* and sexgender nonconforming people in relation to both the physical and cultural environments that we inhabit. There are implications for our bodies in relation to our engagements with surgical and in particular hormone replacement regimes and their physiological and associated psychological effects on brain size shape and function which I explore in relation to the work of Rebecca Jordan-Young (2011) in Chapter 5.

In engaging with these texts I want to establish a firm material basis which supports both the legitimising of trans* and sexgender nonconforming people in ways which reach beyond the medical model. I have also selected texts which discuss hybridity in Chapter 5 in a way that supports a meaningful understanding of actual human diversity, in contrast to the *empty diversity* (see this Chapter below, and Chapter 4) I claim is valorised in neoliberal discourse. Also in Chapter 5 I engage with texts which explore embodiment practices in a more intersectional sense which not only acknowledge the impact of the marketised environments which we live in but also highlight the impact of racializing and class subject positions on relation to discourses of the body.

The emergence of the internet as a communicative channel in everyday life is something claimed by many trans* and sexgender nonconforming people as having had a positive impact on their abilities to engage in processes of self-realisation which were necessary steps in their transition processes. In Chapter 6 in acknowledging the importance of these accounts I also felt it necessary to give both a wider and a more critical context to them. In order to do so I have drawn on sources which plotted the establishment and growth of trans* and sexgender micro-communities in an era which pre-dated the internet. I have also looked at documentation from both online and offline sources which suggested a more complex picture to the growth of trans* and sexgender nonconforming visibilities in relation to altering sociopolitical and sociocultural conditions.

Importantly in Chapter 6 I also engage with literature which critically investigates claims that the internet would become a democratising force and engage with data

demonstrating the dominance of online spaces by both established and new corporations. I discuss the breakdown of the borderline between on- and offline cultural environments and their narrowing and commodifying effects and discuss how this has influenced and applied hegemonic logic to mainstream trans* discourses.

2.7: Addressing oppression and misrecognition

The difficulties experienced by trans* people in the UK up to the beginning of the 21st century and beyond were profound. Extreme prejudice compounded with a lack of any legal or much cultural recognition or legal protection, and the stultifying effect of the established medical model mandating requirements of heteronormative transition and post-transition stealth, meant that the immediate needs of transsexual people were what scholars such as Stephen Whittle, co-founder of the earliest primary UK trans* pressure group Press for Change (PfC), focused on.

So the work of mainstream UK trans* scholars and activists focused on trans* and sexgender nonconforming issues has tended to follow particular themes. Whittle's work has engaged with issues such as the internet (1998), the law in terms of misrecognition and discrimination against trans* people (2007), trans* interactions with feminism (2006a) and his activism with PfC also focused on lobbying for legal recognition and protection for trans* people. Surya Monro took an intersectional approach to moving beyond a female*/male* binary system in relation to equality and intersectionality (2005). Sally Hines has also written about trans* identity (2007), and recognition and citizenship (2013). Christine Burns,¹⁵ also a key activist with PfC, has written about trans* identity (2003) but has also been an influential blogger and podcaster on equality and diversity issues under the title *Just Plain Sense*. Juliet Jacques became well known when her groundbreaking series of articles *Transgender Journey* (2010 – 2012) was published in the Guardian. She both explained and normalised her transition and the difficulties she (and by extension other trans* women) face but also described her journey in terms of continuity when she discusses her continuing support for Norwich City FC for example. She is also not just a trans* activist/author but a cultural commentator as well and she combines the two aspects of

¹⁵ Christine Burns is a UK-based trans* activist who was involved with Press for Change (PfC) the trans* advocacy group. Burns and PfC were involved in the case P vs S and Cornwall County Council (see Chapter 7) and the subsequent consultations that led to the passing of the Gender Recognition Act (GRA) 2004.

her life and practice in her book *Trans: A Memoir* (2015), which again in a meaningful and engaging sense normalises the trans* experience. Alex Sharpe is a trans* legal scholar who has written about law reform and the law as applied to trans* and sexgender nonconforming people (2002), issues of embodiment and identity (2007) and other legal matters such as the debate around so called ‘sex by deception’ cases (2016). In *Recognizing Transsexuals* (2011) Zowie Davy writes about transsexuals’ search for cultural intelligibility. In recognising the diversity of transsexual experience she acknowledges, through the input of one of her respondents, the shift from a medical to a legal model that appears to determine the borderlines of contemporary hegemonic discourse about trans* legitimacy in the UK in the second decade of the 21st century (notwithstanding the complexities of the ‘sex by deceptions’ cases referred to above). This list is limited and incomplete but captures both many of the most prominent British authors and scholars engaging with trans* issues over the last twenty years and gives a realistic sense of their main subject areas.

2.8: Recent achievements for *some* trans* and sexgender nonconforming people

Above I referred to the transgender tipping point and there certainly is a feeling that the life situations for *some* trans* people have improved and that legislation has been both enabling of such improvements and an indication of a more trans* inclusive sociocultural environment. The GRA is widely accepted as a flawed piece of legislation (Hines 2013) but it was the work of trans* activists and scholars and their interactions with the ideological machinery of government, prompted by the European Court of Human Rights (ECHR), that resulted in its drafting and passage onto the statute book in the compromised shape it eventually took (Whittle 2006b). In her book *Gender Diversity, Recognition and Citizenship* (2013) Hines acknowledges the shortfalls in the legislation: that it is binary reinforcing and therefore excludes all non-binary recognition, that trans* people are still stigmatised by the reliance on psychiatric practitioners in diagnosing ‘gender dysphoria’ as a psychiatric issue, that the use of so much medical evidence is unnecessary at all and that the divorce clause (the ‘spousal veto’) demonstrates hegemonic ignorance of the complex interrelationship between sexgender lived experience and sexuality. But while Hines considers the legislation flawed and acknowledges that it benefits some trans* people more than others, she also

contends that it has acted as a platform for improvement in the lives of many trans* people.

The EA2010 is structured on the assumptions that underpin the diversity model that the GRA encoded. In this model protections are extended to individuals according to recognition of narrow parameters of sexgender identity. This extension is granted on the understanding that having conceded a narrow form of recognition and therefore citizenship to people post-transition (and regardless of the lack of need for medical intervention, transition most certainly must take place) each act of discrimination or oppression experienced henceforth is primarily considered to be, and dealt with as, an individual act of discrimination, misrecognition or violence rather than as a symptom of something more structural.

Subsequent to the publication of Hines' book. Sheila Jeffreys published *Gender Hurts: a feminist analysis of the politics of transgenderism* (2014). In her incoherent call for the abolition of gender (2014: 189) Jeffreys does discuss structural oppression of and discrimination against women, but in terms that are predicated on the critical denial of any justification for the praxis and the politics of 'the practice of transgenderism'. This is a phrase she uses much as radical right wing anti-LGB activists talk about 'the practice of homosexuality' reflecting her denial of any recognition for the legitimacy of trans* people's identities or rights. It is ironic that when she discusses the lack of structural analysis in much of the discourse around identity politics (*ibid*: 186) that rather than propose a coalition politics of the misrecognised, the disenfranchised and the disempowered across intersectional borderlines (although tellingly there are no references to ethnicity, race or age, and just one for disability in her index), she goes on to discuss the identity politics of otherkins. Otherkins are people claiming they are discriminated against for identifying as wolves or gnomes for example, disingenuously referenced by Jeffreys in the apparent hope that such analogues demonstrate the inherent invalidity of trans* and sexgender nonconforming identities, ontology and practice. Acknowledgment of a structural aspect to discrimination and oppression is not apparently a sufficient guarantor of a healthy analysis of the disadvantaged situatedness of trans* and sexgender nonconforming people, but I contend that it is a necessary one.

The work of Hines and other contemporary theorists offers a welcome trans*-positive and inclusive approach in important respects, while acknowledging that the law can

work unevenly in favour of some people rather than others. Overall however, consideration of the literature that I reference above actually raises questions about the depth and positionality of much of the analysis and activism which has been undertaken over the last 20 years, and the extent to which the sociopolitical environment has influenced and delimited engagement with subject areas, and consequent theoretical conclusions.

2.9: Cultural change and the legal landscape

In 1978 through 1979 Foucault delivered a series of lectures the audio texts of which were later published under the title *The Birth of Biopolitics* (2008) in which he discussed neoliberal governmentality and the subjectification of the individual as *homo oeconomicus*. At least part of the power of Foucault's concept of governmentality rests on his understanding of how, under conditions of political economy which emerged with the growth of capitalism, the economics of managing the family and the politics of managing the state or polis interconnect. In the context of this work this imbrication, while complex, is implicated in the focus of much of my interest in the limits and development of the subject matters of transgender studies literature.

I engaged with this later work of Foucault in Chapter 4 in order to examine his contention that under neoliberal governmentality the law becomes a tool of economisation and that as a result the valorisation of marketization not only allows for, but needs diversity to flourish. In examining this contention, the question of the nature of this diversity which I examine arises.

I wanted to engage with this literature in order to investigate the nature of the undoubted socioeconomic and sociopolitical changes we have undergone in England and Wales in the late 20th and early 21st centuries, during the time that the work across the transgender studies canon referred to above was being written. And by extension I wanted to examine the extent to which this new governmental context had had an impact on the construction and attributed purpose of the laws we have enacted, with regard to the narrow focus of legal recognition and protection of the rights of trans* and sexgender nonconforming people in particular.

Much of the work that has engaged with UK legal issues that I have referenced above has been restricted to theoretical and practical considerations of how and why the GRA

and thereafter the EA2010 were enacted, and what their strengths and weaknesses are. As already stated the starting point of my thesis is the EA2010 and the specific delimitations of its effectiveness in cultural context in which it was enacted. I examine the effects of the EA2010 in particular by engaging with my respondents and limited case law but in Chapters 6 and 7 I have also engaged with recent literature on so called 'sex by deception' cases in so far as they have involved trans* or sexgender nonconforming people or people whose identities seem to be either fluid or liminal. My engagement with literature discussing these cases further contextualises my discussion of the EA2010.

Through engagement with the literature on governmentality, neoliberalism and law in Chapters 4, 5 and 7 I examine the complexity of the uneven increase in visibility and acceptance of trans* and latterly sexgender nonconforming people in contemporary England and Wales. At a time when other identified minoritised demographics such as Muslims have been simultaneously offered certain legal protections, and are being arbitrarily homogenised in order to be vilified I wondered if I could identify reasons for the contradictory logic of certain borderlines of diversity being lowered at the same time as the policing of actual borders has been increasing or actually (re-)erected with Brexit and the possibility of the Trump-inspired Mexico/USA border wall. And given that these processes of apparent liberalisation and a very illiberal demonization were coexistent across a range of minoritised groups the question that seemed apposite was whether they were actually in some way co-constituted and if this was somehow reflected in the structure and content of our equality and diversity legislation. I was interested in the extent to which these questions had been dealt with more narrowly, or indeed at all, in the field of transgender studies in a neoliberal environment in which the demarcation between the sociopolitical, the socioeconomic and the sociocultural have been blurred.

In relation to these questions and as I discuss at greater length in Chapter 4, I use the term empty diversity to refer to the forms of diversity exemplified by the protected characteristics in the EA2010. Given my understanding of the Act is that its function is to ensure the fewest possible barriers for the most people to the socioeconomic life of the state based on their diverse modalities, whether as employees or consumers, it follows that allowable diversity must not disrupt this economic activity. The nature of allowable diversity, while more than purely symbolic, is that it is shorn of any

characteristic that threatens stability and hegemonic power structures and I therefore characterise it as '*empty diversity*'. In turn our empty diversity may underwrite our fungibility which I also discuss at greater length in Chapter 4. This term describes the capital which inheres in us, somatically, semiotically or culturally, and I define it as being the basic value of exchange that enables us to participate in the marketised environment through which we, as *homo oeconomicus* (Foucault 2008), navigate our success or failure. Therefore, the nature of our diversity, the extent to which it promotes or obstructs our participation in the marketplace, to a significant extent governs the potential of our fungibility.

Leading out of my discussion with the later Foucault which raises questions about lacunae in the approach of some transgender studies analysis, I briefly suggest how engaging with contemporary strains of transgender studies with regards to transanimalities (Hayward and Weinstein 2015) in Chapter 5, and queer trans* legal studies (Spade 2011, 2014) in Chapters 6 and 7, helped to expand the purview of my work. And I also suggest that as a field of study and practice much hitherto extant transfeminism can be categorised as liberal transfeminism and I follow Nat Raha (2015) and Mijke van der Drift (2016) in calling for the development and adoption of the theory and practice of radical transfeminism.

2.10: Conclusion

In this chapter I began by discussing the importance of environment to the subject of sex differences and extended this to a consideration of the intellectual background in which the field of transgender studies emerged. I discussed the early and later work of Michel Foucault at the beginning and towards the end of the chapter respectively, and lay out the importance of his ideas to my thesis and the influence of his early work on the field of transgender studies. I particularly drew attention to Foucault's understanding of discourse and its constricting but also its productive potential, in relation to self-understanding in *épistémic* environments. In discussing this element of Foucault's work I highlighted the importance of intellectual and cultural environments in the broadest sense in order to account for the underlying approach that I have taken in engaging with the literature. In Chapter 3 I also briefly refer to his influence on constructivist understandings of sexgender, in particular in relation to Butler's early work.

Following this I tracked the genealogy of transgender studies from the work of the sexologist of the late 19th and early 20th century through to the post-WW2 contribution of Harry Benjamin, engaging with new surgical techniques to codify the medicalised regime of the modern transsexual. I noted the virulently negative feminist reaction to transsexuality and the reverse discourse and referenced Stone's foundational text out of which transgender studies grew.

I engaged with the tensions that emerged between certain queer and transgender scholars and the contestations between a more Foucauldian constructivist approach and trans* scholars who theorised from more essentialist or identitarian positions. I gave an overview of the field of transgender studies and its developments over twenty five years which have influenced the parameters and direction of my thesis. I referenced literature that I have engaged with from outside the field of transgender studies about embodiment and the sociotech developments which address and support my themes of the importance of environment to my work and the breaking down of conceptual and actual borderlines.

Narrowing my focus down to a UK context I then discussed the work of UK trans* scholars, leading in particular to their engagement with the strengths and weaknesses of the laws that have been enacted to recognise and protect trans* people. In my discussion I noted that scholars understand the laws to be flawed. I also discussed the framing of the laws and raise the question of what scholars have asserted is the lack of attention in them and by extension in much transgender scholarship, to a more structural basis for misrecognition and discrimination, even taking into account the work of decidedly transphobic feminist Sheila Jeffreys in order to underline my point.

This leads to my final section where I turned to my engagement with Foucault's later work in which I discuss his concept of governmentality. In this section I explained that my engagement with Foucault's later work contextualises the cross-pollination of the socioeconomic, sociocultural and sociopolitical environment in which new conditions of acceptance of wider diversities have emerged. I explained that this leads me to a discussion about the nature of diversity. And I completed the section by highlighting that the final section of my work deals with the new directions that transgender and posthumanist literature is taking and which help support my overall conclusions.

In the following chapter I discuss the basis of my methodological praxis, and detail how I adapted certain aspects of the research plan in line with my developing understanding of the best needs of my research project.

Chapter 2: Methodology

At the outset the focus of my research was to investigate the processes by which the current cultural and legal understandings of trans* have interacted with and informed the legislative debate about which trans* people receive recognition and protection in law, how meaningful the recognition is, and what the delimitations of the protection are. During the course of this project trans*, and to a lesser but expanding extent, sexgender nonconforming people have been increasingly visible in mainstream environments and our issues have been more widely debated and discussed. Given this, the critical question that emerged was what are the significant and particular aspects of our contemporary cultural conditions that have supported this expansion now and in the form it has? And following on from that what are the effective and affective limits to the benefits being offered to trans* and sexgender nonconforming people not only in sociocultural terms but also in socioeconomic ones as well, under contemporary sociopolitical conditions.

The scope of this enquiry determined that while the contributions of my respondents are central and critical to the work I also felt it necessary to contextualise them through a broad interrogation of the *épistémic* and cultural environments that have supported both the expansion of their own lives, and more generally, wider discussions of trans* and sexgender nonconforming issues that they discussed. This contextualisation determined my need to establish both a cultural and a material basis for the critical importance of our contemporary lived environments and their affective impacts on individual self-understandings and social discourses. In writing about embodiment and contemporary sociotech environments I have engaged with subjects that have been written about extensively by trans* scholars and which were central to the contributions of many of my respondents. I have endeavoured however to contextualise them in relation to contemporary sociopolitical conditions, which I argue are increasingly inseparable from the sociocultural. And out of these imbrications I establish a basis to critique the construction and effects of the laws which was the motivation for my project.

In this chapter I begin by discussing the role of the researcher and objectivity in relation to both understanding and production of knowledge. I discuss the theoretical principles underwriting my methodology. I discuss how my emplacement as a researcher, and interconnectedly as a trans* subject, has affected my choice of texts, why I selected the

texts which I felt were appropriate to my subject areas, and how I interrogated them. I then discuss the reasons that supported the selection of my respondents and my choice of semi-structured interviews and case studies as appropriate research methods. I refer to my ethics approval noting that how I approached the issue of anonymising with my respondents and their opinions on the subject was revealing of, and possibly contributory to, the ongoing complexities of issues of visibility for trans* and sexgender nonconforming people.

I also discuss how the pace of development of trans* and sexgender discourses in contemporary England and Wales has impacted the work. I discuss the impact both in terms of how I have engaged with the contributions of my respondents, but also in relation to the selection of materials from the public domain, be they academic texts, media engagements, opinions offered on relevant issues by trans* or sexgender nonconforming people, or legal documents and official statistical information relevant to my subject.

3.1: The emplacement of the researcher

A lot has been written about the possibility of objectivity in relation to people carrying out qualitative research. Much of this has involved discussion about the relationships between the researcher and their respondents, which I discuss below. More though has been written about the possibility of objectivity in relation to knowledge and I want to explore this further here.

Can there be, indeed is it desirable that there is, such a thing as an objective researcher, remote from their participants and their environments and stories and uninformed by their own positionality vis a vis the research data and the theoretical grounding in the field that they inhabit? In addressing this question Donna Haraway famously said that ‘Feminist objectivity means quite simply *situated knowledges*’ (Haraway 1988: 581, *emphasis in original*). Haraway is addressing the need to challenge the viewpoint of those that claim their ability to work ‘... the god trick of seeing everything from nowhere’ (Haraway *ibid*) and thereby claiming their access to unmarked objectivity.

Unmarked however does not mean unmarkable and in recognising the white male sexgendernormative heteronormative positioning that claims the possibility of

objectivity as itself partial and positioned, it is thereby revealed as subjectivity masquerading as objectivity. And as:

All Western cultural narratives about objectivity are allegories of the ideologies governing the relations of what we call mind and body, distance and responsibility [then f]eminist objectivity is about limited location and situated knowledge, not about transcendence and splitting of subject and object (Haraway *ibid*: 583).

Haraway, along with Sandra Harding, is associated with standpoint methodology, particularly standpoint feminism. Standpoint methodology starts from the premise that bodies of knowledge can be developed by groups of people from marginalised positions. For example women of colour feminists developed their positions partly collectively as a marginalised group of people whose views were not represented by mainstream white feminism (Davis 2011, Hooks, 2015). A standpoint emerges when a marginalised group begins to coalesce around a world view representing their awareness of their positionality or marginalisation. Harding, writing from a standpoint feminist perspective, suggests that only when such a process is underway,

... can we begin to see beneath the appearances created by an unjust social order to the reality of how this social order is in fact constructed and maintained. This need for struggle emphasizes the fact that a feminist standpoint is not something that anyone can have simply by claiming it. It is an achievement. A standpoint differs in this respect from a perspective, which anyone can have simply by 'opening one's eyes' (1991: 127).

Standpoint methodology theorises that knowledge developed from marginalised positions enables a particular and clearer understanding of social and power relations, not available to people in more powerful positions. But it is important to emphasise that engagement is a necessary prerequisite for developing a standpoint; that is membership of a marginalised group in and of itself although necessary may not be sufficient. My discussion of queer methodology below focuses on the *emic* knowledge of participants developed through their active interactions with their complex social situatedness. My trans* and sexgender nonconforming participants have all without exception struggled to a greater or lesser degree with the self-awareness and materialisation of their transness and/or their sexgender nonconformity. But they have various engagements

with that struggle and with the knowledges available to support them. Of course, they represent a range of modalities and self-understandings due to their particular situatedness. At times people's understanding of their own structural marginalisation may be understood as implicit – as experienced and mediated through its outcomes – rather than analytically explicit. However both their contributions, and my use and interpretation of them, can be understood as part of the continuing conversation contributing to the standpoint of contemporary trans and sexgender nonconforming knowledge.

I refer to the device of *verfremdungseffekt* in my introduction, and in relation to the above, here I describe in more detail the reason I have co-opted the term. It was the term used by Brecht to describe the denaturalised style of his theatre production, employed in order to orientate the critical facility of audiences towards the didactic nature of his work. Although on page 24 I acknowledge Butler's comment about people's lives needing some stability, in the context of this work, I am deploying the *verfremdungseffekt* as a device to develop and maintain a critical and self-critical praxis about sexgender.

On page 35 I discuss *empty diversity* in terms of its being a quality that doesn't threaten the stability of hegemonic power structures. Later, on page 189 paraphrasing Preciado, I refer to a particular trope of transsexuality as having become established as a material reality. In relation to both academic understanding and activism, as well as to promoting an approach to understanding our emplacement in the world, I propose that we maintain a consistent awareness of the contingency of our own selfhoods. As importantly I want to insist on the critical importance of understanding our transness and/or sexgender nonconformity intersectionally, as an aspect, albeit for many of us a highly significant aspect, of our western lived experience.

So in this work *verfremdungseffekt* represents a critical device to promote resistance to the subjectifying, homogenising forces of neoliberal governmentality as well as grounding both a research and an activist praxis which maintains an awareness of situatedness. In my engagement with respondents and when drawing my conclusions it has been critical to acknowledge the social progress that trans* and to a lesser extent sexgender nonconforming people have made. But it is equally critically important not to allow trans* euphoria, which I return to in the conclusion of this work, to inculcate

complacency or docility in the research process or in relation to my practice as a researcher, nor as an activist.

This takes me back to Haraway and her claim that the best objective knowledge is ‘situated and embodied’ (Haraway 1988: 583) knowledge, historicised, positioned and subjugated, and importantly without a claim to ‘unmarked objectivity’. It is critical to acknowledge the importance of context or environment in relation to the subjectification of both researcher and respondents. I want to argue that in our current individuated neoliberal context this takes on a particular significance which fundamentally engages my methodological approach.

The impact of this individuated environment has been further reinforced by the shift from broadcast and mass-publication of mainstream cultural products to their delivery and consumption, and to a degree their production, through online technologies. This environment has been developed by more adaptive less rigidly unionised corporations, and by far smaller production companies working in highly competitive marketised creative environments. It has also enabled access to individual creativity through media such as YouTube, Tumblr and Reddit. In contrast the mass audience engagement of radio, cinema and analogue television was defined by homogenisation of themes, formats and even timing of cultural production broadcast and publication. This was mirrored by the relative lack of choice of content and form in print media, and the location of non-normative and otherwise outré themes and content to arthouse or b-movie schedules, or the back rooms and basements of ‘dirty book shops’ and plain packaged mail order purchasing.

But in the shift from modernity to the post-Fordian, borderlines have become obfuscated. In the context of the early 21st century ‘... the productive process of contemporary capitalism takes its raw material from knowledge, information, communication, and social relationships’ (Preciado 2013: 36). Preciado references Hardt and Negri’s 2006 work on biopolitical production and cognitive capitalism which ‘... enumerate today’s complex forms of capitalist production that mask the “production of symbols, language, information” as well as the “production of affects”’ (*ibid*: 36 – 37). These processes incarnate the particular yet shifting subjectifications of our posthumanist era in which we as ‘objects’ no longer have necessary fixed and definable meaning, but from which we must interpret meaning for ourselves, of ourselves and

others. And this is reflected in the access and relationships that we all have to an almost bewildering array of messages, challenges, constructions and what can seem like continuous reconstructions of what it means to be any kind of person in contemporary England and Wales.

A researcher is deeply implicated in the recording, interpretation and production of knowledge. But a trans* researcher, researching in the contemporary field of transgender studies, has a particular emplacement in these processes. In Chapters 4 and 7 I discuss the post-Fordian capitalist knowledge economy in relation to the ways it has allowed or encouraged people from minoritised constituencies to engage their lived experience as specifically minoritised subjects as personal capital. This capital used productively, affords a basis for the fungibility of the minoritised person, providing them with some of the raw material necessary to become a viable neo-liberal subject. A trans* researcher offered a scholarship within a third level academic institution to research matters pertaining to trans* and sexgender nonconforming people's rights has an obligation to reflect on their position, not only in relation to their respondents (although that *is* very important) but also in their own imbrication in these processes and what implications this has for the research process. If the facticity of my transness wasn't itself sufficient guarantee of being offered funding to carry out this research the subject matter clearly was, and my open transness was no obstacle. This in itself is significant when considering shifting parameters of acceptable diversity but also reflects the need for the academy to engage with codifications of knowledge offering the potential to expand or reconfigure existing knowledge bases while posing the danger that such knowledge may perpetuate current hegemonic neoliberal and colonial approaches extending them to a relatively new field. And reflecting on this not only informed my understanding of my place within the academy but also my methodological choices and conclusions.

In maintaining the awareness of my own emplacement not only in contemporary trans* discourses but also in broader sociocultural and sociopolitical relations I acknowledge the dialogic process essential to my research methods. And although above I refer to the significance of my transness, described as genderqueerness in my interview consent forms, which was manifestly impactful in my interactions with some of my respondents, I suggest that it builds a platform to engage what Tom Boellstorff describes as a queer methodology.

3.2: A *queer* methodology

Jack Halberstam described queer methodology as,

...a scavenger methodology that uses different methods to collect and produce information on subjects who have been deliberately or accidentally excluded from traditional studies of human behaviour. The queer methodology attempts to combine methods that are often cast as being at odds with each other, and it refuses the academic impulse towards disciplinary coherence' (Halberstam 1998:13).

Trans* and sexgender nonconforming people, demographics previously marginal to mainstream discourses, have become increasingly news- and study-worthy over the past three decades. These decades have simultaneously seen a massive shift in social structures, with the effects of post-industrialisation and globalisation breaking down long established work practices and modes of living associated with traditional class and sexgendered social structures. These processes have been reflected in the shifting focus in the social sciences and associated disciplines towards discussing social issues focusing on people's group, often subcultural, *identities* rather than on social class, and the increasing emphasis placed on individuated experience in terms of people's sociocultural situatedness.

In this context, and taking into consideration my discussion of the positionality of the trans* researcher in a project such as this, what should their/my approach be to collecting and interpreting data in academic context/s? In a consideration of what it means to talk about a queer methodology Boellstorff suggests that thinking of queer methodologically may '...contribute to, for instance, debates over the constitutive and intersectional relationships between queer studies, women's studies, critical race theory, and the critique of neoliberal capitalism' (Boellstorff 2010: 216 – 217). Of course this can be extended to include other fields of study such as disability studies and transgender studies amongst others. In illustration of how this *could* work (he is careful, and I want to be mindful, of the need to not be prescriptive about methodology) he evinces research he carried out for his work, *The Gay Archipelago* (2005).

If the researcher has positionality in relation to a wider affective environment so of course, have their respondents. In a critical examination of the objectivity of data elicited from research respondents Boellstorff notes that:

Marxist and Freudian thought questioned any assumption of a transparently self-aware subject (albeit in distinct ways), a line of argument developed in a different but linked manner by critics of racism and colonialism (Du Bois 1903, Fanon 1952), by feminism (de Beauvoir 1949), as well as other fields of enquiry (Boellstorff 2010: 217).

In offering these examples however Boellstorff does not contend that data generated from participants in this case through the use of interviews has no value, rather that its value needs to be accounted for within the methodological application of the researcher.

Boellstorff references Pike's concepts of emic and etic which represent the insider's and outsider's points of view respectively in relation to anthropological understandings of research which '... distinguish data, assumed to be emic, with theory, assumed to be etic' (Boellstorff 2010: 217). In relation to his own work however he develops the notion of emic theory to account for the way/s that theory can be understood as '... emerging from both "within" and "without"' (Boellstorff 2010: 217). This would seem to suggest a breakdown in the borderline between primary data and theory.

In his interactions with Indonesian people, Boellstorff describes their self-identifying of their sexualities by their use of the terms *lesbi* and *gay*. The italicisation indicates the multi-layered, knowing, conceptual self-understanding of the research participants whose self-positioning placed them in relation to, but not subsumed within, the wider communities of international gay and lesbian people, and simultaneously within their lives as partners in 'heterosexual' marriages connected to their wider Indonesian communities. This complexity is reflected in the different and at times conflicting self-understanding of my respondents and their experiences of their varying sexgender nonconformities.

Boellstorff's participants' sense of selves however derives from their *lived experiences* rather than being the direct result of specific engagement with wider academic or theoretical discourses. And Boellstorff understands that as the data he collects reflects this, it is important for him to treat it as '... theorisations of social worlds, not just as

documentation of those social worlds' (Boellstorff 2010: 220). His positionality as a researcher however means that he has to engage with the data, not merely recording from a god position, but suggesting that his '... queer method might thus involve a commitment to developing theory as well as data from a vulnerable engagement with one's interlocutors in a fieldsite (Behar 1997), making it possible to speak not just of situated knowledge (Haraway 1988) but of situated methodology' (Boellstorff 2010: 221). It is in the fieldsite of contemporary England and Wales that the data from my respondents helped me reflect on our collective emplacement as social actors, albeit with significantly differential outcomes, which in turn affected and informed the structure of my work and the texts and theory that I engaged with. It was grappling with the task of how to fully contextualise and manage the relationship between my respondents' data and the impact of the sociocultural environment in which the research has taken place, in relation to the legal subject matter out of which it emerged, that supported my expanding and altering choices of fields of study and specific texts on which to focus.

3.3: A critique of grounded theory

Grounded theory is a research methodology that has been used by some transgender studies theorists. Bernice Hausman (2001) critiquing both Aaron Devor's *FTM: Female-to-male Transsexuals in Society* (1999) and Richard Ekins *Male Femaling: a Grounded Theory Approach to Cross Dressing and Sex Changing* (Ekins 1997) points up the weakness of their approaches as she sees it,

...these studies comprise the participants' views of their situation and their experiences; there is very little theoretical intervention on the part of the researchers. Indeed grounded theory suggests that the theoretical apparatus derives from the interactions between the researcher and participants and must remain faithful to the views that the participants have of themselves' (Hausman 2001: 467 – 468).

As Hausman goes on to point out, this involves engaging with the narratives of the participants who in describing their lived experiences may well not be doing so with any sense of cultural critique. So,

... in Ekins's book the structure of male femaling is understood in relation to established categories of sex, gender and sexuality as male femalers [...] use them rather than through a critical lens that uses those categories to raise questions about social structures and identities. Grounded theory seems to come down to an empathetic relationship to one's research subjects in order to produce categories that emerge from the subjects' own interpretation of their experiences (Hausman 2001: 468).

So as a mode of constructionism, grounded theory's bottom up approach as exemplified here, threatens to develop conclusions about the world based on data which, while in itself useful and essential to any qualitative approach, lacks a critical input against which it can be measured. The role of the researcher in this model is that of an almost passive objective recipient who collects interview data and uses the contents to develop an inductive theory, or conclusion, from the collective experiences of the participants.

Whilst I could have elected to take a grounded theory approach I feel it lacks substance in the ways that Hausman suggests. In relation to standpoint theory and queer theory discussed above there is a conspicuous lack of engagement with context, situatedness and any awareness of the emplacement of the respondents and their contributions in broader sociocultural discourses, or that those discourses are themselves contingent though affective.

That such data relevant to my field of research is sometimes in itself revealing about new possibilities of self-understanding and processes of transition is important and true. In the context of my research however and the question posed above about the significant and particular aspects of our contemporary cultural conditions supporting the increased visibility of trans* issues, I felt it critical to interrogate the *épistémic* environment. I felt it important to do so as it not only supported my respondents' contributions but also affected their sociocultural interactions and the material conditions supporting their embodiments, and the sociopolitical structures affecting their quality of life. I rejected a grounded theory approach as too narrow to achieve these, admittedly broad and ambitious aims.

3.4: Choices of subject areas and texts

Following on from Foucault's conception of discourse as discussed on page 14 and 15, in relation to discourse analysis, Jaworski and Coupland tell us that '[d]iscourse analysis can range from the description and interpretation of meaning-making and meaning-understanding in specific situations through to the critical analysis of meaning systems and discourse networks' (Jaworski and Coupland 2006: 6). These definitions are important in relation to the aspects of my work that involve examining shifting terrains of discourses of sexgender, questions of legitimacy of what can be said and as importantly what cannot be said, and ways in which, in different discursive formations in an interdisciplinary domain, legitimacies may be variable with attendant occlusions and inclusions of recognitions and protections. In this context I note the significance of Foucault suggesting '... that silence is not only constitutive of overall discourse itself but is an agent of power in its own right' (Ward and Winstanley 2003: 1259).

At first sight, the structure of this work is not particularly intuitive. The chapter arc - from post-modern, trans* and queer studies in the context of what people *can* know about themselves, to a critique of normativity, then examination of the culture of the science of the body and of the concomitant growth of visible trans* and sexgender nonconforming constituencies and modern information technologies - may seem elliptical. However the discussions in and the conclusions of Chapters 3 to 6 converge and feed the discussion of the interaction between relatively recent developments in hegemonic culture and the structure of the laws we have and the effectiveness of equality legislation for trans* and sexgender nonconforming people in the final chapter.

In relation to selection of sources, my bibliography is extensive and varied. In addition to my engagement with the academic texts essential to underpinning my theoretical framework, I acknowledge a range of factors that have influenced my engagement with particular texts and source materials affected by both the subject matter of my work and the information rich environment in which we exist which has direct impact on my conclusions.

Even during the time I have been writing this work there has been such a mainstreaming of trans* and sexgender nonconforming visibilities and discourses that I have had to track certain significant events and come to conclusions about both their impact and significance. There is such an enormous range of material available at the stroke of a

key now, that I have had to select what I have felt to have been particularly significant items which symbolise both the emergence of a wider mainstream interest in the stories of trans* people and the limitations that emerged on what are felt to be legitimate representations of transness and sexgender nonconformity. I have engaged with the cultural production of trans* and sexgender nonconforming people themselves in the form of blogs or articles, which sometimes offer more critical insights into the subject positions we find ourselves to be placed in, in relation to mainstream discourses. Some of the work I have referenced has involved critical analysis by trans* and sexgender nonconforming people themselves or organisations set up to represent their interests in challenging media (mis)representation or developing alternative more nuanced positive narratives to mainstream media organisations or straight to the net. But in selecting materials that give some sense of narrative arc I have also focused on mainstream productions such as the ground-breaking *My Transsexual Summer* (Channel 4 2011) and social media and media stories that provoked significant reaction such as the furore that developed around Suzanne Moore's *New Statesman* article *Seeing Red* (2013) discussed further in Chapter 6.

I have also used other more mainstream media production in order to develop my theorising about the nature of transness and sexgender nonconformity presented as acceptable or as problematic in mainstream discourses. There is however so much available material that although I have selected material carefully in order to give as full a picture as possible of trans* and sexgender people's representation in contemporary England and Wales, it is difficult to disagree with the statement that,

... there will always be problems in justifying the selection of materials as research data. It is often difficult to say why a particular stretch of conversation of [sic] a particular piece of written text has come under the spotlight of discourse analysis and why certain of its characteristics are attended to and not others (Jaworski and Coupland 2006: 30).

This speaks to the inevitability of partialness and contingency in my choices, but this is congruent with both the constructivism and queerness of my methodological approach, and the partial and contingent historicised nature of any conclusions I reach.

3.5: Participants

From the outset, I intended to recruit a range of people with a range of sexgender lived experiences and self-understandings. Initially this was because from the outset this research was not conceived of as simply another exploration of modern trans* identities and expressions as these issues have been extensively explored in previous academic research (Feinberg, 1996, O’Keefe and Fox, 2003, Hines and Sanger 2010, Davy, 2011). Rather I wanted to address questions raised by the framing of the research regarding the dialogic interaction between sexgender self-understanding and its recognition and protection, and its production and mediation through socio-cultural and legal discourses, so I felt it important to recognise two things in particular. Firstly, that a wide range of diversity exists in terms of people’s sexgender self-understandings and expressions, but that it also exists in an intersectional sense that requires an acknowledgment that trans* and non-normative sexgender discourses are themselves very divergent and need to take more account of people’s wider backgrounds and lived experiences. Further, that the boundaries between trans* and non-trans* – sometimes referred to as cis*¹⁶ – discourses, are themselves a construct that has operated within and reflected the operations of the sexgender binary system. This has worked both to reify particular constructions of sexgender identities while at the same time invisibilising diversity of sexgender self-understandings for both trans* and non-trans* people alike (Enke 2012).

In acknowledging these issues, I recruited trans* and sexgender nonconforming participants from different generations and localities, encompassing a range of people who might broadly be described as transmasculine, transfeminine and non-binary, whilst recognising that these can only be unsatisfactory and contingent categorisations which the respondents themselves might contest. I selected people from a variety of different political persuasions, from people, trans* or not, with professional experience of trans* issues in trades unions, third sector organisations and professional associations, and importantly non-trans* people who are otherwise not engaged with trans* issues and have therefore limited prior knowledge of these issues.

¹⁶ Cisgender has been used by theorists to position non-trans* people in relation to trans* discourses but I problematise the developing discourse of its use below and in Chapter 4.

In summarising my interactions with my sample I held thirty semi-structured interviews as planned although one was a group interview that was set up but did not function as, and therefore is not being counted as, an online focus group. So I interviewed thirty four people in all: twenty nine people with trans* or non-normatively sexgendered non-trans* lived experience and five with non-trans* normatively sexgendered lived experience. There is considerable cross-over as three of the four respondents that I recruited who were involved with particular political parties had trans* lived experience, and of the trades' union officers three out of four had trans* or non-normatively sexgendered lived experience.

The eight key informants who are included within the thirty four respondents, represented trades unions, the media, LGBTQI or trans* specific Special Interest Groups (SIGs) and in one case a trans*-focused commercial venture. These were also a mixed group with people with both trans* and non-normatively sexgendered and non-trans* normatively sexgendered lived experience. I also interviewed three people specifically as people with non-transnormative lived experience without specific, professional or interpersonal contact with or knowledge of trans* discourses.

The diversity of the participants turned out to be in some respects, actually greater than I expected. This was because some of the people inhabiting trans* spaces or recommended to me as trans* participants had more nuanced self-understandings than I anticipated, as did some of the non-trans* participants. On the other hand, as referred to elsewhere, I failed to achieve significant diversity in terms of ethnicity and little reference was made in the interviews to disability.

I also elected to carry out two semi-structured interviews with one of my thirty four respondents, for the first of the two case studies I examine in Chapter 7. They highlight specific cases which highlight the inadequacies of the protection offered by the EA10 to people in precarious employment situations or when incarcerated. The two extended interviews interrogated a set of circumstances that had been previously described to me, and were designed to elicit the impact of the lack of protection offered to a trans* agency worker after she began to publically transition.

3.6: Problems associated with the recruitment of participants

In seeking to involve such a wide range of people certain practical difficulties presented themselves.

1. One is how to recruit people from a range of demographic backgrounds. So in terms of demographics I wanted three diverse constituencies to be addressed: people of different ages, with a variety of ethnic identities and from geographically diverse areas of Britain.
2. Although I did not want to focus on taxonomies of sexgender I did want to interact with people with a variety of lived experiences and self-understandings, and also with a variety of engagement and experience of trans* issues, and so selection needed careful consideration.
3. A further problem was how to recruit what could be categorised as the ‘hidden’ contingent, the potentially large number of people whose non-normative sexgender modalities are to a greater or lesser degree hidden either because they are living in stealth or because they are still closeted to either some or all of their associates.
4. I also considered the problem of how to recruit non-trans* people who have no direct contact with trans* or sexgender nonconforming people or specific knowledge of trans* related issues.¹⁷

Let me address these difficulties in order.

1. The reason that I wanted participants from the demographic diversities listed above is as follows. In terms of age I wanted to investigate the effect(s) of people’s different historical situating, with corresponding differences in access to hegemonic, or any, trans* or sexgender diverse discourses for people as they were growing up, on their understanding of their own sexgender identities. This is a complicated question and it involved me engaging participants in discussions about the historical availability of

¹⁷ Recruiting non-trans* identified people with non-normative sexgender identities wasn’t an original goal of my research but as my ideas have developed, through interaction with academic and socio-cultural discourses and with participant interaction I have come to recognise this omission and accounted for it in my findings.

trans* networks, the impact of the internet and subsequently social networking sites, the effect of the changing socio-legal situation for non-normatively identified people in the UK, and the observable increase in visibility of trans* and non-normatively sexgendered identified people and their discourses in the UK in the 21st century and the changing ways that these visibilities have been represented. It would be totalising to suggest that age is necessarily defining of people's experiences. However as sociocultural change has been so rapid in relation to trans* and sexgender nonconforming discourses over the past thirty years it would be a mistake to suggest that people's experiences haven't been and don't continue to be affected by this aspect of their lives.

In relation to ethnicity it is still the norm to attend 'mainstream' trans* events even in London, at which the participants are either overwhelmingly or exclusively white. Organisers and participants alike bemoan this situation but whatever it represents there is an ongoing failure to overcome it. In seeking to investigate why this might be the case I contacted online organisations which claim to variously represent people of colour (POC) LGBTQI people.¹⁸ That this approach met with no success is not surprising as the risk of being objectified is something that many people in LGBTQ+ communities feel in this age of intensified research in these fields and POC often have an understandable caution when approached by non-POC researchers. In fact by 2015 when I was one of the organisers of a stream on Radical Transfeminism at the London Conference in Critical Thought our panels were well balanced ethnically and this was a result of the organisers, one of whom is a trans woman of colour, having engaged with diverse communities in activist, creative and friendship networks over a number of years. This does represent a shift in visibility and activity for POC individuals in trans* and sexgender nonconforming communities, albeit currently on the margins in the UK, which naturally inflects and informs the wider conversation, which in turn becomes more genuinely intersectional. The queer scavenger methodology which has emerged through my working practices encompasses this progress. In terms of specific respondents though, my sample remains ethnically unbalanced with the number of respondents claiming any POC heritage limited to just three, which is a reflection of my starting position not my endpoint.

¹⁸ IMAAM for LGBTQI Muslims at <http://www.imaan.org.uk/> and Club Kali at <http://clubkali.com/>

Geographically my original intention was to seek participation from people in England, Scotland and Wales, Northern Ireland being excluded for reasons of accessibility. In carrying out the research however, and in taking into account developments in Scotland meaning that trans* people have a different status of access to medical services than people in England and Wales (Scottish Government at SGDHWP 2012) I decided to restrict my research to just England and Wales. There are of course differences in their governance, with the Welsh Assembly having some responsibility for running NHS Wales, but the legal position in Wales in terms of trans* recognition and protection is the same as it is in England. In focusing on how these differences impact unevenly on trans* people across England and Wales I intend that a greater understanding of regional difference is reached.¹⁹

2. One of my research aims was to recruit participants who were varied in terms of their sexgender identities. I did not aim to recruit only sexgender variant people but also people who have legal, political and equality and diversity experience and knowledge of general and legal trans* issues. In order to overcome the difficulties I had previously experienced and therefore to extend the range of participants I developed a multi-layered approach to contacting and recruiting participants. In addition to utilising my existing networks I sought to extend them by involving myself more fully in trans* and non-normative sexgender environments through activism and volunteering for different organisations. Undoubtedly my understanding of issues affecting LGBTQ+ people in general, and specific demographics such as older and younger constituencies has developed through my work.

To draw up lists of potential trans* participants in 'identity categories' is clearly problematic in many ways, not least because it implies that something that is being investigated in the research, the diversity of sexgender lived experiences, is being predicated along specific pre-defined lines. Nonetheless the need to remove complete randomness from the process and to ensure that a measure of diversity is available for investigation means that some selection criteria need to be employed. Any categorisation must therefore be understood as a blunt instrument to serve those needs.

¹⁹ Later in the work however I do reference the experience of some Scottish people at the hands of the criminal justice system. The cases I refer to are collectively known as the 'sex by deception' cases, and as I am drawing broad cultural conclusions from cases in England and Scotland I took the view that the finer details of difference between the English and Scottish legal systems did not impact the conclusions I reached.

Referring back to the reference to cis* above, another linked problem associated with recruitment, but which also involves the broader theoretical base of the research is that problematizing the term 'gender reassignment' as a basis for the recognition of the right of trans* people to be protected under UK law necessitates engaging with people with as wide a range of sexgender lived experiences as possible. The boundaries of what is recognised as trans* and therefore the sexgender basis on which legal recognitions should be constituted becomes a question that is itself potentially unbounded. In fact it brings into question the very legitimacy of a border between sexgender identities predicated on a trans*/cis* binary as discussed below.

3. One category of people that has been difficult for LGBTQI researchers to access is the category of people who are, to a greater or lesser extent, closeted about their sexuality or sexgender nonconformity. For trans* people being closeted implies either somebody who typically presents in their assigned sexgender but who feels they have a trans* aspect which they may express sometimes or perhaps never publicly express, or someone who in a binary context, has transitioned from their assigned M/F sexgender and who now lives in the 'opposite' role in stealth.

In my findings I discuss whether the very concept of stealth, as opposed to but in the same context as passing,²⁰ has differential relevance for trans* people of different generations. However in relation to this discussion it is sufficient to acknowledge that people who do not publicly acknowledge their trans* history and who pass in their daily lives, and are resistant to publicly acknowledging their trans* status or history, are not easily accessible to researchers. People with trans* identities who typically present in their assigned gender some or most but not all of the time might include people who present in their trans* identities in some, most or all social situations but feel they are not able to at work for example, or to their families.

In order to access this group of people I engaged people who expressed an interest in contributing to the research in my own networks and I employed snowballing techniques, allowing people who knew me personally or through contact with this or other research projects, to recommend other people. The problem with this approach is that it still does not reach out to people who are truly closeted (Day and Schoenrade

²⁰ Assuming the overall presentation of one's lived sexgender to a sufficiently convincing degree as to be uncritically accepted at face value as embodying that sexgender by others who are unaware of your at birth sexgender assignment.

2000, Colgan et al 2007) as the people I did reach had sufficient confidence to discuss their identities with a researcher, albeit under conditions of strict anonymity. Managing to contact these people leaves open to investigation whether people living lives without regular contact or even particular interest in broader trans* discourses have divergent stories to tell, less or differently informed by contemporary trans* discourses. One way of approaching this was in engaging particularly with older participants who had lived through times of greater oppression, whose narratives involved their moving out from within their closet to being to a greater or lesser degree, publically, and sometimes differently, trans*. Other participants were able to discuss their reasons for being out to some people, while not to others, and in what ways the impact of a different social settlement for trans* people might affect their ability to be more open. The narratives of the unreachable on the other hand remain tautologically untold, at least as far as this research is concerned.

4. An important element of my methodology plan was to engage participants who self-identified as having non-trans sexgender lived experiences and self-understanding. UK trans* research has, understandably, focused on the lives and experiences of trans* people and people with non-normative sexgender identities. There is now a considerable body of qualitative and theoretical work that has explored sexgender ontologies, expressions and lived experiences (Futty 2010, Harris 2012, Hines and Sanger 2010, Prosser 1998). My work is situated in understanding contemporary trans* recognitions and protections under UK law. An important aspect of what I am investigating is the interaction between culture and law, the ways in which the one influences the other. I felt it important therefore to have some input from normatively sexgendered people, and more importantly such people who do not have specialist knowledge of trans* issues, parents with trans* children, or non-trans* queer activists or academics for example, but people who may have come across, rather than are engaged with, trans* discourses as part of their daily lives.

As in the case of non-out non-normatively sexgendered people the difficulty in accessing such normatively sexgendered people as participants is making the connections with people at one remove from oneself. I made contact with people through third party contacts, who recruited people on my behalf. They recruited people from outside London who had no direct contact with trans* and sexgender nonconforming people. However it is important to recognise the limitations of this

particular form of snowballing as to an extent the participants whom my contacts asked to be involved were unlikely to be antagonistic or negative towards my aims. The aim was to give me a sample of participants who were able to give me a ‘distanced perspective’ which I felt to be important when engaging with discourse of the possibility for transformation within a heteronormative legal system and a sexgender normative legislature. Ultimately the distance of the participants from the issues I discuss in this thesis meant that they had little by way of informed reflection to contribute, and when I prompted them in semi-structured interviews too often their responses were polite but uninformed. In contrast the normatively sexgendered participants who did contribute as key informants were knowledgeable about trans* and sexgender nonconforming issues but didn’t have the distance that I was hoping would generate the useful tension I hoped to get from their more distanced co-respondents.

3.7: Semi-structured interviews

In this section I briefly discuss the efficacy of the use of semi-structured interviews that seek to interrogate individual narratives of lived experience and reflection (Bryman and Bell 2011: 470), and key informant accounts of working in fields related to equality and diversity, and the law.

Within the semi-structured interviews I was interested in eliciting personal histories as well as reflective opinions about trans* experience and social situatedness. In order to elicit this information, I am interested in what Ward and Winstanley term ‘storytelling’ (2004). Ward and Winstanley, researching sexual identity, suggest that this method although intensive can reveal ‘... a real richness of data...’ (2004: 219). It is a method which allows participants to take the research in unexpected directions and which, if analysed intelligently, can reveal deeper underlying meanings within the discourses. So, while I as a researcher am clearly a gatekeeper in terms of setting parameters for topics discussed, the semi-structured approach allowed participants to take the interactions in directions I hadn’t considered and which ultimately refocused the research in particular directions for example with health, hate crime, and children, that weren’t included in the original research proposal.

The fact that I hadn’t considered these topics must be taken as an indication of my relative privilege, not having had to deal with issues of hate crime and access to children, and my health care pathway having been relatively unrestricted (although that

itself is contextualised within a problematic healthcare environment). That privilege and power relations affect even the very terms of the research from its planning stage onwards should be acknowledged and embedded as part of the structure of the work. An effective adoption of a semi-structured interview technique might ameliorate the embedded inequality in the research process but in and of itself, it cannot hope to overcome it completely.

Where possible these interactions took place one on one, face to face, although I did travel as far as budgetary restrictions allowed. But where that did not prove possible interviews were held by Skype and in one instance via international telephone call. I tried to hold the group interaction on Skype but although we managed to complete over an hour's worth of recording the shortcomings of the bandwidth meant that any intra-group interaction was significantly curtailed and effectively what resulted was a group interview (Bryman and Bell, 2011: 205) rather than a more interactive one. That the group was effectively self-selecting gave some insight into how even quite small group identities come to be forged and appear to be reflected in a relatively consensual group identity, reflected in the responses I was given.

Using Skype did extend the geographical range that I was able to achieve with interviewing people in a way that felt face-to-face. I feel it enabled people to engage who may otherwise not have consented to be interviewed, due to either the perceived financial burden of claiming back money that was offered as travel expenses or who may have been put off by actual face-to-face interaction. That aside when I did Skype interviews the technology itself, although acting as a filter in the sense that it was only available to participants who felt comfortable using Skype and who had access to it, did not, as far as I could tell, impact significantly on participants' willingness to participate or act as a further filter to their responses.

3.8: Participant/researcher positioning and interactions

In relation to the position of the researcher in relation to their respondents Yasmin Gunaratnam explores the 'complex positionings' of racialised interviewers working in the fields of 'race' and ethnicity (Gunaratnam 2003: 95). While acknowledging the fields of 'race' and ethnicity, and sexgender lived experience are different (if intersectionally imbricated) I believe that there are sufficiently similar issues in terms of the positioning of the interviewer in relation to the participants to draw some parallels.

Thus to paraphrase Gunaratnam ‘Several issues can therefore emerge as immediate concerns, and can centre on how the researcher’s [sexgender identity, expression,] ‘race’, ethnicity, linguistic skills and/or religion may affect the interviewing relationship and interview accounts’ (Gunaratnam 2003: 95). And although I have inserted markers specifically relevant to this research it does not mean the ones Gunaratnam lists are not equally intersectionally significant in this context as well.

Taking as her starting point a quote from Rhodes, Gunaratnam questions the validity of claims that ‘Closeness of identity and, in particular shared racial identity is generally presumed to promote effective communication between researcher and subject and, conversely, disparate identity to inhibit it’ (Rhodes, P cited by Gunaratnam 2003: 96). She feels that a perceived shared identity offers too simplistic an account of the processes involved in navigating interlocutor relations and that an over-simplistic account of this fails to ‘... engage with the multiple, simultaneous and shifting nature of identifications, and approaches that aim to take account of the active construction and negotiation of situated identities’ (Gunaratnam 2003: 96). The positionalities of the interviewee and interviewer are insufficiently one dimensional to guarantee unambiguous mutuality. And it seems to me that Gunaratnam’s account of the problematics of the term identity reinforce the validity of my substitution of the term throughout most of this work for the more cumbersome lived experience or modality. I contend that ‘identity’, especially as it has come to be understood in a neoliberal age of the valorisation of (possible empty²¹) diversity, suggests something concretely ontological whereas use of the alternative terms draws attention to self-understanding as labile and process-driven, the process being our experiences of ourselves as developed and refracted through the prisms of our own lived experiences and situatedness. The Venn diagrams which might demonstrate sameness and difference across people’s ‘identities’ might be drawn. However I feel the use of the terms *lived experience* or *modality* draws me as a researcher and you as a reader into a more interrogative position in relation to the respondents, as well as to the literature and assumptions on which the legal frameworks and the place of identity within them that I problematise, are themselves constructed on. I feel both these latter terms suggest both something more material and more process-driven.

²¹ See Chapters 4 5 and 7.

In terms of sexgender lived experiences I am interested in interrogating people's self-understandings of their lived experiences and of their positioning within broader sexgender discourses and also perceptions of any changes or developments of such discourses over time, intra-generationally and geographically (with a focus on, but not limited to the UK). Such interrogations necessarily mine both epistemological and ontological seams (and while referencing philosophical fields, ethical ones too) insofar as they involve probing how people think they understand the sexgender discourses and power structures within which their lives are situated. Also implicated are what they feel about the facticity or 'reality' of themselves, and of others, in relation to these contexts, and ethically what this means for how they and others should be recognised and protected. An important 'other' in this case is the researcher so perhaps at this point it might be valuable to briefly situate myself and explore what that could mean for this research.

While carrying out the field research I was out and visibly identifiable as a transfeminine person which has clearly been impactful. Simultaneously I understood myself through the processes that were informing my physical and social journeys as labile and in a meaningful sense imbued with a sense of fluidity. Being situated within structures informed by particular pathologising discourses and in a particular legal environment that I am problematizing suggests to me that I am a particular reflection of the contemporary discourses that I find most convincing. I am a particular manifestation of a process in which I am both acted upon and actor, within which I am situated and with which I have interacted and continue to do so. This manifests the reversed contention that the political is the personal, as the political in its allowances and disavowals becomes, of course, personal. I have positioned myself, and been positioned by others including the academics who accepted my research proposal, my respondents and by my peers, in relation to different sexgender discourses that have been available to me at different times of my life but which sometimes have particular totalising affective significance for people with whom I interact.

As discussed above Gunaratnam queries claims that apparently shared identities, for which I substitute modalities here, are indeed shared. The very diversity of the modalities of the participants involved in this work underlines the concerns that she raises about the complexities involved in interviewer/participant relations. People with non-normative modalities or self-understandings such as trans* and sexgender

nonconforming people arguably have to invest more in considering and negotiating their lives and experiences than other people in order to reach decisions about how they represent their own sexgendered authenticities to themselves and to the world. This process is likely to carry over into their contributions to any research process with which they become involved.

That this should be born in mind when assessing the data does not of course invalidate what is said. That it is so, that partial or moderated disclosures will inevitably result, inflects the responses in meaningful and significant ways. The interpretation of the data needs to take account of the genealogies of the narratives and the effect of the power relations between interviewer and participant. This is arguably true in general of all researcher/participant relationships, but taking the above into account for this project it is true in this particular way.

Much academic trans* discourse is predicated on difference and otherness grounded in sexgender 'identities' often structured along a trans*/cis* binary. Even the (previously?) hegemonic medicalised transsexual discourse, seeks to 'repair' the otherness and propel transsexual individuals back towards a bisexgendered normativity, thereby however, emphasising the non-normative nature of their pre-operative ontology along the same trans*/cis* fault line. But it is absolutely incumbent upon us to recognise three things. That otherness exists between people with trans* or non-normative sexgender identities in multiple intersectional ways with variable implications, for example in the power dynamics that exist between interviewer and other participants. Further, and importantly for this discussion, any otherness that inheres within and between trans* and sexgender nonconforming people exists in multiple and intersectional ways that are expressed in a variety of ways, both within individuals and between members of trans* and sexgender nonconforming communities in potentially fluid and changing ways. Finally to put this into relief, the same is true of non-trans* people, and the trans*/cis* binary often constructed, problematised by Enke (2012), masks this and also obscures the possibility that there exists no definitive border between trans* and cis* sexgender identities. If sexgender identities can be understood to be labile why then can they not at different (or at the same?) times be understood as either trans* or cis*? I resist the temptation to neologize a transcis* category, but nonetheless emphasise that borders and boundaries are less certain than sexgender discourses sometimes suggest, and that cis* shouldn't be reified into a unitary norm.

Following Gunaratnam I content that cis* as a category (or in the context of transgender research, transsexual) should be ‘de-centred as a “pervasive normative presence” (Bonnett, 1996: 97), as we come to understand it as a [social] category, i.e. socially located, internally differentiated and [itself] unstable’ (Gunaratnam 2003: 20).

3.9: Notes on data analysis of respondents’ interviews

In preparation for my fieldwork as well as putting thought into the kinds of people that I wanted to engage with, for the interviews I identified seven headline topics or themes that I wanted to explore. I wrote guidance questions for semi-structured interviews with each of the respondents which followed the themes I had identified but which varied slightly according to whom I was engaging with. For example I asked the key informants more technical questions about legal protection, while those from political parties I asked about their party’s approaches and commitment to trans* and sexgender equality. I also adjusted the questions about lived experience for people with trans* and/or sexgender nonconforming lived experience and those without, whom I asked about their understanding of issues affecting trans* and sexgender nonconforming individuals.

I held interviews of between an hour and an hour and a half. Above I have referred to the increased visibility of trans* people in particular in public life in the UK in the early 21st century and I was keen not only to account for why this has happened but also to understand what trans* and sexgender nonconforming people felt about it in relation to their own emplacement(s). In the context of a discussion about critical discourse analysis, Blommaert and Bulcaen note that ‘Hegemonies change, and this can be witnessed in discursive change’ (2000: 449). At such a time of change, I wanted to track the points of agreement as well as the ideological and experiential differences and spaces that were contained in the data from my respondent interviews. It was through the process of listening to interviews multiple times and reading and rereading data generated by those interviews that information that appeared on first hearing or sight to be quotidian, assumed particular significance. When analyzing the data I coded responses (Emerson *et al* 2011) in relation to the topics I had identified. In examining the responses in detail it was clear that, unsurprisingly, there were a variety of experiences under a variety of headings.

As the interviews progressed simultaneously with my theoretical research both sets of findings began to inform the other, and in discussions about embodiment, the internet, work experiences and visibilities, themes that were sometimes oppositional became foregrounded. So, for example, when respondents' offered uncritically positive responses to their online interactions, I had to engage in (for me) unexpected ways, in order to give some coherence to the apparent contradictions between the clearly valid experiences of trans* and sexgender nonconforming people on one hand, and the more critical analysis of certain theorists and commentators (some of whom shared sexgender nonconforming lived experiences) on the other. Some of my respondents also discussed their experiences in terms of their claiming a (trans)-normative binary expression and experience while making clear that for a variety of reasons their embodiments are what could reasonably be described as non-normative. In contrast, other respondents claimed a sense of liberation in not having to conform to what they felt to be old fashioned and unreasonable expectations of trans* embodiments. Such differing inputs offer contrasting experiences of sexgender non-normativity, even when being discussed in terms that could be described as renormalising.

Reading through the topics as coded, and mindful of Jaworski and Coupland's comment above, in tandem with Halberstam's refusal of disciplinary coherence, it was necessary to engage with such complexities and to both acknowledge and validate a spectrum of experiences while setting them in a range of contexts. The issue of selection of particular stretches of conversation can be accounted for through the processes of multiple engagements within the focussing discipline of the coding, which I refined and honed through my simultaneous engagement with multivalent theoretical fields. In relation to Boelstorff's notion of the *emic* therefore, and its potential for queering of understanding, his claim that theory, for which I substitute situated knowledge, emerges from this dialogic engagement of within and without has traction in my methodological approach. The listening to and rereading of respondents' accounts of their opinions and experiences refracted through an increasingly focused theoretical lens are mutually informing, and act in synthesis, rather than separately to inform the conclusions that I have reached in this work.

3.10: Ethical notes on naming and data protection

It is usual that potential respondents for a research project are offered anonymity in the findings. When I submitted my ethics proposal I stipulated that this would be the case, and everyone who took part was offered it. One of the themes of this work is an engagement with the increasing visibility of trans* and sexgender nonconforming people in public life however, and a number of my respondents discussed in some detail their knowledge of this and their various contributions to this. That being the case when engaging with people who not only have a public profile and visibility as trans* and/or sexgender nonconforming people their roles as respondents and as visible actors in public spaces become entwined. People's visibilities are, in part, a reflection of the increased confidence of many people who are publicly identified as trans* or sexgender nonconforming, which I acknowledge here and through the thesis. I suggest more though: that there is something at play here which involves people's transness or sexgender nonconformity becoming part of their fungibility. I go on to discuss the concept of citizens being framed as *homo oeconomicus* in Chapter 4. In relation to my methodology it is sufficient here to state that some of my respondents' stories make clear their own emplacement in the processes through which trans* and sexgender nonconforming people have sought to claim their own rights to visibility and empowerment. It is also in part a measure of people's general confidence built through the processes of engagement with the internet as described in Chapter 6. It is however not universal.

There are still environments which many people do not consider safe spaces for trans* and sexgender nonconforming people. Three of my respondents in particular relate their stories which detail either their very negative experiences of transitioning, of their bisexgendered lives becoming known with disastrous consequences, or of living lives where they are very careful indeed to keep their 'other' self hidden because they fear the consequences of openness. In one of these cases I have used a chosen name which the respondent does not disclose to everyone in their life. In another case I use a name which the person wasn't using publicly at the time of their misfortune but which they are increasingly using now. And in the third case the person involved is now post-transition and has a very public out profile and I have not anonymised their name. As naming has a particular resonance for many trans* and sexgender nonconforming people (see the above footnote about dead-naming for example) I have merely acceded

to what I understand to be the wishes of my respondents and just note here why I think they have chosen as they have.

And in relation to other ethical matters when I conducted each interview I gave each respondent a consent form which set out the aims of the research, gave information about me in order to situate myself in relation to participants, and set out the conditions of and guarantees in relation to their participation. All participants were made aware that their participation was completely voluntary and that they could either decline to answer any specific question or questions or withdraw from the entire process at any time, without any need to explain why. They were informed that all data recordings would be word-processed and that both sound and word files would be stored securely either physically or digitally. They were also informed that they could request copies at any time in order to ensure their contributions were being accurately represented. They were informed of the possibility of claiming travel expenses. They were also requested to let me know of any accessibility issues they had in order for me to facilitate suitable interview venues. Finally, they were given the contact details of my Director of Studies so that they could contact her directly if they felt that my research practices were in any way unethical.

3.11: Conclusion

This work is an interdisciplinary theoretical intervention supported and given depth by the contributions of a wide range of respondents. Emerging out of an investigation into the effectiveness of the EA2010 in offering protection to trans* and sexgender nonconforming people it seeks to analyse, not only who the law offers protection to, but on what basis and what its universal effects are. Given the impossibility of giving an informed decontextualized response to these questions I have set out to establish the environment in which equality law emerged in the first place, and then to contrast it with current sociopolitical and sociocultural conditions, which I argue, are themselves becoming inextricably linked.

The range of subjects encompassed by these aims include the politics of the science of the body as well as a consideration of the affects and effects of our contemporary sociotech environment, and the radically altering material conditions for many trans* and sexgender nonconforming people. These have continued to change during the

writing of this work. The methodological challenge therefore, has been to ensure not only coherence through the work, but as challengingly, cohesion as well.

Above I referenced both Halberstam's observation about a queer methodology being a scavenger methodology, and Boellstorff's reference to queer methodology as situated methodology and working within the parameters of my discussion of these two concepts describes my methodological framework. In relation to Boellstorff it is my work establishing an interactive context against which to measure the data generated by my respondents along with my acknowledgment of our mutual imbrication within the contemporary discourses, sociotech environment and relationship to cognitive capitalism which has informed the research process in general. And in relation to scavenger methodology I suggest that in our current immersion in 24/7 information-dependent environment not only are the roles of producer and consumer of information more structurally connected – each time a trans* and-or sexgender nonconforming person engages in social interaction they are a producer of information – but as discussed above formal academic delineations between different levels of data are difficult to maintain. The scavenging becomes part of our lives and this is reflected in my academic practice. I acknowledge the power relations I discuss above as impactful but as I discuss in the body of my work power is something that has a deeply subjectifying effect on everyone involved in this research as academics, as the writer, as the subject of reporting and sometimes tragically necropolitically. Over the following five chapters all of this will emerge.

Chapter 3: Discourses of the Self

... the limits of language (of that language which alone I understand) mean the limits of my world – Ludwig Wittgenstein, Tractatus Logico-Philosophicus

Language makes only certain ways of being human describable, and in so doing makes only certain ways of being human possible – Nicholas Rose, Assembling the Modern Self

In this chapter I examine how possibilities of trans* and non-normative sexgender modalities have emerged and been shaped in the latter half of the 20th and the early 21st centuries. I examine how post-structuralist understandings of the nature of discourse and its power to constrain, enable and frame social- and self-consciousnesses emphasise the contingency of such identities. In an examination of contestations of trans* authenticity discussed in the context of autobiographical narrative I go on to assess the implications of the apparent opportunities and limitations within which people have examined and/or experienced and exercised their sexgender options in the context of changing socio-cultural discourses, scientific challenges to essentialism and technologies in England and Wales. I investigate this further through discussion of the experiences and identities of research respondents.

My discussion does not focus on diversity of sexgendered modalities in and of themselves, although an increase in visibly diverse trans* and non-normatively sexgendered people has certainly been documented in the early 21st century. Rather I seek to account for this increase in visibility in the context of discourses available to individuals and how these may have been affected by their geo-historical situatedness. I also examine how the main themes and configurations of influential work in the field of transgender studies have been affected by the developing historical moments in which they have been produced and how in turn they have affected mainstream understanding of trans* issues for individuals and groups within trans* and sexgender nonconforming constituencies and for non-trans* people as well.

In this chapter I focus on individual narratives and how they have been productive of and affected by the narrowly trans*-focused pathway that much of the literature and cultural production in the transgender studies canon has, unsurprisingly, focused on. In the following chapter I broaden the discussion to consider the wider impact of social

environments and pay more attention to intersectional issues, while recognising of course that individual experiences are inherently social and thereby not meaningfully decontextualized.

And to begin, both to contextualise my discussion, and situate it within the examination of autobiography that follows, I want to set down a little of my own story, written with a knowing awareness of Judith Butler's referencing of Michel Foucault; 'What, given the contemporary order of being, can I be?' (2006: 184).

4.1: My 'journey'

In the mid-1970s I began noticing the world beyond my immediate environment and embarked upon a series of journeys that took me further away from my humdrum suburban origins than I could possibly have then imagined. I travelled to far and distant places, metaphorical and actual, traversing the routes that comprised the mysterious and magical 'journey to myself'. Thus might I begin the story of my transsexual journey from confused young child who knew 'he' was a she, to fulfilled older woman finally expressing the femininity of the person she had always known she was. This story, typical of a particular trope adopted in popular culture, is a story that I will never write. I will however give a little contextual background to my story illuminating very clearly as it does, the veracity of the quotes with which I begin this chapter.

I was brought up on the edge of Hull which was and remains a particularly isolated city in East Yorkshire, in what felt like an isolated England (not even Britain) where, in the television room in my junior school, classes went to watch old fashioned education programmes on the BBC in black and white, and there were atlases which had the world map still covered in British Empire red. And while we had a vague idea that they were out-moded they did not seem particularly anachronistic in our entirely white environment. I was brought up by parents who having been raised in the insular and inward looking post-WW2 austerity of the 1950s were imbued with the world view and prejudices of their age, their class, their sexgenders, their removed lives (Larkin 1964) and proximate cultural experience.

But I, among my contemporaries, was different. As I grew into adolescence I became more interested in clothes, grew my hair and got my ears pierced. I began in the mid-70s with floppy, baggy clothes that were known then as unisex. As my body changed I

suffered, as many adolescents suffer, but with an unidentifiable conflict as I tortured myself about the size of my growing hands and shoulders, as I tucked²² decades before I came across the term. My experiments with clothing intensified and I experimented with women's clothing in fairly traditional looks at home as well as increasingly in public with eccentric abandon. My father accused me of looking like Lauren Bacall, which might have impressed me (not his intention) had I known who she was, barked at me to 'walk properly' (not like a girl) and tried to rip a pink plectrum I was using as an earring out of my ear. Even there, even then, we knew the significance of a pink triangle. My mother confined herself to accusing me of stealing my sister's clothes and asking if I was 'all right'. She wasn't enquiring after my well-being but making clear her distress at my feminine non-conformity.²³ People who knew me at school sometimes asked, in the context of the proliferation of youth identities in late 70s Britain, what I was. 'We're punks, they're mods, they're hippies. *What are you?*' And in truth I had no answer. 'None of the above' I could have answered truthfully enough. But I certainly had no positive response.

By the mid-70s echoes of the permissive society had reached even us. We knew, or were at least learning, about sex, about new social and sexual mores. Homosexuality wasn't a secret, though it was experienced through the media as scandalous or funny on the whole, but more importantly it was far removed from our everyday experience. I even remember reading about Jan Morris and her 'sex-change' in the Sunday papers. I must have been about 15. I did not identify with her, although I thought her story alluringly interesting.

But like attracts like, and in the summer of 1978, after my having experimented a little already, a friend and I came out to each other, and thereafter slowly to our group of friends, as gay. Most assuredly not to our parents. Nor to other contemporaries who seemed likely to be less accepting. He got a perm, I grew my hair longer and longer, and we looked increasingly incongruent with our surroundings. My mother accused my friend, to me not to his face, of being queer (her word, wholly pejorative) with such venom that I felt there was no way for me to even consider broaching the topic of my

²² 'Tucking' describes how a male assigned gender variant person pushes their genitals backwards and sometimes into the body to hide their existence. The equivalent for female assigned gender variant people is 'packing'.

²³ For similar response see 1st Transition by Paula Sophia (Teague 2006: 2 – 3)

own sexuality with her. In retrospect I thought that in in her hostility she was broaching it with me.

My friend and I talked about homosexual writers, singers and life. I bought my first copy of *Gay News*, and furtively hid it under a pile of magazines in my wardrobe. In *Gay News* and in the music press, as well as in the culture sections of the Sunday papers I read about gay people, and occasionally sex/gender variant people such as punk singer Jayne County. One television programme made a particularly strong impression strong on me. The *Naked Civil Servant* (1975) a television version of Quentin Crisp's biography showed, and I was transfixed by, the rendering of his life amongst London's underground gay demi-monde of the 1920s and '30s. I was attracted to the outsider status of the protagonists, and also towards what I understood to be the illicit glamour, the make-up enhancing made-up lives of perilous feminine artifice.

My friend and I shared a book about the legal rights of gay people,²⁴ with a short, scary bit about crossdressing and not going to the toilet if out and dressed (Davis 2006: 4 – 6) as the only reference to sexgender transgression. And this radical 1970s book managed to make even that relatively mild manifestation of sexgender non-normativity feel like a transgression within a transgression, before we had reclaimed the word transgression, at least in East Yorkshire.

We had a short teen romance with each other, unfulfilling for both of us. It quickly finished but we remained very close. On his 18th birthday we went to Hull's only upfront gay club the Silhouette and drank and danced and he got to screw too, but not with me, with an older trucker we both knew. We talked about it afterwards and then the very beginning of my realisation that we were significantly different in ways I hadn't thought about, and which took years to understand, began to form.

I came to a realisation that what was available to me in the gay life of Hull wasn't quite sufficient. The boys that chatted me up didn't quite treat me right. The Silhouette and its regulars, Camp-in-the-Kitchen the cook, and the glamorous Phyllis and Gloria AKA Phil and Gordon, who fantasised about being American film stars, Phyllis talking about being committed to De La Pole, the local 'mental asylum', by her mum for being gay, but who just wanted to find a man to settle down with, were queer and at the same time

²⁴ Unfortunately, I am not able to find a reference for this apparently long forgotten book.

not. And not quite my milieu. I was attracted to the excitement and what I perceived to be the transgressive. And it was close, but not quite right. The right words in the wrong order perhaps.

So although I had contexts within which to work, the contexts were not quite adequate. Gay hasn't ever really described what I am, though the outsider status it conferred in the 1970s seemed, at least in part, appropriate. For many years transsexual did not seem adequate either, although now that word is reclaimable. But in a world before the words to describe trans* or sexgender variant modality and sexuality were available *to me* what should I have used to describe *myself*? And at a deep level how should I, how *could* I, have understood myself? And although I distrust the metaphor of a journey, suggesting as it does travelling from one distinct place to another distinct place, I am happy to talk about my meandering, from one place that was indistinct because there was no other possibility, to another indistinct place, because now that is how I *choose* it to be, through a number of places that seemed distinct and concrete at the time but which it turned out were actually chimeric. I meandered until I had enough self-knowledge enabled by my life experiences and my exposure to more nuanced discourses (and of course in reaction to discourses I'd found less suitable), to adopt McWhorter's dictum for queer people: 'It becomes necessary to invent oneself' (McWhorter 1999: 5). But of course you cannot invent yourself in a vacuum. No more than you can find your own inner essential self (Heyes 2007: 37).

I contend then that my experience illuminates not that I was constrained in realising my sexgender potential primarily by the disapproval or overt prohibition of social forces operating at the time of my questioning, although these were certainly constraining and even damaging factors, but that there existed, as a result of the narrowness of the available contemporary discourses, a closing down of potential choices for me. In part the choices were limited by a lack of language to express what I felt myself to be. They were also limited by the lack of visible role models compounded by the limits to social interaction set by available communications technologies and the shape and assumed functions of contemporary mass media in the late 1970s.

I now want to go on to examine the development and dissemination of discourses and reverse discourses that have enabled people, myself included, to come to understand themselves in ways that were essentially impossible less than a generation ago.

4.2: The subject and inscription of subjectivity

Ladelle McWhorter referencing Foucault's concept of biopower (Foucault 1998: 140) refers to the recognition it inspired in her, of her own position in the 20th century as a young lesbian student in the USA,

‘... I was intimately acquainted with the mechanisms of surveillance and control that [Foucault] detailed, and I often saw through the pretexts for intervention that made extension of those mechanisms possible. For most of my life I had been watched almost constantly for any signs of sexual deviance – which might include acts or expressions of desire but which might also include almost anything from the length of my stride to the pitch of my voice. This watching went on everywhere, all the time, and was performed by everyone, even strangers [...] however I knew that this ubiquitous network of surveillance was not the product of a conspiracy, nor was it aimed particularly at me. We were all being scanned constantly for information regarding our sexuality. We were all constantly scanning ourselves’ (McWhorter 1999: 24).

Looking at the formations and reformations of non-normative sexgender and sexual modalities in the 20th century referred to in Chapter 1 in terms of reverse discourse, it is possible to track their development from mid to late 19th century development of psycho-medical discourses, within which subaltern subject positions were developed and occupied by individuals who were pathologised and/or criminalised by them. These, in time, created the possibility of the politicisation of (self)-perceived deviance, initially in reaction to oppressive socio-juridical strictures, thereafter becoming embraced as a subject position to be acknowledged, valued and ultimately celebrated. Out of such discursive formations emerged the original gay pride movement in the USA in the 1950s and 60s. Its emergence as a visible social movement, along with others such as feminism and black power, gave rise to questions about the efficacy of organising for rights around specific identities and the extent to which they can be understood as being both stable and essential. The question of modality and its relation to political action is crucial to this thesis as emerges in later chapters. For the moment let me attend to theorising around identity which emerged through considerations of Foucault's work, but which also had a longer genealogy.

In her book *The Second Sex* Simone de Beauvoir proposed an understanding of a binary sex/gender divide which rested upon her much quoted aphorism that ‘One isn’t born a woman one becomes one’ (de Beauvoir 1973: 301). de Beauvoir’s analysis suggests that while people are born with a defined embodied sex, one ‘learns’ one’s gender. So, female-assigned-at-birth (FAAB) people are subject, on the basis of their particular physical embodiment, to patriarchal social forces that *enforce* the internalisation of feminine behaviour. This feminine behaviour is measured and othered against an unchallenged normative masculine ideal and in being so is both found wanting, ‘irrational’, ‘weak’, ‘emotional’, and invisibilised by being denoted as behaviour appropriate to the private rather than the public domain.

de Beauvoir though, qualified her analysis as follows: ‘When I use the word *woman* or *feminine* I obviously refer to no archetype, no changeless essence whatever; the reader must understand the phrase “in the present state of education and custom” after most of my statements’ (cited by Gatens 2003: 267 *emphasis in original*). In her consideration of the subject Butler following Foucault notes that ‘The very subject of woman is no longer understood in stable or abiding terms’ (Butler 2008: 2). But having acknowledged that the category of woman*/women*, and consequently that of man*/men*, has been destabilised by late 20th century critiques, Butler moves on to note that ‘[t]here is a great deal of material that not only questions the viability of “the subject” as the ultimate candidate for representation or, indeed, liberation, but there is very little agreement after all on what it is that constitutes, or ought to constitute, the category of women’ (*ibid*). While this is far from an uncontested position in the history of feminism up to the present (Wittig, 1992, Irigaray 1985, Rubin 2006, Raymond 1994, and the Anntagonist Blog 2013) it serves as the point from which Butler proceeds to discuss the constructed and historicised nature of subjectivity and subjectification.

In *Gender Trouble* (2008) Butler outlines her understanding of how her concept of performativity supports her understanding of gender as productive of sex rather than being the socially produced identity enforced upon one on the basis of one’s sex. Butler says about performativity that from the point of our birth and signification as both sexed and gendered as in ‘it’s a girl/boy’ and thereafter throughout our life, we are meaningfully constructed by the productive and constraining forces of the discourses that, in a Foucauldian sense, transmit and enforce the domain of power/knowledge of the epoch into which we are born. ‘For Foucault the body is not “sexed” in any

significant sense prior to its determination within a discourse through which it becomes invested with an “idea” of natural or essential sex. The body gains meaning within discourse only in the context of power relations’ (Butler 2008: 125).

In a crucial passage Butler tells us that,

...acts, gestures, enactments, generally construed, are *performative* in the sense that the essence or identity that they otherwise purport to express are *fabrications* manufactured and sustained through corporeal signs and other discursive means. That the gendered body is performative suggests that it has no ontological status apart from the various acts which constitute its reality (*ibid*: 185, *emphasis in original*).²⁵

The acts, gestures, enactments, these *fabrications* that Butler refers to, are the inscribed manifestations of the apparent naturalisation of our sexgendered ontologies. They are a manifestation of a confluence of transmitted behaviours that represent our *apparently* unmediated social expression, within the constraints of the sexgendered limits within which we exist, which as Butler says, constitute our sexgendered selves. As she puts it they are ‘... the repeated stylization of the body, a set of repeated acts within a highly regulated frame that congeal over time to produce the *appearance* of substance, of a natural sort of being’ (2008: 45 *emphasis added*).

With a sense that she hadn’t clearly established sufficient grounds for the possibility of agency in *Gender Trouble* insofar as it is not quite clear in what way this compulsion to repetition offers room for the development of new forms of sexgender (which may then reveal previously occluded possibilities of sexgendered modalities), in her next book, *Bodies that Matter* (2011), Butler develops her themes. Borrowing from Austin via Derrida she harnesses the concept of citationality or iterability to clarify her notion of performativity.

Central and critical to this clarification is the recognition that discourses need to be understood as ‘... practice[s] of repetition’ (Lloyd 2007: 63) which over time effect to

²⁵ In this thesis I use the term ontological not as traditionally used in western philosophy as the study of what exists in an unmediated ahistorical sensed. Rather I follow Butler who writes from a position she shares with other contemporary thinkers to conceive of ontologies as needing ‘... to be historicised. In this way their assumptions can be exposed as contingent historical (discursive or linguistic) effects. Far from being objective and neutral, ontologies are political, locked into the power relations that order “reality”, and as such they are inherently contestable’ (Lloyd 2007: 69).

both restrict or in Foucauldian terms discipline and subjectivise actors, and simultaneously open up space for mis-citation and therefore the possibility of change. In this scheme gender norms are repeatedly cited and re-cited. However importantly ‘... they are *forcibly* cited. The norms that are repeated are thus both deeply imbricated in relations of domination, reprimand and control [...] *and* they are inescapable’ (*ibid*).

In linguistic terms we are moulded by the availability of legitimate sexgenders, and appropriately restricted sexgender performance within those restricted codes. This occurs in both the generative sense of our enacting our sexgenders most productively for ourselves from within the repertoire considered appropriate for our sexgendered, racialised, aged and abled embodiments, and prohibitively in the sense that we are punished variously for ‘doing’ sexgender badly or wrongly. The constraints placed on us through which we understand ourselves and others in relation to ourselves, and vice versa, limit the potential repertoire of practices available to us. In this sense our agency is limited. However, it is in the repetitive nature of those practices that space opens up for us to mis-cue, to stutter our responses, or to mis-pronounce our lines. So gender can be said to be ‘... constitutively unstable and it is, as Butler puts it, “this instability [that] is the *deconstituting* possibility in the very process of repetition”’ (Lloyd 2007: 65, *emphasis in original*).

The possibility that instability exists in this sexgender scheme shouldn’t however obscure the fact that a sexgender system predicated on hetero- homo- and transnormative constraints is powerful in its productive nature inscribing itself onto bodies and thereby situating them as sexgendered subjects, but equally that in doing so it disallows a great deal. Non-normative sexgender expressions are disallowed in two ways: existing non-normative expressions are subject to various forms of punishment; and other kinds of non-normativity are simply unthinkable, and therefore simply not available to be performed. Of course there are imbrications between the two as the perception that one might be punished for non-normative sexgender expression is a powerful motivator to consider doing something as ‘unthinkable’ for a variety of reasons including those signified as moral. This has the effect of rendering certain sexgender modalities simply beyond reach at given times and/or in given contexts, given the availability of certain discourses and the unavailability of others. Certain ways of being are simply unavailable.

This is not to suggest that we live in a world in which the documented increase²⁶ in variety of sexgender modalities represents a slow revealing of possibilities; that what were previously hidden by restrictive and oppressive discursive limitations are now accessible in more enlightened and liberal times. Such a reading would assume much, not least that contemporary western expressions of sexgender modalities represented something essentially true rather than historicised and contingent. We should not consider that our early 21st century skein of sexgender entanglements will persist and be of anything other than quaint historical interest to people in the early 22nd century, in much the way that the mollies, tribades, sodomites and inverts of former eras are for us. But this is not to deny that some significant social reconfiguration is currently taking place in which we can find meaning. It is the significance and effect of this meaning that I am interested in discussing.

4.3: Narratives – debates in trans* scholarship

A great deal of research into trans* defined discourse has, understandably, focused on the stories of trans* people themselves. Sexgender narratives are obviously not unique to non-normatively sexgendered individuals and are deeply embedded in everyday life. But many normative sexgender narratives, while they do involve a crossing, do so in an affirmative, conforming way. Thus the crossing from girlhood to womanhood prefigured in the young Iris Marion Young's playful enactment of breastedness (Young 2005: 190), or the covering of a girl's hair at the age of 13 for some people of faith, and the enactment of Bar Mitzvah or adolescent circumcision, are performances which confirm conformity to normative tropes of femininity or masculinity. These ceremonials suggest social continuity rather than disruption, and are part of wider patterns of behaviour that underwrite and enforce social cohesion, while simultaneously othering people to whom these rites of passage are alien or who reject them. But in the enactment of the performative actions of these rites of passage, heightened (adult) subjectivities are instituted. In the telling, the before and after myth making, and the instagrammed postings, their meaning or meanings are embedded in a hegemonic social culture which maps itself indelibly onto the subject. These processes also work by squeezing out or suppressing what may become effectively unattributable, socially extraneous, or psycho-socially damaging behaviours.

²⁶ See chapters 4, 5, 6 and 7.

In the history of trans* biography, and its relation to trans* autobiography, we find a mirroring process of institution whereby narratives allow and simultaneously restrict institutions of sexgender modality. That this is true equally for biographies of transsexual, and thereafter transgender and currently and pertinently trans* identity/ies, highlights the contingency of contestations in relation to imbrications of self-understanding and embodiment. Thus in my consideration of contemporary trans* modalities I take account of the genealogy of the interactions between transsexual, queer and transgender discourses, drawing attention to their limitations, while recognising that they have cumulatively contributed to contemporary trans* scholarship, activism and the shape of our current existences.

In *Second Skins* Jay Prosser, discussing transsexual narratives, states that ‘It is not simply in the clinician’s office but in the very conception of transsexual subjectivity that autobiography subtends (supports and makes possible) transsexuality’ (1998: 115). Prosser’s project is the projection of transsexual identity as confirming and conforming of sexgender identity as opposed to the postmodern/queer theorists’ co-option of *transgender* as a deconstructive genre, destabilising of the bi-gendered hegemonic sexgender system. His contention is that within the constraints of the genre of autobiography the author makes sense of their transsexual lives, albeit that ‘The entire life is filtered through the present moment of remembering: or in fact several different moments after the event; remembering in the life and in the writing’ (Prosser *ibid*: 117).

Prosser references a number of transsexual auto/biographies which all share essentially the same form; that of a journey from what the auto/biographical subject was, to what they have or will become, the story that I did not write above. What they also share is an uncritical understanding of eventual or planned (some of the subjects are pre-operative²⁷ but intending to ‘complete’) bodily coherence. Indeed bodily coherence, ‘... for it is the body that makes the difference to the subject of transsexuality...’ (*ibid*: 122), is what Prosser contends is at the heart of the transsexual project. As he says ‘Autobiography produces identity (sameness, singularity); transsexual autobiography, we should not be surprised, produced gender identity’ (*ibid*: 120). And in the form of autobiography, the *diegesis*, with its clarifying and cohering function, stands in stark

²⁷ Pre-operative or pre-op is a designation still employed in some trans* discourse in the UK although as a marker of changing subjectivities it is increasingly supplemented by the designation non-op.

opposition to the *mimetic* function ascribed by critics such as Benhabib to Butler's theory of performativity (Lloyd 2008: 58 – 59) .

In relation to achieving coherence he remarks upon the similarity between the writing of transsexual autobiography with the autographical speaking that goes on in the clinician's office. In both cases 'Narrative *composes* the self' (Prosser: 120), *emphasis in original*). Further that '... given that transitions always require that narrativization of the life, there is no other way in which the subject [...] could come to naming, to realization of his or her categorical belonging except through some form of narrative' (*ibid*: 125).

Prosser critiques Hausman's suggestion that it is impossible to conceptualise cross-sexgendering people as transsexual if they existed before the technology²⁸ became available to facilitate 'sex change'. There is evidence that what we would recognise as trans* expression, and arguably specifically transsexual expression, existed in the late 19th and early 20th centuries (Feinberg 1996). In arguing that this proves that transsexual modality does not rely on modern psycho-medical techniques however, Prosser fails to take account of the formative conditions of strict bi-gendered dimorphic hegemonic social structuring underwritten by emergent sexgendered socio-legal institutions (Sears 2013) which taken as a whole prefigured and enabled the later emergence of the transsexual medical model in the mid-20th century in the specific form it took.

This medical model has been understood by postmodern, queer, feminist and transgender theorists to be a reductive and oppressive regime that re-inscribes normativity onto non-normatively sexgendered bodies at the expense of their being able to choose more deconstructive possibilities for their lives. Prosser suggests that it is not the medical model which has formed transsexual identities, but rather that the narratives of transsexual people gave rise to the medical model. And that in instating the medical model a transsexual discourse developed from narratives of pre-'sex change' age trans* people, placing the body at the heart of the transsexual project.

²⁸ I understand the technology being discussed to be the endocrinological expertise and ability to perform the various transformational surgeries required by trans women and trans men in order to complete their embodiment.

Two points are raised by this. Firstly we should be clear about the distinction and relationship between the transsexuals' narratives(s) and transsexual discourse. If people felt that they had a profound desire to live in the body of the 'other sex' it is possible that they are reacting to an alienation deriving from rigid bi-gendered dimorphic roles and expressions available within such heteronormative constructions. And it is within a newly intrusive (and by this I mean intrusive in new ways) set of psycho-medical discourses that accounts of non-normative identity and expression were detailed and the resulting accounts of inversion emerged. That the invert as initially described was what we would now understand as an amalgam of the homosexual and the transsexual (Love 2006) should make clear the power of contemporary discourses to form new subjectivities through objectification, and it is through the genealogy of these subjectivities that the classic 20th century transsexual discourse, embedded in the medical model, emerges at the point that 'sex change' seems possible. The narratives that emerge do so through the psycho-medical accounts of people being pathologised, and then later through interactions with an established reassignment regime which helps shape their understanding of themselves. And as community knowledge expanded there is good evidence for trans* people using the Harry Benjamin 'bible' to study how they should behave and respond to clinician's enquiries in order to ensure they were presenting an acceptable role (Stone 2006: 228, Irving 2013).

Secondly, as I discuss further in Chapter 5, the above is not a repudiation of the facticity of dysphoria experienced by some non-normatively sexgendered people. Both contemporary and historical experiences of bodily interventions accessed across borders and epochs, in both their varieties and similarities, confirm that humans have always sought interventions, both confirming and destabilising of sexgender norms and that some societies have adapted to take account of the validity of people's non-binary natures (Brayboy 2016). As Preciado tells us 'There are a wide variety of models for genderization [...] depending on the historical moment, and on the political and cultural content' (2013: 273) and this is reflected in the models that have been and are available for trans-sexgenderization, and increasingly for other non-normative expressions of sexgender.

This is exemplified in current recognitions of non-normative sexgender subjectivities which manifest the coming-to-an-end of the modernist subject with its universalised apparently ahistorical strictures. We are now witness to the emergence of *post*-modern,

post-*human* discourses calling for the recognition of the constructed nature of sexgender and the concomitant legitimisation of non-normative sexgender identities and expressions, overhauling and in some cases, calling into question the very legitimacy of the transsexual model itself. While the older western model(s) of the enlightenment were underwritten by discourses that valorised a relatively stable individualism, these have been co-opted and scripted onto a far less stable neoliberal fetishism of individualism which is currently playing out in both the economies particularly of the west (though not without profound implications for other parts of the world), but also in the consciousnesses of westernised subjects in particular. I return to this in the next chapter but for the moment I want to examine the emergence of contemporary sexgender identity discourses initially exemplified in the rise of transgender theory.

4.4: Contextualising the focus on diversity in the transgender canon

In Chapter one I discussed the work of Sandy Stone and in her call for transsexual visibility ‘The Empire Strikes Back’ her subtitling of the essay ‘A Posttranssexual Manifesto’, envisages a new world of challenges to normative sexgender models in which transsexual and other non-normatively sexgendered people stand up and stand out, visible to public scrutiny. Stone made this proposal as an empowering alternative to transsexual narratives in which the subjects had gone ‘... from being unambiguous men, albeit unhappy men, to unambiguous women’ (Stone 2006: 225) who, notwithstanding the public nature of their confessionals, seek to live the naturalised and unremarkable lives as lived by other unremarkable women or men. In fact unremarkableness is a defining feature of their transformative projects.

Following Stone, in reclaiming the term transgender from its avowedly apolitical previous use Leslie Feinberg (2006) in his discussion about the invisibility of greater varieties of trans* expressions and lives, sought to politicise trans* discourse. From a Marxist perspective Feinberg lays the blame for the enforcement of rigorous codes concerning bi-sexgendered conformity on modern capitalist social structures. Ze contends that in the pre-capitalist West, and in a number of other cultures, alternative trans* lives were evident and accepted, or in some cases even revered.

Transgender was appropriated by Feinberg as an umbrella term which would help to coalesce a group of people with non-normative sexgender modalities into a loose-knit

politicised movement to advocate more widespread understanding of such people and campaign for their right to recognition and by extension protection. Feinberg suggests that all sexgendered modalities should be considered authentic and valid. Ze gives a role/roll call ‘... of “gender outlaws: transvestites, transsexuals, drag queens and drag kings, cross-dressers, bull daggers, stone butches, androgynes, diesel dykes or berdache – a European colonialist term’ (Feinberg 2006: 206). Ze goes on to echo Stone in pointing out that ‘We didn’t choose these words. They don’t fit us all. It’s hard to fight an oppression without a name connoting pride, a language that honours us’ (*ibid*). This is a call not just for visibility, but for a reframing of non-normative sexgender discourses. Ze goes on ‘Transgendered people are demanding the right to choose our own self-definitions. *The language used in this pamphlet may quickly become outdated* as the gender community coalesces and organises – a wonderful problem’ (*ibid*: *emphasis added*). Thus, ze valorises not only diversity but also, within the terms ze sets himself, contingency. But although it could not have been clear to Feinberg at the time of writing what the limits of hir call for a new polysexgenderism might be, we can see in the configuration of hir call for a politics based on a diversity of sexgender identities, a somewhat inward looking impulse, atomised if you will, from wider political discourse, and certainly in the way it has subsequently been taken up, as curiously apolitical, or if political only in a particularly limited way.

To clarify, the terms trans* and sexgender nonconforming discourses, are thus reconfigured in a way that focuses on the primacy of the diversity of sexgender identity as a defining aspect of people’s lives, and one which they should organise around and understand themselves through, individuated and essentially disconnected from broader structural economic analysis. But who could blame people who had been so sorely oppressed and erased from mainstream radical politics and/or public life, for regrouping around their own reverse discourses of pride in their various diverse sexualities and/or sexgender ontologies, notwithstanding the contestations that emerged between and within sub-communities. And the emergence of a radical trans/gender/sexual politics in the late 1960s and early 1970s included a significant and meaningful manifestation of trans*/sexgender consciousness and reaction to constraints of normativity and oppression in post-WW2 western and Anglophone societies.

This impulse to diversity however, developed in the emerging context of the break-up of the post-WW2 consensus at a time of globalisation and resultant deindustrialisation in the UK. The political reaction to the end of the economic conditions on which the post-WW2 consensus was based and in reaction to the apparent global success of communism²⁹ was the popularisation of tropes of neoliberalism, exemplified by the election of the Thatcher governments and Reagan administrations, with their drive to privatisation and desire to valorise individuality and individual responsibility. The turn to an individualism which, after all, has been a fundamental aspect of a great deal of enlightenment ontologising, has been reflected in much scholarship focussing on trans* issues. And at a time when neoliberalism has valorised at least *normative* expressions of diversity (see Chapter 4) this has had a profound impact on the way that western trans* scholarship has developed in as much as what hasn't been widely addressed as what has. This has been represented in discourses in which the recognition and protection of individual identities has been privileged at the expense of discussions of collective political actions and class solidarity which has both been an effect of, and in turn reinforced, the atomisation of social organisation.

A focus on individuality and identity has underwritten discussions and contestations between scholars focussing on queer and postmodern theorising emerging out of Foucauldian post-structuralism that claimed trans* to be a destabilising trope, and certain transsexual and feminist scholars such as Prosser and Benhabib, who posited a significant stabilising role for lived embodied sexgendered experience. And as transgender studies became more established and widespread in the academy, according to Bernice Hausman '... it is clear that transgender issues [were] becoming a focal point of scholarly and popular thinking about gender in a way that women (as the objects of analysis) used to be' (2001: 465). Thus across disciplines '[t]here are a number of studies within sociology (see Devor 1989; King 1993, 2003; Ekins and King, 1996, 1999; Lewins, 1995; Ekins, 1997), social policy (Monro, 2005), anthropology (see Gagne & Tewksbury 1997; Kulick, 1998; Cromwell, 1999; Wilson, 2002), and literature and cultural studies (see Nataf, 1996; Halberstam, 1998) which adopt a micro analysis to variously explore transgender identity constructions, behaviour patterns and politics' (Hines 2006: 50).

²⁹ To put this in context at the height of communist influence around the world up to 40% of the world's population lived in societies which were self-described as communist (Priestland 2010).

What emerges then, in much of the scholarship is multiple investigations into diverse and new ways of understanding what it can mean to be trans* or non-normatively gendered and how this impacts on notions of citizenship and associated concerns with legal recognition and protection. Butler's early work has been very influential and was undoubtedly very important for feminism and for many transgender studies scholars. Even given its significance it is important to recognise that what was descriptive in her work also became inscriptive by narrowing the discursive ambit of transgender studies. Yet at the same time we need to recognise the beneficial effects of cultural discussions about what it means to be trans* and sexgender nonconforming and the positive effects these have had on people's lives.

4.5: Contemporary trans* and sexgender nonconforming narratives

In this section I engage with the testimonies of my respondents and their own accounts of their own developments and engagements with their worlds as non-normatively sexgendered people in the early 21st century in England and Wales. I examine how their subjectivities reflect their socio-historical placing and how this has contributed to enabling (and continuing to obscure) new ways of being to emerge. I am interested in the trajectories and fluidities of their lives as they became exposed to developing social possibilities.

Above I make the point that much of the focus of trans* and sexgender nonconforming discourse has been on the personal, the abilities of people to realise themselves as trans* or sexgender nonconforming subjects and to develop as people at least partly on their own terms, and concomitant activism predicated on such an approach. In the following chapter I critically discuss the sociopolitical conditions which have promoted greater acceptance of more diverse sexgender modalities as well as the nature of the diversity being valorised. Before that however I want to acknowledge that many people have benefitted from being allowed the sociocultural licence to engage with their own trans* and sexgender nonconforming projects, in a variety of ways and with a variety of outcomes. Such benefits may be experienced unequally by different people depending on their circumstances. Nonetheless I think it important to stress that they do exist and that many people across many demographics in contemporary England and Wales have benefitted in significant and material ways.

Helen is a mature woman who identifies ‘as female with a transsexual history.’ However she ‘identified as a transvestite for an awful long time.’ She describes the circumscribed conditions in which she began presenting in public:

First time I went out in public was erm, 1963, 64, 63 I think. [...] I caught a train from Cambridge to Liverpool Street and changed in the loos on the train. And then went on the underground, and Piccadilly Circus, and then went back again. So and then a couple of years later I moved to London and would do my shopping dressed³⁰ if I possibly could using the same sort of facilities to change in.

But Helen was doing this all by herself:

No there wasn’t networks. The Beaumont Society hadn’t been started. Well, no they might have been by the time I moved to London [...] but the technique for getting in touch was *so* convoluted you just couldn’t do it, you know. You had to make contact and be vetted. I mean I didn’t even know there was a name for cross-dressing at the time.

This isolated life of cross-dressing was interspersed with periods of inactivity punctuated by instances of purging:³¹

The first lot went over Vauxhall Bridge into the Thames, the second lot was put into a waste bin at a picnic site in Bedfordshire and set fire to. And I don’t know where the third lot went but somewhere similar I’m sure.

What brought her out of the isolation was,

... when I started dressing again in the 80s that I’d become aware that trans* people also went to gay venues. And I could identify where they were and TS News³² had started to be published about then as well, which was very useful, to give you venues.

And as Helen moved with work to Chester and,

³⁰ By ‘dressed’ Helen means ‘presenting in her preferred sexgender’.

³¹ A term used to describe the process of throwing away all one’s cross-dressing clothing because you intend to give up, only to subsequently begin again.

³² A very basic free listings magazine available from trans* friendly social venues from the 1980s to today.

... I was coming across to the [Manchester gay] village, then I really got involved with it, and that's when I got involved in a lesbian relationship. That was before I started my treatment.

Karol who is almost 20 years younger than Helen tells a similar story about shifting identification:

I've been going out as Karol for over 12 years now, so I'm pretty worldly-wise. Erm, but in the early days I identified as a transvestite and now I so do not, in fact I get quite stroppy about, you know, about being identified as a transvestite.

But similarly to the autobiographical passage at the beginning of the chapter Karol had to confront confusion about how she identified:

And it was a bit confusing because for a while I was like, well I don't think I'm transvestite, in fact I feel very strongly that I'm not a transvestite. But I don't want SRS³³ so I'm not transsexual, so what the fuck, you know. 10 years ago I was confused and didn't know what I was and 10 years later I'm *still* confused you know....

But Karol's public emergence and consequent deliberations crucially began at a time when access to information was beginning to increase and one particular aspect of Karol's life gave her earlier access to this than many other people:

I work in IT [so] I got access to the internet quite early on at work, you know, like years ago, before it was kind of common. And so of course once I got on there the first things I started doing was looking up websites, tranny websites and things. And then I finally started, and to start with it was all pornography and I thought this isn't me, and I was getting more confused than ever. And then I actually found a few websites of girls in London, trannies in London, who were going out, who looked good, who didn't have cucumbers stuck up their arse, and were enjoying themselves [...] and I thought oh I can relate to you, me too please, can I be one of your gang. And six months later I was one of their gang.

³³ Sexual Reassignment Surgery, sometimes referred to as Gender Reassignment Surgery or GRS, but in this thesis as Sexgender Reassignment Surgery or SGRS.

And in an appropriate squaring of a circle Karol developed a significant online profile becoming one of the ‘faces’ of the emerging M2F* internet community in the early noughties.

References to the internet and its critical role in supporting identity and community formation are a recurrent theme in my respondents’ narratives. Helen said very bluntly ‘I think it has changed things totally.’ In chapter 6 I trace the development of the internet and social networking in more detail and suggest a more nuanced conclusion. In this chapter however I focus on the observation of the majority of the respondents that the internet has had a significant effect in enabling them to realize certain sexgendered potentials in themselves. This illuminates the extent to which diversity discourses, in serendipitous but interrelated conjunction with the growth of IT interaction (amongst other socio-cultural factors), have supported the emergence of new subjectivities. What was previously unrealisable and illegible about people, even to themselves, enters a process of becoming possible. The environments within which such interactions take place however should be understood not as neutral, but as constructive and constraining, thereby delimiting outcomes. This is illustrative of the ways that changing discursive conditions create new possibilities for revealing individual(s’) potential(s) *in particular constructions*, and allowing for the creation and realisation of new, but still contingent, actualities.

This is reflected in Ben’s experience. Ben had read about male to female transition but hadn’t come across any reports of female to male:

I knew that men could become ladies, I’d heard of that, but I’d never heard that women could become men. Never heard of it at all. So I assumed that I was a freak and I assumed that I was the only one because I’d never heard of that [...] Somehow couldn’t see that being female and going to be a male was normal [...] And I felt it was this deep dirty secret.

But when Ben, a late adopter of the internet in his late forties, discovered websites such as Press for Change and You Tube he found it self-confirming:

I found out a lot of medical information, which I was interested in initially. It was only because I needed to know, you know, like a mental thing. I needed to know it was a real thing and not just like depression that passes. I needed to

know that it was a real standing thing. And although I knew I'd had it all my life it was just sort of really? Really? And can something be done about it? If I come out am I always going to be a woman who is trying to look like a man?

It seems reasonable to draw the conclusion that Ben's experience mirrors the experiences of erasure of other numberless non-normatively sexgendered people living beyond the scope of accessible non-normative discourses.

And Ben's experience of self-development being supported by online connectivity at an older age is shared by other respondents. Thus Rachael describes trying on her cousins' dresses and being caught by her mum at the age of about 10 and the resulting guilt:

The guilt accompanied by a very very strong desire which really, bit by bit, manifested itself into a secret life, a closet life. And eventually I got married and tried to suppress all that because it was associated with guilt [...] I didn't say anything to her because it was very very within me [...] So only when the internet came around, became available I could find some sort of outlet. Initially though, for me it became an unhealthy outlet because I was creating alter-egos for myself in on-line forums [...] It was only after I got divorced that I was able to explore who I felt myself to be. And that's when I got onto social networking sites like tvChix, I made friends on there. And I found the village in Manchester which again I didn't know anything about.

And via the internet Rachael moved on,

... and I moved away, very very much [...] away from all that Village, going clubbing with the t-girls [...] For me I feel it was much more important in my development of who I am to interact with the mainstream community. And I've virtually dispensed with tvChix and the networks like that.

Rachael understandably associated her suppression of her cross dressing with guilt but recognises that re-engagement with that part of her life became possible through extended interactions with online discourses, leading to 'real life' engagement. The fact that she chose to move away from the initial points of contact that she made only underscores that fact that she has been able to understand herself positively and overcome her own erasure more fully as a result of accessing new supportive discourses

and environments. But it is important to acknowledge that these discourses themselves are mutable, and that differently situated people have different engagements.

As Helen discussed purging, some of the other older respondents offered considered opinions about passing and stealth. The issue of passing is one that continues to be widely discussed in contemporary trans* discourses, involving as it does considerations of personal safety, as well as variously, a reaction to the psychological difficulties of being mis-gendered, aesthetic issues and issues about authenticity and the politics of visibility. If age seems to be a factor in familiarity and engagement with such practices and concepts, so too does sexgender situatedness. So while older trans* people on the transsexual feminine spectrum were familiar with the concepts of stealth and purging, so were non-transsexually identified trans* feminine people. Stacey, for example, in her early 40s, who identifies as a t-girl,

... because the way I look at it it's the least likely term to be used in a derogatory fashion towards me

thinks purging shouldn't be considered:

I've never purged and being pragmatic I wouldn't. From the pragmatic side of things I'm not going to ditch £1,000 worth of clothes and trappings

[Me: It's usually done out of a sense of guilt, but you don't feel that guilt?]

I think I've understood it enough to feel pragmatic about it [cross-dressing], to feel that it is part of my psyche and I warn anybody anyone and everyone [...] for god's sake do not sell it all off, bin it, [or] burn it.

When asked about stealth Eddie, in his early 20s who identifies as a feminine male, said he had never heard the term in this context. Reflecting on it he said:

I think it's a real shame, I think it's very sad. [...] I think if you completely change your life and try and pursue a life as a completely different person you're ignoring the things that made you who you are.

It is significant that he hadn't come across the term, but equally significant that in the absence of familiarity with such discourses and with a very clear sense of trans*

confidence developed from his own discursive experience he understood the sadness of a sense of trans* shame very much outside his own experience.

In contrast Corin, who identifies as a masculine woman (although she says ‘I think it’s been a lot more complicated in the past.’) says that:

I think perhaps stealth was something that was just an expectation that people would want or do in the past [...] whereas now, I think, you know, I think the idea of being stealth is perhaps in some groups a bit contentious [...] Like the idea of trans* as an identity, like an ongoing identity rather than just transitioning and then sort of once you finished your medical transition then not sort of identifying with that as a term.

That Corin’s attitude seems informed by contemporary trans* and queer political positioning, reflecting Stone’s early call for trans* visibilities, seems apposite given Corin’s status as a graduate researcher in a school of gender studies at the time of the interview.

In contrast to the trans*-specific, if at times non-trans*-normative³⁴ discourses that I have focused on hitherto Corin’s contribution represents an engagement with a more deconstructed concept of sexgender identity. This is taken further, if somewhat differently by Sky, an activist in their early 20s who, discussing the labile nature of their identification said:

If I work in a bar and if a creepy man touches me I have a rugby playing boyfriend so go away, and I pretend that I’m straight. I have no shame in doing that if it’s to do with my safety. Then I have the like yeah, I’m gay and then sometimes I’m like yeah I’m trans*. My levels of coming out are like that.

While clearly there is an instrumental aspect to Sky’s expression of who they are, there is also an apparent lability in their internal compass which allows them to identify without reliance on an essentialized fixity. It is of course possible to query the extent to which multiple identifications are feasible in relation to a personal congruity. Passing over that however it is revealing that exposure to contemporary non-normative

³⁴ I discuss transnormativity in the context of heteronormative and homonormative scholarship in Chapters 4 and in relation to embodiment in Chapter 5.

discourses and topographies enables even the possibility of expressing oneself in such a way.

Returning to Eddie in his relation to trans* modality they were, I think justifiably, circumspect:

Oh there's not a term that I've come across that would accurately describe the person that I am. I don't consider myself transgender. I would never have the operation. The only thing I would take is hormones and again it's purely for an aesthetic reason.

Nonetheless even this quote of non-transnormative identity makes clear that he makes his distinction on the basis of established and normative trans* discourses. And significantly he had difficulty at times in framing his experiences as distinct from trans* ones:

I've been openly gay since I was 12. I used to be a goth when I was a kid, I think because it was more accessible than being a tranny.

And in relation to how perceptions have changed:

I think it's much better now. I think people do have the understanding that they need in order to be able to accept transgender or the trans* community into everyday normal life.

Discussing further evidence of how non-normative sexgender discourses are becoming available for people far younger, Eddie notes that:

I remember speaking to one of my friends who's still in school, a young friend, and he was kind of shocked that I'd had any problems in school because his school, it was like, you just do what you want.

Eddie's comments reflect his understanding of sexgender relations as operating very much along a fairly traditional sexgender binary, albeit that his place within the binary represents a challenge both to their self-conceptualising and to how he is often socially perceived. Other non-normatively identified respondents however have more deconstructed identities which have evolved from places of erasure.

Lee is a trans* activist who worked in Sheffield for a number of years. He has been involved in setting up trans* masculine networks which have nationwide recognition within trans* masculine communities and beyond. Discussing trans* masculine sexualities he plotted the development from (trans*)normativity to diversity. Lee went from a position of very little information,

...you very rarely hear[d] about people being trans* and you very rarely hear[ed] about gender identity stuff. So I knew there was something that wasn't quite right and therefore I thought it must be my sexuality and kind of went down that route [of thinking of himself, pre-transition, as lesbian] There was very little information out there so when I was first exploring my gender identity I didn't realise I was exploring it [...] When I first started T-Boys [in 2002] the community felt very much like you had to be straight, very little idea about queer, gender queer, anything like that. And it was you are male and you are straight [...] And then you got whisperings of people identifying as gender queer or more and more people saying I might be bi or I might be gay, more and more people being much more open about their sexuality.

And this move away from older transnormative codes being enforced by erasure of diversity of sexuality is echoed by Sabah who is in his early 20s and who in relation to his own sexuality reflected that,

... I've always liked girls and I think I probably always will [...] I guess technically that would make me heterosexual [...] But that would imply that I'm one sex and attracted to someone of the opposite sex but I don't really see things as that binary. I mean a few guys round here, they've got boyfriends. I don't think there is that expectation to be heterosexual anymore. I think the whole queerness is leaking in.

4.6: Valorising diversity

In the introduction to A Cyborg Manifesto in *The Transgender Studies Reader* the editors tell us that Haraway is addressing '... the way that "gender" is, in part, a story we tell ourselves to naturalize a particular social organisation of biological reproduction, family roles and state powers' (Stryker and Whittle, 2006: 103). While this may be true

at a macro level what does it imply about the individual testimonies that I have introduced above?

In Chapter 3 I referred to Hausman's critique of grounded theory in terms of its accepting at face value the testimonies of respondents. Although the sample of trans* possibilities represented by my respondent cohort cannot be said to be more than a snapshot of current themes and expressions within wider contemporary trans* constituencies, it is sufficiently broad to draw some conclusions from what is reported, and as a result to contextualise other, particularly UK based, trans* research.

It is possible to see trends in the testimonies that support the idea that the respondents have come to understand themselves through interaction with discourses both offering and denying possible ways for them to fulfil their potentials. There is evidence not just of fixed and definitive identity categorisation, although some respondents do report on their self-understanding in such terms. In other cases and in particular fields however evidence of mutability and shifting self-understandings and expressions are clear, even in cases where the respondent reports their final (for now?) identification with what Rachael describes as the mainstream community. Likewise while some respondents adhered to fixed (taking into account of course their respective transition experiences) normative sexgender ontologies others described lability in either their self-understanding, in the sexgendered culture of the communities with whom they have their primary social identification, or both.

That there is reported diversity of both self-understanding, and of ways that respondents relate to technologies of transition in terms of what demands their sexgender project makes on their embodiments, is apparent. Some transgender, transsexual and feminist scholarship has sought to locate discourses of transsexualism within a heteronormative discourse affirmative of oppositional bisexgendered dimorphic hegemonic tropes (Raymond, 1994; Hausman, 1995, 2001). Conversely, transgender discourses have been understood as representing deconstruction of the same tropes and as therefore more creative and progressive (Feinberg, 2006; Bornstein, 1994). This binary construction has been challenged amongst others by Zowie Davy who writes that:

Transgendered people, here, it seemed had unrestrained choice to be who they wanted to be. Transsexuals, however, were constrained by a wish to pass as a particular gender. I suggested that the Transgender/Transsexual distinction was in fact not an easy one to draw and, moreover, I argued that this dichotomy becomes divisive and unproductive for theorising the diverse phenomenology of transpeople (Davy 2011: 169).

Davy goes on to emphasise the importance of recognising the value of a phenomenological analysis of the ontology of trans*. In this context,

[t]he concept of intentionality – someone who has an attitude towards the world – enables an analysis of divergent bodies in various personal and public situations; furthermore, it allows us to understand how the bodily aesthetics of transpeople are situated contextually. I observed that there is a greater scope for a broader, inclusive understanding of transpeople’s differences if we refuse to judge “good” and “bad” transgender practices and instead incorporate phenomenological notions of difference as both an ethical and methodological necessity. Thus starting from this standpoint is valuable, because not only does it allow us to recognise difference within the broader categories of transmen and transwomen, but also allows us to understand that the various habituses of transpeople have historically divergent aspects that generate embodied practice (Davy 2011 169 – 170).

While I take issue with the efficacy of delineating people’s sexgenders in binary categories I think the recognition of difference emerging from historically divergent habituses is useful. I think if we consider trans*-topographical features such as geography, ethnicity, and class as well, we build in socio-historical contingency to our understanding of trans* possibilities. The testimonies of the respondents in this chapter, as well as from respondents in other contemporary UK trans* scholarship (Hines 2006, 2010, Yeadon-Lee 2009, Hines and Sanger 2010) support this, and such a view helps to account for the variety and in some cases sense of development (although I hesitate to invoke the idea of progress) revealed by the respondents. In a self-supporting sense it is perfectly reasonable to assert that outcomes of respondent interactions in their very diversity reinforce what is being claimed here about the importance of recognising the historicised and therefore contingent nature of such narratives.

In relation to age specifically however, I want to stress that it is affective in complex ways. My respondents report particular differences in experience, which are connected to when they were born. For example, the lack of access to knowledge and facilitative communications networks in a less accepting sociocultural environment clearly had an impact on people such as Helen, Karol and Ben and the ways and extent to which they were able to understand and/or accept themselves. However, people's reported developing self-understandings may signify significantly different trajectories, for example in the case of the similarly aged Lee and Ben. Thus, age is implicated here and acknowledged as impactful, but I want to avoid reductive theorising that suggests that age *defines* people's experiences. Rather it has had an impact on the journeys that my respondents have been on and continue to travel, in particular their starting points. However, it is less clear that it has such a definitive impact on the outcomes of those journeys. Within the emerging epistemology of nonbinary (Richards *et al* 2017) I think there is room for further and deeper examination of the impact of age, but for my research I think it sufficient to acknowledge that age adds complexity to people's historicised emplacement in sexgender discourses.

That people's narratives have emerged through biography has been discussed above in relation to Prosser's work. While I took issue with his conclusions he certainly says something important about the distilling effect of producing narratives and we see this effect cumulatively fed back to us in research that has been undertaken by people in the field of transgender studies over the past 20 years or so. As people absorb new discourses and recognise potentials in themselves in terms of what becomes legible they offer the same possibilities to others through their relationship to researchers as respondents. And incrementally, whether in mis-citation or cross-pollination, change occurs.

Recognising trans* individualities from such a perspective challenges essentialist ontologies and the medical model of transsexuality. It also goes some way to explaining the complicated relationship between the development of that model and the self-understandings of people for whom it represented a route whereby they could achieve both psychological and embodied congruity and a degree of social (re)-integration. This is not to accuse people of misunderstanding their own ontological self-recognitions; after all our phenomenological situatedness is productive of

ourselves.³⁵ However, it does serve to reinforce the constructed nature of who and what we are.

4.7: Conclusion

Above I have considered how individual narratives of trans* and non-normatively sexgendered people have emerged in the later part of the 20th century and the early 21st century. I have described how people either failed or came to understand their sexgendered sense of self according to discourses that were available to them *at particular times*. I noted that differences between people of different ages and from different places can be accounted for more satisfactorily on the basis of their situatedness in relation to hegemonic sub-discourses rather than specifically as a result of age (INTERarts Project 2011) and geographic situation (although these in themselves may well be factors which in part determine that situatedness).

I also noted that a considerable amount of scholarship has been written which has increasingly documented the diversity of identity and expression within trans* and other non-normative constituencies. This has often been welcome and constructive in terms of focusing on recognition of non-normative identities and in resisting exclusion of non-normatively identified people in terms of citizenship rights and recognitions. However it seems to me that such a narrow focus has failed to take account of broader nefarious effects of the rapidly shifting socio-economic topographies of the late 20th and early 21st centuries. While much queer scholarship focuses on issues of identity, it fails to recognise that neoliberal governance, while giving formal recognition to some previously excluded groups, has done so at the cost of disempowering and downgrading the socio-economic status of significant sections of the population regardless of their social modalities. In highlighting this lacuna I am setting up the discussion in Chapter 4 in which I consider constructions of non-normative sexgendered lives in relation to governmentality and social relations. I consider more fully the phenomenological bases for sexgender and how these have been affected by the altering socio-economic conditions referred to above.

³⁵ In Chapter 5 I engage in a discussion about different feminist, transfeminist and post-human understandings of discourses about embodiment and false consciousness, and the limits of physical and psychical embodiment or functionality.

In this chapter my engagement with academic work on discourse and subjectification in relation to trans* and sexgender nonconforming diversities, and with the reflections of my respondents about their own journeys, sets the context in which what are currently mainstream understandings of trans ontology have emerged and experienced. I discuss the emergence of transgender as a broad umbrella concept particularly in the 1990s and this sets the context for the discussion of my main argument of how laws as they relate to trans* and sexgender nonconforming people have been framed, which I develop more fully in Chapter 7.

To finish this chapter I will add my coda to the introduction. I, along with most of my research respondents, feel that I have moved into a space within which I am satisfied that my sexgendered sense of self and expression are no longer incongruent. I recognise my privilege in being able to achieve this, and I also recognise that as this is a process, my self-understanding will inevitably be subject to further change. What hasn't been fully investigated in this chapter are the complicated processes, the interactions with a variety of discourses and technologies across a number of fields, that have led me to being able to feel that this is the case. And arguably more importantly I have not considered what the limitations to my being able to express myself meaningfully in this way are. The limitations and potential benefits, along with an analysis of the enabling conditions for such developments are the focus of the remaining chapters.

Chapter 4: Social relations – Transing in the Twilight

What I am, all told, overflows what I am for myself - Maurice Merleau-Ponty,
The Visible and the Invisible

Nowadays people know the price of everything and the value of nothing - Oscar
Wilde, *The Picture of Dorian Gray*

On Sunday 13th October 2013 when the *Independent on Sunday* (IoS) published its 2013 Pink List of influential LGBT [sic] people in the UK, number 1 on the list was Paris Lees. Lees is a young woman of trans* experience whom the IoS described as ‘... the award winning journalist, broadcaster and campaigner for transgender rights’ (The Independent on Sunday 2013). That there were a further 14 people that were openly identified under a T affiliation in the list (although to accommodate all of their contemporaneous statuses LGBTQI would be the least broad acronym that would suffice) is an indication that whatever one’s attitude to such lists, trans* and sexgender non-conforming people were receiving recognition from the UK’s liberal cultural establishment to a degree unthinkable only 5 years earlier. There were no openly trans*, genderqueer, intersex or genderinquiring awardees on that year’s equivalent list. Something else in connection with the list that has a bearing on this research is a statement from Christine Burns, in this context one of the judges, who said that ‘In my generation the agenda was about legal change [...] Nowadays it is about social change’ (*ibid*). There seems to be a suggestion in Burns’ statement that all legal questions for trans* people are settled or on the way to being settled and that they are somehow separable from broader social change. I return to this at length in Chapter 7.

The increase in visibility and the recognition of influence as well as Burns’ remark raise questions that I try to address in this chapter about the socio-cultural environment that has permitted trans* and sexgender nonconforming people to have apparently achieved so much in such a short time. Even to suggest that this is true however raises questions about the nature of such successes and raises questions about the broader non-sexgender-specific lived experiences, expressions and social situatedness of the people so recognised. It is important to assess whether the kind of recognition currently on offer has entirely positive implications for broader sexgender nonconforming constituencies, both in terms of what is widely expressed as *identity* and also culturally and socio-economically, or whether it is reflective or emblematic of something more

complex. It seems reasonable to note that this recognition has at least an had impact in contributing to and reflecting the changes that in part I am documenting, and in part contributing to here, in visibility and confidence *in some respects and in relation to some part of* an amorphous and very loosely defined trans* and non-normative sexgender constituency.

To examine these issues fully I need to consider the environment in which contemporary subjectivities have been and continue to be formed. To that end I discuss issues of subjectification in relation to an examination of the sustainability of the sex/gender distinction and the usefulness of the term *identity* itself, and explain my decision to avoid using that term as much as possible in this thesis. I also discuss the relationship between normativity and diversity in the context of a discussion about shifting delimitations of diversity required by our current neoliberal polity. I discuss the emergence of conceptions of the citizen or denizen (Standing 2016) as *homo oeconomicus* and the related critical concept of *fungibility* in relation to people's variable ability to negotiate our contemporary marketised sociocultural environments, and thereby to flourish or to struggle in our contemporary deregulated times of precarity. I suggest that this helps explain the ways in which people's trans* and sexgender nonconforming aspects are differently engaged with, variously and complexly under contemporary socioeconomic and sociocultural conditions. I balance the theoretical focus of the chapter with an exploration of the experiences of some of my respondents, both as employees or exploiters of current employment environments. I suggest that although there is a general perception that the lives of trans* and sexgender nonconforming people are improving such a suggestion glosses over the complexity of a situation in which some people continue to be more disadvantaged than others on the (possibly intersectionally imbricated) basis of their sexgender statuses.

5.1: Sex and Gender Sex/gender sexgender

Iris Marion Young in her article 'Lived Body vs Gender' (2002) engages with the work of Toril Moi who argues '... that recent, deconstructive challenges to the concept of gender and to the viability of the sex/gender distinction have brought feminist and queer theory to a point of increasing theoretical abstraction' (Young 2002: 410). Moi suggests that we abandon the sex/gender distinction, a position that in part, as I explained in the Introduction, underwrites my use of sexgender as a unitary descriptor.

Indeed she suggests that we should abandon the relatively recently conceptualised notion of gender altogether as ‘... it is founded on a nature-culture distinction and it tends incorrigibly to essentialize women’s lives’ (*ibid*) and substitute instead a concept of *the lived body* (which I suggest could be extended to lived experience which will clearly be impacted by one’s embodiment or embodiment).

In agreeing with Moi, Young suggests that this could represent a useful departure from concepts of gender. She suggests that such a substitution would be useful in three specified ways. It can account for bodies as socio-historically situated, it allows for more flexible theorising along intersectional axes, in particular sexual desire which Young, revealing perhaps the socio-historical situatedness of her own article specifically mentions, and it can be accounted for without recourse to essentialist notions of ‘... an “inner core” of identity or “sexual orientation”’ (*ibid*).

Young however, in critiquing Moi, suggests that it might in fact be useful to,

... retain a concept of gender for a theoretical purpose beyond that which Moi and those she criticises conceive. In recent years feminist and queer theories have tended to conceive their theorising as restricted to identity and subjectivity [...] This essay argues that theorizing structural processes and inequalities is crucial (Young *ibid*).

Young focuses her argument around three aspects of social structuring that she feels are essential; division of labour along gendered lines, heteronormativity and hierarchies of power. I go on to suggest that given the contemporary socio-economic climate attention does need to be paid to these issues. However while I suggest that it might be necessary to reconfigure our deployment of the terms not only of gender *and* sex, in the light of the emergence of contemporary trans* and non-normative sexgender discourses and experiences, we need to reconsider them in relation to the meaning of diversity in relation to privilege and power in the context of neoliberalism.

I fully accept Young’s point that theorising about identity and subjectivity needs to take place in a broader context. However in the context of this work the emergence of trans* as a marker emerging from the interrogation and reaching beyond of simplistic transsexual/transvestite categorisations, points to the limited nature and potential redundancy of maintaining the sex/gender distinction in relation to such discussions.

And examination of the phenomenology of trans* (and by implication all non-normative sexgender) identities³⁶ highlights how the complexity of contemporary social situationality demands that we reconceptualise our analyses more radically and with greater attention to the *épistémic* sociopolitical context of the early 21st century.

5.2: Questioning ‘identity’

Young points towards an increased focus on theorising about identity and subjectivity but I want to discuss trans* and sexgender nonconforming subjectivity in the context of a *queer* phenomenology. I begin by outlining why I am also uneasy with the use of the concept of ‘identity’ as it has developed in academic and everyday discourses in the early 21st century.

The term and language of identity is employed so ubiquitously in everyday conversations by people to describe who and what they feel themselves to be, that I have had to make a significant effort not to reproduce its uncritical use in this work. It is a contested term but I have tried to avoid its use where possible unless quoting directly or when describing something that might fall under the umbrella of neoliberal diversity of identity, and in relation to identity markers used for example as a basis for the nine ‘protected characteristics’ written into the EA2010. It is certainly the language that many of my respondents used when referring to themselves in the course of our interactions, including later in this chapter when discussing organising around (specifically) trans* issues politically and at work.

Discussing the issue of identity Brubaker and Cooper make the following point:

If identity is everywhere it is nowhere. If it is fluid, how can we understand the ways in which self-understandings may harden, congeal, and crystallize? If it is constructed, how can we understand the sometimes coercive force of external identifications? If it is multiple, how do we understand the terrible singularity that is often striven for – and sometimes realized – by politicians seeking to transform mere categories into unitary and exclusive groups? How can we understand the *power* and *pathos* of identity politics? (2000: 1 *emphasis added*).

³⁶ And further we should take account of the collapsing distinction between normative and non-normative sexgender identities altogether; when the relationship(s) of femininity and masculinity to specified modes of embodiment and lived experience are called into question on what do such distinctions rest?

It is in its very ubiquity that use of the term renders it superficial and insufficient for the purposes of close analysis. Brief examination of the term is useful though in the context of this chapter.

In spaces left vacant or vacated by the retreat of class-based politics, subcultural identifications emerged particularly in the post-WW2 era which coalesced into legitimate discourses and languages of identitarianism through which sectional (and sometime sectarian) grievances by disempowered groups were aired. Thus feminism, black power, gay pride and later, women of colour feminist positions amongst others, developed intellectual discourses and political activism on behalf of minoritised groups from subjugated or subalternised positions, challenging the impacts of their various intersectionally imbricated subaltern states.

In discussing the emergence of discourses of identity Brubaker and Cooper make the useful distinction between identity as categories of practice and analysis (2000: 4). As a category of practice identity is used to describe people's common experiences of life in ways which promote community or sub-community cohesion and potential solidarity, which may of course account for partial and temporary life experiences. A category of analysis however, suggests something exists that is more essential in its nature. So if we analyse someone (or ourselves) and decide that they belong in the category of transsexual then something in particular is imputed to them that is, by definition, categorical to them. A process of *reification* has then taken place.

It is possible however to talk about someone as transsexual as belonging to a category of practice, of experience and historicised signification, which may bind them to other people in terms of their recognising the significance and extent of their shared experiences without suggesting essentialising exclusivity and permanence. This is to draw out the difference between the reality of the lived experience of the process of one's transsexuality (if that is the term one uses to describe one's experiences) to that of being assigned as transsexual or as a transsexual when such an assignation is grounded in their sense of its being a categorical reality, the reification referred to above.

To delineate two distinct categories of practice and analysis is to oversimplify of course, as there may be times when it is necessary for activists, and for individuals generally, to highlight bonds of commonality between potential political actors in order to promote particular action. Appeals to people to act on the basis of their shared identity might

then be pragmatic. Praxis here might determine necessarily slippery practice. Yet a simplification of the complexities of lived experience which has emerged in everyday interaction and become distilled into people's descriptions of themselves as 'identifying as ...' matches the hegemonic politics of the times. Below I discuss neoliberalism's valorisation of diversity in a particular empty form and these currents of identitarianism knit snugly into this politically charged, if simultaneously enervating domain. But it is in order to avoid complicity in this process, while maintaining an acknowledgement that there is a force behind the notion of identity which has had significant power to support change in the recent past, that I choose to avoid the term identity wherever possible unless the context explicitly supports its use.

Brubaker and Cooper make the valid point that simply changing one word for another, or a phrase makes for a poor substitution however I have tried to reframe the concept where I can, appropriately to the context of the part of the work in which it is used. So, I am simultaneously disrupting the contemporary language of identity and diversity, while trying to account for its effects in as seamless, but appropriate way as possible. To situate my critique of diversity I will now discuss normativity and assimilation and situate indentitarianism within this discourse.

5.3: Heteronormativity and LGBT recognition

The term heteronormativity (Warner 1993), describes the privileging of heterosexuality that upholds and reinforces the hegemonic assumption that heterosexual conjugal and sociosexual relations between non-trans women and non-trans men represent the natural order against which all others relations are judged. The term describes the socially enforced compulsion for people to embrace unmarked heterosexuality and normative sexgender statuses. This privileges heterosexual non-trans normatively-presenting male sexgendered people, valorised in western society as representing the highest legitimate expression of sexgender status and role. Everyone with so-called non-normative lived experiences and bodies are measured against this norm and are either orientalised or otherwise found wanting. And in being found wanting people perceived to be in some way non-normative, experience socio-cultural marginalisation or invisibilisation and socio-economic marginalisation on the one hand, and violence against the person inflicted by individuals or by states on the other, compounded by a lack of effective legal recognition or protection.

While there is a great deal of evidence that historically people were marginalised, criminalised and invisibilised as a result of their sexualities and sexgender lived experiences in ways that no longer apply in western and Anglophone societies (Watt 2013, McCormick 2013b, Roberts 2013b) shifting grounds of exclusion make it necessary to re-examine the extent to which, and the basis on which marginalisation and discrimination still persist for people based on their non-normativity. In England and Wales in the second decade of the 21st century legal protections and recognitions on the grounds of sexuality and sexgender lived experience have been, and continue to be, extended. Openly LGB and trans* people are increasingly visible in a variety of, sometimes unexpected, sociocultural environments³⁷ and media representations of trans* people are coming under increasing scrutiny (Greenslade 2013).

It has been asserted that such benefits are ‘uneven’ and are ‘not universal and come with costs attached’ (Brown 2012). And examination of the trajectory of assimilationist legislation and cultural adoption of acceptance across broad sections of society of LGB, and following some way behind trans* people, representing an increasingly unremarkable alternative way of being across the topographies of England and Wales, is clearly exemplified by David Cameron’s statement that ‘I don’t support gay marriage in spite of being a Conservative. I support gay marriage because I am a Conservative’ (Park 2013). The ‘gay’ in this exemplarily liberal sentence is revealing of the unevenness and the limitations of the apparent progress that has been made, and of the very limited extent to which LG (and B and T and importantly Q) are perceived to represent a meaningful *alternative* to the established H, heteronormative, ideal. This assimilationist politics has been a particular feature of LGB and T histories from the beginning of the Gay Pride movements of the 1960s up to the present time (Stryker 2008).

5.4: Homo- to transnormativity

As heteronormativity describes the privileges that accrue to certain forms of heterosexual subjectivities, the term homonormativity has been used to describe privileges that accrue to certain forms of homo-subjectivities in their relation to engagement with and assimilation within mainstream politics and society. Describing

³⁷ For example former UKIP, now independent anti-Europe MEP Nikki Sinclair recently came out as trans*(Kelly 2013).

how the term came to be used in San Francisco in the early 1990s Susan Stryker notes it was originally used to describe anti-transgender [sic] activists who were said to be,

...antiheteronormative in a homonormative fashion. The term was an intuitive, almost self-evident, back-formation from the ubiquitous heteronormative, suitable for use where homosexual community norms marginalized other kinds of sex/gender/sexuality difference (Stryker 2008: 147).

It is clear from documentation of the earliest debates following the Stonewall riots in 1969 that amongst gay liberation organisations a division between activists who favoured a radical approach and others who favoured the more assimilationist approach developed (Shepard 2001). And it is also clear that even amongst more radically self-identifying LGB and Q activists sexgender nonconformity was a divisive and troublesome issue (Stryker 2008, Gan 2013) along multiple axes.

However, critiques of homonormativity have developed in the context of the emerging western and Anglophone world's political hegemony of neo-liberalism. Lisa Duggan in discussing 'the new homonormativity' in this context conceptualised it as '... a politics that does not contest dominant heteronormative assumptions and institutions, but upholds and sustains them, while promising the possibility of a semobilized gay constituency and a privatized, depoliticised gay culture anchored in domesticity and consumption' (Duggan 2003: 50).

This conceptualisation of the politics of homonormativity has been challenged on the basis that it rests on an analysis that posits it as existing '...outside all of us and exert[ing] its terrifying, normative power on gay lives everywhere' (Brown 2012: 1066). Brown is suggesting that theorisations of homonormativity have, in ways which reflect other top-down sociological theorisations of society, in some way externalised it, conceptualising it as an all-encompassing ideology or perhaps ideological effect that is exerted on everyone equally '... without attending to the heterogeneous associations that effect transformations in the ways people relate to each other' (*ibid*).

While accepting that what Brown says is descriptive of the variety of lived experiences of, in this context, LGB people I suggest that an examination of the discourses engaged by gay or equal marriage legislation in the UK makes manifest one way that a particular conceptualisation of homosexuality is not only naturalised but also normalised. The

discourses reveal unsurprising resistance from conservative groups representing a variety of right wing and religious constituencies but also relatively muted opposition from within LGB and T, and also and most damningly some within self-defined *queer* communities.

And it is in the recognition of the muted nature of the opposition the truth emerges about the operation(s) of homonormativity. Not that it represents a monolithic ideology operating equally on individual consciousnesses. Rather that the relative lack of effective opposition highlights how the hegemonic effects of neoliberal discourses of governmentality have operated to deflect opposition in operating a socio-political regime, that at one and the same time draws on a genealogy of socially liberal discourse which it alters to suit its own aims - the move from equality to diversity - while operating on an economic model which entrenches and increases inequalities. In this context, homonormativity has become emblematic of how what can broadly be described as the liberal social agenda of the later 20th century has become mainstreamed in an increasingly atomised western sociopolity at the expense of more structural and radical revolutionary sociopolitical analyses and agendas entrenching, as noted above, more reactionary positions. And that over an extended period particularly from the mid-1970s, the privileging of individuality has created an environment which has encouraged acceptance of *narrow* or *empty diversity* within our socio-political systems. This has both reflected and developed the environments in which individuals, LGBTQI and importantly otherwise minoritised people, have performatively developed their sociopolitical attitudes and increasingly their claims to validation through identitarian politics.

5.5: The limits of transgender/trans* as queer

This draws me back to Susan Stryker's 2008 article where she discusses the use of homonormative to describe the anti-trans* ethos of otherwise radical LGB activists. While active anti-trans* sentiment in LGB communities is less marked than she reports it as having been in the early 1990s³⁸ there is still an active ongoing debate about the extent to which trans* and sexgender non-conforming people's issues and ontological claims are understood and taken into account of by non-trans* and sexgender

³⁸ Though as referenced at different points during this work a particular anti-trans* strain of feminism persists as exemplified in the recent publication of *Gender Hurts: A Feminist Analysis of the Politics of Transgenderism*, Jeffreys (2014).

conforming LGB communities, activists and lawmakers (notwithstanding the imbrications of sexuality and sexgender which ensure sexuality and sexgender expression may be experienced by individuals as nexuses of intersectional discrimination).

That said, in her genealogy of homonormativities Stryker suggests that,

... “T” becomes a separate category to be appended, through a liberal politics of minority assimilation, to gay, lesbian, and bisexual community formations.

Trans thus conceived of does not trouble the basis of the other categories — indeed, it becomes a containment mechanism for “gender trouble” of various sorts that works in tandem with assimilative gender-normative tendencies within the sexual identities (Stryker 2008: 148).

But Stryker wants to make special claims for trans* theorising and activism in relation to equivalent homonormative activities. Thus,

... transgender theory and activism call attention to the operations of normativity within and between gender/sexual identity categories, raise questions about the structuration of power along axes other than the homo/hetero and man/woman binaries, and identify productive points of attachment for linking sexual orientation and gender identity activism to other social justice struggles. (*ibid*: 149).

Written in 2008 and attentive to the history of LGBTQ activism, Stryker’s article clearly emerges from a queer trans* (or pre trans*, ‘transgender’) perspective, which in its linking to other social justice struggles might lend itself to doing so on the basis of individuals’ intersectional engagement with multiple discriminations and therefore polyvalent battlefronts.

And while it draws attention to tensions within LGB activism and identity discourses it assumes a queerer and more deconstructive basis for trans* activism. Although Stryker seems to assume a diversity of trans* and non-normative sexgender identities, more conservative points of view or reference are not taken account of. However in examining trans* perspectives more critically it is clear that, unsurprisingly, there are a wide range of positions and approaches to self-understanding, activism and scholarship,

from self-proclaimed radical and queer to more normative, what I want to describe as *transnormative*, positions or approaches.

5.6: Reconfigurations of trans* positionalities

As noted in Chapter 3 historically there has been a perception in some trans* discourses that there is a necessary distinction to be drawn between transvestite and transsexual people, and trans* or transgender scholarship and by extension activism and politics. And, taken at face value there is a significant difference between advocacy for a legal route to change one's birth certificate to a newly acquired sexgender, with embedded protection against having your previous legal sexgender status revealed, and claims for the right to exist and flourish in various ways, outside the bisexgendered socio-legal system. These approaches mirror the traditional division between the assumption that a transsexual's aim is to transition, pass and live in stealth, and a politics of transgender visibility, extended to non-binary legibility.

While I do not want to claim a total rapprochement between these two understandings of what it means to be trans* I believe that the emergence of the term trans* or simply trans itself, represents an understanding that approaches and identities that have hitherto been sometimes understood as antagonistic are *in some senses* usefully included under the trans* umbrella. The complexities of the lexicography used in transgender studies are explored at length in the first edition of the *TSQ: Transgender Studies Quarterly* (2014). For example its neologistic title *Postposttranssexual* is not one of the terms listed as keywords but seems to me to be a term through which I could recuperate and reclaim the word transsexual as having something to do with me in 2017 as opposed to the way I felt in the late 1970s as described in the auto-ethnography at the beginning of the previous chapter. Such temporal drag (Freeman 2010) is complex and involves distance, distancing and reinterpretation, a form of the *verfremdungseffekt* already referred to, but it is also in this context for me, materially relevant and functional.

The rapprochement suggested above between previously discrete positions I interpret as representing an understanding within trans* and non-normative sexgender constituencies that even for people self-describing as transsexual there is far less socio-legal pressure to remain hidden, living apart from broader trans* social networks and discourse. I suggest that this is a result of the interconnected developments of greater visibility, more legal protection and changing socio-cultural attitudes, implicated as, at

least in part, the effects of developments in communication technologies and in our sociocultural immersion in, and increased access to, somatic interventionism. I think this process is representative of the breaking down of borderlines that I reference throughout this work as a significant feature of modern cultural life. But even in this current climate there are those for whom this apparent breaking down of borderlines leading to less sub-cultural structuration seems to apply in complex ways.

For example my respondents Dawn and Angie, claim no meaningful connection to any trans* community. As Dawn says,

... because I've never been part of a trans* community. I switched very fast from conventional married, I hate to say man, conventional married person into single woman who is very happy with her life.

And Angie said that:

I've never really spent much time with trans* communities. And really felt quite uneasy with them...

But she then went on to complicate that statement by discussing how she became connected to communities through the internet. Through connecting with others she overcame the secretive behaviour that she felt she had been forced into adopting for self-preservation and she was able to make changes that in isolation she hadn't felt confident enough to,

... until the internet when I suddenly realised that I wasn't unique and that there were hundreds of different people out there *like me* and then I began to chat to them, not so much in communities but to individuals and then started reading blogs and things like that and I took it on from there really. But that's been the realisation that I'm not alone...

So in the interview she acknowledges the debt she feels she owes to people who profiled themselves as transfeminine online but ultimately feels separate from what she perceives as trans* communities.

Such contingent engagements with transness rely on the immediacy of access that the internet provides but also allow for a disconnection that may be more difficult to achieve in face to face environments. The remarks about not feeling connected to

trans* communities were made, without irony, over the medium of Skype in a joint interview with a group of transfeminine people who could easily be identified as a form of online community. Regardless of their willingness or otherwise to be recognised as trans*, and there were differing opinions within the group about that, something about their sexgender histories brought and bound them together, but at a historical moment that allows for a certain complexity and demands diversity.

In the 21st century in England and Wales there is a greater diversity in trans* and non-normative sexgender expressions if not exactly mainstreamed, then certainly closer to the surface, more visible and more polyvocal, than previously. I want however to question what the nature of those diversities is, and beyond the apparent proximate causes for this increase ask whether there are other possible explanations for the changes I describe than those referred to above.

5.7: Normativities in a neoliberal context

Following on from Stryker and her remarks about homonormativity, transnormativity could be used as a term to represent trans* modalities and activism as reinforcing rather than destabilising the hegemonic sexgender binary system. I now want to suggest that it is necessary to question the relationship(s) of normativity more generally to hegemonic sociopolitical discourses. I will address the productivity of sociopolitical conditions which encourage the validation of certain forms of diverse performativities. I also recognise however, that limited recognition of *some* previously marginalised modalities necessitates a reassessment of what the recalibration of trans* and non-normative sexgender discourses evidenced by the expanding adoption of the marker trans* signifies. I also go on to consider the effectiveness of tropes of queer identification as resistance, that queer and trans* theorists, scholars and activists have been engaged in discussing since the early 1990s.

In the previous chapter I referred to the work regularly considered highly influential, perhaps even foundational, to queer studies, Foucault's *History of Sexuality Volume 1*. Between its publication and the publication of volumes 2 and 3 Foucault gave a series of lectures at the Collège de France called *Naissance de la Biopolitique*, the *Birth of Biopolitics* (BoB), in which he turned his attention to the subject of neoliberalism. Both heteronormativity and homonormativity have been theorised in relation to neoliberalism. Brown notes, '...as Duggan (2002) pointed out, when she initially

defined the term, “the new homonormativity” is an expression of the sexual politics of neoliberalism’ (Brown 2012: 1066). This is an encapsulation of analyses that hold that the radical politics of the Gay Liberation Front, and Queer Nation and Transgender Nation as referred to by Stryker (2008: 146) for example, grounded in a politics of equal recognition and outcomes, have retreated in the face of a neoliberal onslaught to more conservative and essentialist positions that privilege diversity of identity and so called equality of opportunity.

The simplicity of this analysis has been challenged (Stryker 2008, Brown 2012, Dean 2013), but if it is insufficient in what way(s) is it so? And in relation to my project what implications does this have for a genealogy of British trans* activism and scholarship in the 21st century, and for understandings of trans* identities and ontologies in contemporary England and Wales? Is it possible that we need to re-examine these in relation to a broader concept of normativity in the context of neoliberalism in a more creative and productive way in order to understand their genealogy more fully?

Thomas Lemke in drawing out Foucault’s understanding of the operation of neoliberalism outlined in his BoB lectures (2001), notes that a shift is entailed in the function of the state. The post-WW2 consensus in Western Europe involved recognising the state’s function as, to a greater or lesser extent, a redistributor of national resources in order to create a safety net for the most vulnerable in society. Under neoliberalism the state however is not conceived of as a mechanism of material redistribution, or for facilitating other centralised forms of equalising interventionism or social support. Rather its function is understood as encouraging the development of markets and entrepreneurship. As a neoliberal construct therefore legislation has at its heart, not the creation of a state of redistribution in the direction of equality of economics or power, but rather the expansion of and maximising the potential of markets.

As Lemke, referencing Foucault also referencing Burchill tells us, the Chicago School’s intervention expanded this rationality to the point where there is a,

... consistent expansion of the economic form to apply to the social sphere, thus eliding any difference between the economy and the social [...] in which context government itself becomes a sort of enterprise whose task it is to universalize competition and invent market-shaped systems of action for individuals, groups

and institutions (Foucault 1997b: 78 – 79; Burchell 1993: 274) (Lemke 2001: 197).

In support of these aims and in contrast to the classical liberal conception of minimal legal intervention, the law is harnessed in such a way that it becomes ‘... no longer a superstructural phenomenon, but itself becomes an essential part of the (economic-institutional) base and thus an indispensable instrument for creating entrepreneurial forms within society (Lecture 20 February 1979)’ (*ibid*: 196). So the state itself is harnessed in support of the creation of an entrepreneurial marketization of society, not only in an economic sense but in a sociocultural sense as well.

Operating at both macro and micro levels this conception of the primacy of the economic at the expense of all other social considerations compels the marketization of all functions of the state but also of all social relations. Within neoliberalism’s theory of human capital, individuals conceived of narrowly as *homo oeconomicus*, reach decisions on the basis of a self-understanding limited to maximising their labour potential as participants in the increasingly complex unregulated and technologically interconnected marketplaces as producers and also as consumers. As social and welfare provision, previously in the context of a mixed economy state a function of government, are opened up to marketization and privatisation individuals are left to make rational decisions about what is in their best interests in a narrow economic fashion; they become ‘... entrepreneurs of themselves’ (*ibid*: 191). The morality of this does not require that all citizens are recognised and protected equally. Rather it requires that barriers to citizens’ participation in markets in which they act as *homo oeconomicus* do not rest on economically irrelevant characteristics such as sexuality, sexgender status, ethnicity and potentially, and perhaps more problematically in terms of decisions regarding socioeconomic policy, normative physical and mental health status.

Importantly this form of rationality extends to and subsumes morality as well. Thus moral approval extends to individuals who can function well or *fungibly* within a market context, and more significantly disapproval extends to those who are perceived to be unable to do so. Welfare ‘reform’ legislation which has killed many and reduced the life quality of so many other people with disabilities (Duffy 2013, Pring 2016) in the name of saving money. This reveals the lack of value that individuals who are perceived to be unable to play a suitably full role in the economic life of their

communities are held to have in contemporary sociopolitical terms. People previously perceived to need protection by a state which felt responsibility towards its more vulnerable citizens, are recast as unworthy scroungers by a government whose language is worthy of that of Henry VIII's demonization of *sturdy vagabonds* and construction of punitive welfare practices during and after the dissolution of the monasteries from 1536.

Given that under the terms of neoliberalism it is possible to argue that parameters of morality are reducible to the rubric 'that which is profitable is allowable', it is not clear that such morality corresponds with anything based on any ethical consideration of either spiritual or interpersonal social goodness. This is a vision of a society of marketised rectitude, bereft of broader social and/or socioeconomic considerations, wholly lacking in compassion or kindness. Thus neoliberalism's underlying philosophy of entrepreneurship,

... focuses not on the players but on the rules of the game, not on the (inner) subjugation of individuals, but on defining and controlling their (outer) environment. The neo-liberal [sic] programme seeks to create neither a disciplining nor a normalizing society, but instead a society characterized by the fact that it cultivates and optimizes differences. It is therefore neither necessary nor desirable for a society to exhibit unlimited conformity (Lemke 2001: 199 – 200).

So what implications does this ethical shift have for discourses of diversity?

5.8: Atomisation – macro-, meso- and micro-sociopolitical identifications

In her work on neoliberal pleasure (2012) Shannon Winnubst distinguishes the disciplining creation of interiority that produces identities outlined in the *History of Sexuality Volume 1* (amongst other of Foucault's work) emerging out of an earlier liberal focus on contract which underwrite a rights of man ethos, to a neoliberal focus on the individual as entrepreneur. As she tells us,

... the former is ethical, the latter efficient [and underwrites the shift] from the interiority of the autonomous subject that purports to control his/her behaviour to the socially scripted self that seeks to navigate the market's vacillations and thereby maximise his/her interests [further w]hen the market begins to function as a site of veridiction [ethical truth-telling], it becomes a kind of social

ontology with the causal power to produce competitive, atomistic subjectivities with specifically demarcated sets of values, concerns and interests (Winnubst 2012: 85).

This is reflected both in the proliferation of non-normative sexgender identities, trans* or otherwise, in the 21st century, but also in terms of atomisation in the ways that this proliferation has been reinforced by the sociotech environment which it inhabits and through which it discourses which I discuss at greater length in Chapter 6.

But it also helps to explain why normativity is no longer as policed and enforced as it was under the regimes of industrial capitalism; ‘Unlike the other discursive fields that Foucault has investigated, the demarcation at work in neoliberalism is not that of normativity/non-normativity; neoliberalism operates through the social rationality of success, not identity’ (*ibid*: 86). And it is this reconfiguration of normalisation that requires us to reconsider the tropes of hetero- homo- and transnormativity, and to ask the question, is it still true that people are systemically marginalised for identifying non-normatively, whether that is in terms of their sexualities or their sexgender identities, or intersectionally otherwise?

5.9: Neoliberal diversities and *queer*

In discussing diversity (in the context of marginalisation) Winnubst suggests that in moving beyond the politics of multiculturalism, diversity is not so much permitted within a neoliberal *épistémé*, as a required aim. But understanding what *kind* of diversity is required however, is critical. The individualism reified by classical liberalism was an explicitly racialised, sexed, bourgeois manifestation, based on a set of ostensibly universal, if unequally applied, ‘rights of man’. Neoliberalism in its reification of the market, and of individuality as a manifestation of successful entrepreneurship within those markets, necessarily does not operate within the same conceptual parameters. Particular strands of diversity are to be embraced; but that diversity and the difference(s) represented by that diversity ‘... are purely formal – they must be hollow, stripped of any historical residues, especially if those residues bring with them the ethical and political conflict of xenophobia’ (*ibid*: 94). We can embrace our diversity therefore but in a particularly anaemic form – an ahistorical *empty diversity*.

And while it is possible to argue that the motivation for the British government's early introduction of anti-discrimination legislation in the late 1960s and 1970s was at least in part driven by a desire to engineer a more equal society, for neoliberalism 'Inequality is essential to stimulating market competition and, as such, experienced by all members of society' (*ibid*: 93)³⁹. Neoliberalism gives an appearance of embracing and acknowledging the legitimacy of a greater diversity of what, notwithstanding my remarks above, can be framed as *identities*. This can be acknowledged, as beneficial to many people who would otherwise have lived marginalised or invisibilised lives as discussed in the previous chapter. However the limits of this recognition and implications for what kind of societies we are to be acknowledged citizens of need to be rigorously examined.

Returning to Stryker's discussion of homonormativity, she suggests that while it operates as an accommodation to neoliberalism at a macropolitical level, it also aligns the interests of LGB people with dominant neoliberal ideology in such a way that more radical social critiques based on the possibility of organising lives in a non-heteronormative structure become unthinkable. She wants to stake a special claim for trans* modalities however:

Because transgender phenomena unsettle the categories on which the normative sexualities depend, their articulation can offer compelling opportunities for contesting the expansion of neoliberalism's purview through homonormative strategies of minority assimilation (Stryker 2008: 155).

Unpacking this in the context of what it follows, I think it demonstrates that although Stryker understands the reach and impact of neoliberal hegemony she underestimates its ability to absorb and neutralise non-normative discourses, to reconfigure the exclusionary effects of non-normativity along different lines. Thus she remarks for example on the erasure of the significance of the participation of trans* people (many of whom were marginalised along multiple and differing intersectional axes) in the Stonewall riots, through the subsequent homonormalising of their history. She fails to register however, that a similar distance separates those same trans* Stonewall rioters

³⁹ As a timely commentary on this aspect of neo-liberalism Boris Johnson's delivery of the 3rd Margaret Thatcher lecture entitled 'What Would Maggie do Today?' (Johnson 2013) was quite remarkable in the openness of his embrace of the philosophy that inequality is good and necessary. Equally interesting were the responses from politicians particularly of his own party, most of whom irrespective of their private beliefs distanced themselves publicly from his position.

and the *transnormative* spaces colonised and valorised by neoliberal legislators, and mainstream trans* activism in 2017.⁴⁰ I question therefore the extent to which trans* phenomena are *necessarily* unsettling of the status quo, whatever their perceived potential to be so, and I explore such potentials in the next chapter.

This also raises the question of just how useful as a radical political tool *queer* politics can be to the extent that it seems increasingly to represent an identity politics focused on sexgender and sexuality which *ipso facto* sits comfortably within a neoliberal frame, and increasingly I contend represents a particular settled, if nominally unsettling, *queer identity* and visibility for many people.

As Preciado tells us in *Testo Junkie* (2013b) the very concept of queer has been shifting from being a descriptor of something outside, critical and deconstructive of hegemonic structures and ways of being to becoming just another expression of neoliberal identitarianism, commodified with its own dress and behavioural codes. He goes on:

We are currently facing the risk of turning the term into a description of a neoliberal, free market identity that *generates new exclusions* and hides the specific conditions of the oppression of transsexual, transgender people, crip, or racialised bodies' (Preciado, 2013b: 341 – 342 *emphasis added*).

And while queer 'identities' and visibilities become more widely adopted and represented as manifestations of outsider and outrider individualities, ironically they simultaneously become more settled, less dangerous and of course, less individual. That this occurs within familiar neoliberal tropes of reified individualism, and which allow the *appearance* of representing something that challenges and poses a danger to the hegemonic order, while being simultaneously absorbed and depoliticised within that same hegemony,⁴¹ is what is being overlooked. While I do not advocate compulsory outsiderism for anyone, I suggest that any claim to queer modality be based on something more substantial than a style and an attitude. It is critically important that we

⁴⁰ Although I should remark upon the difference in time and space between where and when this article was published, in the North America of 2008, and England and Wales of 2016; there are not many years difference but the situation for trans* people has altered in so many ways in a very short time as is reflected throughout this work.

⁴¹ The overarching trajectory described here is not new. A similar process of assimilation was discussed without reference to new diversities but with reference to popular culture by George Melly in *Revolt into Style* (1972). Neo-liberalism is merely a contemporary strain of (post-industrial) capitalism which co-opts human capital in new ways along shifting axes of acceptance and abjection.

recognise the context in which a settled queerness has been allowed to relatively flourish; which wrongly and dangerously conflates limited but certainly reconfigured freedom of individualised expression and identity, with sociopolitical progress towards meaningful socioeconomic equality. As noted above the neoliberal context within which queer diversities have flourished is one which requires limited recognition of certain forms of essentially depoliticised diversities while structurally requiring inequalities. The non-evidence based neoliberal assumption is that inequalities are required in order for the market, the basis of neoliberal interaction and veridiction, to flourish.

5.10: Fungibility and the implications for sexgender

It is the marketised context within which we exist that supports peoples' individuating projects. So we need to consume: with clothes, cosmetics, concepts, with hormones and performance enhancing and psychotropic stimulants and depressors, with invasive and non-invasive surgeries and interventions. Simultaneously through and across increasingly un-demarcated virtual and real environments we produce and consume non-stop 24/7 streams of information in a knowledge economy that commodifies and shapes the projects through which we seek, are required to seek, and produce our own individualities irrespective of their originality and irrespective of how original we feel them to be. Out of our entrepreneurial engagements within this environment emerge these new individualities, in a phenomenologically transpositional sense. They are stimulated and reinforced in their appetitive aspects by the very entrepreneurial environment into which we are cast and against which, in our capacity to achieve success, we and our fungibility come to be tested and measured. Our fungibility, our personal capital that helps determine our ability to navigate the markets and act as entrepreneurs of ourselves, is the basis on which neoliberalism rewards or penalises us, and the knowledge economy reproduces and mediates the messages that influence these processes. The success of some trans* and sexgender nonconforming people is due in part at least, to our ability to participate more fully within this knowledge economy. We have certain critical cultural capital because some of the knowledge needed to facilitate this liberalisation of the markets lies with us, with what we as subject/object citizens/denizens experience and variously represent.

Foucault's concept of governmentality recognises that government is reconfigured in order to '... develop indirect techniques for leading and controlling individuals without at the same time being responsible for them' (Lemke 2001: 201). Thus individuals, or far more localised social groupings, families or loosely-defined 'communities', are engineered, willingly or otherwise, into positions of taking up responsibility for their own immediate socio-economic welfare on the basis of a supposedly rational self-interest which itself fosters their own understanding of themselves as benefiting in relation to their own productivity. Importantly this also promotes and reinforces sociocultural identification through its imbrication with socioeconomic (self-) interest, not at a macro- or class level, yet at more than micro- or individual level: more accurately at something that can be described as meso-level identification.

This is exemplified by government support for the growth of a social enterprise culture whereby the needs of micro-communities are catered for through entrepreneurial business models. Examples of businesses oriented towards trans* and sexgender nonconforming constituencies in London are Gendered Intelligence, who work to promote the wellbeing of young trans* and sexgender nonconforming people, Open Barbers, who provide sexgender nonconforming hair care, and TAGS, who provide safe swimming spaces for trans* and sexgender nonconforming people, all structured on Community Interest Company (CIC) or non-for-profit business models. In a similar vein in Chapter 5 I discuss TransBareAll co-founded by one of my respondents, Lee, to promote body positivity for transmasculine people. And in very tangible ways this environment has supported the engagement of trans* and sexgender nonconforming people, amongst them some of my respondents, in employment. This has involved them to a greater or lesser degree engaging their sexgendered statuses as their fungibility – they have used their own engagement with and emplacement within their worlds as a basis for their own survival within market places that may previously have excluded them, or in social spaces which have violently rejected them.

Some of my respondents have become advocates or consultants, going into non-trans* or sexgender nonconforming environments and providing 'expertise' about trans* and sometimes sexgender nonconforming issues in order to facilitate better treatment, sometimes in line with the legal requirements of equality and human rights law, for trans* and sexgender nonconforming people. For some of my respondents such engagements have developed as they have transitioned and they have felt that they have

been able to support institutional change in organisations that have not given them the support they have needed in relation to their sexgender status. For example Sam reported that she,

... live[s] in typical Welsh valley ham, Pontypridd. It's rife with prejudice and hate.

She described the practical effects of living as a trans woman in such a conservative environment:

Yeah, I've been on the receiving end of constant daily pretty much harassment, prejudice, verbal abuse, hate crimes. In the last two years⁴² I've had to prosecute, well, five cases I've been through with the courts now, down from verbal to sexual assault to physical assault. Everything really. It's been awful. Last Christmas I was attacked, seven men in Cardiff. [...] They stripped us in the street, kicked us a few times put us in hospital and sexually assaulted us. Nobody helped. Police were disgusting with it. The whole incident from the perpetrators to the services were disgusting. The police had no idea. My identity [documents had been] changed but my friend was in the early stages of transition and she didn't have, she had male identity but not female because you know, she'd started. Well, they treated her basically as a transvestite and she deserved everything she got, and myself, they had no idea that I was on hormone treatment, they had no idea of the emotional effects or the danger of the physical effects that a beating would have [...]t was disgusting. They didn't take us to the hospital. I had to drive myself to the hospital.

This incident draws out three things. That in different parts of England and Wales people can suffer more for their visibility in relatively socially conservative environments on a day-to-day basis. That transphobia in a brutal and violent form is still part of the lives of trans* people and brutal and violent forms of transmisogyny are still components of the lives of trans women. And that institutions who may have legal obligations to protect trans* people may be unaware of those obligations or the implications of those obligations and may also struggle with institutional and structural

⁴² This interview took place in January 2013.

prejudices of the societies from which, after all, they draw their employees and working cultures.

In this case Sam's reaction to the situation after she was attacked determined her response. In the immediate aftermath:

They came down to the hospital and photographed us and that. But we never heard anything for two weeks, we were just basically abandoned.

Rather than retreat bitterly however Sam chose to engage and she describes how things developed,

When a friend of mine made contact with one of her police contacts all hell broke loose, we had the whole force oh, my God, we're so sorry Sam, we failed you, blah blah blah. And what they asked me to do is did I want to make a complaint because of the treatment and I said no [...] I want to make sure it never happens again. So basically that's where the humble beginnings started. I started doing three or four officers, standing up, talking about who I am, what I am and how I felt and, or how I feel that they could make things better if they dealt with that situation again. And now, from there I'm a full-blown stand-up-there qualified Power Point training for police officers, commanders. I go and teach the commanders next week ...

She also got involved with training people in the NHS in child, mental health and sexual health services and in universities and colleges as well as being a director of the Equality Council of Wales. At the same time however when asked about non-binary identities Sam expressed some reservations:

Now these people who are both, and I know one personally, the only way they can deal with these people who are you know androgyny, or where they are both sexes, is by bringing out a new law but then how the hell are you going to, erm, psychoanalyse somebody. They have a problem with transgender. Come on, let's be honest. So you've got someone who goes well I'm a woman today but tomorrow I'm a man. I mean, come on, I mean, where does it stop?

In this interview Sam described being accepted as representative of trans* people and their situations but seemed reluctant to acknowledge the validity of sexgender

nonconforming people's claiming fluidity or non-binary status. Undoubtedly her engagement with the various services of the State, inspired by her appalling treatment at the hands of the police, will have had benefits in terms of improving knowledge about trans* people and their rights, and supporting culture change within important services. She certainly benefitted from being able to engage in this way and found a role that grew out of her transness. She discovered and engaged her fungibility. Arguably this took place while she simultaneously demonstrated that there are limits to what is legible and therefore fungible, even within the trans* and sexgender nonconforming constituency, or at least that there were at that time and in that place.

Other respondents such as Philippa, Tara, Sarah and Anwen have also engaged with trans* and trans* and sexgender nonconforming issues in formal capacities. Philippa was the co-chair of the UNISON trans* caucus and the first trans woman to chair the UNISON conference. Tara has been an openly trans* politician in the Labour Party initially, later switching to the Conservative Party. She works in the NHS as an equality and diversity manager. Sarah was also an openly trans* politician as local Liberal Democrat councillor in Cambridge and now works in the LGBT voluntary and charity sectors and is quoted as a blogger elsewhere in this chapter. Anwen is currently an openly trans* local Labour councillor on the City of Wolverhampton Council. All of these people have made contributions to public life, support trans* people and our struggles and made inroads into improving trans* visibility in what can be conventionally culturally normative environments. They have all engaged their sexgender statuses and experiences in working environments and all of them have contributed to both the increased visibility of trans* people in the public life of our country and the culture change that many trans* and sexgender nonconforming people have been benefitting from across England and Wales over the past 20 years.

Philippa, referring to just this phenomenon in relation to her job and her colleagues' reaction to her transition said:

Yeah, yeah, definitely, there's definitely been a change in their acceptance, their understanding. At first I was the topic of conversation and jokes for a long time.

And in relation to her union activities and involvement with the trans* caucus meeting at the UNISON conference in 2012 reported:

Last year we didn't have as many. We had more this year than last year, and subsequent years. It has grown. The workshop for example, if you'd said to me that there was going to be nearly fifty people listening to a trans* workshop I would have thought you were potty quite frankly. I was stunned when I walked into that room.

Other people working in environments which have had supportive and well established HR systems in which they have been supported by being permanent directly employed staff, have been able to transition at work and in one case thereafter to support other people in their wake. Like Philippa Helen also had mixed experiences. When she was a contracted worker she found herself working in an all-male environment, presenting as male*, out as trans* (in fact specifically as transvestite) and considering transitioning and,

... one of the engineers in the outfit was friendly with one of the bosses, and he told me that he felt that if I did transition in work that it would make things very awkward for the rest of them, because they'd have to take down all the Page 3 photographs, [...A]nd a couple of weeks later after being told I was the best worker in the workshop, and I was being kept on permanently I was told my contract was finishing.⁴³

While out of work Helen started socially transitioning, and was then offered an interview,

... and that was the first interview I ever attended as Helen

She had filled in her application form as Helen but had had to make clear that applications for her references would have to be made in her assigned at birth name. Having been offered the job regardless she was then asked to go to speak to the person who was going to be her line manager,

... we were chatting about the job and everything for about an hour, before he suddenly said well there is one thing we need to discuss. I thought yeah this is where I get told which loos to use etc etc, And [he just said] well how do you want to play it? I said well what do you mean? And he said do you want to

⁴³ I return to the question of precarity for contracted workers in Chapter 7.

keep quiet? Do you want to tell people? Do you want us to tell them? How do you want to do it? So I said well, I'd been on hormones about 6 months. I'd still lots of hair etc, so I knew I wasn't going to pass at that stage so I said I'd write an article for the magazine and erm, and do it that way, and be open about it, which is how he wanted to play it anyway if possible. This was obviously well before the GRA.

That Helen was able to openly transition at work speaks both to her own strengths and resilience as well as a supportive working culture reflecting a culture shift in some working environments in relation to being more broadly accepting of greater diversity. But as an openly out trans* person she was then able to help others:

So I can't have been there 2 or 3 months and I had a contact from Bedfordshire probation saying that they had an officer down there who was about to transition. Would I be prepared to go down and have a chat with them and see what help I could provide. So I said yes I would and a day or so later I was in the kitchen at headquarters cos I work at headquarters, making a cup of coffee, and the Chief Officer came in, [a]nd I told her I was going down to Bedfordshire, I'd taken a day's leave, to do this. And she said no you're not. Um really? No this isn't, this is probation business. You go down in our time and out of our expense.

All of this work helps create a culture in which trans* and perhaps to a lesser extent other sexgender nonconforming people are recognised and in some ways better accepted and understood in our public life.

Some people have privileges which allow them to engage their cultural capital to enable them to feel that can transition without focussing on the provisions of the law. Thus my respondent Debbie, who is a company director working in finance told me:

My work situation is one where I work with a very small team of people where trust is fundamental. And I would not change gender while working with them if I didn't have their support as opposed to the support of the law. I feel that I need their support as individuals. And that's the way I went about my conversations with them so I started with one of them and you know talked about it, talked about how we would talk to the others about it, had them round

to dinner here, after I wrote them a note about it so that they could sort of read it. And we had a discussion about what it was and what the implications would be for our business and what the communication plan would be. And I did that in a way which was this is us as a team, planning to deal with something, rather than this is a problem I am going to confront you with and you are going to have to deal with it, and you're going to have to deal with it my way because the law says you have to.

Debbie's experience is one of peer working with people with whom she felt confident of managing a positive response. She was careful and considerate in her approach but was working in a context in which she appealed more to the culturally liberal values of people with whom she had a professional and, as the meal invitation makes clear, at least to some degree a personal and equitable relationship with. She was able to engage her cultural capital in an environment that reflected a certain amount of privilege which impacted on the power relations with which she was engaging. In her case, her particular advantage manifested in reducing to manageable levels the impact of her transition on her professional life. To a significant extent her fungibility was imbricated with her classed cultural advantage and she reinforced this as discussed in the following chapter by her understanding of her own embodiment needs.

Al's situation was different. I also discuss their embodiment in the following chapter but here I refer to their ability to manage their ambivalent transition at work. So Al, describing their engagement with their work environment while transitioning told me:

I had a real sort of torrid six months of trying to work out in my head how to deal with things. There's not a rule book here and there's no one to give me guidance on this. I feel like I'm getting a lot of pressure to just sort of go to work and be a bloke and basically that that's not me.

Feeling they were being judged against more transnormative parameters they continued,

...erm but they have this story of somebody goes on a gender reassignment they go from a – z and I was kind of no I stopped at q on the way [...] and they said ooh you know you have to tell people about this and you have to send an email out and tell people and basically what they wanted was some clarity I think in order to be able to tell people off if they got things wrong.

So by the time Al was transitioning, expectation of what that was *supposed* to mean had already been established in their working environment. However Al's sexgender nonconforming non-binary modality fell outside of those expectations. The following scenario demonstrates senior management, while trying to accommodate new diversity in a proactive way, coming up against something which they found too complex to easily accommodate:

And so I can remember having this very surreal conversation with the chief superintendent who was in charge of my division, who said all right you know your name has changed and are we going to change your pronoun, we're changing your pronouns and calling you he and all that and I was thinking well actually I'm not that comfortable with that I would prefer something more neutral, kind of like *them* would do or just *Al* to be honest. And he said ooh, and I could see him twitching and he said that does not make grammatical sense and I'm thinking well if I start throwing at you gender neutral ze and zees and things like that you're going to look at me like I'm completely mad

The experiences discussed above demonstrate that in describing the interactions of trans* and sexgender nonconforming people with modern working environments there is a great deal to take into account. While there are stories to be told about how equality laws can offer recognition and protection to trans* and sexgender nonconforming people in their work, which may encourage them to come out, there seem to be limits to how such protections operate. Thus while Al engaged with an environment which was trying to be EA2010 compliant they tested the limits of normative understanding of what transition is and thereby the limits of that compliance. Even so and notwithstanding a certain amount of nomenclatural uncertainty Al's employment was largely unaffected.

What is also clear is that while the law may be supposed to underwrite recognition and protection (although I challenge the overall effectiveness of this in Chapter 7) the culture of the companies and organisations with which my respondents engaged was equally, potentially more, important. This is emphasised by the fact that Helen's transition was accommodated before the GRA had been passed, and that Debbie explicitly stated that personal acceptance by her colleagues was important whereas reliance on law was not. In Chapter 6 I demonstrate that conditions of greater

acceptance of wider diversities have been part of a complex matrix of effects stimulated by increased globalisation and the breaking down of borderlines encouraged by neoliberalism as discussed above. This, I contend, underlines the dialogic entanglement of culture and the law that I discuss in this thesis.

Deregulated conditions that are fostered by neoliberal politics in pursuance of the creation of marketised environments are those that create the conditions for trans* and sexgender nonconforming people to engage their transness and/or sexgender nonconformities in their own small enterprises. Trans* and sexgender nonconforming operated organisations such as Gendered Intelligence, Open Barbers and TAGS promote lifestyle and wellbeing services to other trans* and sexgender nonconforming people. They also sell ‘trans* expertise’ to outside organisations such as schools, public sector organisations or private companies, to ensure both legal compliance or improved cross-cultural understanding. Sam, who is the representative voice of my respondents amongst a host of other trans* and sexgender nonconforming people working now in the UK offers the same or similar services. And naturally this extends to other cultural producers such as one of my other respondents, Juliet, who as a journalist wrote a regular column in the Guardian starting in 2010 chronicling her sexgender reassignment, thus bringing a whole new level of personalised and thereby humanised engagement in that discourse to a much wider audience.

These experiences variously reflect the sociopolitical structures in which such actors operate. They also reflect and perhaps are to some extent formed by their experience of their own value in our times which is imbricated in their being able to communicate their experiences both of the self and of their lives, to pass on knowledge. In this sense then much of their work, like mine, takes place within the knowledge economy and is part of the process of knowledge production and reproduction, yet in a very real sense not of disruption or serious critique. This is about how we make social and working environments more adaptable to the realities of trans* bodies and lives, not how we critique the structures on which those same environments and their assumptions and values are predicated and constructed. And while my respondents’ call was always for more than tolerance, there was a significant lack of critique aimed at interrogating the iniquities of hegemonic social structures more broadly.

But ultimately it is critically important to realise that it is when ‘... fuelled by a quantitative range of consumer choices, that [a neoliberal] system promotes uniformity and conformism to the dominant ideology’ (Braidotti 2013: 61) and we experience conformity through consumption. And it is in the ability to participate in consumer markets, and in the knowledge economy that supports them, that particular privilege resides – socio-economic and cultural privileges which are as excluding they are inclusive. So to the extent that much queer theorising focuses on sexuality and sexgender it is necessary to supplement this with a broader focus on appetites, and the processes through which they are produced and satiated (or not).

The transness of the neoliberal subject functioning flexibly as an academic (for example) is not in and of itself something which would reduce their fungibility. The expression of their transness might if it were something illegible to hegemonic accounts. Or a lack of willingness to be flexibly employed might, but no more than any other subject’s lack of willingness to do the same. But the fact of their being trans* in this era in which diversity is allowable, encouraged and as discussed, even required is not necessarily a barrier to their being successfully employed. And their employability is a key marker of their fungibility, their ability to engage in the activity of the markets, in the markets of employment, of academic production in an increasingly privatised academic marketplace, in the markets of consumerism, in the markets of ‘... technoliving system[s]’ (Preciado: 2013b: 44), and markets of information exchange on which post-Fordian capitalism flourishes. Part of their currency of exchange is of course the very diversity that they seem to embody and represent. Yet this is only fungible insofar as they embody something which has the necessary exchange value that they bring to the market.

Thus in post-industrial conditions that no longer require binary gender roles to be as emphatically enforced (although which have not successfully eroded discrimination against femininely embodied, expressing or perceived people) and in an environment where embodiment practices are creating a proliferation of non-naturalised and transmorphic somatic states it is increasingly difficult to uphold any meaningful distinction between sex and gender. As the margins move towards the mainstream in however limited a fashion, the increasing visibility of feminine trans* men, and masculine trans* women, and trans* (or not) people with gender neutral presentations and identifications, and all this again with non-trans* people, queer or otherwise

identified, reinforces the increasing untenability of maintaining that particular binary. Where discrimination does operate uncontestedly disproportionately against people perceived as or whose self-understanding is feminine we need inevitably to consider the operation of the discrimination along intersectional lines and with a critical appreciation of the socioeconomic/sociopolitical context and the power relations embedded therein.

5.11: Institutionalising and internalising anti-discrimination culture

Above I discussed Foucault's concept of governmentality in terms of it involving the ways governments act in order to induce what they consider to be appropriate behaviours across populations. Given that under neoliberal rationality this involves encouraging full participation in the marketplace of those subjects who have or embody something with which they can be entrepreneurial, their very diversity of lived experience, in this case sexgendered lived experience, may be a starting point of the basis of their fungibility.

In Chapter 7 I discuss examples of the effectiveness of diversity law with respect to the recognition and protection of the most marginalised people from within trans* and sexgender nonconforming constituencies, but it is important to acknowledge that measured in certain ways there are winners in the neoliberal diversity-soup kitchen. Thus the people involved with the organisations referred to above have working lives that are self-referentially trans* or trans* and sexgender nonconforming positive, involving advocating for specific improvements in the lives of our constituencies or sub-communities within those loosely defined constituencies.

All of these organisations, when funded at all, can realistically be defined as underfunded (Colgan *et al* 2014) and as being effectively depoliticised through the conditions associated with the funding processes that constrain all of the charity, voluntary and third sectors in general in contemporary England and Wales. In some cases the organisations were start-ups that were only able to survive either because the people involved were prepared to live socioeconomically marginal lives while they built up them up, or were supported by their partners or family members. They also only survived because they were and continue to be run by people who have the necessary entrepreneurial skills to navigate contemporary third sector environments and who accept the premise that people who identify as members of particular micro-

communities need to self-organise those communities to promote the narrow interests of those same communities.

Currently in England and Wales there is certainly a greater acceptance of trans* and sexgender nonconforming people working within existing organisations and the political system. But there is an ongoing lack of engagement with the broader critiques in many trans* activist discourses. It is in this context that I contend that to focus our scholarship on perceived increase of sexgender diversity and the recognitions and protections offered on that basis in isolation from a broader structural analysis, is to fail to take account of the deeply political conditions of the emergence and control of new diversities, and their potential for *narrow-ness* and *empty-ness* in new contexts.

Thus in relation to trans* scholarship I want to take account not only of the affective conditions in which contemporary trans* and non-normative sexgender expressions and formations have emerged and continue to develop, but crucially also to the commodifying power of normalisation and the implications that this has for both sexgendered and non-sexgender specific productions and reproductions of multiple inequalities. This involves recognising that any trans* scholarship emerging from a queer theory-inflected position which valorises diversity of identity as sufficiently significant in and of itself, can be read as being a dupe of an aggressive neoliberalism. That is a neoliberalism which has no scruples about neutralising radicalism through co-optation, and which is happy to accord official recognition to ‘new’ diversities in a limited and concomitantly limiting way. And which carries out these thefts and appropriations quite simply in order to further political aims in which are embedded policies intended to deepen and entrench inequalities rather than overcome them.

5.12: Conclusion

So what of the increasingly diverse trans* and non-normative sexgender subjectivities in the 21st century and, returning to the question at the beginning of this chapter, what of their various relationships to structural equalities and inequalities?

The discussion above about how the neoliberal context has altered the nature of discourses of normativity suggests that two critical issues emerge from this understanding of the reconceptualization of governmentality and the implications for contemporary understandings of individuation. On the one hand it is necessary to re-

examine what exactly the emergence of a more visible and confident array of trans* and non-normative sexgender identities in fact signifies in this context. And secondly and connectedly, it is necessary to examine the *basis* on which and the *extent* to which any extension of recognition for trans* and non-normatively sexgendered people has taken place and what the effect/s of any such extension might be in the broadest possible sense. What, in an environment of increasing socioeconomic inequalities, can we say ethically about the positionality of trans* and non-normatively sexgendered people in contemporary England and Wales.

In paying attention to previous scholarship I acknowledge that it represents something meaningful and valuable in terms of describing lived experience in 21st century contexts, and of altering possibilities of embodied life and sexgender modalities. There has also been much engaging work concerning new technological and socio-representational environments and developing sociolegal conceptualisations. Attention to lived experience is critical and in that context it is necessary to recognise that sexgender is only one vector through which we experience it. In understanding the life challenges thrown up by neoliberalism's conceptualisation of individual lived experience as represented by *homo oeconomicus* it is necessary to take account of the various ways in which:

‘... inside minority subcultures, transsexual, transgender, and crip people and ethnic and/or racialised minorities are asking us to pay attention to the body's materiality, to the management of its vulnerability, and to the cultural construction of possibilities for survival within processes of subjugation and political organisation’ (Preciado: 2013b: 342).

But critically to pay attention also to the fact that certain subjectivities emerging from these minority positions are represented as navigating the possibilities of survival while others are marginalised and fail. This involves acknowledging that there are winners as well as losers and that life chances for *some* trans* and sexgender nonconforming people have improved and that a certain reified transness has gained recognition and footfall in the malls, the offices and the broadcast and narrowcast mainstream cultural products of our times.

In this chapter I have discussed themes of social identity formation in a neoliberal age from a phenomenological perspective. I have given a sense of how new possibilities

have enabled new configurations of identity and embodiment. I have also outlined how the flexibility of neoliberal recognitions in the atomised environments of the 21st century has co-opted potentially radical reconceptualizations and largely absorbed and dulled their potential for radical impact. Notwithstanding this I acknowledge that some trans* and sexgender nonconforming people have been able to materialise their own fungibility by engaging their transness in information economies and in meso-level entrepreneurial enterprises through which they support themselves and mainstream trans* and sexgender nonconforming visibilities and expressions.

Also in this chapter, I have discussed the affectivity of governmentality on people's self-understanding and developed the key concepts of fungibility and empty diversity. These concepts underwrite the forms of equality and diversity law making relevant to this thesis embraced by politicians in a neoliberal context. This informs my discussion of why and how acceptable parameters of normativity have altered, and what the impacts of these changing topographies of sexgender are. This in turn informs my discussion in Chapter 7 of the impact of the delimitations of the effectiveness of the recognitions and protections based on the protected characteristic of gender reassignment first enacted in the GRA, and of protected characteristics more generally in the EA2010.

And what of the 15 'winners' I referred to at the beginning of this chapter? The fact of their selection is positive and a signifier of greater public awareness of trans*, and to a lesser extent other non-normatively sexgendered people's achievements in a variety of fields. Is their inclusion in the list emblematic of the *narrow-* and *empty-*diversities as described above or can we read something in it which is emblematic of a significantly deeper topographic shift denoting greater equality and recognition for non-normatively sexgendered people. These are the themes that I take into the next three chapters.

Chapter 5: Embodiment, Expression and Environment

*Maybe the target nowadays is not to discover what we are but to refuse what we are — Michel Foucault, *Beyond Structuralism and Hermeneutics**

*The cyborg is a creature in a post-gender world; it has no truck with bisexuality, pre-oedipal symbiosis, unalienated labour, or other seductions to organic wholeness through a final appropriation of all the powers of the parts into a higher unity — Donna J. Haraway, *The Cyborg Manifesto**

*My son does not want a full sex change - he just wants to grow a pair of boobs – Coleen Nolan, *The Daily Mirror**

In the previous chapter I discussed the need of neoliberal polities to accept, absorb and valorise forms of difference in populations through the production and control of what I describe as *empty diversity*, in the context of the impact on trans* and sexgender nonconforming people in relation to their variable abilities to function fungibly in our precarious marketised environments. In this chapter I discuss the historical emergence of contemporary scientific binarism and its cultural impact on discussions and understandings of embodiment. I discuss literature that challenges the science that underwrites our binary culture and discuss scientific and cultural challenges to the perceived ‘naturalness’ of sexgender dimorphism. I contend that the emergence of such work is contributing to the breaking down of borderlines which have policed and continue to police behaviours relating to our own understandings of our bodies. I also go further and in acknowledging the fundamental importance of environmental affectivity on our self-understanding I suggest, *pace* Brunella Casalini (2015), that the borderline between social science and natural science is also something that can productively be challenged.

This chapter will focus on the embodiments of some of my respondents in the context of contemporary cultural, technological and marketised environments, including a critique of a culture of *authenticity*. The data from our engagements reflects and represents the variety and lack of predictability of their projects in terms of motivation

and outcome when measured against what I suggest are understood to be formally normative expectations of transition. I conclude by suggesting that we need to find practices of recuperating non-normative embodiments in ways that resist homogenisation. And in response to Stryker's claim which I challenged in the previous chapter, I suggest that we must acknowledge the power of neoliberal assimilation of the most normative of trans* embodiment discourses. But I propose that to do so can allow us agency to sustain an analysis of trans* and sexgender nonconforming embodiments and their impacts on people which can provide an effective link to understanding our struggles more intersectionally in the context of broader struggles for social justice and equality.

6.1: Hybridity and power

Breast enhancement, binding, breast reduction and chest reconstruction, prosthetic breasts, facial feminisation surgery, packing, tucking, wigs, laser hair removal, electrolysis, body shaving, hip and bum padding, voice training, movement training, estradiol, sustanon, testosterone, decapeptyl, hysterectomy, orchiectomy, metoidioplasty, vaginoplasty, phalloplasty – these represent the technologies of transing for people who want to change their appearance temporarily, permanently or permutably. Those able to follow these paths may aspire to represent not only the transitional opposite of their assigned sexgender, assumed to be the normative transsexual destination, but also other more flexible, and in relation to normative binary expressions, more liminal and less normatively obvious, embodiments and/or expressions. These are somatic, neural and expressive transformation techniques and destinations variously accessible to people in the early 21st century on the basis of their socioeconomic, geographic, sociocultural or health privileges. Current practices have emerged out of various historical contexts and exist within the context of a multiplicity of contemporary discourses and availabilities of body modification. Critically these are pursued in complex and varied relations to issues of self-understanding and expressing discussed in the previous two chapters. But in some meaningful way they represent an engagement with various forms of hybridity in relation to all our assignments of sexgender.

In an era of increasing globalisation hybridity has been widely written about in relation to recognition and identity politics. Jan Nederveen Pieterse, writing about identity, asks 'If we recognise "others", according to which boundaries do we identify "others"? If

we recognise difference, what about “difference within”? What about those who straddle or are in between categories and combine identities?’ (Nederveen Pieterse 2001: 219). In particular he is addressing issues of ethnicity and cultural production, but the issues are also, although perhaps differently, applicable to issues of sexgender production and recognition. This is because cissexgenderist⁴⁴ assumptions about the naturalness of bisexgendered biological and social norms are still so widespread and deeply engrained as to make the case for simple recognition of sexgender complexity so much more difficult to achieve. They are also different in relation to this work insofar as I am engaging in challenging discourses emerging out of notions of identity. But as identities coalesce around bodies then issues of non-normative or diverse embodiments can clearly be conceived of as hybrid when measured against dimorphic norms.

Responding to critiques of hybridity theorising claiming either that it takes a position that is dependent on forms of assumed purity or that it represents some elitist form of multiculturalism light (*ibid*: 221) Nederveen Pieterse responds that he believes hybridity to be ‘... deeply rooted in history and quite ordinary. Indeed, what is problematic is not hybridity but the fetishism of boundaries that has marked so much of history’ (*ibid*). He claims that ‘For all hegemonies, the claim to purity has served as a part of a claim to power’ (2001: 228). But in also claiming that ‘Boundaries themselves are tricky. Thus, the meanings of boundaries are by no means constant’ (*ibid*: 237) he draws attention to one of the themes of this work; that we need to develop new more fluid non-essential conceptions of what it means to be humanly sexgendered, taking into account the broadest possible ecological view. Developing such a viewpoint must only be understood in terms of its transformational ability to empower citizens and populations more fully in order to think things differently and more holistically rather than as an approach that will help us simply extend categories of legal recognition and protection.

⁴⁴ Defined by the Urban Dictionary (<http://www.urbandictionary.com/define.php?term=Cisgenderism>), cisgenderism denotes a prejudice similar to racism and sexism. It denies, ignores, denigrates, or stigmatizes non-cisgender forms of expression, sexual activity, behaviour, relationship, or community. Cisgenderism exists in everyone — trans* individuals as well as cisgender individuals alike — because almost everyone is brought up in a predominately cisgender society that has little or no positive recognition of non-cisgender behaviour, identity and/or experience. This is different to cissexism which Serano defines as ‘...the belief that transsexuals’ identified genders are inferior to, or less authentic than those of cissexuals’ (2007: xx). As I am using the term sexgender these terms are rendered somewhat confusing therefore I prefer to refer to anti-trans* prejudice or disadvantaging as either transphobic which is conscious discrimination in any form against trans* and sexgender nonconforming people or cissexgenderist which is culturally underwritten, mainly unconscious behaviour towards trans* and sexgender nonconforming people which in any way delegitimises or erases them or their sexgender identities embodiments or experiences or discriminates against them.

This is the only way that we can truly approach any attempts to improve the lives not only of more talented and privileged trans* and sexgender nonconforming people but also the lives of the most intersectionally disadvantaged, marginalised and culturally and economically impoverished.

6.2: Cultural binarism, anti-trans* discourse and non-normative sexgender erasure: biology is not destiny

In her essay 'Breasted Experience' Iris Marion Young writes that a woman's breasts,

... are also entwined with her sense of herself [...] For many women, if not all, breasts are an important component of body image; a woman may love them or dislike them, but she is rarely neutral (2005: 189).

Discussing her own relationship with her future feminine maturity she describes her memories of how as a girl 'I used to stand before the mirror with two Spalding balls under my shirt, longing to be a grown woman with the big tits of Marilyn Monroe and Elizabeth Taylor' (*ibid*: 190).

In addressing how female physicality is understood by people who are simultaneously subjects and objects within patriarchal society Young wants to recuperate the possibility of positive femininity and set it against what she terms humanist feminism which, she tells us,

... tends to regard femininity, along with the social status and gender-specific situation of women, as primarily liabilities and restraints of the freedom and development of women [...] I call this version "humanist" because it is committed to an ideal of universal humanity as such, in which gender differences are merely accidental, and because it believes in gender neutral, universal standards of excellence and achievement (*ibid*: 6).

In opposition to this she proposes the adoption of a 'gynocentric' feminism which '... challenges this humanist ideal of gender neutral equality' (*ibid*). And as part of this project she reclaims positivity and gynocentric power for females in relation to their own embodiments.

Published in the 1980s, Young's writing, deconstructive in other ways, draws from and orientates itself towards an undeconstructed assigned-at -birth embodied femaleness

which is predicated on an unchallenged dimorphism. What would Young make of the young male-assigned-at-birth (MAAB) child standing before a mirror with Spalding balls under their shirt longing to be a grown adult with the ‘edgy’ feminine presentation of post-adolescent icons such as Miley Cyrus, Valentijn De Hingh or Yiming Zhao? The reflection of breastedness as a concern only for FAAB people, and only in one particular respect for FAAB people is something that has more recently been challenged.

In *Queer Breasted Experience* Kim Q. Hall equates feminisms’ critiques of,

...the medical community’s patriarchal distortions of female bodily processes (such as pregnancy) and female anatomy (such as the vagina) [with] queer theorists critique [of] the medical model’s diagnosis of transgender bodies as the product of Gender Identity Disorder: a patriarchal characterization of transgender bodies as “abnormal” bodies due to their failure to conform to binary gender norms (2009: 121).

She acknowledges feminist work that ‘emphasise[s] the need for women to feel proud about what they contend is natural to female bodies’ (*ibid*). However she challenges the assumptions made in feminist writing exemplified by a line in Susan Love’s work on naturalising the emergence of breasts for young girls in which Love writes ‘No part of your body should be foreign to you’ (*ibid*: 122).

Exploring breastedness in the contexts of ‘feminist writing about breast cancer and female-to-male transsexual mastectomy (sic)’ Hall asks:

If, following Judith Butler, the sexed body (like gender) is discursive, in what sense, if any, do women have breasts? Moreover, what does it mean to assume that breasts (or other so-called female body parts) are indicative of true *female* sex? What does it *mean* to say that no part of one’s body should be foreign to one’s self? And if there is a part of one’s body that is experienced as foreign to one’s self, why should the assumed solution be reacquainting oneself with and learning to love the alien body part? (*ibid*, *emphasis in original*).

Exemplifying this approach my respondent Al, in the context of discussing people tailoring embodiments to suit their individual needs as opposed to conforming to a trajectory set out by feminist reification of unreconstructed female embodiment or in a

trans* context, medical gatekeepers, describes meeting a trans man in a gym and how this informed their decision making about their project:

And then I met [name given] in the gym [laughs] and I can remember running up the steps to the gym thinking ooh there's another really butch dyke and he can remember looking at me thinking hmm there's someone else who's trans* but I'm not sure if they're pre- or post-op. And so we had this, erm, I just had this light bulb moment cos speaking with him, [...] he was looking to have top surgery privately, prior to exploring any hormonal options. Now this was like a bolt out of the blue to me. I didn't realise you could do this, and I was like oh, right, ok. So he said you speak to your GP and you get your referral to your mental health practitioner who checks out you're ok to go and have your surgery and then you're away really. So I was like alright, ok. I made an appointment with the GP the next day. And I was 34 then. So as soon as someone has said that it's possible to explore the surgery but not necessarily have the hormones, that was a no-brainer.

Al, who at the time of the interview in April 2012 had moved away from thinking of themselves as a gay woman but hadn't settled on a firm alternative, is engaging with embodiment discourses that people are beginning to recognise as more diverse than the hegemonic psychomedical model critiqued in feminist and trans* scholarship. In terms of the discussion of breastedness above Al's testimony gives credence to Hall's questioning of Love's claim that no part of your body should be foreign to you.

It is also illustrative of the contemporary proliferation of non-binary embodiments and raises questions about who has the possibility in terms of cultural and economic capital of accessing transitional health care services and technologies, and what the implications are for their ongoing life chances in terms of employment, housing, and general ability to exist in our deregulated market-driven lives.

In a similar vein Leo, a young trans man describing his early experiences of the trans masculine London scene recounted an incident he had experienced,

... like that was one of my first experiences out on the trans scene was I went to this FTM London Christmas meal and, erm, there was a competition for who like had the hairiest legs and stuff like that and I was like I don't actually want to

be here right now. Yeah in the end the person with the hairiest chest who won was someone who hadn't had erm, top surgery and someone who defined as non-binary, so in some ways that was quite a refreshing way for it to go.

In this situation Leo was initially challenged by the apparent investment of normativity in the competitive masculinist environment he was confronted with. However what was actually happening was something more complex which, I argue throughout this work, is more frequently the case than is often acknowledged. What in fact emerged in the naming of the winner in relation to the materiality of their breastedness, reinterpreted as chestedness, was a validation of a blended embodiedness that can be acknowledged as queering of narrow normative recognitions of binary transitional pathways and binary embodiments more generally. These moments of apparent liminality are ones that highlight the constructed nature of dimorphic normativities.

Given the centrality of discourses of embodiment to much feminist discourse and the biologically essentialising and specifically anti-trans* aspects of some feminist theorists (Raymond 1994; Daly 1979; Jeffreys 2014) and ongoing contestations about the authenticity and meaning of non-normative trans* and non-normative sexgender embodiment discourses in the context of Hall's comments above, I would like to examine what grounds we have for believing that strict categories of sexgender dimorphism can be meaningfully established in the first place.

6.3: Genealogy of binaries in science

In the canon of Foucault the concept of discipline has a double meaning; the disciplining of individual bodies is critical to his understanding of how we come to enact and understand our own embodiments and develop identities within sociopolities but he also uses the term to refer to the academic disciplines through which societies explain and categorise their knowledge. And it is in the latter context that Anne Fausto-Sterling tells us that:

The disciplinary knowledge developed in the fields of embryology, endocrinology, surgery, psychology, and biochemistry have encouraged physicians to attempt to control the very gender of the body – including “its capacities, gestures, movements, location and behaviours” (Sawicki 1991: 67) (2000: 7 – 8).

The scientific disciplines that Fausto-Sterling refers to emerged in their modern forms at the time of the Enlightenment, or if later well within its cultural ambit. In relation to the development of science in the Enlightenment Londa Schiebinger (1991) discusses how accounts of the relationship between the sexes became biologised and shifted from the ancient hierarchical Galenic model of equality or inequality to one in which ‘...there emerged an anatomy and physiology of incommensurability in which the relation of men and women was not one of equality or inequality, but rather of difference (1991: 190 - 191). While the hierarchical relationship of male dominance has persisted, difference has become the lens through which the relationship between two sexes is viewed. This has intensified in various ways to the point of their being understood as ontologically absolutely other (Young 1990: 99) and is intensified in the failure to acknowledge trans* and sexgender nonconforming bodies, and the significance of their connection with their associated artefacts, in modern archaeological findings (Weismantel 2013). This is one example of supposedly objective science of the western Enlightenment embedding a particular world view within its expanding knowledge base, which in the cases of both philosophy and biology has had profound implications for both bio-ontological constructions of female* and male* embodiment (and the concomitant dismissal of any variant sexgender categories as valid representations of humanity in and of themselves) and their equivalent social constructions. So, as Anne Fausto-Sterling tells us, ‘In order to shift the politics of the body, one must change the politics of science itself’ (2000: 8).

6.4: A polymorphic analysis

In *Sexing the Body* (2000) Fausto-Sterling discusses the difficulties that the International Olympic Committee (IOC) has had in its attempts to establish firm guidelines on which to base decisions about whether athletes are male* or female*. Until 1968 female athletes were checked simply by being paraded naked in front of officials who accepted their female status on the basis that they possessed breasts and a vulva. After complaints that this procedure was degrading for those being tested the test was updated and chromosomes were checked. However, as Fausto-Sterling tells us:

The problem, though, is that this test, and the more sophisticated polymerase chain reaction to detect small regions of DNA associated with testes development that the IOC uses today, cannot do the work the IOC wants it to do.

A body's sex is simply too complex. There is no either/or. Rather there are shades of difference (2000: 3).

While my primary research has not focused on intersexuality (although one of my respondents declared an intersex condition) it can be argued that there are intersecting issues that link western trans* and intersex discourses and activism (Chase 2006). Consideration of the variety of possible configurations of natal somatic possibilities revealed by intersex ontologies, underscores the fundamental point Fausto-Sterling is making above.

Having made this point it is critically important to acknowledge that the issues that affect intersex people are not the same as those affecting trans* and sexgender nonconforming people. For example, the majority of intersex people identify within the sexgender binary (Monro *et al* 2017). Secondly current legislation that affords at least some protection to trans* people doesn't take account of the needs of many intersex people (*ibid*: 35). Thirdly there is a focus by intersex people and organisations on trying to prevent what they understandably see as unnecessary so-called 'corrective' surgeries, hormone therapy and other treatments such as vaginal dilation on children (*ibid*: 8 – 18), rather than trying to gain access to appropriate surgical and hormone treatment which is the aim of many trans* and some sexgender nonconforming people. In acknowledging these differences I want to stress that I do not want to conflate the lived experiences or struggles of trans* and sexgender nonconforming people and intersex people. Neither do I want to appropriate their issues, although my arguments and conclusions may have significance and relevance for some intersex people.

However the point I want to emphasise, along with Fausto-Sterling, is that sexgender is complex and that such a variety and number of non-standard embodiments exist (Fausto-Sterling 2000: 52 note c), whether visibly or not, undermines any meaningful suggestion that dimorphic categorisation is a sufficient basis for either biological or sociocultural categorisation. Writing in 1993 Fausto-Sterling notes Susan Kessler's observation that the decision on whether to call a baby a girl or a boy is a social one rather than a biological one (*ibid*: 58). But although morphological diversity undermines essentialist conceptions of fixed oppositional dimorphic sexgender categories, there is another critical aspect to our biological functioning which calls into

question the very notion of fixity in *individual* sexgendered embodiment based on individuals' phenotypes.

6.5: Brains hormones and plasticities

A great deal of scholarship has been devoted to investigating how differences in the sexgender identities and behaviour of women*, men* and trans* people along with people's different sexual orientations (amongst other characteristics) originate in the brain. Embedded in nature/nurture debates the centrality of the brain, and in particular the extent to which brains are hardwired to produce effects of sexgenderedness and sexual orientation, have been, and continue to be, issues of contestation for scholars in a variety of fields. That some physical differences can, in general, be construed both pre- and post-mortem in female* and male* brains (such is the binary construction of much of this discourse) is not disputed. What is disputed is the extent, significance and *permanence* of such differences.

Rebecca Jordan-Young notes that contrary to much discussion of 'brain sex', apparently supported by what Jordan-Young calls brain organisation theory (Fausto-Sterling 2000: 214 – 219; Jordan-Young 2011: 21; Fine 2010: 101), human brains '... cannot be reliably sorted into "male-type" and "female-type" by observers who don't know the sex of the person they came from' (*ibid*: 49). There has been a great deal of research focussing on trying to prove the difference and significantly Jordan-Young tells us 'The absence of scientific consensus on this point is not for lack of effort (*ibid*: 49).

Chromosome induced surges in androgens in sufficient levels in utero from the eighth to the sixteenth weeks of pregnancy and again at around the twenty-sixth week, account for the development of male gonads and genitalia in XY fetuses. The lack of these surges lead to the development of female gonads and genitalia in XX fetuses. This is well established science. But theorists such as Kimura (2000) and Neave *et al* (1999) postulate that it is the effects of these surges that ensure the hardwiring of 'maleness' or 'femaleness' into our brains referred to above.

There is certainly sufficient evidence that steroid (as opposed to sex) hormones do have an effect on the brain. Jordan-Young references Richard Lewontin's 2001 work *The Triple Helix: Gene, Organism and Environment* in which he discusses norms of reaction (NOR) in relation to the inter-related concepts of genotype, phenotype and environment.

If we consider environment in relation to the development of the individual we need to include physical and social aspects, which are sometimes interdependent. Included in the physical aspects are hormones both endogenous (from oneself) and exogenous (from an external source including transitional HRT). So an NOR constitutes ‘... a sort of map that shows the relationship between the genotype and the phenotype across different environments’ (*ibid*, 49). And it is in the interaction with our social and physical environments that developmental difference clearly emerges which impacts the development of the brain.

Fausto-Sterling discussing brain plasticity in relation to the affective conditions referred to above by Jordan-Young, describes how physical changes in the brain occur over time. These changes are part of the natural development of human children as they learn spacial awareness, how to walk and talk and interact with other people, and continue also affect adults as they age as their social and physical circumstances alter. Fausto-Sterling describes aspects of this plasticity in relation to both changes in myelination through which neural connections are created in the brain, which develop significantly through at least the first six decades of a typical person’s life, and changes in brain architecture, or patterns of connectivity which help people adjust to such significant events as blindness. This malleability or plasticity is fundamental to our ability to function flexibly within complex social environments. As Fausto-Sterling tells us,

... development within a social system is the *sine qua non* of human sexual complexity. [...] Our psyches connect the outside to the inside (and vice versa) because our multi-year development occurs integrated within a social system (2001: 243).

Above I noted that the action of endogenous and exogenous steroid hormones should be one of the environmental factors taken into account when considering sexgendered physicality and behaviour. The ways in which the effects of exogenous hormones can counteract the effects of endogenous and perinatal androgens in respect of the sexgendered behaviour of animals is well documented (Fausto-Sterling 2000; Fine 2010; Jordan-Young 2011). In people understood to be undertaking the traditional transsexual transition paths of F2M* and M2F*, traditional post-mortem studies measured brains in respect of their overall size and the relative size of components

generally understood to represent fixed sexgendered morphology – female* or male*. The idea of the transsexual brain was extrapolated from these findings.

In their 2006 work however, Hulshoff Pol *et al* carried out studies on trans* people before and during hormone therapy and simultaneously on non-trans* controls. Magnetic resonance imaging [MRI] technology was used to carry out measurements and no significant difference was measured between the control subjects and the transsexual subjects prior to their beginning hormone treatment. Measured after time though, the results were strikingly different:

The findings suggest that treatment of MFs with estrogens and anti-androgens decreases the male brain size towards female proportions, whereas treatment of FMFs with androgens [...] increases the female brain size towards male proportions [...] Thus our findings imply plasticity of adult human brain structure to develop towards the size of the opposite sex under the influence of cross-sex hormones (Hulshoff Pol *et al* 2006: 110 – 112).

These findings only take account of the effects of chemical actions on the brain. Perhaps equivalent tests to indicate the effects of changing sociocultural environments and engagements during transition for example might be currently impossible to construct for humans, but Jordan-Young is confident in concluding that:

Given what researchers have shown about how *sex differences in these traits can and do change in different environments*, it is teleological to pronounce such environment-dependent states as “sex-typed.” (Jordan-Young 2011: 279 *emphasis in original*).

In this she is supported by Fausto-Sterling’s conviction that ‘... nature/nurture is indivisible [and that] organisms – human and otherwise – are active processes, moving targets, from fertilization until death’ (2000: 235).

The scientific evidence supports the contention that we interact and adapt in polyvalent social environments, even to the extent that chemical interventions alter the shape and function of our psycho-physicalities. What then, can we say about the changing nature of the effects of our changing socioeconomic environments on discourses and practices of embodiment?

6.6: The (psycho)medical model

The medical model on which late 20th and early 21st century western trans* transitional healthcare has been based has been widely and variously criticised as unnecessarily essentialising and restrictive. There is a significant discourse from trans* people themselves which suggests that they have to submit to the strictures of the model's disciplining which means that individuals have to act instrumentally at best, dishonestly at worst, to achieve the various levels of medical interventions and legal recognition they require (Spade 2003, 2006). More damagingly it has been alleged that the need to engage with medical providers in a power relation which gives trans* and sexgender nonconforming people little or no agency increases the pressure on them to conform *psychologically* to embodiments, modes of expression and self-understandings. These though, however sincerely held and undertaken may be distortions of how they would feel and act if more discursive freedom were available.

The circularity of this situation, and the conformity required and performed as described in participants of Silverman and Stryker's film *Screaming Queens* (2005) suggests a certain ambiguity, described by Sullivan as 'intercorporeality' (2006: 56) in how we might understand the embodiments of the self-identifying transsexual subjects in the 1960s. As Stryker narrates in the film, at a time when the people she refers to as the queens were finding their socioeconomic situations increasingly marginal 'The queens found a new hope in a totally unexpected development: the sudden availability of a transsexual identity' (Silverman and Stryker 2005: 28:48). It is impossible to be sure at this distance of time, whether the participants undertook to conform so strictly to hegemonic standards of femininity in terms of both behaviour and embodiment because that represented their understanding of their own ontologies, or because those standards were the rigorously enforced prerequisite for treatment which would satisfy more sexgender equivocal needs. That is to say, was their conformity medically enforced or socially disciplined in a wider Foucauldian sense? However the fact that at least some people found the discourse supportive in giving them a sense of who they really were is reflected in the comments of one of the film's participants, Felicia Elizondo, who describes what the emergence of this discourse meant to her:

All this agony and all this pain, all the shit that I had been going through, I finally put a name to it – where I knew where I was going. I didn't know how I

was going to get there but I knew that this is *what I wanted to be* (*ibid* 2005: 29:31).

Certainly the normative feminine conformity discussed by Stone (2006) in relation to transsexual biographical writing from the 1950s to the 1980s as well as by the participants in *Screaming Queens* lends itself to the criticisms levelled against transsexuals in some feminist works that in their conformity they were reinforcing the sexgender binary system. Stone herself tells us in relation to these biographical narratives: ‘No wonder feminist theorists have been suspicious. Hell, I’m suspicious’ (2006: 227). Stone’s suspicion however falls not so much on the binary reinforcement apparently being enacted, but the veracity of the biographical details themselves, and the extent to which they were coerced or distorted by the need to conform to medical expectations.

Other trans* identities and expressions such as those polyvalent anarchic sexgender possibilities celebrated by the Cockettes (Weber and Weissman 2004) for example, which were not associated with the medicalised transsexual processes and discourses of the time. The fact that these represented something more varied and less binary, does not diminish the benefit that some trans* people took from their pathways, but rather speaks to the limited *hegemonic* idea of what trans* necessarily or, in a narrow sense acceptably, represented at that time. The Cockettes were self-consciously revolutionary and in contemporary terms non-binary, whereas transsexuals either wanted, or had to declare that they wanted, to be bi-sexgender conforming, even for example in terms of their required heterosexuality culturally assumed by gender identity clinics (GICs) but also in law (Sharpe 2006: 622 - 623).

As Adorno tells us in *Negative Dialectics* ‘objects do not go into their concepts without leaving a remainder’ (2007: 5), and mining the same vein that the entirety of a discourse is never completely or adequately captured in a concept, this is exemplified in hegemonic conceptualisations of trans* embodiment. Not only is there potential for lived experiences and therefore self-perceptions to be narrowed through disciplinary environments, but also for complexities to be compressed and thereby distorted. This is evidenced by the essentialising of trans* embodiments by both feminists (Raymond, 1994; Hausman, 1995, 2001) and the psychomedical professions.

That Stone's writing is part of a wider genre of transgender literature (Feinberg 1996, Bornstein 1994, Califia 1997, Wilchins 2006) that emerged in a classically Foucauldian way, as part of a reverse discourse of trans* pride and politicisation, contextualises the challenges being made within the wider developing trans* discourses of the early 90s to earlier concepts such as living in stealth and passing. The transsexual as a sociopolitically embodied existence and hegemonic non-normative normalising sexgender discourse is challenged by and develops into the variety of potential (politicised) transgendered modalities grounded in multiple lived embodiments, postmodernist discourses of social construction, discourses of diversity, LGB and queer politics and feminisms which all interact and to some extent converge to give voice to new potentials. Yet these new potentials are not borderless, nor as unconstrained as was claimed at the time (Feinberg 1996).

If authenticity in transsexual terms is understood to refer to the ontology of the subject in terms of their 'being authentically female* or male*' then in terms of embodiment this refers to their being able to access surgical and endocrinological treatments in order for them to physically embody femaleness* or maleness*. Of course this does not capture anything like the full range of trans* embodied experience and as one of my respondents, Catherine, working with socially and economically marginalised people for an LGBT+ and anti-violence charity told me:

Most of the trans women that I work with are not taking hormones and have not had any surgery [...] then in terms of talking to police or accessing health services they might need to literally talk about various parts of their body. And they might need to use words that are not standard words or it might not be what people expect.

These are people then, already marginalised by their socioeconomic emplacement who are then further marginalised by their non-normative trans* embodiments, certainly in terms of hegemonic understanding of what being trans* 'means'. That they have not carried out physical or chemical interventions does not invalidate their status as trans women. What it does is challenge normative expectations of what a trans woman *should* do or be and thereby increase the already significant challenges they experience when dealing with their world and with officials, on whom they are reliant for support and protection, adhering to hegemonic transnormative values.

Notwithstanding these people's difficult experiences, historically implicated in discourses of authenticity are discourses of passing I referred to in Chapter 2. In her call for post-transsexual transgender visibility Stone explicitly harnesses recognition of the constructed nature of trans* sexgender, and indeed all sexgender self-understandings, expressions and embodiments. She challenges and contextualises the need to go beyond transsexuals' quests for normative embodiment, and cites Judith Shapiro noting that they are '... simply conforming to *their culture's* criteria for gender assignment' (2006: 231 *emphasis in original*) while recognising a need to go beyond the terms of the psychomedical gatekeepers and their definitions of '... what counts as a culturally intelligible body' (*ibid*: 232). And the culture in which the terms of trans* embodiment has been most widely discussed is that of the psychomedical model. That this is currently being challenged and undermined in our current *épistémé* is reflected in the accounts of changing relations to recognition of diversities in a neoliberal era discussed in the previous chapter and the embodiments described by some of my respondents below.

6.7: The turn from authenticity – how the medical model and conformity slipped through the grasp of the gatekeepers

Cressida Heyes, in discussing contemporary issues of embodiment from a feminist perspective, notes that '... we live in an age of what Rose has called "the somatic individual" in which the self is discovered or developed through transformations of the flesh' (Heyes 2007: 4). In this context the wrong body discourse of a man/woman trapped in a woman's/man's body representing a mid-20th century transsexual discourse is one that claims an authenticity for the individual so pathologised, based on a discourse of inner authenticity, made manifest by somatic intervention.

The genealogy of this discourse can be traced back to the privileging of individualism that emerged from the works of Enlightenment philosophers, from Cartesian dualism which valorises the mind (or in this context 'the real me') over the body, through to Rousseau's moralistic stricture referenced by Charles Taylor that:

Our moral salvation comes from recovering authentic moral contact with ourselves [So] being in touch [with one's inner self] takes on independent and crucial moral significance [...] This is part of the massive subjective turn of

modern culture, a new form of inwardness, in which we come to think of ourselves as beings with inner depths (Taylor 1991: 26 - 27).

Heyes engages with embodiment not only in relation to trans* discourses of embodiment but also aesthetic surgery and weight loss regimes and in so doing extends her scrutiny to,

... the categories of “women,” “men,” “lesbian,” “gay,” “heterosexual,” [which] have their own histories that congeal in contemporary individuals, structuring consciousness and determining possibilities [In this context] one cannot say of any feminist subject that she simply upped and chose to be a lesbian – or a transsexual (ibid: 56).

I agree that the historical and socioeconomic environments that we are born into will shape and frame our potentials and delimit the possibilities of our lives, from the Foucauldian position that Heyes is writing from. What is being addressed in this chapter however is what implications does that have for trans* and sexgender nonconforming embodiments today? To reframe Heyes’ statement: what kind of trans* and/or sexgender nonconforming person is it possible to be today? In what ways is this different from what has gone before? And what implications does this have for our embodiments? Do we still rely on discourses of authenticity to validate our existences or are other affective discourses involved? And how are trans* and sexgender nonconforming populations affected as a whole? And if sociocultural and legal recognition rests on notions of authenticity then what implications does that also have for our ability to undertake our transitions, either permanently or periodically?

Discussing changes in the ways trans* people have begun to understand their bodies, one of my respondents Lee, said,

... I think one of the big things that we’ve broken away from the medical model is, originally people were this is what trans* is, this is what we’re told trans* is by our families, by our culture and by the medical profession, and then people have actually gone, this is what trans* is for me.

Lee, as an activist, has been instrumental in promoting trans* positive body discourses through the TransBareAll [TBA] organisation. TBA emerged out of the Transtastic Men Calendar which was produced in 2008 and featured photographs of transmen and

was produced to promote positive body image for trans* people, in particular transmasculine people.

In promoting discussion of transmasculine embodiment Lee's mission is to create a publicly accessible discourse for transmasculine people, which by extension has inevitable implications for transfeminine people, which embraces diversity of somatic expression. He explains,

... some of the things that TBA is trying to break down, is trying to help people make their own decisions, explore the options and decide actually what is important for them and finding that point of compromise where there is that expectation of you are never going to have a complete fully functioning cisgender male body. It's just not physically possible. It's never going to happen so kind of accepting that reality, and then working out, okay, what's the point for me where I feel comfortable with my body.

He contrasts this with the way expectations are created through medicalization encouraging unrealistic expectations of what it means to be authentically male:

And people don't necessarily think about that. They think about I'm male, I have to have a penis, and that's the important thing. And people are being pressured in the gender clinics to go for lower surgery who don't necessarily want it, or who aren't ready for it at that time and aren't given any support and aren't given any information.

In making this comparison Lee is engaging with discourses which have developed in reaction to the psychomedical model which he suggests effectively allowed trans* expressions only insofar as they effected re-normalisation of somatic and psychic identities along normative dimorphic lines. He is describing a discursive reaction against the psychomedicalised hegemony that only recognised a pathway whereby heterosexual traditionally masculine transmen were treated with a physically masculinising hormone regime and top and bottom surgery, and heterosexual traditionally feminine transwomen with breast growth (whether hormonally induced or implanted) and lower surgery subject to a feminising chemical regime.

While it is clear that an inflexible coercive psycho-medical system has existed for trans* people (although arguably the flexibility of the system in England and Wales is

increasing⁴⁵) it is important to acknowledge that people have engaged in more complex embodiments than the medical model suggests would be their ideal, for a variety of reasons.

6.8: Normative or not: slipping beyond the binary

The psychomedical model describes a particular pathway along which trans men and women pass as normatively as possible to an embodied final destination. What such a prescriptive pathway fails to acknowledge is the variety of trans* embodiments that have historically existed for many different reasons, cultural, economic, technical (the historically relatively poor success rate for genital reassignment – either phalloplasty or metoidioplasty – for trans masculine people for example) from force of circumstance or simply from choice. Examples of non-hegemonic trans* embodiment choices include trans men who retain the ability to procreate, trans women who for a variety of reasons including sexual, economic, perceived mental health or other disability issues, or who simply do not feel the need to go through SGRS (Coldwell 1994). This demographic would also include the many people who may now understand themselves or be identified as trans*, or in this work as sexgender nonconforming, who desire a variety of social expressions which may only necessitate particular limited modifications for them to realise their projects. Such projects were erased from much discussion of trans* validity in the way described by Adorno above, by feminists such as Raymond, and formally excluded from medical processes by British clinicians, certainly until the 21st century and thereby further marginalised. But it is clear that even in terms of trans* people who identify in a very binary way there has been a far greater variety of embodiment desires and therefore outcomes than is often assumed.

In my research I talked to a number of people who understood themselves as binary male or female and who discussed their embodiments as complete or completable,⁴⁶ in ways which made clear even in this ostensibly narrow band of self-understandings, the variety of possible outcomes. In discussion with the group of trans women and

⁴⁵ See attached notes on GIC advice to patients at <https://changelingaspects.com/PDF/CX%20Patient%20Info%20Leaflet%20%20-%20Draft%203.pdf>

⁴⁶ As should be clear from the broader context of this work my approach to embodiment issues in general and trans* embodiments in particular is that they should be seen as processes that intersect with wider issues such as ability, aging, health, ethnicity and changing sociocultural expectations. The extent to which they can ever be really considered ‘complete’ therefore seems to me to be questionable, although clearly people have very different understandings of their own projects, which may legitimately conflict with my understanding.

women with transsexual histories I discussed their embodiments and there was engagement with the tropes of passing and distancing from others who are perceived as what one of my respondents called ‘... a man in a frock’ and as such the broad context of the discussion was very transnormative. Yet even in this context it is clear that people’s projects are varied, affected by what their circumstances allow them to achieve, and generally prioritised on the basis of perceptions of social acceptance rather than their desiring a wholly ‘authentic’ female* embodiment just for the sake of it.

One of the women, Michelle, suggested that,

... I think that the vast majority of [trans] girls if not all of them still put the priority on GRS even though publicly nobody is going to see your fanny

The totalising effect of this remark was challenged in the same conversation however by Angie, another participant who post-transition remains married to her wife. Angie described her situation,

... I’m still happily married and my wife is very supportive. She would draw the line at me having GRS and actually that isn’t the priority for me at all. I just want to be able to go into society, be accepted as a woman, and if other people see Angie and not a bloke then I’m absolutely elated and that makes me feel right.

Other issues were discussed as drivers for interventions. For example Vicky, who at the time of the discussion had had no surgical interventions, compared facial feminisation surgery (FFS) and SGCS (GRS) as follows,

...my biggest priority is GRS, because I think GRS will tie everything together. I’m at a stage now where not only it is the only thing, the only part of me that is wrong, but apart from that in my personal life I can’t feel happy in a sexual relationship. So I think for the mental aspect of what needs to be done, I get rid of the male bit, you know, and make my body how I want it to be. But not only that but to enjoy a fulfilling sex life I think GRS for me is absolutely paramount. And if it was GRS or facial surgery for example, it would be GRS [which] is that final point where everything comes together and then you can move into a happier relationship, a more fulfilling relationship and move on with your private life as well as being more comfortable with yourself.

So Vicky's focus is very much on her feeling that her body matches her social role even in intimate moments, something that reflects what other researchers have discussed.

The drive for *social* recognition as a woman though is very much reflected in the testimony of Debbie who made clear the the social focus of her identity in relation to her embodiment project. She stated that:

The primary driver is how other people perceive me. That's the be-all and end-all of what matters to me. And obviously every cue that I can come up with that makes it easier for people to see me as the opposite gender is a good cue. So I will, you know, I'm happy to grow breasts because that works. Having breasts intrinsically, I don't really care. They are only a means to an end.

It is interesting that this instrumental approach to breastedness contrasts significantly with my own feelings about my breasts even though I identify in a far less normative way. I feel them to be an integral part of my body in and of themselves, in and of ourselves, in and of me. Their acceptance by others, while it might make me happy in certain circumstances, was never a consideration for wanting them. It should be stressed that neither of these perspectives should be understood as representing a more *authentic* position than the other: in fact I question the veracity of considering them in relation to notions of authenticity at all.

To emphasise how she feels Debbie also told me that although she doesn't believe totally passibility to be realistic and is less important than she used to feel it to be, another possible environmental affect, in relation to FFS means that,

... I still feel I would like to have that done. Because to me that is the most important by a fairly large margin than SRS or the boob job.

In relation to non-binary discourses one of my respondents Emily told me,

... the jury is out as far as I'm concerned with [non-binary people.] To me nature is mainly made up of binary, male and female. And I know I'm female and I can't actually relate to those that don't know what they are.

But it is possible to see that what emerges from these testimonies is that even for people who identify wholly within the binary their embodiments and the stated motivating

factors behind their choices are varied. They may choose to follow a predictable path or they may equally validly not.

The drivers then for embodiment range more freely and in less expected ways that confound the expectations of the psychomedical model's strictures and potential for mapping predetermined embodiments onto a narrow range of self-understandings. One of my respondents Ben, who identifies as a gay man said that what underlay his drive to change was that:

My body betrays me. In essence my physical body always disgusted me.

Echoing Lee he also recognised that:

I think that this is very individual [...] I think it has to be up to each person individually.

Thus although he offers a different motivation for changing his body than others above he recognises, albeit in a somewhat individualistic non-contextualised way, that there are many possible motivations for wanting to embark on embodiment. In theoretical terms we might want to contextualise this in terms of Heyes' statement that,

... individuals are thrown into particular subject-positions that are the contingent product of larger historical dynamics, within which they work to resist or exceed norms that are simultaneously the conditions of their own possibility (2007: 57).

And in a context where neoliberalism stresses the primacy of individual projects allowing one the realisation of one's socioeconomic self as *homo oeconomicus* such validation may be experienced as being a necessary component to one's functionality and validation as a good neoliberal subject.

Much scholarship of trans* embodiment issues has focused on transsexual SGCS interventions. As more diverse trans* discourses become increasingly mainstreamed however more account has been taken of a wider variety of trans* peoples' experiences. Karol identifies as transgendered but has no wish to have surgery. She has however made some changes to her embodiment:

I've been on hormones so, and and [sic] my main reason for going on hormones was because I wanted breasts. The reason I grew my own hair was because I

wanted to be real, and so I grew my own cos I didn't want to wear wigs, and I didn't want to have a padded bra, and I think it's also part of, my life was changing when I was meeting people, and having sexual relationships, I didn't want to get home and strip off and have a totally alien shape to the person what I'd met to what I was to someone that I was attracted to.

So Karol, like Vicki, is invested in her transformation in part for reasons of personal integrity in intimate situations but she also has a more public reason but wanting to alter her appearance,

... I feel so much happier now because it's me you know, for all the, you know, imperfections, you know it's real. And also it's [...] I used to, you know, go out and some guy'd shout in the street "oh it's a bloke" and I'd be nearly in tears and my whole night'd be ruined. And then the rest of the night might be OK but I'd be gutted. But once I came out it seemed to take the power away from them. And it's like I think the same about growing my own hair and getting, growing my own boobs and things like that, but it's being real, it's like they can't, you're not fake anymore, and people pointing at you and saying you're fake.

Karol is empowering herself though her engagement with what she feels is 'real'. Real in this case though is limited to her assessment of aspects of her embodiment without feeling any requirement to undergo major surgical treatment and as such seems to have a disconnection from more normalising notions of authenticity. It might be considered to be consistent with her stated self-understanding but clearly people who feel similarly about themselves do not all undertake the same or even similar interventions; there is no roadmap for a trans* embodiment, and neither does a specified gatekeeping process determine what can and will take place. In this sense trans* people who alter their appearances or embodiments have agency that sits outside of any gatekeeping process in the same way as non-trans* people changing their appearances within contexts that have traction with discourses of embodiment and appearance for all individuals in contemporary western society. As Heyes contextualises it:

Thus all political theoretical discussion of the fraught relationship between transgender, modern medicine, and feminism needs to see hormone treatments and SRS as practices on a continuum with other interventions in which we are all implicated (2007: 61).

In more strictly trans* terms it is possible to see this continuum exemplified through the experiences of three more of my respondents Eddie, Stacey and Sky. Eddie does not 'consider myself transgender' but presents in a feminine way. He thinks that:

I've never been able to achieve one hundred percent passability so that's why I don't consider it as an option. But it's always been about achieving a certain look, a certain perception [...] I would never have the operation. The only thing I would take is hormones and that is purely for an aesthetic reason [...] With aesthetic what I mean is that for me it's one hundred percent revolving around the way I look rather than the person I am.

Stacy on the other hand lives in dual role and for reasons I associate with cultural and economic survival restricts knowledge of her feminine side to people who she is comfortable knowing about her. In terms of their embodiment Stacy stated:

One of the main things I probably would state is I'm quite happy to stay as a male and I'm quite happy living my life as a male and I've no, erm, thoughts or interest in changing my body in any way whatsoever. There's only one thing that I keep coming up against every now and again and that's the expulsion of all body hair, permanently, including facial hair. It's double edged sword with facial hair cos obviously not having to shave is an absolute plus bonus anyway but obviously it's one of those things that will get picked up in my male-centric, erm universe, working and living in Essex as such.

Eddie's aesthetic approach and Stacy's attitude towards hair removal fall well within mainstream attitudes to body modification, which valorise aesthetic approaches to appearance in various culturally specific ways. A prescriptive youth and beauty enforcement of a particularly narrow visual code of femininity, and to a lesser extent masculinity, lies at the heart of the multi-billion pound/dollar commercial cosmetic beauty industry, and hair removal of various sorts is one of its mainstay products.

And Sky who says they are 'beyond the binary' told me this about their feelings about their own approach to embodiment,

... my idea of who I am and where I fit in society like changes but then I'm kind of I'm dating someone and she thinks that like I'm her boyfriend and it's quite nice actually. I've never had anybody think of me like that. It's like yeah, I'm a

lad [...] Sometimes I'll bind but it's really painful and uncomfortable and so I don't [...] For me like I'll just go I fancy a bit of like, it's like making a cake. It's like I fancy a bit of this today, of that today, sparkles, sprinkles on top. I guess that's how I see my embodiment, I'm a bit of everything really.

The experiences of these last three people enmesh issues of embodiment with those of expression, and clearly these two things cannot be meaningfully separated. That issues of expression were raised by so many of my respondents whether in regard to physical or chemical transition or otherwise, underscores the possibilities of fluidity of expression, undermining critiques of trans* peoples' transitional experiences being necessarily reinforcing of normative binary morphological essentialism. Rather, the multiple ways in which my respondents have experienced their embodiments seems to suggest that relationships between such projects and sexgender self-understandings are polyvalent and shifting. My research does not establish definitive patterns of difference between different demographic groups of people measured by age, ethnicity or sexgender expression for example. But it does demonstrate that diversity of embodiments and embodiments has historically existed even within the disciplining context of the hegemony of the psychomedical model. Further, recognition that this is so is building and providing a platform whereby individuals enter discursive spaces in which their freedom to self-determine their embodied outcomes is becoming increasingly foregrounded but also delimited, in line with neoliberal pressure to be individual and fungible in our respective marketplaces. The interesting questions now are what is the significance of this in the context of wider self-understandings in our current era and how can we usefully harness this knowledge?

6.9: Authenticity and the impossibility of the natural body

Heyes, drawing attention to the possibility of considering proactive approaches to sexgender, which are equally applicable to discourses and projects of trans* and non-normative embodiment calls for a,

...relational, historicised model of the self that remains sensitive to context, while broadening the scope of Foucauldian analysis to encompass “technologies of the self”⁴⁷ – “matrices of practical reason” that “permit individuals to effect

⁴⁷ I want to maintain a scepticism of this individualistic approach which segues neatly with a liberal approach to self-support and hard fungibility.

by their own means, or with the help of others, a certain number of operations on their own bodies and souls, thoughts, conduct, and way of being, so as to transform themselves” (TS 225)’ (Heyes 2007: 56).

This provides a challenge to the notion that we transform ourselves in order to become congruent with some mystical internal truth, that we transition to become the woman*/man* we have always been inside, that we slim because we feel like a slim person trapped in a fat person’s body. This is a discourse that has become so pervasive that while we might not believe Madonna when she asserts that she feels like a gay man trapped in a woman’s body, the reference is clear and it is certain that it reflects exactly how somebody, somewhere, does feel about themselves. I want to question what it means to explain one’s embodiment through reference to there being corrective actions to reveal an inner authenticity but only insofar as I feel it is a relational historicised model as described by Heyes above, and no less ‘real’ for the people thus experiencing this for all that.

This can usefully and illuminatingly be extended to issues of race and class. Alexander Edmonds, discussing plastic surgery practices in Brazil,⁴⁸ argues that,

... medical procedures instantiate a biologised model of beauty I call “bare sex” (Edmonds 2010) that is defined in terms of racial traits, anatomy, reproductive processes, hormones and “secondary sexual traits” (Edmonds 2013: 65).

Reflecting on intersections of race and youthfulness Edmonds engages with the disciplining regimes of aesthetic surgery and suggests that ‘... as self-aware animals we can become more or less conscious of our dual status as cultural and biological beings’ (*ibid*: 78). Drawing on Agamben’s 1998 distinction between *zoë*, ‘bare life’ and *bios*, ‘qualified life’ (*ibid*: 77) Edmonds suggests that there is a sense in which we can understand the constructedness of the somatic interventions we undertake to reveal not only the unnaturalness of sexgender but also of race and in the context of class. Considerations of embodiment in the context of Brazilian racialised notions of beauty, and their imbrication with discourses of class, enable an understanding of the weakness of anti-trans* discourses which engage the supposed fixity of racial ontologies to demonstrate the apparent impossibility of sexgender fluidity or migration. Of course,

⁴⁸ This section should be born in mind in relation to Suzanne Moore’s unguarded and controversial tweet about the bodies of Brazilian transsexuals referred to in Chapter 6.

they also underline how in different contexts culturally diverse embodiments are mapped onto individual bodies, through acknowledgement of how people marginalised by race, class and sexgender become commodified through invasive interaction with localised somatic regimes.

This illuminates what is fundamental to any consideration of trans* and non-normative embodiments; we need to analyse and understand them from the starting point of there being no natural body. As Heyes asserts ‘... in a deeply technological world, analysis must begin from the fact that the “natural body” is an unknowable, a fictive entity’ (2007: 60). This is more radically asserted by Donna Haraway’s claim that ‘We have never been human’ (Haraway 2008). And building on Edmond’s highlighting of our potential to understand our dual bio and social selves, Brunella Casalini suggests it is important for us to reach beyond the dualism implicit in the separation of life sciences and social sciences in examination of human lives, of our understandings of ourselves as social and biological beings referenced above. As she writes ‘... it is necessary to go beyond the dualism between nature and culture, between the material and the discursive, and between realism and social constructivism’ (2015: 138). There is no sociology of antelopes, ants or algae; yet we still discuss their lives as biological but in terms that we recognise as significantly social. And the separation of the disciplines within which we carry out our investigations into our own lives supports dematerialising discourses and simultaneously damaging and misdirected essentialism and fails to acknowledge that our social situatedness is *materially* affective of our biological life which in turn affects how we understand ourselves. The fact that we experience self-consciousness in ways we do not believe animals do should not encourage us to separate ourselves ontologically from other life systems. In fact our recognition of our similarity to other animals and their various fluidities is revealing in ways that contemporary transgender scholars have been attentive to (Hayward 2011, Hayward and Weinstein 2015). And of course the separation of sex and gender rests on this disciplinary separation and is one of the borderlines I suggest is unsustainable. As medical and communication technologies penetrate our lives to previously unimaginable levels therein lies the strongest challenge yet to the dualist dislocation that has obscured our self-understanding.

6.10: The Molecular Individual

Nikolas Rose, tracking a shift in biopolitical focus from that of the social body to that of the genetic body, develops a concept of biopolitics as molecular politics. Noting the development of the life sciences to the molecular level in the 1930s he proposes that this,

... was not merely a matter of the framing of explanations at the molecular level. Nor was it simply a matter of the use of artefacts fabricated at the molecular level. It was a reorganisation of the gaze of the life sciences, their institutions, procedures, instruments, spaces of operation and forms of capitalization (2001: 13).

Out of this refocusing emerges a new ‘... vocabulary of linguistics and communications theory. Messages, information, programmes, codes, instructions, decoding: these are the new concepts of the life sciences’ (Canguillhem cited by Rose, 2001: 13).

This has an impact on trans* and non-normative body projects both from the perspective of clinicians and the individuals ourselves as referred to above but also has far broader application. Referring to the ubiquity of contemporary somatic interventions Rose says:

Selfhood has become intrinsically somatic – ethical practices increasingly take the body as the key site for work on the self [...] Exercise, diet, vitamins, tattoos, body piercing, drugs, cosmetic surgery, gender reassignment, organ transplantation – for “experimental individuals” (Lury 1998) the corporeal existence and vitality of the self have become the privileged site of experimentation with subjectivity. I have termed this “somatic individuality” (*ibid*: 16 – 18).

In these domains of human experience it is possible to see the current genealogical endpoint of embodiment discourses which have existed in magic, in religion, in alchemy, utilising primitive and at times life-threatening technologies, as humans have striven to alter their embodied potentials and their appearances throughout mythical and recorded history. Sexgender crossings and ambiguities have been reported from the earliest of historical times and were represented in various mythologies of the ancient world (Bulliet, 1956). But as Rose suggests and as demonstrated by the above, the

search for explanation and ‘justification’ of why we are what we are (at least if we are marked as non-normative) has turned to the interiority remarked on by Taylor above, but also reflecting, and reflected by, the gaze of contemporary science.

This interiority mirrored by and mirroring our science can be framed in ethical *épistémic* terms through which Rose develops his notion of ethopolitics – which could be described as a neoliberal politics of the body - to account for the way in which somatic individuals are to be understood and held to account in the neoliberal epoch. By ethopolitics Rose tells us:

I mean to characterise the ways in which the ethos of human existence [...] have come to provide the ‘medium’ within which the self-government of the autonomous individual can be connected up with the imperatives of good government [...] If discipline individualizes and normalises, and biopolitics collectivizes and socializes, ethopolitics concerns itself with the self-techniques by which human beings should judge [...] In advanced liberal democracies, *biological identity becomes bound up with more general norms of enterprising, self-actualizing, responsible personhood* (Rose 2001: 18 *emphasis added*).

Rose connects ethopolitics with biopolitics and the way modern bodies are affected by their context. Now, rather than a simple appeal to make ourselves whole through making somatically manifest our inner authenticity, there is a subtly different imperative at work here (which may subsume but which exceeds the older discourse). As Rose puts it ‘As knowledges and beliefs about one’s biological and genetic complement become integrated into the complex choices that prudent individuals are obliged to make in their life strategies, biological identity generates biological responsibility’ (*ibid*: 19). Thus we have a social responsibility for self-care in order to maximise our fungibility.

In the context described in Chapter 4, it is clear how the ethical imperative to live a good life in the terms of *homo oeconomicus* is applicable here in ways that easily extend to discourses of trans* and non-normative embodiment and lives. Importantly though, Rose points to the ways in which what some critics think of as individualizing discourses in biomedicine (which trans* embodiment discourses have a fundamental relationship with) in fact congeal around new forms of collectivisation. In the context of this work the forms of collectivism that Rose refers to equate to the meso-level group

identifications I discussed in Chapter 4. And this is reflected in the development of transsexual and post-transsexual discourses and in the development of particular forms of self-understanding conceptualised as identities, both individual and group, that I discuss and critique. And as these discourses divulge an increase in people identifying as ‘non-binary’ or ‘sexgender fluid’ they reveal not only people surfing a particularly historicised identitarian moment but also that this is a moment of necessary and continual self-creation and self-recreation. In an environment when every social transaction is another job interview of sorts, when precarity of social existence requires constant surveillance and persistence in order to survive, fluidity becomes a necessary component of success. This translates into its valorisation in so many aspects of our lives including the ways we are able to think of ourselves as sexgendered people.

This is the contemporary environment of affective governmentality in which a multiplicity of embodiments are being enacted and their legitimacy recognised in ways which overreach and undercut the psychomedical model and which encompass our variant embodied lives today. My trans* and sexgender nonconforming respondents discussed their experiences in terms of more being allowable, which in a sense is clearly true, but allowable in complex ways. There are themes of wanting to be either read as normative or of realising that more is possible within the context of still being allowed to function within the parameters of fungible lives: people such as AI are understandably both excited and relieved to realise they will not *necessarily* be ostracised through their undertaking non-normative embodiments. But this is possible only in the context of containing the action, of having an impact on the body which is not allowed to leak into a discourse that challenges hegemonic strictures of governmentality. It seems then that you can undertake the actions but you are not allowed to draw the possible political conclusions of your actions.

There are contradictions in this that for the moment remain masked for many people. While the luckier of us celebrate new embodied diversities we ignore or tolerate the power relations that withhold or restrict that possibility for more marginalised people to do the same. We celebrate our diversities but fail to acknowledge they exist in a totalising environment which homogenises outcomes. We celebrate such fungible diversities and the associated embodiment practices through which they are realised in a market place. However the very marketization that has made solutions more accessible has done so for some people but not others. Privatisation of medical services and

stricter scrutiny of online selling (Newman and Jeory 2016) may make access less open, more uneven, more unequal in the near future at greater cost to far more people.

Preciado touches on these issues when suggesting that ‘The question is who has access to hormone treatments? According to which clinical diagnosis? How do class and race modify the distribution of and the access to technologies of production of gender?’ (Preciado 2013b: 127).

6.11: Conclusion

The embodiments, the body projects that we undertake, are limited or liberated by the technologies technically and distributively available within particular ethical contexts. Their meanings however, which may be partially or mostly obscure to participants and their audience/interlocutors, are also context defined and materially labile. That is to say, what we feel we need and why we feel we need it are not ahistorical facts, but conditional effects of possibility. We may want to claim that they are ‘truths’ and that may indeed be a meaningful claim. But it can only be a conditionally meaningful claim in the context of there being a purpose in framing such claims in that way. It might be wiser to suggest that the ethical biocontexts in which we exist exert powerful influences on us that constrain us while claiming to empower us. Our ethical obligation is to realise this and try to build a *verfremdungseffekt* into our embodiment projects. Engaging an awareness of our situatedness we may strive to achieve the measure of embodied difference (or depending on one’s point of reference similarity) that we require, while maintaining awareness of the environmental influences that have directed the shape of the projects that emerge out of the context-specific needs that we develop.

In this chapter I examine concepts of hybridity and normalisation. I discuss how they play out culturally and socially in the context of my discussion of contemporary discourses of the science of the body, which challenge established binary understanding of human dimorphism and analyse the extent and effects of brain plasticity on individuals in relation to affective endogenous and exogenous environmental factors. I examine how the experiences of my respondents underline the fact that transness cannot be contained within easily understood tropes and often slips ‘beyond the binary’. This informs my discussion in Chapter 7 of the ways laws offering recognition to trans* and sexgender nonconforming people have been constructed, and how culturally their interpretation and implementation fail those in the most precarious social and economic

situations and conversely bestow advantage to people who are relatively socioeconomically and socioculturally privileged.

And finally as a bridge to the following chapter, let us consider what Preciado, referencing Haraway tells us,

... the twenty-first-century body is a technoliving system, the result of an implosion of modern binaries (female/male, animal/human, nature/culture). Even the term life has become archaic for identifying the actors in this new technology. For Foucault's notion of "biopower", Donna J. Haraway has substituted "techno-biopower." It's no longer a question of power over life, the power to manage and maximise life, as Foucault wanted, but of power and control exerted over a technoliving and connected whole (2013b: 44).

Chapter 6: Heterotopic environments and markets: a politics of the internet, social networking and the media

*There is nothing to discover about nature, there is no hidden secret. We live in a punk hyper-modernity: it is no longer about discovering the hidden truth in nature; it is about discovering the cultural, political and technological processes through which the body as artefact acquires natural status – Paul Preciado, *The Pharmo-Pornographic Regime: Sex, Gender, and Subjectivity in the Age of Punk Capitalism**

*... postmodernity is about a new and perversely fruitful alliance between technology and culture – Rosi Braidotti, *Cyberfeminism with a difference**

Writing in 1967 in another technological era Foucault proposed that:

We are in the epoch of simultaneity: we are in the epoch of juxtaposition, the epoch of the near and far, of the side-by-side, of the dispersed. We are at a moment I believe, when our experience of the world is less that of a long life developing through time than that of a network that connects points and intersects with its own skein (1967: 1).

In much the same way that, as I noted in the previous chapter, Haraway's 1980s work was a prescient prediction of a world that had not yet emerged, Foucault's work *Of Other Spaces* (1967) anticipates discussions of what the impact of the later technological developments of the internet have been on contemporary interpersonal relations and consciousness. In this brief work he describes as heterotopic, spaces of otherness such as telephone calls or reflections of ourselves in mirrors or of graveyards which have the capacity to disrupt naturalised or hegemonic conceptions of the self and one's communications with and about the self or with others. As Foucault tells us

'The present epoch will perhaps be above all the epoch of space. We are in the epoch of simultaneity: we are in the epoch of juxtaposition, the epoch of the near and far of the side-by-side, of the dispersed [...] Our epoch is one in which space takes for us the form of relations amongst sites' (*ibid*: 1 -2).

By far the most extensive development of sites of communication and signification in the late 20th and early 21st Centuries has taken place with the growth and development of the World Wide Web (WWW). It is the extent to which these developments have productively disrupted and altered self-conceptions and interpersonal communications, and the resultant change in interaction, arguably heterotopic in nature, with wider cultural production and media that forms the basis of this chapter.

This chapter discusses the extent to which the growth of the internet and subsequently Web 2 (DiNucci 1999) has altered the ways in which we communicate with and connect to each other. I begin by examining scholarship attending to the impact of the internet on the development of virtual identities and communities and I critically examine the relationship of the ‘virtual’ world with the ‘real’ world. Engaging with the reports of my respondents I discuss how individuals report experiencing the benefits of the internet in terms of their personal and social development. I then examine how the immediacy, pervasiveness and availability of internet communication impacts on our interactions with social and media discourses and our engagements with online markets, and what effect this has had on people as consumers and sociopolitical agents. Finally I critically examine the extent to which the internet acts as a delimiting medium of sociopolitical discourses in terms of politicisation and depoliticisation taking into account the polity in which it emerged and the technologies and forms of ownership and business philosophies within which it has developed and operates.

I draw on media and online texts and interactions regarding those texts, which have relevance to trans* and sexgender non-conforming discourses, and examine how their publication across new-media platforms has enabled new patterns and mobilisations of heterotopic response. In doing so I situate myself as both a researcher and a subject, and representationally as an object, within an environment in which discourses are produced and reproduced in new multiplatform dimensions, subject to the influence of and participating in developing these same historicised discursive interactions. I reflect on the potential for activism in such environments to effect change, and the limitations of such potential. I also reflect on the ability of such environments to create particular individuated subjectivities which affect people’s embodiments and how they are read, and how dialogically the ambit of these subjectivities tends to be reproduced through and reflected in the hegemonic normative legal discourses I discuss in Chapter 7.

7.1: Internet emerges

In the mid-90s the growth of the market in personal computers heralded the rise in popular use of the internet in the UK. The internet, which grew out of an American military programme, was culturally influenced early in its development by a number of complementary discourses. In the USA the scientific community which began its development had a culture of ‘... public disclosure of research, collective dialogue and intellectual cooperation in order to further scientific advance. This cultural tradition gave rise to the cooperative development of networking protocols, and their open release’ (Curran 2012: 38).

This cooperative tradition was complemented by the influence exerted on the internet by the American and European countercultures which in turn affected how the internet was used. Thus ‘A hippy sub-culture sought individual self-realisation by breaking free from repressive convention, while a radical sub-culture hoped to transform society through a transfer of power to the people’ (*ibid*: 38). Out of this weaving together of complementary cultures we began to see the emergence of an awareness of the possibilities enabled by the internet for people to explore identities in a new dynamic and displaced way.

Gaming has been a part of online culture since the early 1990s and this helped foster the understanding that the internet could be a place where users could interact in communities of interest and explore fuller potentials of their personhood, freed from daily sociocultural constraints and thereby democratising ‘virtual’ environments. The development of virtual subcultural communities is something that has long been held to have been one of the factors along with a developing body of theory and activism that helped support the growth of trans* communities. As Stephen Whittle notes:

The growth of the home computer use in the 1990s, and the encouragement of many trans women at the forefront of information technology and Internet development, was crucial to the development of a newly formed, geographically dispersed, diverse trans community in the 1990s (Whittle 1998). Online, this newly formed community was able to discuss its experiences of fear, shame, discrimination, and, as a result, many community members developed newly politicized personal identities. This new politicization forged a determination to

change the world by every means possible, for the next generation of trans youth (Whittle 2006c, xii).

Whittle's point is echoed by one of my respondents, Juliet, who pointed out that:

That was something that built up a critical mass from the mid-nineties really. Trans* people from quite early on were very on-board with online networks, communities. I think Sandy Stone's *Empire Strikes Back*, one of the foundational texts of transgender politics and studies was distributed through computerised networks in the late eighties.

While Whittle's emphasises the politicization of what he describes as a cohesive trans* community, equally important was the space and initially at least, anonymity granted by 'virtual spaces' for people to begin to engage with and explore their own hitherto unadmitted, undisclosed or unrealised sexgender identities.

7.2: From 'streets to screens', to 'screens to streets'

Feminist and trans* scholars considered the impact of early pre-Web 2 interactions on discourses that contributed to identity formation and emergence of cultural and subcultural group identities. Liesbet van Zoonan (2002) discusses PC and internet use in terms of how it reflects 'real world' female*/male* relationships. Julia Davies on the other hand referring back to Foucault's *Of Other Spaces* discusses how '...there is a sense in which not only are discursive practices *located* in space, but also that they *produce* space [in the context of the] cultural space of the Internet' (2006: 57 – 58). She discusses how this impacts on a website owner's ability to create a relatively interactive, yet also anonymous space wherein interlocutors can develop their knowledge of and identities as an emerging community of practice.

By contrast Whittle is interested in the development of a community of interest, which produces a unifying identity category of what he terms the transgenderism of the participants. He is attracted to what he sees as the positive outcomes of engagement with online activity for the development of trans* consciousnesses not just in a personal but also a political sense.

Whittle suggests the advent of wider take up of internet use facilitated the possibility of trans* people finding a space in which their modalities were able to be engaged and

accepted in part because they were shielded from both the discrimination and misunderstanding of the general public, friends and family, the medical establishment or feminists and academics, and from the socioeconomically enforced practices of passing that were typical of trans* peoples' experiences up to (and arguably far beyond) the 1990s. Thus he tells us:

Cyberspace affords the place where the virtual self is used to discover the actual self subjectively so that its experience is validated. The actual self with its trans identity can be experienced as authentic rather than as the medicalised paraphilia which is currently [...] regarded as the real sense of identity by society (1998: 396).

Aside from the unproblematised notions of 'authentic identity' the idea that this venturing into cyberspace was productive for trans* people in terms of their being able to realise their trans* potential through accessing safe, supportive and nurturing environments is something that was reflected in the comments of some of my respondents, as referred to by Karol, Ben and Helen in Chapter 3. Juliet as well adds to her comment above by noting that internet connectivity,

... certainly helped me in the mid to late nineties, going online and finding other trans* people. I lived in a small town with one visible transsexual I remember in Crawley in the mid-nineties, and I found her website and got in touch with her.

The internet however was not somewhere that such spaces emerged out of entirely disconnectedly, as Whittle seems to suggest above, but was rather a medium that gave wider access to already emerging social scenes in larger more metropolitan areas in England, as Helen references in relation to the Manchester Village in Chapter 3. This should be understood as part of a process of alteration in socio-spatial geography, a heterotopic shift, leading through a series of transformative interactions, to developments of expanded social cartographies for trans* people, amongst other marginalised and invisibilised demographics.

In this respect Whittle is correct to identify the importance of early internet interaction in terms of overcoming geographical dispersion. So while in London for example an identifiably modern, if nascent, self-identified trans* social scene was certainly developing by 1992, at the Way Out Club (Lee 2014) for example, in parallel with more

politicised trans* activism (PfC 2014), isolation and imbricating issues of non-self-recognition had been a feature of most trans* lives up to and beyond that point. Whittle makes the point that the three trans* people he knew on the Shetland Islands did not have an immediate trans* social hinterland and this was echoed by Helen who discussed what, for a significant number of trans* people who were accessing online communities in the late 1990s and early 2000s, must be a recognisable scenario:

I mean when I first moved to Manchester [...] there were half a dozen of us sitting in my flat one night on a website called Donna's Den, which was international, it was a chatroom. And we put all our names on, Helen, Jackie, can't remember the others' names now. And somebody in the middle of the United States came on and said what's with the names? Well it's all of us who are sitting here. What, there's six of you in one room? Yeah. I don't think there's six within five hundred miles of me. Now to *that* extent the internet has been absolutely invaluable.

Whittle also suggest that cyber-interaction was helpful for trans* people, and in particular trans women in relation to them being able to develop a sense of themselves without the pressures associated with being able to pass as FAAB:

Cyberspace initially affords a place in which the body is 'fully malleable, indeed even disposable' (Lajoie, quoted in Shields, 1996: 165). The body is not seen or felt 'in passing'. Thus it has been a locale in which transsexual women have been able to discuss whether 'looks' (i.e. passing) are important without 'looks' getting in the way (1998: 398).

Whittle's claim then, is that the internet enabled the politicisation of trans* people. I acknowledge that there is some validity to the claim that the queering of space allowed for particular developments of discourse. I want to counter this however, by suggesting that the growth of online communities was an extension of the growth of face-to-face communities which was already occurring in an increasingly neoliberal environment that was becoming more accepting of certain kinds of diversity anyway. As I go on to discuss at greater length in Chapter 7, the kind of politics that has emerged is of a largely individuated nature, which prioritises issues of work, identity and social inclusion through a narrowing prism focussing on *the individual* (Monbiot 2014), which is itself affectively intensified by the individuating and silo-ing effect of our

increasingly immersive sociotech environment and the complicating potential of its echo chamber effect (Naughton 2017).

Whittle's account of the importance of internet connectivity for the politicisation of the putative trans* community in the UK also fails to engage with the binary nature of much online interaction and therefore of what many people's experience of online communities were and in some respects continue to be. This both reflected and reinforced hegemonic accounts of sexgender in a specific trans* context. I now examine the growth of modern trans* and sexgender non-conforming environments.

7.3: New media, old discourses

The Way Out Club is London's longest running trans* nightclub and their club nights along with their publications, beginning in 1993 with *the Transvestite's Guide to London* (Lee 2014) (later, ironically given more recent discourse about trans* nomenclature renamed *the Tranny Guide*) began to establish a specific and targeted social scene in London. This was later supplemented by a website. A group who named themselves the *UK Angels* coalesced around an East London trans* social scene in late 1999. By early in 2000 they had established a Yahoo Group which was also quickly supplemented by a website. Similarly the people who had been responsible for *Rose's Repartee*, a magazine for (M2F*) transvestites since 1989, inaugurated their online presence in December 2001 to augment their well-established, if niche, community presence.

The *Rose's Club/Repartee* team organised social events from the end of the 1980s and their web presence developed out of their established old-media and offline social presence. The *UK Angels*, established later at a time when the internet was becoming a more significant aspect of people's everyday life in England and Wales, was almost simultaneously birthed online and offline. That the internet increased access to these communities is undeniable. Indeed I accessed the *UK Angels* web presence almost at its inception while working overseas in Qatar. But the internet was not in and of itself responsible for the emergence of such groups. Prior existing socioeconomic conditions were already favourable to support the slow extension of a previously marginalised and underground trans* social scene and essentially (in the UK at least) barely- or non-existent trans* political activism.

I have focused on these particular groupings which were, and remain orientated towards the needs and interests of transfeminine people,⁴⁹ in part in order to challenge Whittle's assertion above that the internet freed trans* women from the need to focus on appearance and passing. While it is true that it was common for new users to adopt idealised avatars to represent themselves until their confidence grew sufficiently for them to post profile pictures of themselves, thus granting them a certain freedom and safety through anonymity, there was and remains a great deal of content which is aimed at giving advice about how to achieve the best 'authentic' feminine look and where to source hair and beauty products to achieve this (tvChix 2016). It was at the point where many users felt they had achieved both a certain photographic passability and the confidence that they could maintain a necessary level of security from being outed to non-scene individuals that they might know and who might jeopardise the level of anonymity to the outside world, that they then attached face and body photographs to their profiles and took the next stage to visibility. Stacey confirmed this, focussing on her sense of (in)-security when she remarked that:

I've evolved on that site from the point of view when I first started I had headless shots and everything else and I wanted to speak to everybody and I didn't understand why people wouldn't add me [...] I learned that pretty fast that you needed a proper profile to be understood and connected to people. It's a two way trust thing and unless that's happening people don't want to know [...] I did eventually renege and say screw it, I'm safe enough here, I felt comfortable enough in myself on that site and I ended up putting my full profile with full pictures and everything else on there.

No matter how limited that visibility might be for individuals, often restricted as it was to discrete profiles on moderated internet sites, overall such contributions added momentum to the feeling that there were more of us, and that we were not alone.⁵⁰

Nonetheless much of the discursive traffic on the sites was a re-tread of similar tropes of

⁴⁹ FtM London, the transmasculine site still online, went live '... in 1997 as a peer support group for female to male transgender or transsexual people' (FtM London 2014). Although elsewhere in this work I have resisted categorisation according to transfemininity or transmasculinity here I do so, both as a device to critique the binary framing of Whittle's 1998 article, and because in their initial inception as internet presences transfeminine and transmasculine discourses tended to be presented separately. That this is less so now is significant and discussed below.

⁵⁰ One famous trans* website from the USA founded in 1996 is called urnotalone, <http://urnotalone.com/main.php>

passability and femininity found years earlier in such publications as *The World of Transvestism* (1980s). And the photographs originally posted to galleries on sites, multiplied on people's personal sites and in time expanded voluminously onto various Yahoo Groups and subsequently websites such as Flickr, Pinterest and Instagram.

Given the discursive environment from which the early websites emerged as well as the interests of their founders and users it would have been surprising if they had failed to focus on well-established tropes of transing. That they were, initially and for many years, mostly very binary, at times almost defensively so, suggests that Whittle's assertion referred to above that people '...could take on assumed identities and interact with others freed from the visual markers of age, gender, ethnicity, class and disability...' is at best a questionable generalisation. Rather, people were free to explore their identities in private and anonymously but visual and cultural markers were still maintained by the discursive limits set by the cyber environments, and the politics of binary aspiration particularly on mainstream UK sites, was if anything more strongly and hierarchically enforced. To paraphrase Foucault there is no such thing as a clean cultural break (1998: 119).

One of the outcomes of increasing internet connectivity and interaction was a widened sense of community, which in turn led to people meeting at newly established club nights such as Transmission, which ran in London from June 2002 to early 2007, and the *UK Angels* night at Pink Punters night club near Bletchley. As such club nights became established the stage was set for 'the *scene*' to develop in both size and scope. Taken at face value this social scene could never have been described as queer, although it certainly reflected an extension of normativity, which enabled a far greater range of expression. Transfeminine people began to go to and be accepted at the originally itinerant, and primarily transmasculine and genderqueer/nonbinary Club Wotever whose manifesto from August 2003 stated that their ethos required:

Respect and welcome to one and all. No matter what identity, or multiple identities any person may have or choose, Wotever welcomes them. This includes, but certainly is not exclusive to: drag kings, queers, women, mtf, femmes, trans, butches, queerbois, gay, drag queens, dykes, bisexuals, ftm, men, straight.....Wotever etc. All will respect all. No matter whomever, however, or

wotever you are in any moment, we ask all to respect all others, no matter whomever, however or wotever they are (Club Wotever 2014).

With the advent of faster downloading greater access to broadband connections and increasingly more powerful and portable equipment, the nature of internet communication itself developed and interactivity increased in turn with the evolution of social networking.

Sites like *tvChix* are more technically sophisticated versions of older sites, with a specific focus on bringing people together on the basis of shared community interests or attractions, in this case for transfeminine people and their 'admirers', a contested term used to describe people who experience attraction to transfeminine people. But increasingly trans* and other minoritized people were finding their way onto general social media sites such as *MySpace* launched in 2003 and *Facebook* launched in 2004 which became available to everyone with a valid email address by September 2006.

7.4: Web 2 and media reporting of trans* and sexgender nonconforming issues

Much has been made of the potential for networking through social media to transform power relations in relation to political discourse and to democratise the dispersal of information away from the conglomerate power of old-media institutions (Curran 2012: 49, Curran et al 2012: 179).

Much discussion about the internet in its Web 2 form focuses on its potential to facilitate a shift from old industrial corporate forms of broadcasting to a more intimate and flexible model, promoting abundance and variety of information. Hope was articulated that such decentralisation would promote the democratisation and diversification of media messaging, challenging the power of hegemonic discourses (Freedman 2012).

I am interested in examining the extent to which opinions and information circulating and debated through the niches enabled by blogs, social networking sites, wikis and Web 2 platforms have engaged with old media platforms through their increasingly interactive interfaces, and the extent to which they can be understood to have effected changes in attitude and practice in more traditional and arguably further reaching media. I also problematise the extent to which the relationship between social media and old media has actually generated radical change in presentation of news articles and below

the line (BTL) opinion generated by news sites. I go on to examine how such shifts in media relationships have affected broader sociocultural understandings of and relationships with trans* and sexgender non-conforming people and their embodiments and issues of self-understanding.

During the time I have been writing this thesis there have been a number of significant impactful events reported across mainstream media which I argue are reflective markers of sociocultural change. I consider below several news events that have been significant markers of change, and discuss the impact of increased visibility of trans* and sexgender nonconforming people across a variety of media platforms. I have necessarily selected a small number of items due to space constraints, however it should be noted that the volume of media on trans* issues has increased significantly over recent years both in number and in prominence. This is reflected in the media recognition given to trans* people by *The Independent* that introduced Chapter 4.

On the 8th January 2013 in an article about female anger and the unrealistic expectations that society has of women in terms of their appearance Suzanne Moore remarked that women ‘...are angry with ourselves for not being happier, not being loved properly and not having the ideal body shape – that of a Brazilian transsexual’ (Moore 2013). This sparked off a *Twitter* controversy in which Moore was called out for both objectifying Brazilian trans women without recognising the appalling level of violence and murder inflicted on them as an identifiable minority, and the use of transsexual as a noun, as in ‘a black’ or ‘a gay’, rather than as an adjective as in transsexual women. As is often the case on *Twitter*, amongst the varied and often measured responses were intemperate messages which culminated in Moore posting the following message before suspending her *Twitter* account: ‘People can just fuck off really. Cut their dicks off and be more feminist than me. Good for them’ (Baker-Whitelaw 2013).

While people had differing views on what Moore had initially written, ranging from the reference being totally unacceptable to a more consensual position of it being an unfortunate and un-thought-out remark from someone who was generally considered to be a good feminist ally, this was certainly not the case with the response to a subsequent article by Julie Burchill entitled ‘*Transsexuals should cut it out*’ (Burchill 2013) published in the *Observer* on the 13th January 2013.

Burchill's article, offered as a 'defence' of Moore, was published in the Comments section of the *Observer* and simultaneously in the *Guardian Online*. In it, Burchill a polemicist known for assuming controversial positions, described trans women and our allies as 'a bunch of dicks in chicks' clothing', 'a gaggle of transsexuals', 'the very vociferous transsexual lobby and their grim groupies', 'the trans lobby', 'screaming mimis', 'the trannies'. She added 'they're lucky I'm not calling them shemales. Or shims' (all Burchill 2013). What was significant about this article was not its tired clichéd language, or the fact that she lazily equates trans* people/transsexuals with transfeminine people, but rather the reaction it provoked from trans* activists, allies and many of the general public, and how these events affected engagement with the mainstream media, and informed future engagements with mainstream media. Arguably the responses marked a shift from the unspoken rules of such engagements.

In the immediate aftermath of this article being published trans* activists mobilised to express opinions through social media and social networking sites. The online activist group *Trans Media Watch* (TMW) issued what would formerly have been called a press release representing their views of how damaging, distressing and prejudicial the article was to trans* people as individuals, and in general (TMW 2013). A significant number of articles were published both on old-media platforms (both online and hard copy) and on social media in the following week, detailed on the *Trans Media Action* timeline (2013). Activists also used *Facebook* and *Twitter* to organise a demonstration to take place outside the *Guardian* and *Observer* offices on Thursday 17th January 2013.

The *Observer* responded by withdrawing the article before the demonstration occurred. *Observer* editor John Mullholland wrote:

We have decided to withdraw from publication the Julie Burchill comment piece 'Transsexuals should cut it out'. The piece was an attempt to explore contentious issues within what had become a highly-charged debate. The *Observer* is a paper which prides itself on ventilating difficult debates and airing challenging views. On this occasion we got it wrong and in light of the hurt and offence caused I apologise and have made the decision to withdraw the piece (McCormack 2013a).

Mulholland agreed to engage with trans* activists about why the article was published in the first place given the *Guardian/Observer's* code of ethics states that '... we should not casually use words that are likely to offend' (Pritchard 2013).

In seeking to explain why the article had been published at all, many activists surmised that it was 'clickbait' – a deliberate attempt to generate controversy in order to increase readership. For many media outlets, including progressive ones, shrinking revenue streams from traditional advertising in hard-copy newsprint editions, has created a greater need to maximise profit from online users in terms of traffic volume. By funnelling services to individual user profiles and harvesting user profile information to sell on, news media via the internet arguably becomes ever more commodified and we are all thereby commodified as users.

The *Observer's* readers' editor Stephen Pritchard, published his response on the 18th January 2013 in which he noted that protest against the article, described as the ensuing storm,

... was notable both for its vociferous nature and for its individuality. A controversial issue will often bring a blizzard of identikit protest of apparently confected anger but while clearly this lobby was organised most of the emails and letters we received were personal and heartfelt. And they were not only from trans people. Concerned readers with no connection to the trans lobby felt hurt that a minority that could expect to be protected by a liberal publication was being attacked in an extremely insulting manner' (*ibid*)

The protest included '... more than 1,000 emails [...] in my inbox and 2,952 comments [...] posted online' (*ibid*), as well as a great deal of online response and comment in the old media, not only about the article itself but also about its withdrawal by the *Observer* (Young 2013) and the nature of the protests themselves (Magnanti 2013).

It would be a mistake to mark any particular media controversy as transformational in itself but this was one of a series of significant media interventions and interactions that are representative of the delimitations of broad public understanding of trans* issues affecting in parallel trans* and sexgender nonconforming people and non-trans* people as well. In this case the fact that it took place across multiple platforms implicated within online media is significant. The volume of responses was huge, compared to the

‘letters to the editor’ format of pre-internet days. The speed and immediacy of the responses was also significant, insofar as it made clear the repugnance to the prejudiced language used by Burchill, in particular felt amongst a broad though far from unanimous section of UK liberal opinion, which ordinarily the *Guardian* may have considered their natural constituency. This included people, who ordinarily had nothing knowingly to do with trans* and sexgender nonconforming people or their issues.

The immediacy of online connectivity also meant that responses to the paper could be strategically organised. Trans* and sexgender non-conforming-led and -positive groups and individuals were very active on social media in engaging and developing discussion around this topic. The porous nature of social media ensured that what once would have been debated by a relatively small group became far more widely discussed both in terms of what was discussed, but also where and by whom. Thus as trans* and sexgender non-conforming positive feminist *Facebook* groups such as *Feminists against Transphobia* and *Feminist Fightback* are informed by trans* and sexgender nonconforming discourses and new feminist positions are developed and engaged, understanding around sexgender issues becomes more widespread. The heterotopic environment opens up emerging and altering patterns of possibility.

Increased representation of trans* issues across mainstream media nonetheless evidences uneven dialogic processes at play in the modification of attitudes towards sexgender nonconformity in contemporary England and Wales. On the one hand, the Chanel 4 programme *My Transsexual Summer* (2011) gained an audience of 1.89 million people (BARB 2017); for all its shortcomings it gave a more sympathetic and relatively nuanced (in the context of reality TV) view of a diverse group of trans* and sexgender nonconforming people (Jacques 2011). But this was followed by not only the Burchill incident but more tragically the case of Lucy Meadows, a teacher who committed suicide after Richard Littlejohn published a comment piece on the 20th December 2012 entitled ‘He's not only in the wrong body... he's in the wrong job’. On the 19th March 2013 Meadows was found dead having committed suicide.

Rather than the gratuitously transmisogynistic language that was the most overtly offending feature of the Burchill article, the Littlejohn commentary relied on tropes of mainstream reporting on trans* issues that had been standard up to the time he published it. This included the use of incorrect pronouns, ‘before’ photographs, the

assumption that other people will necessarily be negatively impacted by the medical needs of a trans* individual, the harnessing of concerns about the negative impact on children by one parent without giving the views of other apparently supportive parents, and the fact that the transition should be news at all. None of these have any legitimate 'public interest' which could have justified the publication of the story at a time when the '... person in transition is likely to be going through intense psychological and emotional changes [when] the worst thing for them is the humiliation of a sudden tabloid monsterring' (Green 2013a).

Social media was critical in mobilising activists for the vigil held for Meadows in the immediate aftermath of her death, and subsequently in scrutinising the press coverage of her transition in blogs (Fae 2013a, 2013b, Green 2013a, 2013b) as well as engaging the press and wider public opinion to challenge the acceptability of such reporting. TMW continued their scrutiny of the press and announced on the 26th March 2013 that three hours was being set aside in parliament for a discussion on how the media represents trans* people. This was one of the concrete results of the activism that originally highlighted the unacceptability of the media reporting. Such activism also prompted the creation of editorial guidance on *Reporting and researching stories involving transgender individuals for newspaper editors issued by the press complaints* issued by the Press Complaints Commission (PCC) in June 2013.

Two key social media groups who emerged during this time were TMW who as noted above were formed as an online group in order to respond to negative or misinformed reporting on trans* issues and about trans* individuals, and subsequently All About Trans (AAT), initially known as Trans Media Action (TMA). TMW became sufficiently influential to be invited to give evidence to the Leveson Enquiry (Trans Media Watch 2011) but their *modus operandi* has been broadly a reactive one insofar as they respond to negative reporting in a corrective, if engaged manner.

Taking a more proactive approach however TMW and On Road Media, '...a not-for-profit organisation that works with excluded and misrepresented communities to look for solutions to social problems using the web, technology and the media' (On Road Media 2014) came together to form TMA. Discussing the work of AAT activist and journalist Paris Lees said:

It's kind of different to the kind of activism that I've done in the past to improve the way that trans* people are represented in the media because we're not kind of, you know, complaining or saying this is how you've got to do this, this is how you've got to do that. It's really just a chance to talk and what we find is that a lot of creative stuff has come out of this' (Lees 2014: 0:24 – 0:53).

Mirroring the earlier shift discussed above in which the trans* scene moved online, gained increased reach and traction and thereby increased trans* visibility, access to trans* spaces (virtual or otherwise) and identification, the reactive engagement becomes proactive and ultimately productive, with trans* voices, however initially limited in diversity and scope, being increasingly represented in mainstream media.⁵¹

And as these engagements take place, cultural change is also observable. The fact that Littlejohn's commentary on Lucy Meadows is no longer available on the *Mail Online* website suggests that even if the organisation did not accept any responsibility for her suicide (which I reiterate, her inquest failed to find any direct connection to), at some level, editorially and culturally, they are coming to an understanding that such prejudicial reporting of trans* issues is becoming less acceptable even in the right-wing mainstream media in the UK. Although explicit prejudice is becoming unacceptable in certain particular terms, there is still much evidence of implicit prejudice and a lack of sophisticated understanding of the possibilities of trans* and sexgender nonconforming people's lives and the problems that they face in media reporting.

7.5: A new standard

What is emerging is a particular way of reporting trans* issues. Referencing *Mail Online* articles published since Meadows' suicide it is clear that certain boundaries have been set which ensure that the PCC guidelines are not entirely blatantly disregarded. Thus when Ruth Styles reports on the '...former navy officer turned champion pole-dancer' (2014) the story is superficially supportive and refers to Natasha Payne mainly using feminine referents. When talking about *her* courage however, it loses the courage of *its own* convictions as follows: 'But when Ms Payne, who says she had always felt trapped in the wrong body, plucked up the courage to tell his wife of his feelings, things began to go wrong' (*ibid*). The tortured syntax reveals the tortured soul of middle

⁵¹ For example the *Guardian* published an article about a non-binary teacher which consciously raised issues not mainstreamed during the media discussion of the Lucy Meadows story (George 2014).

England failing to accommodate itself to something with which it is ultimately deeply unfamiliar and uncomfortable.

That the wrong body trope is revisited is unsurprising given the contextual tone of the rest of the article. The entire ‘news’ value of the article is Payne’s transition in relation to the fact that she has won a prize in the typically feminine arena of *pole dancing* having been a stereotypical masculine naval officer. It therefore seems to fall outside the protection from discrimination section of the PCC guidance, which states that ‘Editors should also be aware of the issue of relevance. It may be useful to assess whether a story would be considered newsworthy if it did not concern an individual of transgender status, and if so, whether the individual’s status is genuinely relevant’ (Press Complaints Commission 2013). Thus to paraphrase Preciado, the regimes of technoscience with their ‘material authority’ have established a particular trope of transsexuality as a material reality (2013a: 269) with a performative feedback loop which confirms a certain limited discourse of normative transing, as it reflects its sheared enactment.

This reinforcement loop allows for a dialectic expansion to a degree as demonstrated in a 2014 *Daily Mail* article entitled, “‘I rang mum and said I need a new name!’” The 30-year-old carpenter who was born a woman and will be the the [sic] ‘Gay Rugby World Cup’s only transgender player’ (Mills 2014) demonstrates. In this article transman Nate Duivenvoorden is gendered accurately and no before photos are published. The only reference to his pre-transition self is an apparently neutral contextualising one which reads ‘Melbourne carpenter Nate Duivenvoorden looks every bit your ordinary rugby player - well built with a stocky frame and even the skills to boot. But the 30-year-old man - who once cut a much slender figure as a female teenager - is anything but’ (*ibid*).

Again the focus of the story, the public interest as it were, is in the contrast between the expectations of assigned at birth sexgender performativity and the unexpected post-transition outcome. What might have been an interesting exploration into the intersectional diversity of trans* peoples’ sexuality is merely sign-posted in the headline – the gay trans man – and not examined further. Rather than actually normalising trans* sexgender migration the wording of ‘... is anything but’ reinforces the subaltern position of trans* and in particular sexgender non-conforming people and the commodification of the discourses and tropes of transitioning. Thus the apparently

positive timbre of the article in fact disguises its effects as part of what we might call neo-naturality - ‘... it is about discovering the cultural, political and technological processes through which the body as artefact acquires natural status’ (Preciado 2013a: 269). Of course this new naturalised embodied status remains both partial and constrained, measured and judged as it so clearly is against the expectations of hegemonic binary outcomes. It instantiates a form of empty diversity.

7.6: A reflection on a celebrity transition

Kellie Maloney is a well-known retired boxing promoter who most famously guided boxer Lennox Lewis to the undisputed heavyweight world championship. Maloney became newsworthy for a different reason when the *Daily Mirror* announced on 10th August 2014 (Drake 2014) that she was in the process of transitioning. The headline, ‘Boxing legend XXXXXXXX⁵² Maloney: ‘I’m undergoing a sex change to become a woman’ (*ibid*) is clearly problematic in its use of Maloney’s dead name and the implied assertion that transition is a journey of becoming rather than a process of realisation. There is also a pronoun switch from male* to female* which emphasises the narrative of dislocated change. A reference to the wrong body and female brain tropes in quotes, also reflects mainstream understanding of transition, which in repetition reinforce its naturalisation as *the* trans* descriptor.

There was significant coverage of this story, and discussion of how people who would otherwise not engage with trans* issues, heteronormative male sports fans in particular, were drawn into the discourse. Much of the meta-coverage was quite trans*-celebratory in tone. For example Ayla Holdom wrote a comment piece for the *Observer* entitled *Kellie Maloney shows times are better for transgender people* (2014a). In the article Holdom, herself a transgender woman, references the *Time* cover discussed above featuring Laverne Cox ‘... which refers to a “tipping point” and a “civil rights movement”’. She also described being at an event ‘... hosted by writer and transgender rights activist Paris Lees, where she described 2014 as being the year that trans people stopped apologising. She’s so bloody right’ (*ibid*).

In contrast to the tragic outcome of the reporting on the Meadows case, Holdom praises Maloney’s strength in managing the pressure exerted by unscrupulous journalists on her

⁵² I have omitted the *dead name*, see footnote 14.

and her family. Offering a contrast between the sociopolitical context in which the GRA was passed in 2004 and the present moment when ‘Transgender people are increasingly feeling not only happy, but proud to talk about their gender’ (*ibid*) she nonetheless notes that even now ‘keeping the specifics of your gender secret is often for very good reasons of personal safety, as well as for avoiding discrimination’ (*ibid*). The contradictions that emerge in these paragraphs, namely the positivity about visibility in contrast to the need to maintain secrecy about one’s sexgender specificity, are synecdochal of broader elisions of the complexity of the current positionality of trans* and gender nonconforming people in England and Wales. The narrow contradiction of the positivity is highlighted effectively in another *Guardian* article, this time by Hadley Freeman. Freeman succinctly notes that Maloney gave her exclusive coming out story to the *Daily Mirror* because, although not disclosed at the time of publication, she and her family were being aggressively doorstepped by other, unnamed, newspapers, who wanted to out her in apparent flagrant disregard of the PCC editors’ code.

As Freeman notes *BBC*, *Daily Mirror* and *Guardian* meta-reporting of the news all stressed the positive aspects of the news:

The media, while occasionally mangling its gendered pronouns and terminology, clamoured over itself to prove how totally cool it was with this development, with solemnly supportive features and unwaveringly positive interviews. “Kellie Maloney shows how times have changed,” boomed the *BBC*. “What has been particularly heartening has been the reaction to the news,” crowed the *Daily Mirror*. “A few years ago, such an announcement would have been met with derision and prejudice. The response to Kellie has been warmly supportive.” (Freeman 2014)

Freeman goes on to question that positivity:

Paris Lees wrote in the *Guardian* this week: “Not so very long ago, all you had to do was pop to the shop for a pint of milk as a trans person to find yourself on the cover of the *Daily Mail*.” [i]t turns out that this time was not “not so very long ago” at all because it is, in fact, right now. Maloney’s admission was forced out of her through the deeply traditional impetus of British journalists bullying her and her family, and threatening to expose her (*ibid*).

The bench mark of improvement in the way that trans* issues are reported in old and mainstream media might be that the engagements of TMW and AAT have actively promoted more accurate, albeit sometimes tortured, use of pronouns, and reduced if not completely eliminated the use of before and after photographs. There are also fewer references such as ‘I was referred to as "a transsexual who dresses as a woman called Ayla"' (Holdom 2013) which was how Holdom reports being referred to in a press article.

In another instance of meta-reporting Alana Avery notes how the depictions of trans* people such as those in *Little Britain*, which originally ran from December 2003 to December 2006, ‘... perpetuated the offensive stereotype of transgender people as nothing more than deluded “men in dresses”’ (Avery 2014) are more than merely offensive. They can she asserts ‘... be directly linked to the verbal and physical abuse often suffered by many of the UK’s estimated 600,000 transgender people’ (*ibid*).

Avery who is a project manager for On Road Media, uses the example of *Little Britain* as a contrast to the news that the BBC is ‘... commissioning the UK’s first ever transgender comedy sitcom [sic], with a rare defining detail – the main character who is trans* isn’t the usual derogatory stereotype but a fully fleshed out, authentic sounding trans woman. A person like anyone else, who happens to be trans’ (*ibid*). Significantly the actor playing the main character in the sitcom *Boy Meets Girl* (2015 – 2016) which made it to its second series, is Rebecca Root, an actor who happens to be trans*.

7.7: Mainstream media and trans*-positive role models

The impact of trans*-positive representation in the media is something that a range of my respondents referred to as having been significant in relation to trans* visibility. What felt to many trans* people like a significant event occurred when Nadia Almada was voted the winner of Series Five of the reality television series *Big Brother* in 2004. Almada’s transsexual status was made known to the public who voted for her, but not to the other contestants in the house. The effect of the emergence of trans* people onto mainstream media was reported as significant by a number of my respondents.

Thus Vicky who told me that she comes from,

... a fishing town and it’s quite a hardened area

where people who have little or no experience of trans* people have dated and unrealistic expectations so that,

... when I came out to my employer and all me friends at work and everything they had this image of Danny La Rue turning up and it took me quite a long time [...] and I think it's down to education

While holding some reservations about the programme in general in common with other trans* people Vicky still made the point that:

I find a lot of guys at work when they watch these television programmes on television [and] some of them were watching this My Transsexual Summer and they was asking some very, very good questions [...] They understand, they have more understanding and awareness. I think all that helps the trans* community itself. I think there's an awful lot of confusion goes on for the average person in the street trying to get their heads around it, just what gender dysphoria is, and trying for them to get their heads round what a drag queen is, what a transvestite is, and trans* this and trans* that.

And perhaps more directly, Lewis in his fifties, who identifies as a transman said that he,

... didn't have a clue what transgender meant. Didn't actually find out until last November.⁵³ And yet again I watched My Transsexual Summer, identified with Lewis and thought oh my God, that sounds exactly like me. Then I found out who I was and started the ball rolling. And here I am two months on now, just two months on, my treatment has started rolling and never been happier in my life.

There was a great deal of discussion about the representation of stories of transing in general and of the representation of the individuals in My Transsexual Summer. Some of the cast were unhappy with the editing process which they felt focused too much on the binary aspects of transition stories. My respondent, Juliet, herself a journalist, discussed this in some detail:

⁵³ Although the clarity of this was muddled to a degree by the knowledge shared elsewhere in the interview that he had been waiting for his first appointment with Charing Cross GIC since the previous July, the mythologizing power of media/personal narrative interaction is still very clear in Lewis' contribution.

With *My Transsexual Summer* there were certain things about it that were quite frustrating. There was really graphic footage of sex reassignment surgery which really wasn't necessary. There were times where I thought the cast were put in unnecessary circumstances to generate some artificial drama which on an aesthetic and political level I don't like. There were various problems with it but on the other hand it's pretty much the first thing I've ever seen on mainstream television to represent that kind of trans* community and to give the idea that there are people living across genders who aren't necessarily transsexual but have some sort of gender queer or trans* gender identity [...] The visibility of female to male people was great compared to what's gone before. FTM people are so underrepresented. Transwomen I think are misrepresented, and crudely represented a lot of the time, whereas transmen are not represented at all. [...] And obviously you had Fox who had a sort of two-spirit identity, and Max from a Jewish background so you had some kind of ethnic minorities there as well.

But Sabah, talking from the position of a trans* POC, made the point that when compromises are made, as is inevitable during the editing process in mainstream television programmes, it is the most minoritized discourses that suffer further erasure:

Even on *My Transsexual Summer* I mean, what's his name, Max, I mean, he's Jewish and he's, you know, he's proud. He could have talked about that. Maybe it's not so much a cultural thing as a religion but it's still a culture. He could have talked about that a bit more. Even Fox, I think, a quarter Indian or something. No, it was like, oh, you could just be, like I don't know, you know, this is nothing, we're not going to talk about it cos, surely it's got to be harder for you. I don't know. Again I was disappointed [...] Yeah, it's, I guess also how much can you really cover in a two hour slot for six weeks.

In Chapter 3 I discussed the complexity of age as a factor in people's experiences, and older people's access to an online environment came later in their lives than is the case for people born in the UK post-1990. Younger people have had online access at school at least, if not always in the home, and this has been an increasingly integral part of their lives. As already acknowledged by my respondents the internet has been profoundly facilitative in giving them access to certain discourses about transness, which has helped them realise something often profoundly important in various ways about themselves.

Internet access has also enabled people to establish communities of interest and communities of identity out of which social and activist networks have developed. That some people such as Helen, Ben, Vicky and Lewis, have had to wait until relatively late in their lives to connect online clearly had an influence on their younger lives. However, the reported affects are not uniform. Thus while Ben reports that he had ‘... never heard that women could become men’, Helen was ploughing her own lonely, and clearly somewhat conflicted on-and-off furrow, on trains and in tube stations. And while my younger respondents Sabah, Leo, Sky and Eddie, all in their twenties, reported a less transnormative understanding of sexgender, Lee in his forties reported a shifting of understanding within his community, queering as the previously unthinkable became accessible through community discussion facilitated by connectivity, and therefore possible. Acknowledgment of these complexities across age groups reinforces my assertion in Chapter 3 that although age has had an impact on people’s lives, it should be understood both intersectionally, but also individually, and not as totalising.

So there are signs of increased exposure of trans* people and their lives being enacted in the interrelated discourses of the old and new media, but such increase as is detectable does not extend to reporting of trans* and sexgender non-conforming lived reality in all its diversities, radical forms and potentials across mainstream platforms.

The commodification of experience, particularly the complexities of lived experience being reduced to simplified mythologised storylines suitable for mainstream mass consumption, ensures that a new transnormativity emerges which is shorn of any potential to offer a radical alternative to established socio-economic hegemonic structures. This is because the mythologizing effect of the storylines’ implicit or explicit focus is to extend tolerance to a relatively narrow range of non-normative lived experiences. Those that qualify conform most closely to previously established norms, which mask analysis of how discourses of exclusion of trans* and sexgender non-conforming people highlight structural socio-economic inequality and hinder or prevent attempts to use this knowledge to correct this more fundamentally.

Drawing on the above I now explore whether the developing patterns of content production and consumption and the contradictory socio-cultural environment in which these changes are being enacted and understood can help to account for the limited

nature of such changes. I examine ‘... the relationship between structure and agency, between political economic approaches and their relationship to those that emphasise the constructive ability of individuals, the importance of subjectivities and the relevance of identity’ (Fenton 2012a: 125) in the context of how trans* and sexgender non-conforming people are represented in reporting. I consider this within the post-industrial model of old and new media ownership and the influence of ownership of the former on the content of the latter.

7.8: Old media/new media interaction and relationships

If growth in internet use encourages new transformative multi-media exchanges to what extent do the effects of social networking meaningfully challenge the power of corporate media to control content production and therefore hegemonic messaging, rather than merely ameliorating the worst effects of ignorant or wilfully negative reporting and storytelling?

One measure of the success of social media in providing an environment in which individuals’ content production is taken significant account of, is to measure who is consuming the information of which providers. Significantly,

... 10 per cent of *Twitter* users generate more than 90 per cent of the content and most people have only tweeted once. The top 10 per cent are dominated by celebrities or mainstream media corporations such as CNN (Fenton 2012a: 127).

Hardt and Negri discuss the internet in the context of processes of deterritorialization and decentralization of location and activity. Noting the contrast between the multiple pathways of communication enabled by decentralised networks and older centralised models of cultural production (2001: 299 – 300) they presciently recognise that the implied potential for a true democratisation and therefore radicalisation of cultural production was, as they were writing, being thwarted by old, and established corporate players.

As Marx and Engels noted in the Communist Manifesto, ‘The bourgeoisie cannot exist without constantly revolutionising the instruments of production, and thereby the relations of production, and with them the whole relations of society’ (1977: 45). The process of colonising and extracting value from new technologies and manipulating their potential to mirror and reinforce the contours of contemporary social cartographies

has involved old media companies fighting rear-guard actions and erecting new ring-fencing barriers. These actions have enabled them to shore up their positions of power and influence in the face of competition from new media and technology corporations, which have emerged and consolidated (and in some cases emerged, blossomed and failed) with remarkable facility and rapidity.

As Fenton comments,

...networked telecommunications and globalised neoliberalism make perfect partners [...] The internet, as a technology, as a means of communication, does not transcend neoliberalism, it is part of it, although it holds the potential to expose its inadequacies. Seen in this context it is always more likely that social media will replicate and entrench social inequalities rather than liberate them (2012b: 139).

Examining the system as it has developed in the corporate western world⁵⁴ it is critically important to understand that the vast majority of its traffic is routed via websites owned and designed by global multi-media giants whose corporate and/or capitalist interests dictate the forms and functions of their sites in such a way as to distinctly shape the intended, if not always the actual, use that their netizens put the sites to. The feedback loop is embedded in the algorithms that coders use to direct advertising to individuals' profile and inbox pages and feeds (Fenton 2014a), but which also direct content based on subjects and interests that people post about and share across social media. In a narrow commercial sense this promotes consumption, but also the commodification of information.

Fenton citing Fuchs notes that:

The difference between the audience commodity of traditional mass media and of the internet is that on the internet the users are also content producers. The contemporary phrase 'user generated content' is a catch-all description of the endless creative activity, communication, community building and content production online. But this still does not escape the fact that this user activity is still commodified [...] In fact we are excessively and ever more deeply

⁵⁴ Experience of the form the internet has taken when shaped by non-western non (neo-)liberal contexts such as China and the DPRK demonstrates the non-inevitability of the form of our own online environment.

commodified as so much of our daily habits and rituals take an IT form (Fenton 2014a: 129).

Certainly the feedback loop which operates both on advertising and on site recommendations, does not entirely preclude using the internet in genuinely creative and/or radical ways. However it does control traffic in such a way as to reinforce dominant messages and tropes, and the messages that shout the loudest to individuals based on their browsing history are the ones identified by the algorithms set by powerful media organisations. So an impression is given of greater impact and reach than may be the case in mainstreaming of trans* and sexgender non-conforming issues. The increase in actual coverage of such issues which has clearly taken place, also disguises the fact that as well as being discussed more they are being made to conform to homogenised patterns and codified standards of news reporting.

As the feedback loop draws internet users into its ambit, short-circuiting free flowing creativity through the dominating influence of the closed code software employed in writing the algorithms that control the social networking websites with the highest traffic volumes, the effect is to tend to focus us at meso-level engagement with those issues and news stories which confirm and validate our lives, and the beliefs that underpin them. That creativity exists online cannot be refuted; computers have become an essential component of much contemporary creativity in the arts, politics, architecture, sports and many other areas of modern life. Yet dominant messages are channelled from and through the most powerful media, and the potential to enact radical change is not supported per se by the channels available to us online. On the contrary the commercialisation and atomisation, the shifting of our gaze from mass social movements and discourses to virtual, meso-level environments, reflect and support the neoliberal hegemony in which all social components are judged on account of their fungibility and individuation. In our imbrication with the information economy (trans* and sexgender nonconforming) academics and activists need to be aware of our (frequent and inevitable) unwitting participation in these processes, and that where we may intend to provoke engagement and action we may very well promote docility.

7.9: The continuing failure to adequately report complexity

In Chapter 7 I discuss the extent to which our current laws offer effective protection to trans* and sexgender nonconforming people against discrimination. Some of the cases I

refer to briefly are the so-called ‘sex by deception’ cases which were tried from 2012 (Blake 2012), some of which are still ongoing (BBC News 2016). These cases are complex all involving claims by alleged victims of deception by the convicted, some of the details of which are quite incredible. A very brief examination of the way they have been reported in two cases highlights how, while there has been an improvement in certain ‘legible’ trans* issues in mainstream media, where complexity exists the very facticity of transness is called into question. And although I have not focused on imbrications of sexgender and sexuality the reporting of these cases certainly emphasises that they have not been disentangled, nor distinctions of their domains comprehended in mainstream reporting.

In the case of Kyran Lee the *Daily Mirror* headline is ‘Woman pretended to be a man by wearing body suit and sex toy to trick single mum into sex’ (Smith 2015). Kyran Lee despite making clear his self-understanding as male clear is both dead named and misgendered in the article. Other headlines include ‘Woman who wore a body suit and used a fake penis when having sex with a single mother she met online has avoided jail’ (Crossley 2015) in the *Daily Mail* and ‘Woman who used fake penis to have sex with a woman avoids jail’ (Guardian 2015) in the *Guardian*. The case of Justine McNally, convicted of deceiving the claimant in the case into having sex by claiming to be a male named Scott (Sharpe 2014) was complicated by the inconsistent sexgender presentation of the defendant. As Alex Sharpe points out McNally ‘... presented as male prior to and at the time of the incidents’ (2014: 1) but at the time of the trial was presenting as her assigned at birth sexgender. This complexity was, unsurprisingly, not reflected in the reporting of the case. Thus the *Mail Online* reported ‘Schoolgirl, 18, pretended to be a boy called Scott for THREE AND A HALF YEARS to get another teenage girl, 16, into bed and take her virginity’ (Robinson 2013). And the *Huffington Post* managed the marginally more sober ‘Justine McNally, Who Pretended To Be A Boy To Take 16-Year-Old Schoolgirl’s Virginity, Jailed’ (Huffington Post 2013).

There are two levels of complexity at play here. The first involves the cissexgender normative assumptions made in the actual reporting of the cases, presumably reflecting the understanding of the reporters in question. But second also in play is the cultural complexity of reporting the, arguably discriminatory, outcomes of legal cases also underwritten by cissexgender assumptions. This is something Sharpe reflects on:

Thus Crown Court judge, HHJ Patrick, described McNally's non-disclosure of gender history in these circumstances as amounting to "an abuse of trust" and as "selfish and callous behaviour." This framing of events during sentencing, and of McNally as deceptive in identity terms, was subsequently reproduced by the tabloid and broadsheet media (2014: 8)

In this context it is difficult to see how any increase in reporting of non-normative sexgender lives in general and non-binary lives and visibilities in particular (Hebblethwaite 2011; Roberts 2013; Harrad 2012;) offers any meaningful reflection about and resistance to mainstream diversity discourses. Much of the creative and informational output of people writing about their own or other trans* or sexgender non-binary lives will remain unacknowledged or acknowledged in the shallowest ineffectual way. If your only aim is to receive a gender-neutral signifier on your passport (McCormick 2014) then you might have a reasonable chance of succeeding in the medium term. If your aim is to actively disrupt hegemonic understanding of what it means to actually *be* sexgendered, with all the implications it could have for challenging patriarchy and white-centred transphobic feminism, then current communicative strategies harnessing the developing communication environments of the early 21st century do not offer much hope of effecting radical cultural change. They offer the possibility of narrow discussion of such issues and of progressing individual fulfilment of perceived ontological or spiritual goals for people often in relatively privileged positions. The point at which the conceptual complexity of the discourse exceeds that which is readable and containable within the potential for individuals to function as fungible neoliberal subjects, is when structural challenges to power are perceived as being issued. At this point the discursive practices become illegible and subject to censure and misrecognition. The case of Justine McNally is illustrative of this.

7.10: Conclusion

In conclusion the assertion that the development of accessible online communication enabled trans* people to explore their own identities, to create networks and to thereby access the non-virtual world in a more empowered and confident way does represent a meaningful, if over-simplified, description of many trans* people's experiences. The simplification involves not recognising that the sociocultural environment emerging through the 1980s and 1990s was already slowly encouraging the growth of

recognitions that manifested itself in a politics of diversity and individualism. This has shaped liberal domestic parliamentary and civic economic and legal discourses from the mid-1990s to the present day.

It is clear as well that the technical and cultural limitations of the early internet facilitated space in which users were able to coalesce around a wider range of identities, but that in trans* terms they were often essentially binary conforming. Many of the early trans* online discourses were also essentially transnormatively confirming, relocating previously established tropes of, for example, transfeminine concerns of traditionally feminised modalities to online spaces.

The dreams of a democratisation and radicalisation of public discourse brought about by increased access for individual actors or small, low- or non-capitalised online media organisations have proved to be hugely over-optimistic. The ability of old and new capital alike to reorganise and colonise new technologies with brutal efficiency has maintained or redrawn the dominance of corporate influence in the production and distribution of sociocultural products. The neoliberal polity of the post-Fordian capitalist world within which this has occurred has shaped the form of the technological interfaces which have constrained and directed the activities of users towards consciousnesses and discourses of atomised self-facing and -reflecting identitarianism.

Cocooned in privatised environments that encourage commodified engagement with discourses and transactions of embodiment, and rapid-fire virtual interaction with tropes of politics rather than broader, truly discursive engagement with political ideas and activism, we are denuded of radical potential. Our current engagements largely focus on sectional benefits of diversity *per se* rather than organising to achieve a polity within which greater sociopolitical equality could stand as a guarantee for recognition of the rights (not just rights but equalities of more than opportunity) of people in all their diversity, as opposed to a neoliberal sop that distracts us from what all but the most powerful are losing in rights, benefits, social cohesion, environmental security and personal and interpersonal integrity and solidarity.

The above is not to assert that nothing has changed for the better for individuals: on the contrary, all my respondents who referred to their experiences of the internet reported feeling positive about them. It is also undeniable that amongst the barely visible green shoots of growth of trans* communities in the 1980s and 90s the vast majority of trans*

and sexgender nonconforming people lived very difficult lives indeed. Positivity may be engendered by encountering environments which lead to meaningful and significant improvement in the potential for fulfilling projects of non-normative embodiments and modalities. However, I question the extent to which such environments will engender a truly radical politics supportive of genuine equality, unless more broadly connected to a politics that engages in more meaningful ways with discourses of social justice.

I describe how, through algorithmic narrowing and the resultant feedback loops, online communication has become a conduit through which messages that mainstream and reinforce the construction of a hegemonic 'legible' type of transness and trans* bodies are transmitted. I introduce a discussion about the so-called sex by deception cases and link the reporting of these cases in particular to broader cultural misrecognition of the potential for complexity of trans* and sexgender nonconforming lived experiences. I describe the negative outcomes for the defendants, due to cultural misrecognition at the hands of the criminal justice system, reflected in the cultural conservatism of media reporting. This establishes the context for my discussion in Chapter 7 of the valorisation of empty diversity in the EA2010 and how this impacts on the lives of marginalised trans* and sexgender nonconforming people.

In the era of '... a new kind of capitalism that is hot, psychotropic and punk' (Preciado 2013a) the emergence of sustained challenges to many binaries can be detected, which may have radical potential. Such potential will remain unfulfilled however if located in a politics of individualism and identitarianism. Any heterotopic potential (and the facticity of transness or sexgendered nonconformity could contribute to this) will default to homotopic biopolitical parameters within which hegemonic power structures will be maintained and reinforced.

In the following chapter I examine the development of laws relating to protections for trans* and sexgender non-conforming people in England and Wales, and their limits and the consequences of their enactments. I question the extent to which these laws have been unambiguously beneficial for their intended beneficiaries and to what extent have they been used to mask other continuing socioeconomic and cultural inequalities. Following on from that I examine whether a posthuman refocussing on what constitutes otherness could offer theoretical and practical support for new inclusive radical politics in which trans* and gender nonconforming identities would not be inimical to full

participation in and benefit from a more philosophically and economically equitable sociopolity.

Chapter 7: The effectivity and affectivity of gender reassignment as a protected characteristic in the Equality Act 2010: how *the law* protects, reinforces, erases and obfuscates

What's been happening to the law over the last 20 years is that we have been de-gendering the law. So take for example the sexual offences act, rape is rape whether it is done by a man or a woman. Similarly the Road Traffic Act used to require you to declare whether you were a man or a woman. Well you don't have to declare that any longer. In Australia you are no longer required to have M or F on your passport; you can choose to have an X – Stephen Whittle, BBC Radio 4

The law in itself does not change anything, all it does is provide tools to protect yourself. If you want the world to change, then you've actually got to win people over in the social arena - Christine Burns quoted by Jack Howson, Mancunian Matters

Foucault points out that juridical systems of power produce the subjects they subsequently come to represent – Judith Butler, Gender Trouble

In this chapter I suggest that examination of the effectiveness of the EA2010 provides evidence that while it has had a positive impact on the lives of some trans* people, including on some of my respondents, it has also failed to provide adequate protection to trans* and sexgender nonconforming people in more precarious social and economic situations. Following Chapter 5 I suggest that the protected characteristic of Gender Reassignment is too narrowly drawn to afford protections to all its presumed targets, and that its intended targets were too narrowly conceived in the first place. I also suggest that as a quintessentially neoliberal piece of legislation its focus is on protecting narrow diversities of identity on a too individualistic basis rather than combatting structural socioeconomic inequality more broadly. Indeed I will suggest that it actually reinforces certain inequalities which are reflected in society as a whole.

In addition to the testimonies of my respondents I discuss one case study and one example of case law in order to examine the effectiveness of UK equality law in protecting sexgender non-conforming individuals in respect of their rights in employment and the provision of goods, facilities and services, and their right to

recognition generally and self-expression within the criminal justice system. I also refer briefly to the sex by deception cases mentioned in the previous chapter and suggest that questions raised by them should inform our conclusions about the delimited cultural effects of legislation. In conclusion and in acknowledging more positive cultural and affective impact of laws I engage with queer legal scholarship and radical transfeminist scholarship to suggest how a more nuanced and holistic approach to analysis and activism might benefit transgender scholarship in engagement with sociolegal discourses.

8.1: Genealogy of laws protecting trans* people in the UK

In the UK, laws designed to recognise and protect trans* people⁵⁵ have a recent history stretching back to the 1990s. The Sex Discrimination (Gender Reassignment) Regulations 1999 (SI 1999/1102) introduced both limited protection for trans* people against discrimination with regards to pay and treatment in employment and vocational training, and the use of the problematic term ‘gender reassignment’ as a generic descriptor in UK equality and diversity law to refer to a category of protected people. The history of specific discrimination in terms of misrecognition for trans* people, specifically transsexual people,⁵⁶ emerged with the case of *Corbett v Corbett* (1970). The plaintiff Arthur Corbett was granted an annulment of his marriage to post-operative⁵⁷ transsexual woman April Ashley, on the basis that as she had been born a ‘man’ and marriage was then by definition something contracted between a ‘man’ and a ‘woman’, the marriage was invalid. This ruling relied on the determining and immutable nature of assigned birth sex in its decision.

In the early noughties two rulings, *Goodwin v UK* and *I v S and Cornwall City Council* using identical wording, undermined the biological essentialism of this case. Harris notes that in ruling for the plaintiff in *Goodwin*, against the earlier *Corbett* decision, the European Court of Human Rights (ECHR) stated “[t]he Court is not persuaded

⁵⁵ In this chapter where I refer to a category of trans* generically when discussing the law I understand that one of the fundamental issues affecting the questions of recognition and protection of trans* and sexgender non-conforming people is the very nature of defining them in these terms.

⁵⁶ In 1871 Frederick/Fanny Park and Ernest/Stella Boulton were unsuccessfully prosecuted under anti-gay laws, the failure of their conviction turning on the prosecutions not proving that sex had taken place or that the wearing of women’s clothes by men was actually an offence. People understood as being cross-dressed in the England and Wales in the 20th century were usually prosecuted under public order offences.

⁵⁷ A contested and rather old-fashioned term which typically defines (and is possibly unreasonably understood to validate the status of) trans women in relation to their lower-surgery status.

therefore that the state of medical science or scientific knowledge provides any determining argument as regards the legal recognition of transsexuals” (2002: 473)’ (Harris 2012: 64). The implication of this ruling is that birth sex is not immutable but that something understood as ‘gender identity’ can be accepted as a determining factor in a person’s self-understanding, or their ontology, which ‘transition’ possibly but not inevitably leading to reassignment surgery (applicable in the cases of both *Goodwin* and *I*) is able to ‘correct’.⁵⁸ These rulings led to the introduction of the Gender Recognition Bill finally passed into law as the Gender Recognition Act 2004.

The GRA recognises that people undergoing ‘gender reassignment’ have the legal right to be recognised in their ‘acquired gender’ in the language of the Act, given that they can persuade the Gender Recognition Panel⁵⁹ (GRP) that they have been diagnosed with persistent ‘gender dysphoria’ and that they intend to live in their acquired gender permanently. The most radical aspect of the GRA when it was enacted was that unlike in some other jurisdictions no surgery was required to obtain a GRC. Nonetheless in discussing trans* lives in terms of permanent unidirectional transitioning the legislation failed to challenge the prevailing cultural sexgender binarism. Therefore although it has been argued that fundamental sociolegal assumptions about biological sex were challenged, ‘...in the terminology of the Gender Recognition Act, gender identity becomes and defines legal sex’ (Whittle and Turner 2007), the binary system was reinforced in meaningful and significant ways.

What was offered through the GRA was legal recognition for people undertaking gender reassignment and the right to change legal documentation,⁶⁰ which offers obvious benefits in day-to-day life. Also people’s sexgender history is protected from disclosure by third parties under most circumstances, although there are exceptions such as in crime investigations. What the GRA did not offer was specific protection for trans* and sexgender non-conforming people in employment and the provisions of goods, facilities and services. And sexgender non-conforming people whose self-understandings (and

⁵⁸ The rulings also relied on the broader legal issue of the UK being out of step with the consensus among EU member states that existed in favour of allowing trans* people to alter their birth certificates to that of their ‘chosen’ sexgender.

⁵⁹ The Gender Recognition Panel is a tribunal comprising legal and medical members and civil servants responsible for the awarding (or withholding) of Gender Recognition Certificates to trans* applicants. It is a branch of the HM Courts & Tribunals Service.

⁶⁰ Although as I discuss below one of the unintended beneficial consequences of the Gender Recognition Act has been to open up government and corporate routes for people to alter all their documentation except for their birth certificates without a GRC.

perhaps in terms of persuading the GRP, their expressions) are non-binary or fluid, receive no recognition under the terms of this act.

The Equality Act 2010 consolidated and extended in one act of parliament the government's equality and diversity legislation. It references nine protected characteristics including 'gender reassignment' and was drafted to not conflict with European law. If the GRA is an Act whose main purpose is establishing a legal basis for the recognition of trans* people in the UK thereby enabling them to establish a social presence which may have positive consequences for their socio-economic lives, the focus of the EA2010 is to offer protection to people in respect of discrimination in employment as well as provision of goods, facilities and services (although there are exemptions in relation to trans* people's employment protection and for other protected characteristics in relation to goods, facilities and services). For the purposes of the following discussion it is important to note that the socioeconomic duty written into the EA2010 which was passed by parliament before the election in 2010 and which was designed specifically to encourage public bodies to engage with questions of class in order to understand its impact on and therefore to help reduce inequality, was scrapped by the incoming conservative/liberal democrat administration (Justfair 2010). It is questionable what the impact of this duty would have been or of what its exclusion has been, however the fact that a socioeconomic duty was originally included, and hailed as 'Labour's biggest idea for 11 years' by influential columnist Polly Toynbee (2009), is illustrative of one approach which believes in the potential for law to effect social change. Such beliefs have been challenged from both the right and the left, although on very different grounds and in anticipation of very different outcomes. Thus when Theresa May, newly appointed Conservative Home Secretary said that 'You can't make people's lives better by simply passing a law saying that they should be made better [and y]ou can't solve a problem as complex as inequality in one legal clause' (Justfair 2010) she was having a conversation about deregulation. On the other hand radical queer activists and theorists exemplified here by Dean Spade believe that 'In a neoliberal era characterized by abandonment (reduction of social safety net and infrastructure, especially in poor and people of color communities) and imprisonment (increased immigration and criminal law enforcement), anti-discrimination laws provide little relief to the most vulnerable people' (Spade 2011: 83). If there is at least some

consensus that the law alone is an insufficient tool to improve lives, what effect has the EA2010 actually had on the lives of trans* and sexgender nonconforming people?

8.2: The Equality Act 2010

The EA2010 was enacted in order to consolidate and extend existing equality and diversity legislation in the UK. In the post-WW2 period the first legislation enacted in order to offer some protection to a named minority was the Race Relations Act 1965, supplemented by the Race Relations Act 1968. Then the Equal Pay Act of 1970 and the Sex Discrimination Act of 1975 were enacted. With the further supplementation of the Race Relations Act in 1976 and the passing of the Disability Discrimination Act in 1995 this was the extent of primary equality and diversity legislation in domestic law up to the point of the election of the Labour government in 1997.

The Labour government opted into the social provisions of EU law but with the expansion of the social provisions in 2000 offering protection to people on the basis of their ‘...particular sexual orientation, religion, belief and age, as well as updating the protection against disability, race and gender discrimination’ (Burns 2009) the need to adapt UK legislation became increasingly pressing. These expanded social provisions were incorporated into UK law in addition to previous primary legislation, amendments and case law meaning that prior to the enactment of the EA2010 ‘...the total volume of all this evolved Equalities Legislation [was] immense and unwieldy. One estimate suggest[ed] that you would [have needed] to be conversant with over 100 separate Acts of Parliament, regulations and case precedents to grasp it all’ (*ibid*).

8.3: Protected characteristics

The EA2010 offers protection to people in respect of their employment and the provision of goods, facilities and services. It offers protection against direct and indirect discrimination, discrimination by association, discrimination by perception, harassment, third party harassment and victimisation. The individuals to whom it offers protection are defined by the inclusion of the nine protected characteristics referring to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There are clearly historical and contextual reasons why these particular nine categories became the ones considered worthy of being offered protection. These include the need to incorporate

previously existing protections into the new law as the proximate reason and on a deeper level to accommodate the effects of existing and emerging historical and socioeconomic conditions out of which the need for specific protections arose.

The need to combat open race discrimination towards an invited workforce in the case of race relation legislation arose out of a clash between racial values embedded in domestic UK imperial culture and emerging local UK conditions resulting from changing patterns of migration resulting from the 'end of empire' and nascent globalisation for example. And the creation of legislation that offered such protections, in part created a new sociolegal culture in which such an approach based on individuated identities was extended to incorporate other identity groups newly understood as deserving protections.

The emergence of these protections in the form that they took, that of protecting people based on a reasonably uncritical assumption of their belonging to particular identifiable groups of 'race', 'sex', or 'disabled people' for example, sits comfortably within a liberal *épistémé* which follows '... the logic of the contract and its subjectivity of interiority, which eventually becomes the normalizing judgment of identity' (Winnubst 2012: 85) that Foucault discusses in his work on madness and sexuality (1991a, 1986, 1987, 1998). Thus laws claiming to promote equality were enacted which offered various protections or guarantees to people based on particular aspects of their personhood dialectically emerging out of and then reinforcing a politics of diversity.

Equally important to the construction of the EA2010 however was the neoliberal shift from a focus on identity to a focus on success. Thus 'Consequently, as the neoliberal ontology of human capital takes root through this social rationality of enterprise, questions of identity slide into the question of success' (Winnubst 2012: 86). And as discussed in Chapter 4 and below this alters the basis on how people are policed in relation to acceptable social normativities from an ethics which debates the moral rightness or wrongness of, say, homosexuality (perceived as something ahistorical and concrete) to addressing questions of people's social standing and acceptability in terms of their fungibility.

Further those nine characteristics are themselves not exhaustive and the question of others, such as appearance for example, being included is raised from time to time.

But they are also defined in particular, but clearly not *necessary* ways. For example, marriage is defined as being between two people rather than several equal partners (rather than one powerful and several subservient partners, though that would also be possible). And, despite government promises, at the time of writing ‘race’ as defined does not include caste even though about 5% of the UK population have cultural connections with South Asia where it is a culturally embedded phenomenon, some of the complexities of which remain embedded and play out in UK-based South Asian community relations (Pyper 2015).

Equally the protected characteristics are recognised individually rather than as interconnected, which the inclusion of a limited recognition of some sort of intersectional protection⁶¹ in the so-called dual discrimination aspect of Section 14 of the EA2010 sought to overcome, even if it was in a limited and inadequate way. In Section 14 two different protected characteristics could have been taken into account in combination when bringing cases of direct discrimination against employers or service providers. That the Coalition Government chose subsequently not to bring Section 14 into force is significant. The most glaring lacuna however is the *unprotected characteristic* of poverty, compounded by the scrapping of the socioeconomic duty by the incoming Coalition Government. This section was the closest thing to acknowledgment of class disadvantage that the last Labour government included in any of its equality and diversity legislation but even this marginal acknowledgement of the structural basis for much economic inequality was too much for the incoming administration. And this lack of recognition of the importance of class and economic marginalisation in disadvantaging people in myriad and intersectional ways is a critical failure of the approach to harnessing this identity-focused legislation in pursuit of overcoming discrimination and particularly economic inequality.

I suggest throughout this work that personal modalities and the categories and identities that come to represent them are socially constructed and experienced not in isolation but in complex interactive sociopolitical and sociotech contexts and environments. Elements of one’s personhood are recognised in accordance with their historical situatedness and dis/advantage/s accrue accordingly. Indeed ‘... these categories are socially constructed, and [...] the differences they signify are culturally produced, and

⁶¹ When Kimberley Crenshaw first published work discussing the concept of intersectionality she was explicitly discussing anti-discrimination in legal terms.

[...] we participate in their reproduction as we evoke them, because there is no pre-social, pre-discursive stability or naturalness to them' (Gedalof 2013: 132). In framing the EA2010 in terms of fixed 'protected characteristics', and then in reinforcing the fact that they must be treated separately, and in removing any recourse to actions, even in terms of impact assessments, based however loosely on notional class, the structural and implementational assumptions and weaknesses underlying and embedded in the EA2010 are revealed and the process of the hegemonic cultural production of the identity categories as individuated and reified is made manifest. There is irony in the fact that the legal reification of these narrow identity markers is taking place at the same time as borderlines in less hegemonic spaces are being breached and genuinely hybrid self-understandings are emerging offering complexities that sociocultural institutions fail to adequately recognise or protect.

8.4: Delimitations of protections under the protected characteristic of Gender Reassignment

Given that we have the current legislation in place and if we accept that it is better to have some protection than no protection, then the obvious question to ask is under the protected characteristic of gender reassignment who is protected and to what extent?

I have noted above that the recognition granted by the GRA, although relatively progressive at the time of its enactment in relation to there not being a requirement to have had SGCS, still remains partial and excluding of all non-binary identified and/or expressing people or those with more labile identities and/or expressions. The EA2010 offers protections which in many cases are offered to people who have not sought or may not qualify for recognition under the GRA '... if they are proposing to undergo, are undergoing or have undergone a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex' (a:gender 2016: 7). This wording implies that people undergoing reassignment are travelling from one defined 'sex' to another similarly defined one, and that the journey is unidirectional and permanent. The wording appears to exclude people with sexgender nonbinary, genderqueer genderfluid or gender neutral (amongst other non-binary descriptors) lived experience. The wording also appears to exclude people who live more specifically bisexgendered lives who may sometimes be referred to as crossdressers, T-girls or T-boys/bois. Application of the protections may however not be so straightforward.

The EA2010 protects trans* people against direct discrimination, indirect discrimination, harassment and victimisation on the grounds of being transsexual, by perception of their being so or by association with someone who is so perceived. Accepting that the transsexual (I use trans* to refer to this category below) in the definition refers to someone who is understood to be *intending to undergo, who is undergoing or has undergone a process (or part of a process) for the purpose of reassigning their sex*, and also accepting that this in itself is problematic, what can be said about the other categories?

By association quite simply refers to a situation where someone suffers discrimination because they are perceived to be associated in some way with someone who is trans* or is perceived to be so. This might be because they are a friend, a work colleague or a family member. But defining who the someone who is *perceived* to be trans* however, seems to be significantly less categorically clear. Would someone be perceived to be trans* if they are bisexual and presenting as their non-assigned sexgender? This seems quite possible, and advice is available to suggest this is so (EHRC 2017). So t-girls and t-boys/bois may have some protection under certain circumstances while someone clearly cross-dressing for ‘fun’ would not have. But if someone is perceived as presenting in a non-binary way they would not have any protection because nonbinary, or sexgender nonconforming people, have no protection on the basis of their self-understanding or expression under UK law. So while the definition of perception may be understood as potentially widening the categories of people who may receive protection under the law beyond that of people who can under the terms of the law be said to be undergoing gender reassignment, it is quite clear that there is both a significant category or set of categories of people who define as sexgender nonconforming that have no protection under the law, unless misrecognised or misread. The law therefore still underwrites and reinforces very binary discourses. Clearly the same could be similarly argued about other people not permanently transitioning, that is who may live labile sexgender lives, but who are perceived to be transitioning permanently.

8.5: Lack of cases

Combined searches of the Lexus Library legal database for cases referring to ‘Gender Reassignment’ and ‘The Equality Act AND Gender Reassignment’ brought up 542

cases. Closer examination however reduced the number of relevant cases drastically. I set aside all cases where the term gender reassignment was mentioned but where the cases did not directly or substantively concern gender reassignment issues (e.g. the full list of protected characteristics was included in the judgment as a general reference to the legislation, but the case was actually about other protected characteristics). This left sixteen cases brought since September 2010 when the EA2010 came into force which dealt with gender reassignment in a substantive way. Of those only five relied on Equality Act 2010, whereas eight were brought under the GRA and the others under family or European law. These sixteen cases examined issues of pension rights, payments of national insurance contributions, privacy in relation to contact with government officials, privacy in relation to retrospective re-gendering of official forms post-transition, access to children post-transition, adoption, the rights of a trans* child to not have contact with their foster parents, and as referred to in this chapter, prisoner rights.

Likewise the Equality and Human Rights Commission lists only 12 cases regarding the protected characteristic of gender reassignment on their website (Jones 2013: 210), far fewer cases than others falling under different protected characteristics or strands of previous anti-discrimination legislation⁶². The reasons for the small number of cases are uncertain although Jones suggests a number of possibilities of how people might deal with discrimination without recourse to the formal law. Suggested were people changing jobs to transition in what are perceived to be safer environments, people failing to transition because they fear negative consequences at work, or people simply not being open about their sex/gender status by not disclosing, either by remaining closeted or remaining in stealth. People may also lack the support and resources to take complaints or legal cases forward.

People in more supportive, privileged working environments, such as my respondents Helen and Debbie, and in a more complex way Al, may also be negotiating or have negotiated their transitions in the workplace without needing recourse to the law as discussed in Chapter 4, although we have no reliable statistical evidence to suggest overall numbers of people who are able to manage things this way. It may also be that people in this situation have felt empowered to take the decision to transition because

⁶² The lack of statistical information is complicated by the need to maintain confidentiality for many cases according to an email I received from the EHRC on 19th January 2017.

the law is in place. In such cases statistical evidence of the law's efficacy will at best be hard to establish.

As also discussed in Chapter 4 many trans* and sexgender nonconforming people such as my respondents Lee, Juliet, Sabah, Sam, Philippa and Tara and myself, with the necessary abilities and qualifications, work in different capacities in the information and knowledge economies on issues affecting trans* and sexgender nonconforming people. Such work may itself be precarious (see below) and not necessarily well paid but in the current post-Fordian stage of capitalism in which our ability to succeed is determined by our fungibility, the social conditions exist for us to engage ourselves as our own capital in the market driven economies of diversity discourses. For other people like us working or living in more normative or more explicitly marginal conditions, where protections have been stripped away or may never have meaningfully existed, the fragility of reliance for protection by the law becomes more explicitly manifest. What is also apparent though is that we have engineered spaces for ourselves in which our transness or sexgender nonconformity is itself a necessary condition of our success. In these cases, the chances of our being discriminated against on the basis of the protected characteristic of gender reassignment is clearly highly unlikely. Thus, the law as it stands may tolerate the precarity of our various situations but is arguably almost extraneous in its offer of protection.

Other people in more normative precarious employment situations such as my respondent Karol lose work or, like my respondent Stacey, simply do not declare their trans* or sexgender nonconforming status. In Karol's case she was working as an IT contractor and had signed a new six month lease on her flat having been told her contract had been extended when her boss dropped the bombshell:

I'd just gone and signed another six months' lease on my flat cos he'd confirmed [...] and he went let's put it this way, the client isn't as, does not, the client does not encourage diversity as much as we do. Basically it had become common knowledge at work that I was trans* [and you can have] all that diversity, you know, in place, but freelancers don't count [...] I'm a subcontractor and one of the reasons for using subcontractors is because you can fuck them around and they haven't got a leg to stand on.

Karol was then unable to get work for a year and a half, but mentioned that her plan was,

... coming out, you know, moving to London, taking hormones, was towards being a woman full-time. And part of that goal, those steps, was getting a permanent job. So I would move away from being a freelancer and I would get the protections.

Stacey is employed in casual work in the building trade and told me quite simply that if she came out as a T-girl at work, because of the prejudice in such a normatively masculine workplace, without any meaningful legal protection, it would be,

... the end of my career

Stacey contextualised this by stating that even if someone working on a building site did not personally have negative feelings about gay or trans* people, if they were faced with someone coming out as trans* then there would be certain behaviours expected of them according to their sociocultural environment,

... they wouldn't be seen to be anything other than condescending to that person, or down right offensive to that person because it's less than being a male to be perceived as. You'd have to, to be part of the boys gang you'd have to be damn right, erm, offensive to that person, to be in the boys gang. Because it's one of these piss poor ideals that society has. You have to conform to conform.

In the two cases here, even given the level of transphobia experienced and/or described, my respondents felt quite rightly that as casual workers they simply would not have been offered effective protection by the legislation that is currently in place due to the precarious nature of their employment. This is also very apparent in the case study that I now go on to discuss. I then go on to discuss how in cases of the extremely marginalised such as the incarcerated, other conditions and considerations are allowed to supersede the apparent guarantee of legal rights of trans* people for the right to secure self-expression apparently guaranteed under relevant regulations.

8.6: 'I fall under a protected characteristic but I'm not being protected'

Roberta is a qualified primary school teacher working in London. From 2004 until 2007 she worked full time as a contracted member of staff at a school in South London. From 2007 onwards she began working as a supply teacher.

Roberta describes her experiences when beginning her transition from July 2012:

I'd started taking hormones in around August and basically I knew, in September I thought if I'm doing this, I'm living as Roberta, I've got to live And I thought oh, it's going to be fine because you know, nobody really cares anymore and you know what I mean, and I'm covered by the Equality Act.

Roberta then described how she decided to tell her agencies about being trans* but decided to hold back from officially transitioning at schools because she wanted to '... test the water'. So although she had changed her name by deed poll in September she hadn't acted on it by officially changing her name at work. And as her expression became more feminine in terms of hairstyle and dress, although she did not adopt a fully traditional style of female dress, she began to experience difficulties at schools. She feels that at this stage it was because she fell outside traditional expectations of sexgendered presentation in relation to her acknowledged name and associated honorific – 'sir' and 'miss' is of course a culturally ingrained aspect of daily life in schools.

Up to this point Roberta describes her employment through agencies as busy, that,

... I was always getting phone calls all the time and I'd go this place or that place, always had work.

However things began to change. She describes her slow evolution in presentation as follows,

... what happens was basically I was, when I was presenting as male I would always have like a nice pair of grey trousers on, shoes, sometimes a tie, not always, shirt and tie, and presented male, very male. When I started to, as a, because I said to the agencies when I came out, even though I hadn't changed me name, that I wanted to test the water a little bit, I started to dress more feminine. So I didn't wear a skirt, I wore female trousers, female tops, a little bit of makeup, me hair was starting to change. So there was that kind of gradual.

Because I was pushing the bou-, to see, to see the boundaries and see how I'd be accepted, you know [...] I was kind of like let's test the water, see how I'm accepted as someone who presents as being feminine but still uses the male name.

Roberta made the point that she could not have been more abrupt, like Lucy Meadows finishing one term as male presenting and resuming the following term female presenting, as she hadn't followed through with her name change. However she began to experience difficulties with her engagements with schools, with her agency reporting that one school for example sent her home and,

when I rang the agency they said they didn't like your hair, you didn't have a shirt and tie on, you didn't present yourself [properly as male].

And this propelled Roberta into taking action and in December, just before the end of term, she rang the agencies and let them know that she had changed her name and that after the holidays she would be presenting at work as Miss Francis.

At this point Roberta had been working for two agencies, Reed and Capita. Having come out to them both she immediately received fewer work requests. And although she was getting enough work from Reed, Capita refused to even put her through to the consultant that she had been dealing with previously:

So January 2013 I am working for Reed. Reed have got me work consistently since 2008, 2007/8. Every week, three days a week, four days if I wanted it, all the time. As soon as I [transitioned] boom, the work stops.

After this Roberta began to get even less work. She puts this down to having told her agencies to inform schools in advance that she was trans*, even though she had to produce her deed poll as she hadn't changed her other official documentation. As her deed poll lists both old and new names other trans* teachers from whom she took advice suggested that the schools themselves might just simply not know how to deal with such complexities, even though her agency had told her to treat it just as someone would who had changed their name after getting married. This seems to be confirmed by Roberta's reporting that she was regularly being misgendered by various staff until she corrected them, that the use of appropriate toilets was sometimes an issue and on a

more basic level a number of schools that she had previously worked in simply didn't call her back.

Outside of the schools themselves, the two types of organisation that Roberta felt she could have had support from were the supply agencies she was working for and her union, the NASUWT. Regarding the agencies Roberta felt that unsurprisingly their overriding motivation was money. So rather than overt cultural transphobia within the businesses or from individuals working for them:

I didn't feel that they really cared about the whole issue of me being trans* and how it was for me. Because it's all about business and it's all about money. And that's so obvious, you know [...] Of course the reason being was it was, with supply teaching it's quite quick and they ring a certain amount of schools in the morning, say thirty schools on their books, do you need supply, yes, we need supply today. So it's quick. So basically they say well, yes, we want a teacher so they haven't got time to explain. Which isn't, I'm not going to completely blame the agencies for that. You know, because they don't always have the time to say well, we're sending Miss Francis in, she's actually transgender, this is what you have to do.

So a combination of financial imperative and the structure of the working day combined to enforce conditions in which transphobia or possibly cissexgenderism manifesting in the form of not getting work was tolerated and enforced. No resources in terms of time or training were allocated by the agencies, nor was any sense of a duty of care towards the casual employee evident. Actually there was no evidence of any real commitment to understanding the issues around Roberta's transition. Such engagement may have ensured that the sensitive time around transition was dealt with to the mutual advantage of all concerned: Roberta would still work, the agency would have one more member of casual staff and the schools would be able to call on the skills of an experienced and skilled member of staff.

What is clear however is that when Roberta wasn't being called into work she had no way of knowing specifically why this was happening, nor any meaningful method of challenging this. As she told me if she wasn't getting called in,

...they could say oh, no, we haven't got a problem. What they'd say is we asked for another teacher. Which can happen but it just seemed quite ironic that I'm going to these classes there and children are quite challenging and they know I can manage these kids and the kids have a lovely day and then all of a sudden because I identify as being trans*

Having stopped getting the regular work Roberta contacted the NASUWT for support. The union was initially very disengaged telling Roberta merely that although she had taken out grievances she did not have a case because she hadn't been strategic enough about the way she had raised and recorded them. In fact Roberta felt that she wasn't given good advice by the union who initially had told her to write to the Chief Executive/s of the agency/ies herself, and this she suggests can be explained by the unease of the union at having to deal with such a case.

More than that though Roberta feels that as a supply teacher her union simply hasn't got the power to be able to support her:

They can't even support supply teachers [because] education's privatised. I mean the thing is they don't have any, what do you call them, negotiation rights with these agencies. None at all [...] A union rep turned round to me a couple of weeks ago and said to me that basically if they had negotiation rights with local council they could have done loads about this already but they don't because I work solely for an agency.

And in emphasis of this when a union rep told Roberta at a conference that she wasn't the only trans* teacher she reflected that this is true but that,

... I might not be the only trans* teacher but I don't have a contract [And] because [other trans* teachers] 've had a contract they've been ok. Because they're in the school already so you can't, the school can't turn around and just sack you. Because you haven't broken your contract by coming out as being trans* [...] but I'm a tiny minority inside a minority and these agencies are big business and they don't care about me, of course they don't. I'm a commodity.

And of course Roberta's case is exemplary rather than exceptional as the number of people in precarious employment situations have increased over recent years and other

people with non-normative modalities have experienced similar associated difficulties (Russell 2014).

As the Lucy Meadows case discussed in Chapter 6 demonstrates, even teachers who have the support of their institutions and who fall within the protections of the EA2010 may be subjected to significant difficulty and abuse in broader cultural terms. Lucy Meadows and Roberta share the protected characteristic of Gender Reassignment. The protections offered to both however were inadequate for different reasons. In the former case the cultural space which determined the nature of public discussion of her situation initiated by prejudiced opinions offered by professional polemicists was not protected or sufficiently influenced by the provisions of the EA2010. In the second case the consolidation and extension of protections in the Act have taken place in a context of increasing deregulation and casualization of domestic labour markets resulting in a massive increase in zero hour contracts and casualised agency working. The effects of this have been compounded by decades-long legal and cultural attacks on the power of trades unions to protect their increasingly small and apolitical memberships. Thus, while it appears that legal protection for minoritized people has increased, it is equally true that the protections which are offered are effectively available to a relatively privileged section of the working population in contracted employment whose contracts stipulate a minimum number of hours. Protection even for people who clearly fall under one or more of the nine protected characteristic under the EA2010 but who are in more marginalised, precarious employment situations is effectively meaningless. I discuss if there may be broader cultural benefits to be derived from the passing of the Act below.

8.7: The Precariat and disenfranchisement

And referring back to the issue of my respondents with less secure employment, the basis of their difficulties in that context is the increasing precariousness of work in general. In discussing this in *The Precariat Dilemma* (2016) Guy Standing describes a new class structure in which exists a growing ‘... *precariat*, which is rapidly becoming the mass class of worker in all industrialised countries; and the *lumpen-precariat*, or underclass’ (Standing 2016: 26). The precariat is definable not only in the ways they are precariously or under-employed but also in the nature and structure of the work they do. There has been a shift from the defined and essentially delimited blocks of working

time associated with good working practices under industrialised Fordian capitalism to work which is carried out irregularly and in and through many different sites and mediums. The assumptions that underlay progressive worker politics in the earlier era were that the job of working people's political parties and organisations such as trade unions was to fight for improved (mainly male*-centric, white) workers' rights and conditions. These assumptions, that the trajectory of political progress was in direction of worker improvements, have now been substantially eroded. The deregulation and choice discourses deployed in the fetishisation of the marketplace by neoliberal practices (Irving 2013: 25) along with the technological developments including the internet and advanced automation have translated into policies that have profoundly altered the relationship of people to work and the very nature of work itself. And this offers us a context in which to understand the delimitations of the operations of our current laws and legal systems and how outcomes for trans* and sexgender nonconforming people are uneven.

Thus while some of my respondents such as Debbie, Helen and in slightly more nuanced ways Al, have successfully navigated their respective more or less traditional, and therefore more protected, work environments, others such as Lee, Juliet, Sam and Tara have engaged their cultural capital as trans* people to work in the diversity and/or creative fields. People in both these groups express 'difference' that is more readily assimilated, whose very presence in the workplace, wherever that may be, lends itself to normalisation, or actively promotes the normalisation of people like themselves, like ourselves. And in this context there is a temptation for some trans and sexgender nonconforming people to retreat further into community activism as particular aspects of their lives *become* their identities in ways previously unimaginable. It becomes possible, and even desirable to be defined and sustained by lives lived as trans* and sexgender nonconforming people, rather than by distinct work roles or social positions. This gives a class politics based on labour a wholly different meaning, intensified by the emergence of the '...new global class structure' (Standing *ibid*). But if this represents a meaningful advance for some trans* and sexgender nonconforming people it comes at a price. The experiences of my other respondents Karol, Stacey and Roberta highlight something else: the precarity of their situations as trans* or sexgender nonconforming people and the effects of this as translated into their experiences of precarious workplaces and employment practices.

As UK based trans* activist and radical transfeminist Nat Raha points out ‘We must not forget that our current historical moment, dubbed ‘the transgender tipping point’ in the struggle for trans rights and social recognition, is also that of the consolidation of the Thatcherite dream’ (Raha 2015). In her article ‘*The Limits of Trans Liberalism*’ Raha concedes that the rights agenda has made gains in terms of establishing legal recognition for binary identified or expressing trans* people. Further that there have also been some improvements in protection in employment rights, and for recognition of hate crimes (which itself is contestable in the way it has been enacted and structured in the UK) and also for limited access to health benefits for many, but not all, trans* people. She acknowledges, as I have done, benefits accruing to some trans* people through more positive media presentation (although again as noted in Chapter 6 this is still very much a work in progress). However she notes that ‘trans activists have focused on these issues in an age of gendered austerity, racist state violence and border policies’ (*ibid*). She goes on to wonder, ‘what are the implications of pursuing trans rights under these bitter, disenfranchising conditions?’ (*ibid*).

As Raha convincingly notes, claims that a rights-based approach which engages within existing sociocultural legal structures will deliver real equality are fictitious,

...the neoliberal states, in which these demands [for equality] are made, reproduce socio-economic divisions along intersecting lines of race and class, gender, sexuality, dis/ability, nationality and immigration status. Without challenging the existing inequality of society, trans activism modelled on ‘successful’ liberal lesbian and gay rights initiatives—such as the work undertaken by the Human Rights Campaign in the US and Stonewall UK—advocates for social inclusion that occurs with and through the disenfranchisement of the poor (*ibid*).

And it is in this broader context that my respondents are vulnerable: both because of the nature of who they are, their being and their expression of their trans* and sexgender nonconformities, but also due to their emplacement in expanding forms of deregulated employment that offer them too little protection as workers in a marketised environment that socially disadvantaged people find more difficult to navigate.

The analysis in this chapter shows that we can understand the laws that we have and the processes through which they emerge in the exclusionary state that they do are

unsurprisingly reflective of the *épistémic* urge, as Badiou has it, to ‘...cling onto family, provincial, national, linguistic and religious identities. Identities that are available to us because they refer back to the dawn of time. It is a world [...] of defensive retreat’ (Petitjean 2014). To frame this narrowly, it is important to acknowledge that in this identitarian context there may be more identities available to us than have been available in our recent historical epoch, and that some trans* people, those that ‘... can be viewed as viable neo-liberal subjects’ (Irving 2013: 26) have benefitted from the enactment of the EA2010. Equally however it is important to understand the limitations of what the Act itself both sets out to achieve and has the potential to achieve. What it clearly is not intended to be is an instrument of socioeconomic equalisation. As Irving tells us:

The legitimizing of the transsexual worker, however, does not offer serious challenges to heteronormativity nor does it illuminate the conditions of hyperexploitation that structure neoliberalism. In fact, these narratives dovetail with hegemonic discourses concerning the upstanding citizen and the necessity of entrepreneurialism (*ibid*).

Celebrations of more visible diversities and the apparent proliferation of available identities obscure the necessary homogeneity of those permitted, if not encouraged, to ‘succeed’ in working environments. Now however, I want to turn my focus onto people trying to survive in the even more marginal environment of the criminal justice system.

8.8: The most marginalised

Schedule 19 of the EA2010 makes it clear that the prison service is subject to the requirements of the Act to prevent discrimination, harassment and victimisation for anyone within the prison service, staff, contractors or prisoners and their visitors, on the grounds of any of the protected characteristics. The most marginalised are the prisoners,⁶³ yet even having been deprived of liberty, their rights under the Act are to be protected and upheld. The regulations that protect the rights of trans* prisoners in this particularly sexgendered environment are contained in the appropriate Prison Service Instructions. The original version of these instructions was called *The Care and*

⁶³ It is important to acknowledge the increase in the prison population between the early 1990s and the early 21st century, which activists believe has criminalised LGBTQ people disproportionately (Ministry of Justice 2013).

Management of Transsexual Prisoners, PSI 07/2011 (Ministry of Justice 2011) which expired in March 2015 and was belatedly updated late in 2016 to *The Care and Management of Transgender Offenders* PSI 17/2016⁶⁴ (Ministry of Justice 2016a) with input from invited trans* activists and professionals. I discuss the significance of the changes contained in the revised regulations below but here I want to look at how the original regulations were (mis)enforced historically in the case of Kimberley Green.

Both sets of regulations contain certain mandatory instructions for the care of ‘transsexual prisoners’. Some of these are listed in the judgement of *R (on the application of Green) v Secretary of State for Justice* (2013). In this case Kimberley issued judicial review proceedings claiming that she was being discriminated against by the prison Governor who she held ‘... has acted in an unlawful and discriminatory manner by placing barriers in the way of [her] living the gender role she has chosen contrary to the policy of the Secretary of State for Justice (Secretary of State) in PSI 07/2011’ (*R (on the application of Green) v Secretary of State for Justice*) 2013 [4]).

PSI 07/2011 mandates that prisoners who fall under the protected characteristic of gender reassignment must be allowed sexgender appropriate clothing, the right to be called by their chosen name, and ‘access to items at all times to maintain their gender appearance’ (*Ministry of Justice* 2011). In Annex B of the regulations such items are listed as ranging from ‘sophisticated prosthesis to padded bras’ (*ibid*) and also include wigs. However the annex also contains the instruction that these items may be restricted, albeit only under ‘exceptional circumstances’ which may include a security risk that ‘cannot reasonably be mitigated’ (*ibid*).

In ruling in favour of the defendant in the case who was the Secretary of State for Justice referred to in the judgement in the person of the Governor, Judge Richardson made a number of statements that seemed either contradictory in themselves, prejudicial or revealing of a lack of understanding of mainstream claims to trans* identities. The ruling also seems to call into question the efficacy of the regulations, and therefore the law, to recognise and protect trans* prisoners, allow them the right to sexgender self-expression and access to appropriate sexgender facilities, in this case a women’s prison.

⁶⁴ These Instructions also incorporate NOMS Headquarters AI 13/2016 and Providers of Probation Services PI 16/2016

In brief Kimberley contended that she wasn't being allowed access to a wig (she is bald), prosthetic breasts and vaginas, outsize clothing and footwear and items of female clothing such as tights. She claimed in addition that no access to hormone treatment or hair removal products had been provided, all of which are contrary to the terms of PSI 07/2011. Given this lack of access her claim was that she wasn't able to live in the role of a woman and would therefore not be able to apply for a Gender Recognition Certificate (GRC) which requires people to live 'in role' for 2 years.

In the transcript of the judgement Judge Richardson states notwithstanding the above, that 'The argument of the Governor is engagingly straightforward: there has been no departure from national policy in the way the claimant has been treated; and, even if there has, entirely rational reasons have been given to justify that' (*R (on the application of Green) v Secretary of State for Justice* 2013 [6]). This 'engagingly' unstraightforward sentence prefaces a judgement that reveals the potential for misrecognition and mistreatment of prisoners. This potential can be seen as arising out of the cultural cissexgenderism of the criminal justice system but also out of a wider sociopolitical environment in which state-defined security issues take precedence over law, to the point where such usurpation seems to have become effectively quotidian.

The judgement makes clear that the Governor accepted Kimberley as a transgender prisoner. She was allowed to wear female clothes on her residential wing and although 'overtly female clothing' was not allowed while she was away from the wing she was allowed to wear 'female underwear, a bra, minimal make-up, female trousers and other unisex clothing that is found on the "Girl Gear" list' (*ibid* [25(6)]). Certain items were restricted though. This raises two issues. Firstly there is the reason given for the restrictions imposed on Kimberley with regards to access to clothes and accessories to support her in maintaining her appearance in her chosen sexgender. Secondly there is the reason given for not accepting that the appropriate comparator in her case is that of another female* prisoner, rather than a male* prisoner.

The reasons given by the Governor and accepted by the Judge as legitimate for refusing Kimberley access to certain items of clothing, a wig and prosthetics, were as follows. On the grounds of Kimberley's personal security, that the sight of someone in a wig and apparently with breasts might provoke a reaction, either violent or of ridicule, by other prisoners. On other grounds of security, that the possession of a wig might facilitate

escape, and prosthetics might facilitate storage of illicit possessions which might necessitate heightened intimate searches of trans* prisoners which it was held would be ‘disagreeable’ to them. The possession of tights was also held to be a security concern as they could be used to facilitate escape, be used as a ligature and ‘other dangerous illegitimate use’ (*ibid*: [47]), although tights are allowed for women* prisoners held in the female* estate. It was held that the prosthetic breasts and vaginas were only available from an outlet called *Transformation*. Since they only supply in store or online the absence of a hard copy catalogue means that in line with the prison’s policy of not allowing prisoners internet access Kimberley was not able to order from them.

Responding to the Judge’s given reasons, it seems reasonable to question the truth of the assertion that wigs, in particular a visibly feminine one, and tights would facilitate escape in the context of a secure category B men’s prison, especially given that staff would be aware of the existence of both and that in the case of tights women’s prisons seem to deal with their existence perfectly well. It seems equally reasonable to question the basis of the judge’s remarks about the disagreeability of intimate searches and potential for ridicule when presenting as feminine. Such an attitude seems to suggest that the discomfort that may be experienced by the prisoner would be less than the presumably more profound discomfort suffered by Kimberley in not being able to meaningfully pursue her sexgender assignment project. The judgement against the claims made by Kimberley was heavily influenced by security considerations, either Kimberley’s personal safety or in terms of preventing escape. Given that such considerations could apply to *any* Category B institution and arguably by extension to *any* prisoner in *any* prison it seems to override any force that PSI 07/2011 has to offer recognition and protection to any transfeminine people imprisoned in a male* institution.

In relation to Kimberley’s claim that the appropriate comparator for this case should be a female prisoner, the Judge responded ‘Frankly, it is almost beyond argument that the only comparator is a male Category B prisoner’ (*ibid* [68]), and further ‘...I find it impossible to see how a female prisoner can be regarded as the appropriate comparator’ (*ibid* [68]). The particular interpretation of sexgender in respect of prisoners means that in most cases in order to be placed within the women’s estate a prisoner must have a birth certificate which defines them as female. Thus they must have had this

assignment at birth or, following on from the case of *AB v Secretary of State for Justice and another* (2009) in which the appropriate comparator for a pre-operative trans woman who had been issued with a GRC was felt to be female prisoner, a GRC in order to be so assigned. So theoretically a transfeminine prisoner without a GRC who has already undergone their social transition, and to a greater or lesser extent a physical transition up to and including lower surgery, may be placed in a male prison regardless of the physical and psychological risks involved. This may mean that a person who has transitioned all their other documentation may still be sent to a sexgender inappropriate prison. I refer to this further below with reference to the case involving Tara Hudson.

The binary normativity that underwrites this regimen is reflected in the language that reveals the assumptions made by the judge about trans* ontology. He describes Kimberley as ‘... actually a man dressed as a woman’ (*R (on the application of Green) v Secretary of State for Justice* 2013 [46]) and later states that ‘The Claimant is, however, male’ (*ibid* [66]), revealing a distressingly inept embodiment-based conception of trans* identity which conflicts with the understanding of sexgender identity which underwrites both the GRA and the EA2010. In a discussion of what the best comparator for the claimant who, I emphasise had not been issued with a GRC, is the judge writes:

I find it impossible to see how a female prisoner can be regarded as the appropriate comparator. The Claimant is a man seeking to become a woman – but he is still of the male gender and a male prisoner. He is in a male prison and *until there is a Gender Recognition Certificate he remains male*. A woman prisoner cannot conceivably be the comparator as the woman prisoner has (either by birth or election) achieved what the claimant wishes. Male to female transsexuals are not automatically entitled to the same treatment as women – until they *become* women (*ibid*, [68] *emphasis added*).

This insistence is a prime example of a law designed to enable recognition, being interpreted in such a way to reinforce *mis*recognition. While acknowledging that surgery is not required to obtain a GRC, when PSI 07/2011 says placement of prisoners ‘is a legal issue rather than an anatomical one’ (Ministry of Justice 2011 [4.6]) it is quite clear that regardless of a person’s self-understanding, without a GRC and regardless of a person’s physical and psychological status, that determination of sexgender is based strictly on legal recognition rather than on a person’s experiential or existential state.

The valorisation of the legalist binarism reflected in this judgement is a reflection of the wider culture of our criminal justice system, which of course is itself a reflection of the ways that trans* and sexgender nonconforming issues are homogenised in wider mainstream cultural discourse, as discussed in the previous chapter. Arguably this is demonstrated by the cases of Tara Hudson and the so-called sex by deception cases.

8.9: Other cases of limited recognition or misrecognition in the criminal justice system

Tara Hudson who was sentenced to twelve weeks in prison in 2015 is a trans woman who has undertaken corrective interventions during her transition over six years and who expresses as female*, although her documentation hadn't been changed at the time of her arrest, and she did not have a GRC. Because of the lack of a GRC and in line with the above ruling she was incarcerated in all-male HMP Bristol. Her case gained huge publicity however and there was a social media campaign coordinated by Bristol Pride and a *change.org* petition (Stephenson 2015) which were widely reported in the mainstream media (Bolton 2015, Farmer 2015, Gayle 2015) which resulted in her being moved to HMP Eastwood Park, an all-female facility.

That Tara's campaign was successful is of course a positive result for her but much of the campaign focused on the extent of her transition and her appearance, and was very individuated. Both Kimberley and Tara are trans women with very different histories, at different stages in their transitional processes and therefore with very different visibilities, and with very different convictions and sentences. The difference in outcomes in these cases I suggest rests largely on these differences. It highlights the unequal treatment given to people even within the most marginalised demographic groups, according to their ability to be read and understood in relation to hetero- and cis-normative scripts that reward legibility and even the most basic forms of fungibility. While Tara's femininity was read and eventually accepted as 'authentic', Kimberley's treatment underlines the way trans* people with less normative narratives and presentations in general are treated, both medically and socially. The less normative the narrative and presentation, the less recognition we receive and the less 'authentic' our claims are understood to be. And in such cases the greater the chance of our being misread, misunderstood and being on the receiving end of cissexgenderist and/or transphobic prejudice and mistreatment in all aspects of our lives. Such cultural myopia or even blindness echoes the lack of comprehension that I described in relation to my

own history in Chapter 3 where I described my own inability to understand myself due to a lack of a language to do so in the late 1970s. The contemporary differences are revealed in the partial acceptance of the validity of trans* lives given that they are lived and experienced in ways that do not disrupt or challenge the normative structures that support our marketised socioeconomic and cultural environments. As discussed above this partial acceptance is vital in order to maximise potential participation in the markets. But a system whose results illuminate the fact that equality is subservient to equity lays bare the structural discrimination at the heart of the criminal injustice system and wider society.

8.10: New regulations

Just after Tara's case was being, very publicly, resolved there were two tragic deaths of trans women in custody both of whom were incarcerated in men's prisons. Vicky Thompson was in Leeds Prison and Joanne Latham in Woodhill Prison, and both women apparently committed suicide which in at least one of the cases was a direct response to being incarcerated in a sexgender inappropriate prison. These cases unfortunately received lots of publicity only after the women concerned died so tragically. One result of the high profile of these three cases was that the government belatedly instigated a review into the expired PSI 07/2011 and PSI 17/2016 was published as a replacement on the 3rd November 2016 with a view to full implementation by the 1st January 2017.

The original twenty five page PSI 07/2011 has now been expanded in PSI 17/2016 to sixty pages, both including annexes, which is partly accounted for by the fact the regulations have been expanded to cover the staff in Her Majesty's Prison and Probation Service (HMPPS) formally the National Offender Management Service, and people on licence and probation. The regulations offer protection to transgender offenders (as opposed to transsexual prisoners) who '...have expressed a consistent desire to live permanently in the gender they identify with which is opposite to the biological sex assigned to them at birth' (Ministry of Justice 2016a) including intersex people. Also included are '[o]ffenders who have a permanent neutral (non-binary) gender identity and offenders who have a more fluid gender identity (including those who identify as gender-fluid and/or transvestite)' (*ibid*). The inclusion of these expanded categories clearly marks the influence of the trans* activists who were invited to be part of the

review, but raises interesting questions about how the criminal justice system views the issue of containing sexgender fluidity. For example the inclusion of some form of recognition for people whose self-understanding falls into the categories listed in PSI 17/2016 above, with no corollary consideration of either de-sexgendering the entire prison estate, nor of establishing standalone facilities specifically for such people suggests at best a cosmetic approach to the issue. If the suggested solution to appropriately incarcerating people determined as falling within such categorisation (acknowledging the potential for complexity and misrecognition that exists in the sociocultural culture of the criminal justice system) is either some slight adjustment to their treatment as individuals within facilities associated with their assigned at birth sexgender, or their being placed in some form of segregated unit within the female* or male* estates, then I suggest that this is an illuminating example of empty diversity. It is a weak recognition of a specific, if loosely defined, category of diversity, offering no systemic challenge to the physical and cultural structures on which the criminal justice system is constructed. It offers no apparent meaningful attempt to engage with what the notion of understanding oneself as sexgender nonconforming/nonbinary may actually mean. The metaphoric power of the prison walls not being rebuilt to accommodate non-binary or sexgender-fluid people is very obvious highlighting the critical difference between the apparent aspirations of PSI 17/2016 and their operations. It reveals a tension between the aspirations for progressive inclusion of diverse populations and the homogenising and exclusionary effects of heteronormative social codes and how these are reflected within the criminal justice system. This is underlined if we consider the situation of trans* and sexgender nonconforming prisoners from a more structural viewpoint.

8.11: Cultural gaps

In November 2016 when PSI 17/2016 was published a report called *Review on the Care and Management of Transgender Offenders* (Ministry of Justice 2016c) was also published. In setting out the context of the reasons for the reviews of the systems governing the treatment of trans* and sexgender nonconforming prisoners the report tells us that:

During the autumn of 2015 a number of events linked to transgender prisoners were reported in the media and attracted widespread attention. These coincided

with the already-commenced refresh of the National Offender Management Service's (NOMS) policy on transsexual prisoners, but highlighted the need for the policy to be given a more fundamental re-appraisal (Ministry of Justice 2016c).

The events referred to are those discussed above but tragically the report's publication in November 2016 closely coincided with the death of another trans woman in prison, Nicola Cope who died in Foston Hall Prison, a women*'s prison (BBC News 2017). And on the 30th December 2015 Jenny Swift was found hanged in her cell in Doncaster Prison, an all-male* facility to which she had been remanded in custody (*ibid*). Upon being admitted to prison Jenny had been denied her cross-sex HRT medication which she had been taking for three years before her arrest (Fae 2017). Denying Jenny her medication would have left her experiencing heightened feelings of disorientation and dysphoria as the effects of her medication wore off and her natal hormonal regime reasserted itself, exacerbating the negative impacts of her incarceration.

This emphasises not only the cissexgenderism of the criminal justice system in failing to recognise the dangers of restricting access to HRT, but is part of a wider cultural problem engrained within the structure of prison admissions. When discussing medication in relation to people being admitted to prison with mental health issues Bowen *et al* concluded that:

Changes to medication management which accompany entry to prison appear to contribute to poor relationships with prison health staff, disrupts established self-medication practices, discourages patients from taking greater responsibility for their own conditions and detrimentally affects the mental health of many prisoners at a time when they are most vulnerable (Bowen *et al* 2009).

And it is critical to understand that it is within this wider culture of stripping people of their own volition in terms of self-care within the criminal justice system that we need to understand some of the significant challenges facing trans* and sexgender nonconforming prisoners.

That the two most recent deaths took place after the publication of the report and new PSI document, and roughly a year after the three cases referred to above, underlines the time it takes for such reviews to be undertaken and for any potential changes to be

effected. What is also clear though is that sentencing culture, rather than acknowledging the catastrophic outcomes of those cases, continues to defer to the heteronormative culture embedded in the legal and criminal justice systems. This is reflected, it is safe to assume, in the probably unconscious assumptions made by the sentencing judges such as Judge Richardson quoted above. Alex Sharpe, reflecting on the sex by deception cases referred to in Chapter 6, in which people with a variety of sexgender self-understandings of various complexity have been convicted of obtaining sex or intimacy by deception on the basis of the non-disclosure of their assigned at birth sexgender, notes that ‘The characterisation of the defendants as deceptive in these cases appears to be based on a legal and *broader cultural view* that they are not men. This view seems to have been adopted by both prosecuting council and judges in these cases’ (Sharpe 2014: 8 *emphasis added*). She goes on to point out that ‘This framing of events during sentencing, and of [one of the defendants] McNally as deceptive in identity terms was subsequently reproduced by the tabloid and broadsheet media’ (*ibid*). As I assert progress has been made in the protection and representation of trans* and sexgender nonconforming people and their discourses. However as soon as people’s non-normativity moves outside whatever parameters of transnormativity have been discursively established, whether that be of modality or behaviour, respect, understanding and even recognition and therefore protections are at best qualified or evaporate and become meaningless. This underlines the fact that the law and its operation manifest and enact an innate conservatism which resists change and effects normalisation.

8.12: Contextualising these bleak outcomes – the precariat and prison deaths

The particular circumstances of the women incarcerated in inappropriate sexgendered environments, including their heterotopic or necropolitical deaths received wide publicity which supported the momentum of the production of the *Ministry of Justice Review on the Care and Management of Transgender Offenders* (2016c). This is acknowledged, if somewhat obliquely, in the Background section of the review (*ibid*: 3). Currently sexgender issues are percolating popular culture to the extent that National Geographic Magazine has published a special issue called Gender Revolution which has a glossary of terms including genderqueer, genderfluid, puberty suppression and agender (2017: 14 – 15). This can be read as an unsurprising manifestation of the

neoliberal diversity project, notwithstanding the totalising nature of the term ‘project’ in this context.

The Ministry of Justice report wasn’t commissioned specifically to investigate the incidence of trans* suicide in prison and contains much that is commendable in its much more joined-up inter-agency approach, and its extension of recognition of non-binary and intersex people, at least in so far as they are actually named. The contextualisation however does not extend to considering the difficulties trans* and sexgender nonconforming people experience as part of the wider prison population and the increasingly horrendous conditions suffered by people living and working within the criminal justice system daily. The partial effects of these deteriorating conditions are highlighted in another recent report *Safety in Custody Statistics Bulletin, England and Wales, Deaths in prison custody to December 2016, Assaults and Self-Harm to September 2016* (Ministry of Justice 2017) which details 354 deaths in prison 119 of which were suicide. This is an increase of 38% and 32% respectively. Self-harming incidents are up 23% and assaults 31% as well, all these figures representing all-time highs since reporting began in 1978. The prison with the highest incidence of suicides was HMP Woodhill, where Joanne Latham lost her life, albeit at the end of the year before the deaths referred to in the report.

8.13: The derogation of the law in a State of change

Dean Spade tells us that a central argument of his book *Normal Lives* is that ‘... the standard law reform strategies most often employed to remedy the problems faced by trans* people fundamentally misunderstand the nature of power and control and the role of law in both’ (2011: 101). I suggest above that the law fails to protect the most vulnerable individuals. The focus on individuality of much UK trans* activism in its engagement with legal processes, while understandable in its emergence out of the relatively deradicalised individuated political environment of the late 20th and early 21st centuries. However it is based on an analysis of how to improve the lives of trans* and sexgender nonconforming people which is shorn of the breadth of analysis and purpose of an earlier generation of radical politicking and activism. Political solutions based on structural analyses of disempowerment and discrimination have been replaced by much narrower solutions. The latter are based on an understanding that such issues are visited on individuals (rather than on classes of people) by other perpetrators that are

individuals, or company or organisational cultures, rather than sociocultural hegemonic power structures. The result is a focus on recognising and protecting diversity in and of itself rather than striving explicitly for any meaningful form of equitable redistribution of power and wealth. Spade terms this the ‘individual discrimination model’ (*ibid*: 102).

As Spade, acknowledging Alan Freeman, notes,

... the perpetrator perspective prevents us from looking at the unequal conditions that entire populations experience because it focuses on the intentional actions of individual discriminators. The discrimination principle tells us that the government can forbid certain acts through law, and that law will determine the outcomes we want (*ibid*).

And this represents a top down understanding of power which Spade contests as inadequate.

But it is critical that we also acknowledge that reliance on legal protection in the current context fails to acknowledge two other impactful sets of circumstances. Firstly as I have acknowledged above the nature of work is changing. But it is changing within a wholly altering state or relationship of the state to the citizen. As the state becomes a facilitator of markets rather than a direct provider of a social safety net it fundamentally alters the power it invests even in itself to *be* a protector of individual rights and enhancer of life chances. With this abrogation, any remaining power of protection defaults to the operation of a marketised environment where diversity models may themselves be recognisable as worthy of protection in relation to their fungible potential, but no further. Values emerge from this environment complexly and somewhat unpredictably but in this context the construction and operation of the EA2010 addresses only the proximate causes of discrimination and misrecognition rather than their ultimate causes (Diamond 1997) and even then misdirectedly.

Wendy Brown in *Undoing the Demos* (2015) describes the imperilment of democracy itself. Brown makes the point that in politics dominated by neoliberal theory and governance in which people are judged by their ability to act as entrepreneurs of themselves, principles relating to justice, liberty and equality are all being measured, subsumed and devalued within and through discourses that understand their worth in

relation to competition, 'efficiency' and maximisation of economic advantages to individuals, and their immediate social and familial networks. An important consequence of this is that laws and entire legal systems are degraded in their formally assumed primacy in public life and therefore in their effectiveness and enforceability, and rendered less powerful. This shift of power is deeply cultural, and while it is rarely made explicit it is bound up inextricably with the UK government's programme to shrink the state and to hand over power to corporate supranational interests. But the shift/s in power also circulate/s in complex ways, not merely between people and groups of people, but within people, within our concept of ourselves as controllers of our own destinies, as *homo oeconomicus* as opposed to *homo politicus* (Brown 2015).

In this context democracy, and by extension the rule of law, is devalued and access to redress of injustice through justice systems becomes less available for increasing numbers of more socioeconomically disadvantaged people as a result of withdrawal of legal aid. This is compounded by the narrow parameters within which diversity legislation is drawn. Clearly then, the limits of the benefit of focusing on law reform as the only or most valuable corrective to injustice can only be considered to be a flawed and inadequate intervention. And equally whilst engaging with the lived experience of all disadvantaged and minoritised people and their communities is an essential part of acting to improve their situations in ways that are relevant and meaningful to them, narrow focus on individual communities tends to essentialize their issues. This ensures that the more powerful and influential voices within micro communities are represented, leading to the more significantly minoritised people's voices and issues not being sufficiently taken account of or addressed. Furthermore, such a narrow approach also fails to take account of the similar ways in which differently differentiated/identifying minoritised people are disadvantaged. Therefore the potential for building alliances across identity boundaries and borderlines with a view to creating new environments, or to relocating our sensibilities within a broader understanding of what our environments actually are is diminished. The need to broaden the ambit of our understanding of our situatedness is of paramount importance in addressing these issues and should be the departure point of our analyses and actions.

8.14: The Equality Act 2010, inequality and narrow recognition

What the EA2010 clearly does achieve is the consolidation of inequality in general, and in the context of this work, amongst trans* and sexgender nonconforming people in particular. No significant challenge to existing structural and material inequality is made through the instruments of diversity legislation, and in its naming the ‘Equality’ Act produces a masking rhetoric which washes its true intent and effects. The most marginalised are in meaningful and material senses further marginalised as perceived dysfunction, illegibility and progressive radicalism are pushed increasingly to the margins by entrepreneurial pressure to function/transact fungibly. In this context law and mainstream culture interact to broaden and simultaneously restrict recognition and protection as the interplay between diversity culture and neoliberal distaste for productively marginalised people plays itself out.

And personal and public spaces and expressions of fluidity and non-binarism are also either further marginalised or moved away from the margins in a further slow, suffocating privatised wave of disempowerment/decreativity and inevitable appropriation. There is no reason after all why the nonbinary neoliberal subject should be any less legible at the point at which their subjectivity becomes sufficiently fungible to be monetised and therefore drawn within the gaunt and grasping ambit of neoliberal success, rather than acting as a meaningful challenge to normative and corrosive sexgender strictures. But success in a neoliberal environment will always be something that is in need of marginalised others to materially support it. This highlights the necessary oppositionality of the neoliberal position which underpins the (post-)industrial complex.

8.15: Conclusion

In this chapter I have given a sense of the conditions that the ‘equality’ legislation that is in place in contemporary England and Wales emerged out of and how it has developed in the current neoliberal *épistémé*. I have detailed more specifically the development of legal recognitions and protections for trans* and sexgender nonconforming people in England and Wales and critically discussed the processes deployed in developing such legislation. In this context, I have examined the limits of the effectiveness of such laws, and discussed who, within trans* and sexgender

nonconforming communities and by extension in the general population, most benefits from them. In two case studies, I have explored specific cases highlighting how the construction of the EA2010 ensures that it fails to protect people in two specific and growing marginalised demographics; workers in precarious employment and people within the criminal justice system. I have contextualised this by noting the statistical growth of marginalised populations in the context of an increasingly deskilled and deregulated employment market. I have also noted an almost doubling of the UK prison population, in a legal context in which security concerns are allowed to override legal obligations of the state security apparatuses in relation to population, described by Foucault through his concept of governmentality, quoted in Chapter 1.

I suggest that hegemonic understandings of trans* and sexgender nonconforming people's lives work to culturally restrict the effectiveness of laws which are already limiting in their aims. They also enable the effective deployment of wider recognitions of narrow diversities in the market place in order to enable participation in the complex networks of contemporary marketplaces rather than effect redistribution of socioeconomic and sociopolitical power to support the more disadvantaged and marginalised in our societies. This legal culture reinforces the material conditions that disadvantage people based on imbricated matrixes of their embodiments and on their sociocultural backgrounds. Therefore it is through the deployment of a material radical transfeminism that trans* and sexgender nonconforming people should ground their resistance and praxis (Raha 2015), critiquing the liberal transfeminism that has been instrumental in supporting the enactment of the laws on which I am focussing.

I have suggested that much work in the field of transgender studies has been too focused on cultural issues of identity and diversity at the expense of considerations of equality and broader questions of political economy and power. I suggest that the shortcomings of the structure of our laws and their imbrication with wider culture reflect much of the inequalities inherent in enlightenment humanism. But I also suggest that not enough account has been taken of the fundamental nature of socioeconomic and sociocultural change that has been imposed on our societies over the past thirty-five years. The changes have been to the advantage of some as well as to the disadvantage of others. As the diversity discourses have offered limited recognition to trans* and sexgender nonconforming people, so-called equality legislation becomes just one of the

deflections, the masking techniques, that reduces effective opposition to genuine increasing inequalities of power and wealth.

Conclusion

Finally I want to review the structure and focus of the work to draw out my main conclusions. In doing so I want to acknowledge the complexities of the imbricated sociopolitical, technological and scientific shifts that have underwritten the legal issues that were the initial starting point of my research. I reference the experiences of my respondents but also review altering landscapes of work and our cultural environment. I refer specifically to the regulation of aspects of the criminal justice system which limit the effectiveness of the law as a guarantor of recognition and protection for trans* and sexgender nonconforming people now.

This thesis has been researched and written at a time of considerable change for trans* and sexgender nonconforming people but also at a time when precarity and uncertainty have become widely acknowledged as playing an increasing role in people's lives. It has been written at a time when there has been a widespread perception of 'progress' for trans* and sexgender nonconforming people. I contend however that any perceived improvement in the lives of trans* and sexgender nonconforming people in general needs to be understood as very uneven and partial when taking into account the lives of the more marginalised and excluded.

I begin by reviewing the main themes of each chapter. I then give an account of the significance I have drawn from the data generated by my respondents. And engaging with these reflections I go on to develop the conclusions of my work.

In **Chapter 3** I discussed the power of language fields to delimit people's ability to understand themselves and therefore to make claims about their own sexgender self-understanding. I contend however that even within hegemonic and normative parameters of discourse about sexgender transition, people's lived experiences are more nuanced than is often presented in mainstream discourses, and indeed less normative than the individuals telling their own stories seemed to be acknowledging, even to themselves. I noted the emergence of people actively presenting themselves or particular aspects of themselves as non-normative or non-binary. I contended that this adds to the evidence that for trans* and sexgender nonconforming people, despite huge pressures to conform, initially as their assigned sexgender, and subsequently as transnormative, there are no strict borderlines that universally enforce behaviours or pathways. I assert that in the post-WW2 era people have always deviated from assumed

transitional outcomes for physiological, psychological or social reasons. I make the point however that this has been masked to some degree by certain limitations of discursive formations about sexgender within the wider domain of sexgender discourses more generally and trans* sexgender discourse in particular. That is to say, the complexities of the lived experiences and self-understandings of trans* and sexgender nonconforming people are flattened out in totalising discourses that constrain mainstream or normative understanding of what trans* is and can be. Such constraints have affected and continue to affect people's self-understanding and actions. And I assert further that the narrow individuated focus of much transgender scholarship has tended to denude its subject range of broader context with regard to sociopolitical economy which has left significant structural questions largely unaddressed.

Chapter 4 discusses the emergence of a more general acceptance of more diverse identity markers in the context of neoliberalism's legitimation through markers of the success of all individuals, marked as *homo oeconomicus*. I noted the breakdown of the borderlines of politics and economics, noting how neoliberalism's governmentality requires that all modes of governance are economised and focus on facilitating the success of people and institutions in terms of productivity, efficiency and ability to consume. This being so, in cases where diverse markers of individual identity do not pose a threat to the hegemonic economic requirements to efficient production and consumption they are easily subsumed within hegemonic parameters of acceptability. This process of assimilation requires that approved diversities carry with them no historical baggage nor implied or actual critique of the hegemonic socioeconomic order. In order for this to be the case the nature of acceptable diversity is that it is narrow or empty. Thus where political imperatives underwrite a person's diverse identity they do so on relatively narrow economic grounds which constitute a new economised morality. So the recognitions and protections that have recently been extended to trans* and less so to sexgender nonconforming people are framed in ways that culturally replicate (or at best mildly reconfigure) older structures of sexgender expression and social life, while attempting no radical reordering of existing power structures. This underlines the fact that borderlines between economics and politics have been erased as neoliberal governmentality assumes the form of a political rationality. This has established a new form of morality based on economic success. New normativities have been created that ensure that people are still discriminated against and marginalised on the basis of their

sexgender identities and/or expressions along intersectional and class bases, on terms predicated by their ability to navigate contemporary marketised environments.

I make the point that many of my respondents and I have made our sexgendered life-experiences central to our socioeconomic emplacement and arguably to our self-validation. We represent in a particularly overt way the significance of our own lives as our capital – the very meme of contemporary fungibility. Yet for all our success, the number of trans* and sexgender nonconforming people who are homeless, who manage less successfully in marginal or insecure employment or who fail in other ways to successfully navigate the increasing precarity of their situations continues to increase. At the same time though, it becomes possible for them to at least acknowledge and to a greater or lesser extent express their own (historicised) realities.

The main themes in **Chapter 5** are polymorphism and plasticity and the increasingly scientifically acknowledged importance of the effects and affects of environment in our ontological and/or teleological formation. I challenge the possibility of policing normative borderlines of female*/male* and their associated and assumed connectivity to femininity/masculinity. Since the enlightenment modern science has increasingly naturalised bisexgendered biology which has underwritten cultural discourses more generally. Contemporary scientists and academics have challenged such approaches and understand the pole positions of female* and male* to be opposite ends of a spectrum of sexgender. There is a one in two thousand chance of being born with an embodiment that does not match hegemonic biological definitions of female* or male*. Contemporary medical practice is beginning to acknowledge that such biological configurations are natural, and do not need the corrective ‘normalising’ surgery or endocrinological interventions that have been standard pathologising practice in the past.

I critically discuss the science that identifies female* and male* brains in the context of evidence that use of exogenous hormones and, where appropriate, anti-androgens and anti-oestrogens engages the psychophysical lability that has made humans such a successful species. We live in a world where prosthetic, chemical and surgical interventions mean we have a significant and increasing ability to cross physical borderlines temporarily, semi-permanently or permanently which affects our abilities to function cognitively more flexibly.

This is reinforced by work I also reference that foregrounds the importance of environment as affecting both the size and functionality of human brains which on a deep cognitive level positively affects our abilities to imagine, express and therefore understand ourselves in new and more labile ways. Thus in the current sociopolitical environment where diversity of *identity* is valorised and proliferating it has been possible for individuals to express their sexgender modalities in more complex and less essentialising ways. This makes explicit the material basis to the breakdown of female*/feminine male*/masculine borderlines and binaries which support the facticity and legitimacy of trans* and sexgender non-conforming ontologies. To emphasise our lack of naturalness I invoke use of the tool of *verfremdungseffekt*, the alienation effect, to help us realise our own contingencies and unboundedness, the breakdown of our own borderlines.

I also refer to the shift of biopolitical focus detailed by Nikolas Rose which he describes as a shift from the social body to the molecular body giving rise to a new molecular politics - what Rose describes as ethopolitics. I suggest that this can be understood as a new neoliberal politics of the body, and also that it helps underpin the meso-level identifications that we have developed based on our embodiments and where relevant our embodimentifications. There is a necessary fluidity emerging out of our need to ensure our embodimentifications intersect with our fungibility, emplacing us as successful, or at least surviving, neoliberal subjects, which becomes valorised through contemporary markers of success. But the need to recognise the homogenous outcomes for trans* and sexgender nonconforming people living and working under such conditions should critically inform our understanding of the limitations of the apparent freedom that is increasingly claimed, to understand and express ourselves and therefore approach our embodimentifications differently.

Chapter 6 begins with a critical discussion of scholarship which was produced in the wake of the emergence of more widespread use of the internet, and the claims that were made for its usefulness in providing a safe space within which trans* and sexgender non-conforming people could develop their identities and confidence as part of their coming out processes leading to the possibility of activism and sociopolitical progress. I contend that upon closer examination the assumed borderline between the 'real' and 'virtual' worlds is far less distinct than was claimed in the late 1990s and early 2000s. And in this context I noted that social lives based around 'alternative' identities

emerged in the pre-internet era. These expanded under conditions of a wider sociocultural realignment which stretched back to the structural changes taking place in the world's economies, and developing technological conditions which precipitated the ending of the so called post-war consensus in Western Europe which gathered pace during the 1970s.

I go on to examine how the much-heralded expansion of freedom to disseminate information across the WWW has dissipated under the colonisation of online space by both older media corporations and new corporations whose business practices and formations embed, expand and cascade individuating neoliberal values. The information sharing function of the internet has undoubtedly given more people access to information that they have used to support their embodiments and has in this sense been supportive in the way trans* theorists such as Whittle (1998) have described. However, the structure of the more interactive productive social networking functions and the algorithms that support them work to commodify images and information which ultimately tends to narrow people's gaze. Thus, while communities of interest are created, they operate to focus people's attention and activity at a meso-level rather than engaging wider critical analysis of the world that we inhabit. Therefore engagement with social media encourages an understanding of our socioeconomic positionality more individualistically and less structurally as a result. Overwhelmingly the information available on the internet, including news, comment, commercial sales and entertainment is provided by big corporations. The totalising effect of this for trans* people is that trans* and sexgender non-conforming discourses are not understood as being implicated in a structural critique of normativity about the multivalent ways in which inequality is enacted on people. Rather they are reinforced as privatised and personalised and therefore narrowed in the pathways represented as legitimate and in their ultimate potential effects. The diversity on offer is mostly empty and denuded of radical potential, as heterotopic potential morphs into homotopic reproduction of new normativities. And the parameters set by these new normativities are dialectically reproduced throughout hegemonic power structures, ensuring that the most legible subjectivities are legitimised, thus further marginalising the more threatening or least fungible minoritised individuals culturally. Thus while space is created for new, less hegemonic subjectivities to emerge they do so on the margins, always in danger of becoming assimilated due to their need to survive precarity.

In **Chapter 7** I analyse equality and diversity laws and regulations relevant to their operation in the environmental context established in the previous four chapters. I examine the genealogy of the GRA and the EA2010 and their framing of transness and protections and the narrowness of the context in which they are expected to operate. Thus the GRA, whilst groundbreaking at the time of its enactment, is widely accepted to be binary reinforcing and to force trans* people to jump through difficult and unnecessary hoops in order to achieve a legally recognised change of status. The EA2010 on the other hand, whilst drawing on the language of the GRA to define the protected characteristic of ‘gender reassignment’, also includes a category of discrimination by perception. This potentially offers protection to people not actually undertaking ‘gender reassignment’ but who may be perceived as doing so. I note that this clumsy extension still does not extend protection to sexgender nonconforming people who wish to be marked as living as other than female* or male*. I also note that the EA2010 operates entirely non-intersectionally and the limits of its protections do not include class or economic disadvantage – something one might expect to sit at the heart of a law claiming to promote equality.

In this chapter I acknowledge the benefits that some of my respondents report having experienced as a result of the passing of these laws but also some negative experiences that other respondents have experienced in their particular work situations where the framing of the Act has failed to protect them. In two case studies, I also examine the effectiveness of the EA2010 to protect people in precarious and marginal situations and conclude that people in those most marginal situations are offered less protection by the law as it is constructed and operated than people in more contractually and culturally secure positions.

In examining the position of ‘the most marginalised’ I selected to focus on the changing culture of the criminal justice system. I looked at two sets of prison regulations, PSI 07/2011 which were replaced by PSI 17/2016 *the Care and Management of Transgender Offenders*, which came into force in January 2017. The new regulations were written with the involvement of trans* activists, who were invited on the basis of their sexgender activism rather than their knowledge of the criminal justice system. The outcomes reflect their involvement insofar as the regulations acknowledge the rights of nonbinary people to be recognised, and have certain needs addressed. That they are to be incarcerated and then dealt with in prison facilities that they are sent to on the basis

of their assigned at birth sexgender however, merely emphasises the shallowness of the recognition, synecdochal of empty diversity, that they are afforded. Some of the continuing shortcomings of the legal protections afforded people in prison are highlighted by the continued emphasis on assigning trans* and sexgender nonconforming people to prisons based on their legal sexgender recognition, albeit with some latitude given in cases where social and/or physical transition has taken place. They are also exacerbated by the withholding of self-prescribed but essential medication upon incarceration. Critically at a more structural level I argue that focussing on issues that affect trans* and sexgender nonconforming people in prison only in terms of how they are treated *in this respect* means that the wider issues of violence, lack of access to facilities to support their education and rehabilitation and exposure to drug use for example are elided. And although trans* activists are being invited into *some* prisons to provide training for staff, wider cultural understanding of trans* and sexgender nonconforming ontologies and issues will continue to ensure both that trans* women in particular will be sent to inappropriate prisons. They will then be treated very unequally based both on the lack of acceptance within the establishment they are sent to, and on the associated perceived lack of legitimacy of their claims to appropriate treatment. I assert also that they will be subject to high levels of transphobic treatment by both prisoners and guards. And critically no separate facilities will be provided for people who live their lives outside of the sexgender binary.

These underlying issues illuminate those that extend beyond the criminal justice system. It is however the extremity of the circumstances and the potential for misrecognition and mistreatment in a crucible of legality that highlights the limitations of relying only on the law, particularly in its current form, to protect trans* and sexgender nonconforming people.

9.1: Reflections on personal experiences

I interviewed a range of people in semi-structured interviews and for one case study and they disclosed a range of experiences and contextualisations of themselves as trans* and sexgender nonconforming people (even when they may not have used this terminology to describe themselves). I want to review their contributions in terms of embodiment and their social significance, in terms of how people have invested

themselves back into social success, and in what ways people have been failed by the sociolegal culture that other people feel has supported them.

There was a general feeling of positivity amongst my respondents that people had been making progress, variously measured by the success of their transitional progress, or their increased confidence to navigate the complexities of dual-presenting or more labile lives. The internet was referenced positively by everyone who discussed it, as a facilitator of community building and personal development. Older people described their previously isolated lives as trans* people, or their internalisation of the impossibility of being or expressing as trans*, or as female* or male* depending on their self- understanding. This was emphasised by reference to one of the trans women featured in Silverman and Stryker's 2005 film *Screaming Queens* discovering self-validation and understanding through being able to name and process herself as transsexual at a time when both the psychomedicalised concept and the medical route had become available to her to fulfil that designation, albeit with all the constraining factors that were in place there and then. This took place for her at a time when access to such processes were beyond the reach of the vast majority of people in this country due to lack of self-knowledge, self-confidence, knowledge about transness in general or perceived or actual access to psychomedical services. This is in contrast to the contemporary experience of people such as Lee, with years of experience of contact with trans* sub-communities, who pointed out the increasingly fluid or queer possibilities within those sub-communities which had previously policed boundaries of masculinity and sexuality more rigorously. The variety of experience I acknowledge, underlines the significance of imbrications of social, technological and psychomedical environments which have variously impacted people's transitional potentials. These material conditions have also contributed to delimiting the possibilities of outcomes and self-understanding, dependent upon where and when people engage with their sexgendered journeying.

It was clear from the data that the trans* journeys that people had undertaken generally involved evolutionary pathways of differing sorts. I assert that people's embodied outcomes were unpredictable for a range of reasons. It was also clear that their sociocultural emplacement was implicated in how they understood themselves. So whether it is in the shift from transvestite to transsexual in the case of Helen, or the contrasting surgical aims of Vicky, Debbie or Al, all experienced a change in their self-

perceptions as sociocultural discourses about transness and queerness became more accessible and a wider range of possibilities for trans* and sexgender nonconforming people emerged.

In their working lives a range of experiences was also reported. There were people who reported being supported at work when coming out or during and after transition. This applied to people working in a variety of environments from within the criminal justice service, trades unions, the police service, the National Health Service or in more manual work. A range of other people had been propelled into work which involved organising or advocating specifically on behalf of trans* and sexgender nonconforming people or otherwise organising within their constituencies to promote peer-supporting environments. These two categories of work clearly overlap to some degree. There were other people however who reported negative impacts of being trans* on their working lives, such as Stacey working casually in the building trade, and Karol who when working as a contractor in IT would have qualified as one of Standing's *proficians*, people in well rewarded but precarious employment. Karol's well-paying contract was not renewed when her employer's client took issue with her sexgender expression. I also studied Roberta's case in depth. She described the huge difficulties associated with her transition as a supply teacher – as someone whose transition had negatively impacted her fungibility in precarious work to the point where she felt she had to leave that work.

I contend that people's experiences in these different working environments elucidate the weaknesses of the EA2010. People who worked in jobs for which they had secure and permanent contracts and where there were established HR policies and procedures, felt and in fact were protected against discrimination on the grounds of their sexgender. In the cases of Helen and Philippa they were ground-breakers whose employers not only accepted them for who they were, but engaged them to help others who were taking the same or similar life choices. Other people such as Al had employers who were prepared to help them negotiate quite complex partial crossings into more liminal sexgendered situations. Clearly for these people not only did the legal environment underwritten by the EA2010 have direct positive benefits but there are the wider cultural benefits of accepting openly trans* and sexgender nonconforming people into workplaces. This has had the knock-on effect of establishing workable pathways for transition within organisations, and normalising *particular legible forms* of sexgender difference at work.

The nature of the basis of the employment is critical though. If we take the example of manual work Vicky has a fulltime contract and was able to express and be acknowledged at work in her appropriate sexgender. Stacey on the other hand working casually in the building trade felt that acknowledging her bisexgendered feminine expressing side would involve her suffering discrimination which would result in her not being selected for future employment. The security that Vicky felt was in part due to the relative security of her employment status, in what might be perceived by some as a culturally challenging environment. Stacey's need to remain closeted stems from the fact that the provisions of the EA2010 would be very difficult to enforce in such a precarious employment compounded by what she understood to be very negative attitudes towards sexgender difference. This was also true in Roberta's case but she made the point that not only was her situation precarious due to her lack of a permanent contract (although that was indeed critical) but also because the entire working environment in which agency staff in general and supply teachers in particular work, is precarious. The effective privatisation of schools has had a deleterious impact due to their distancing from the control of Local Authorities, and the lack of trades union representation for casual workers also has a significant negative impact on their protection. Roberta also suggested that while agencies might not be actually transphobic they do not have the time or the resources to invest in giving schools or trans* people themselves the support they might otherwise provide. Thus precarity is increasingly structural; something that extends well beyond the problematics of working casually, working for agencies or working on zero hour contracts.

The other domain of work my respondents were involved in was in working in jobs that involve using their own terms of reference or life experiences as trans* and/or sexgender nonconforming people to advocate on behalf of trans* people or provide specific spaces. Some people such as Tara who works in equality and diversity training for the NHS have more traditional and secure work. Others such as Sam, Lee, Juliet and Sabah work directly for trans* organisations or in the third or creative sectors. These are environments in which trans* and sexgender nonconforming people can be themselves, but also which aim to promote wider cultural acceptance for trans* and sexgender nonconforming people. Others have or had part time or unpaid party political positions and use their positions for similar or the same ends. While these sectors might in general be places that trans* and sexgender nonconforming people can

work in they are often employed by small organisations that have emerged in deregulated underfunded volunteer-reliant big-society times, dependent on grants that depoliticise their potential and which embed precarity in organisational culture. Such organisations tend to embody best neoliberal practice in terms of offering good cultural as well as working protections to people who fall under any of the nine protected characteristics of the EA2010. However they tend to employ ‘flexible’ and essentially deregulated workforces where it is common practice for people to volunteer or work for nothing for a long time before being offered zero or low hour contracts or short fixed term ones. If the working practices seem benevolent, the overall structural working environment is far less so. And this is impactful on the material conditions of the lives of trans* and sexgender nonconforming people.

In such employment situations people’s transness or sexgender nonconformity becomes part of their fungibility. There may be limited scope in these environments for people to exploit what fungibility their sexgenderedness itself offers them, although clearly they need other marketable attributes as well. However, speaking from experience, just the possibility of having access to working environments where one can work openly and be accepted and validated for being who or what one is can be productive of a trans* euphoria. And this, initially at least, blunts one’s critical faculties and promotes a kind of docility in relation to analysing the context that engenders such precarity.

9.2: Balancing the benefits

What this work makes clear is that we live in a time where the lives and expectations for very many people who can be meaningfully described as trans* and/or sexgender nonconforming have materially improved. Laws have been passed which offer certain limited recognitions to trans* people. One unexpected by-product of the laws being passed has been the establishment of relatively accessible pathways which allow trans* people *with medical approval* to alter their official documentation such as passports, driving licences and tax and medical records, as well as bank accounts and therefore business contracts without needing to apply for a GRC. This means that the luckier of us can live and work without needing to negotiate the difficulties associated with expressing a certain way and being documented differently.

Culturally the battles that I refer to with regard to media messaging are still ongoing. There is a continuing prurience about certain aspects of trans* lives and a deeper lack of

understanding about what it might mean to be sexgender nonconforming. There is also of course the continuing transphobia and/or cissexgenderism of social conservatives, some LGB people and certain feminists. That said in England and Wales trans* people and our issues are currently receiving less overtly transphobic reporting and there is a considerable amount of positive coverage given to trans* people's achievements across mainstream news media. Trans* people are now visible on mainstream television (Stewart 2016), as models, as business people, as senior academics, more marginally in politics, and more contentiously in films (often played by non-trans* actors). There are still areas where trans* participation is contentious – the heralded trans* athletes at the Rio Olympics did not materialise – but cultural coverage of a certain transness is mainstreaming. There is also increased if uneven trans* visibility in more ordinary workplaces, and more challengingly, given staff/student dynamics and increased parental influence, in some schools, and certainly in higher education.

I contend however that there are conditions attached to such benefits as accrue to the luckier of us. It is still evident that we have to negotiate our lives on a daily basis. While this is true for many people for many intersectional reasons it is true for trans* and sexgender nonconforming people in particular ways. To gain access to the overstretched medical support on offer we still have to be able to persuade gatekeepers that we are what we say we are. To gain or maintain employment we have to be culturally legible and are dependent on employers, customers or service users of the places we work not exhibiting transphobic or cissexgenderist attitudes or behaviours, to which we only have limited redress. To walk down the street unchallenged, to use sports centres, to be served graciously in shops, in pubs, in restaurants, or on public transport, we also have to be culturally legible to avoid the huge negative psychological impact of being challenged, misgendered or otherwise disbelieved. And in more personal zones of our lives transition still brings rupture and disbelief for many of us, impacting on some of our closest and most intimate relationships and foreclosing the possibility of others actually developing.

Our normative or non-threatening legibility becomes then an essential aspect of our fungibility. The less normative our sexgender expression and/or presentation is, the less legible we are, and therefore the less marketable. And the more we exploit the fungibility our apparent transnormativity extends to us, the more we reinforce the emptiness of the diversities that are afforded recognition and protection. As referred to

by some of my respondents, every time we receive validation, through being recognised as being the sexgender we are, or through the prescription of transition supporting drugs, through being issued sexgender appropriate documentation, we commonly experience trans* euphoria. This amounts to being grateful for being accepted in ways that the majority of people take unthinkingly and absolutely for granted, or conversely for not being discriminated against for being who we are.

We live in an epoch in which old certainties are being challenged and broken down. If the operation of the sexgender binary is not actually being fundamentally challenged it is at least being policed more flexibly. And there do seem to be cracks appearing which might be susceptible to expansion in new and less binary directions. But a concomitant result of the breaking down of old certainties is the appearance of uncertainty. This may manifest in the possibility of finding new ways of being and living but such possibilities are countermanded by the emergence of precarity and lack of security. The, at best, uneven trajectory of apparent improvement in the lives of trans* and sexgender non-conforming people has been taking place at a time when wealth, and income inequality in England and Wales has been increasing, when social mobility has been decreasing and when a culture of privatisation has pervaded our sociocultural life so extensively that even our understanding of protection of our own rights is filtered through a privatised, individuated and therefore privileging lens.

When we name the EA2010 in full, the Equality Act 2010, we may focus on what is meant by the term 'equality'. As I have noted this is a piece of exemplary neoliberal legislation, especially in its reduced and enacted form. It references people's difference in terms of their diverse characteristics, their diversity, but specifically non-intersectionally. It understands disadvantage as specific acts of discrimination against individuals, whether visited on them by organisations or other individuals, rather than as a manifestation of structural inequality. Even in this age of growing material inequality it is not framed to acknowledge or address economic or sociocultural disadvantage based on class or poverty. And this framing reinforces the individuating culture out of which it emerges. There are simply no terms of reference within the Act to which we can attach meaningful attempts to overcome material inequality. The Act is wholly complicit in conflating the terms of equality with limited recognition and protection of diversity – indeed of promoting *empty diversity*.

That we shouldn't expect meaningful challenges to hegemonic power structures from legislation seems self-evident. What this thesis does however is to analyse legislation, in this case the EA2010, and its framing to understand the limits of its effectiveness through consideration of its effects on the lives of trans* and sexgender nonconforming people taking into account their various intersectional differences. And while not reducing the lives of trans* and sexgender nonconforming people to mere ciphers or exemplars we can interpret the complex impact of the Act on our lives and therefore understand our social emplacement more contextually. It is this specific critical analysis of concrete and material effects and affects of one piece of legislation within a particular sociopolitical context that I contend sits at the heart of my claim to contribute to original knowledge.

As previously noted the majority of my respondents reported broadly positively about their sexgendered lives. They generally felt that they were supported by some sort of community. On the whole they felt positive about their varied embodiments. And they felt that messaging in the mainstream media was helpful in mainstreaming their issues and promoting acceptance amongst non-trans* people. Some people felt positive about the acceptance of increased diversity in relation to embodiment issues, sexuality and acceptance of non-binary people within trans* and sexgender nonconforming constituencies. On the other hand other people reported unease about people reporting as non-binary and issues were raised about the lack of foregrounding of issues of ethnicity within UK trans* organisations, media representations, and social groups in general. Sam reported a level of everyday transphobia that had impacted strongly on her everyday life, while others like Angie reported that their family lives had impacted their transition. That there is complexity in the data merely confirms that diversity exists within trans* and sexgender nonconforming constituencies and emphasises the importance of not totalising and homogenising our ontologies and lived experiences. In relation to the law a majority of people felt broadly supported by the EA2010 and its provisions, clearly indicating that it has had a positive cultural impact for many trans* people.

At the points where the positivity breaks down however we find marginality and dysfunction. In terms of its limited power to protect people in precarious work the EA2010 fails. In its framing of trans* and sexgender nonconforming people in terms of gender reassignment it is reinforcing of a mainstream understanding that trans* people

are mainly those who undertake transition from female*/male* to male*/female* unidirectionally and permanently. This impacts directly upon the lives of people who want to be recognised as neither female* nor male*. It contributes to the hegemonic normative veridiction of binary transition as *the* legible and acceptable trans* pathway, notwithstanding the prejudice that continues to be experienced by people undertaking that journey. It also impacts directly and powerfully on the lives of people in marginal situations, such as in the criminal justice system through its extension PSI 17/2016, who are legitimised or not on that basis. Even the recent welcome, but as yet untested, concessions to non-binary people within the criminal justice system are effectively cosmetic by virtue of their failing to even consider what the implications of *meaningfully* acknowledging the existence of non-binary people really are for a system that is structurally so binary sexgendered. But as the sex by deception cases demonstrate the law in its operation is fundamentally constrained by the heteronormative assumptions about sexgender of the people responsible for interpreting and enforcing it, thus highlighting the limits of what individual Acts can achieve.

For all these reasons the EA2010 is revealed as flawed. Yet it is not unfit for purpose if its purpose is to promote a form of empty diversity which will promote the success of the more fungible of neoliberal subjects in navigating its marketised environments. At the point that our self-focused self-centred entrepreneurship is engaged, the possibility of us enacting challenges to the very environments that our success then depends on is clearly constrained. But if its framing and its operation are in part productive of neoliberal subjectivity, necessary to operate functioning marketised post-Fordian capitalist environments, then necessarily promotion of equality will not be part of its function. And at this point we understand its contradictions and its fundamental flaw.

The EA2010 offers recognition to minoritised people in general and trans* people in particular on narrow terms. These terms favour people with the most legible and normative expressions and protect people more if they have secure contracted salaried employment. Thus people with more labile or culturally liminal expressions are further marginalised given that one of the effects of the EA2010 is to further reinforce new-normativity into mainstream cultural understanding of trans* people's ontologies and lives. And paying no attention to the increasing precarity of contemporary working environments, the EA2010 gives more protection to people who work in relatively secure conditions. Ironically these are more closely associated with Fordian unionised

and regulated working practices than with increasingly common contemporary conditions associated with post-unionised deregulated working environments in which every interaction is a job interview and people are never-not-working. So on both counts people with more relative privilege are afforded stronger and better protection than people in more marginal situations.

The EA2010 then is a product of its time. The limitations of only relying on a legal route to ensure minoritised people receive recognition and protection are accepted by people with widely differing political views. Nonetheless much activism and academic output has been focused on the law and its application, usually in the context of interrogations of outcomes of particular cases. In this work I have tried to establish a broader context for understanding how we have the laws we have, and to expose their limitations. In examining the context I want to demonstrate that we live in a time of contradictions, when certain diversities are allowable whilst other specific groups of people such as migrants, even ones from within the EU, and asylum seekers are demonised and scapegoated.

If we recognise the EA2010 as metonymic of the operation of neoliberalism, as a description of a form of governmentality under which the domains of economic marketization and politics are increasingly merged, it is critical we recognise that many people feel they have benefitted in various ways from the liberalisation that has occurred over recent decades. It has given many trans* people in particular the chance to live their lives more productively which is borne out by the data generated by my research. These benefits have been impacted by the technological developments in IT, which have facilitated communication for minoritised people, and the uneven but measurable improvements in access to medication, whether through online markets for self-medication, or increased applications to an increasing number of gender identity clinics across the regions.

My starting point in Chapter 3 was my auto-ethnography lamenting the deleterious and constraining effect of not having a language or a context in which to describe and therefore understand myself. I contend now that the language we have developed, but more particularly the increasingly individuated and privatised environment in which it has developed, have both had complex interrelated impacts on the ways in which we understand our transness and/or sexgender nonconformity. For many of us the struggle

to realise our potentials has become, completely understandably, a major focus of our lives and our self-understanding in relation to our interactions with the world. And this has affected the shape and relatively narrow focus of much trans* activism and scholarship. The increasing discussion of what it means to be sexgender nonconforming, which is acknowledged in some form in PSI 17/2016 and also in the increasing use of Mx on official documents and the increasing use of sexgender-neutral pronouns follows the same patterns. And these are patterns that prioritise claims to recognition and protection over examining their radical potential for disruption of the power systems embedded in hegemonic binary sexgendered relations.

In this work I refer a number of times to the concept of *verfremdungseffekt*. I now invoke it here again in the final paragraph. The EA2010 exemplifies and supports a complex matrix of power relations whose aim is to enable the operation of fungible individuals to maximise their potential within a marketised society. It is one tool which enables inclusion and in that respect elicits trans* euphoria. But to the extent that it enables inclusion it also enforces exclusion, and therefore delineates what kind of transness is legible and acceptable and what is not. Acceptability encourages assimilation and assimilation invokes docility. In turn I invoke *verfremdungseffekt* as a tool of critical alienation which encourages us to stand outside of our embeddedness in our everyday lives in order to understand the bigger picture. I invoke it as a tool to combat our own assimilation. I invoke it as a tool to encourage us to analyse the limitations of centring identity at the heart of our trans and sexgender nonconforming lives and of being satisfied with making progress *as* trans* and sexgender nonconforming individuals. Rather we must take care to invoke our particular sociocultural emplacements as part of much wider critiques of the exclusion and violence visited on marginalised and vilified individuals and groups of people by the operation of neoliberalism. We should harness the limited opportunities offered by a culture in which the production of the EA2010 is possible, in order to maximise our own understanding of those damaging limitations and to work politically and culturally to create a polity and a culture in which such legislation would be recognised for what it is – partial and sectarian – and for what it does –promote and entrench inequality.

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